



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1750 OF 2019

Karan Singh Soni

....COMPLAINANT

VERSUS

Ansal Properties & Infrastructure Pvt. Ltd.

....RESPONDENT

CORAM: Rajan Gupta
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 26.07.2022

Hearing: 8th

Present through video calling: -

Adv. Krishna Kumar Mishra, learned
counsel for the complainant

Sh. Ajay Ghangas, learned counsel for
the respondent

ORDER (DILBAG SINGH SIHAG- MEMBER)

1. Initiating his pleadings, learned counsel for the complainant stated that original allottee Late Smt. Bimla Devi, was expired on 15.08.2017. So, present complainant being his legal heir, has filed present complaint. He further submitted that a residential unit bearing no. 0037-B/1036, admeasuring 300 sq. mtrs. was booked by the complainant's deceased mother in respondent's project "Sushant City", Yamunanagar in the year 2006 by paying a booking amount of ₹ 3,00,000/-. Plot Buyer Agreement was executed between the parties on 25.07.2011 for a total sale consideration of ₹ 20,63,100/-. Complainant had already paid an amount of Rs. 4,93,350/-. In support of amount paid, he referred to page no. 48-52 of the complaint, whereby receipts issued by respondent-promoter and bank statement has been attached. Learned counsel for the complainant apprised the Authority that respondent neither informed the status of project nor handed over the possession till date after receiving last payment in the year 2011. Besides, complainant had approached the office of respondents many times to know the current status of booked plot but no satisfactory reply was received from them. Complainant has filed present complaint seeking relief of refund of paid amount along with permissible interest after waiting for almost ten years and having no hope of completion of project in near future.

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2. On the other hand, respondent in his reply has stated that original complainant was allotted a plot bearing no. 0037-B-1036 in Sushant City and offer of allotment was also issued on 10.05.2011. Thereafter, a plot buyer agreement was executed between the parties on 25.07.2011. Learned counsel for the respondent argued that as per clause 4.3 of said agreement, respondent was not under any obligation to send reminder as complainant has opted for timely payment plans. Paid amount by the complainant i.e Rs. 4,93,350/- constitutes only 20 % of the basic sale price and as per agreement, if complainant fails to pay timely instalments, his entire amount of earnest money could be forfeiture and agreement would stands cancelled. Accordingly, respondent-promoter had cancelled the allotment vide notice dated 14.03.2012, showing an outstanding amount of Rs. 80,730/- after deducting earnest money of Rs. 4,12,620/- but complainant has not come forward till date. To support his contention, he referred to Annexure –R3 of reply, whereby postal receipt of the said notice has also been attached. He further argued that as allotment was cancelled way back in year 2012, so, present complaint is not maintainable seeking refund after ten years from cancellation.

3. After hearing both parties and going through record, Authority observes that admittedly complainant had booked a plot in year 2006 and paid an amount of ₹ 4,93,350/- to the respondent, as per receipts attached in complaint book. Further, as per plot buyer agreement executed between the

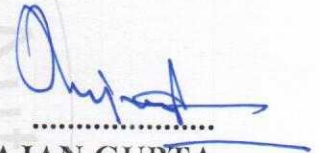
parties on 25.07.2011, total sale consideration of the plot was fixed Rs.20,63,100/-. Learned counsel for the complainant stated that even after receiving 20% of the total sale consideration in the year 2011 of booked plot, respondent has failed to offer possession to the complainant till date. Delay of almost ten years from date of agreement has already been lapsed and having no hope of completion of the project in near future, complainant has filed present complaint seeking relief of refund of paid amount with permissible interest.

On the other hand, respondents stand is that allotted plot was cancelled in the year of 2012 for non-payment of remaining amount by the complainant. He argued that a notice dated 14.03.2012 was also sent through registered post whereby, complainant was directed to collect remaining amount after depositing all original documents. Complainant never replied to the same nor come forward to take remaining payment as mentioned in said notice. Therefore, respondent-promoter is not at fault as his conduct is within the terms of the agreement executed between parties.

Considering above stated facts, observes that at the time of cancellation in year 2012 complainant had never come forward to take the remaining amount. Further, after perusal of file, it is revealed that complainant has not attached any documents showing communication held between him and respondent after cancellation of the plot in the year 2012. So, it has been established that respondent has rightly availed his remedy as

per law and his conduct was justified. Further, Authority clarifies that amount deducted by respondent is 20% of the earnest money but as per law respondent can only deduct money upto 10 %. So, respondent is directed to recalculate the amount to be refunded to the complainant. Accordingly, respondent is directed to forfeited only 10% money out of total paid amount and shall refund rest of the excess amount along with permissible interest to the complainant as per Rule 15 of HRERA Rules, 2017 within a period prescribed under Rule 16 of HRERA Rules i.e. 90 days from the date of uploading of the order on the website of the Authority.

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



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RAJAN GUPTA
[CHAIRMAN]



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DILBAG SINGH SIHAG
[MEMBER]