



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

## COMPLAINT NO. 2889 CF 2019

Muneesh Kumar Jetly

...COMPLAINANT

VERSUS

TDI Infrastructure Ltd.

...RESPONDENT

**CORAM: Rajan Gupta**

**Chairman**

**Dilbag Singh Sihag**

**Member**

**Date of Hearing: 12.07.2022**

**Hearing: 4<sup>th</sup>**

**Present: - Mr. Satyam Aneja, Ld. Counsel for the complainant.**

**Mr. Shubhnit Hans, Ld. Counsel for the respondent.**


### **ORDER (RAJAN GUPTA-CHAIRMAN)**

1. Case of the complainant is that he had booked a flat in the project named "TDI City" of the respondent situated at Sonipat on 16.08.2009. Unit

No. B- 29/32-SF measuring 1110 sq. ft. was allotted to him on 02.02.2010. Flat Buyer Agreement (hereinafter referred to as FBA) was executed between the parties on 05.04.2010. Delivery of the flat was to be made within 30 months from the date of agreement, thus deemed date of delivery was 06.10.2012. Payments were to be made under Construction linked payment plan. He has paid about Rs.19,77,174/- against sale consideration of Rs. 20,50,000/-.

Learned counsel for complainant pleaded that main grouse of the complainant is that till the year 2020 unit was not offered to the complainant, rather the same was offered vide 'fit out possession' letter dated 09.03.2020 which was after filing of present complaint. Said offer was made after a delay of about eight years from agreed date of delivery. Complainant states that the only purpose of booking the flat by complainant was for housing of his elderly parents near their village, but now after lapse of ten years his parents are bed-ridden and cannot be shifted to the booked unit. Therefore, the very purpose of booking the flat has now been defeated. Therefore, he is seeking refund of Rs. 19,77,174/- along with interest along with interest as per Rule 15 of the HRERA, Rules 2017 on account of multiple defaults by respondent from the date of payments till actual realization of the amount.

2. Learned counsel for respondent while admitting payments made by complainant stated that respondent had issued offer for fit out letter on



09.03.2020 but complainant has not come forward to take possession of the flat.

3. After hearing arguments of both parties and perusal of record, Authority observes that admittedly respondent has offered fit out possession of the unit to the complainant on 09.03.2020, but after inordinate delay of eight years from the deemed date of delivery, which is highly unreasonable. When such inordinate delay is caused, it is to be presumed that the purpose of booking the apartment has got defeated. In such, circumstances, the option will be of the allottee-complainant to continue with the project or withdraw from it. Therefore, due to huge delay in offer of possession, the purpose of booking present flat by complainant has been defeated. Even, status of Occupation Certificate qua the apartment is unknown; and respondent has been using the amount deposited by complainant for the last twelve years without any justifiable reason. Thus, failure of respondent to deliver possession of flat even after a huge delay of about twelve years from date of initial booking in the year 2010 has frustrated the very purpose of booking the apartment.

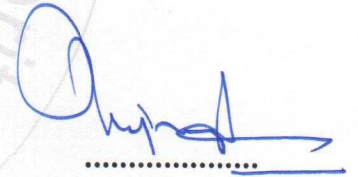
Therefore, on account of multiple defaults on the part of respondent, Authority finds it to be a fit case for allowing refund of the amount paid by the complainant and directs the respondent to refund Rs. 19,77,174/- paid by the complainant along with interest at the rate stipulated under Rule




15 of the HRERA Rules, 2017 from the date of making payments up to the date of passing of this order.

4. As per calculations made by Accounts Branch, amount payable by the respondent to the complainant along with interest has been worked out to Rs. 41,82,217/- ( Rs. 19,77,174/- + Rs. 22,05,043/-). Therefore, Authority directs the respondent to refund **Rs. 41,82,217/-** to complainant.

5. Respondent shall pay the entire amount to the complainant within 90 days of uploading this order on the web portal of the Authority. Respondent had also incurred accost of Rs. 10,000/- on account of not filing his reply with in time prescribed in the notice. He shall also deposit the aforementioned cost. **Disposed of** in these terms. File be consigned to the record room and order be uploaded on website of Authority.

  
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**RAJAN GUPTA**  
[CHAIRMAN]

  
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**DILBAG SINGH SIHAG**  
[MEMBER]