



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 1553 OF 2019

Kewal Krishan

....COMPLAINANTS

VERSUS

M/s Ansal Properties and Infrastructure Ltd.

....RESPONDENT

2. COMPLAINT NO. 1554 OF 2019

Hema Bhatia

....COMPLAINANTS

VERSUS

M/s Ansal Properties and Infrastructure Ltd.

....RESPONDENT

CORAM: Rajan Gupta
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 26.07.2022

Hearing: 11th in both complaints

Present through video call: - Sh. Kewal Krishan, complainant (in complaint no. 1553/2019) and representative (in complaint no. 1554/2019)

Sh. Ajay Ghangas, Learned counsel for the respondent in both the complaints.

ORDER (DILBAG SINGH SIHAG- MEMBER)

1. Captioned bunch of complaints is being disposed of together by this common order. Complaint No. 1553 of 2019 titled "Kewal Krishan Versus Ansal Properties and Infrastructure Pvt. Ltd." has been taken as lead case.
2. While initiating his pleadings, learned counsel for the complainant in the lead case has argued that complainant had booked a plot bearing no.0037-B-1501, admeasuring 209 sq.meters, in respondent's project "Sushant City", Yamunanagar on 29.03.2011. Total Sale consideration of the flat was Rs. 13,99,798.4/-, against which complainant has already paid an amount of Rs. 13,29,200/-. In support of the paid amount, he referred page no 13 and 40 of complaint book, whereby receipt issued by respondent has been attached. Said receipt shows that an amount of ₹ 13,29,200/- has been paid by the complainant in the year of 2011 itself.

Both parties signed plot buyer agreement on 29.03.2011. Accordingly, respondent was under an obligation to handover possession upon clearance of all dues and as per receipts issued more than 95% of the payment was paid by complainant in the year 2011. Further, he submitted that no information of progress regarding completion of the project had been received from the

2

respondent in this regard till date even after ten years. Moreover, there is no possibility to get project completed in near future. Therefore, complainant has sought relief of refund of ₹ 13,29,200/- along with permissible interest as per Rule 15 of HRERA Rules, 2017.

3. A table has been prepared by the Authority, wherein details regarding date of booking; date of FBA execution; deemed date of completion of project; payment made by the complainants against their respective sale consideration have been summarised. Said table is reproduced below:

Sr. No.	COMPLAINT NO.	Tower	DATE OF AGREEMENT	TOTAL SALES CONSIDERATION (In Rs.)	TOTAL AMOUNT PAID BY THE COMPLAINANT (In Rs.)	DEEMED DATE OF POSSESSION
1.	1553/2019	B	29.03.2011	13,99,798.4/-	13,29,200/-	In year 2011
2.	1554/2019	B	28.03.2011	12,49,820/-	18,60,371/-	In year 2014

4. On the other hand, respondent in their reply have raised by and large technical objections like complaint is not maintainable; RERA Act cannot be implemented with retrospective effect; Authority does not have jurisdiction to hear the complaint; complaint has not been filed on proper format etc. Further in para 8 of reply submitted by the respondents, he stated that project got delayed due to various land disputes. Further, learned counsel for the respondent has made a statement during course of hearing that respondent is not in a position to complete the project, therefore, possession to complainant cannot be delivered.

5. Since, complainants had sought relief of refund initially. The matter was kept pending by Authority on account of jurisdiction dispute of the Authority to deal with complaints in which relief of refund was sought, before Hon'ble High Court and Hon'ble Supreme Court.

Now, the position of law has changed, in view of Judgment passed by Hon'ble Supreme Court in lead SLP Civil Appeal No. 13005 titled as "M/S. Sana Realtors Pvt. Ltd. vs. Union Of India" plea raised against the maintainability of the complaint is no more tenable, since the issue relating to jurisdiction of Authority stands finally settled. Accordingly, Authority hereby proceeds for dealing with this matter on its merits.

6. After going through the records available on file and considering the statement made by learned counsel of the respondent, Authority observes that Complainant has paid a total amount of ₹ 13,29,200/- to the respondent, as stated in para 2 of this order. In support of the assertion, complainant has annexed a receipts issued by the respondents at page no. 13 and 40 of complaint. Accordingly, it is concluded that complainant had paid an amount of ₹ 13,29,200/- to the respondent against total sale consideration of ₹ 13,99,798.4/- and respondent despite having received said amount against the booking of the unit has failed to deliver possession to the complainant till date. Since, admittedly respondent have failed to offer possession and ld. Counsel for respondent has



further stated that they are not in position to do so, relief of refund deserves to be allowed.

7. Authority accordingly orders refund of the money paid by all the complainants along with interest as shown in the table below-

Sr. No.	COMPLAINT NO.	Total amount claimed to be paid by the complainant (In Rs.)	Total amount on which interest is calculated(in Rs.)	INTEREST (In Rs.) @ 9.8%	TOTAL AMOUNT TO BE REFUNDED BY RESPONDENT (In Rs.)
	1553/2019	13,29,200/-	13,29,200/-	14,60,208/-	27,89,408/-
2.	1554/2019	18,60,371/-	18,60,371/-	18,24,692/-	36,85,063/-

Respondents shall refund the money along with interest within period prescribed in Rule 16 of the RERA Rules of 2017.

Disposed of. Files be consigned to the record room after uploading of order.



.....
RAJAN GUPTA
[CHAIRMAN]



.....
DILBAG SINGH SIHAG
[MEMBER]