



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

### COMPLAINT NO. 769 OF 2018

Praveen Deswal

....COMPLAINANT

VERSUS

JOP International Pvt. Ltd.

....RESPONDENT

**CORAM: Rajan Gupta**

**Chairman**

**Dilbag singh Sihag**

**Member**

**Date of Hearing: 13.07.2022**

**Hearing: 11<sup>th</sup>**

**Present:** Mr. Ramesh Malik, ld. counsel for the complainant through VC.

None for respondents.

### **ORDER (DILBAG SINGH SIHAG - MEMBER)**

1. While perusing the case file, it is observed that Case of complainant is that he had booked a residential unit in the project "JOP Palms" of the respondent situated in Sector 28, Rohtak on 28.07.2014. Flat No. 1103, 11<sup>th</sup> floor Building A-1 measuring 1100 sq. ft. was allotted to him on the same day. No Flat - Buyers

Agreement was executed. Complainant has made a payment of Rs. 15,17,261/- against total sale consideration of Rs. 26,75,000/- till date. Complainant alleged in his complaint on page 7 para 6 that respondent was required to deliver possession of the unit within a period of 36 months from the date of allotment i.e., 28.07.2014. Therefore, deemed date of delivery of possession in the case comes to 28.07.2017. Respondent-promoter has not started construction of building A-1 tower B-1 so far, moreover they are not in a position to deliver possession of the unit. Aggrieved by the same, complainant has filed present complaint with the prayer of refund of the paid amount.

2. Respondents filed his reply on a complaint 19.12.2018 whereby he made certain submissions. Respondents admitted that complaint was allotted said unit vide allotment letter dated 28.07.2014. As per allotment letter, in the event promoter failed to hand over possession of the unit within the stipulated period, then complainant had an option to cancel the transaction entered into between complainant and respondent within 60 days from 28.07.2017. However, in the present case, this option has not been exercised by the complainant within 60 days. Therefore, complainant is estopped by his own conduct. Further, it is submitted by the respondent that project could not be completed due to non-payment by the allottees.

3. Counsel for the complainant stated during hearing itself that respondents approached the complainant to purchase a unit in the project of respondent and



assured timely delivery of possession of the unit. Believing the same, complainant booked a flat in the project. he was allotted Flat No. 1103 vide allotment letter dated 28.07.2014 against total sales consideration of Rs. 26,75,000/-. Copy of said allotment letter is annexed as Annexure C-2 with the complaint file. Complainant paid regular payments as demanded by the respondents. Till now, he has paid Rs. 15,17,261/- against booking of the flat. He further stated that despite of making these payments respondent-promoter has not given possession of the above-mentioned flat which was to be delivered in 36 months from date of allotment letter. However, the respondent-promoter has not even stated construction of building A-1 Tower B-1 in which complainant's unit is situated. For this reason the complainant stopped making further payments.

4. Counsel for the complainant also argued that there has been delay of more than five years in handing over possession and his client has decided to withdraw from respondent's project, as the project of the respondent is still not complete. In fact, it is far from completion and there is no sign of its completion in the foreseeable future. He has clear instructions from his client to only press for refund of the amount paid by him along with permissible interest on the ground that respondents have inordinately delayed completion of project.

5. After considering the arguments and written submissions of both parties, Authority observe that factual position reveals that possession has not been yet offered by the respondent even after of delay of 5-6 years from deemed date of

possession. Respondent has not provided any specific timeline for handing over of possession. Complainant is no more interested in waiting for possession endlessly and insisting upon refund. Authority had granted various opportunities to the respondent to place on record progress report of the project. Even after availing so many opportunities respondent failed to produce the same before the Authority.

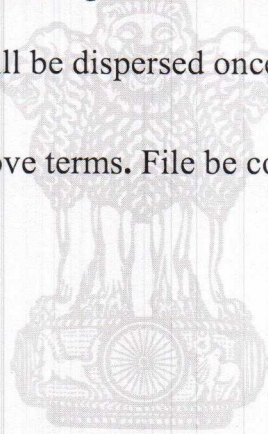
6. In view of the above facts, it is observed by the Authority that by virtue of section 18 of RERA Act, 2016, allottee is within his right to ask for refund when unit is not ready and no timeline is committed by the respondent for handing over of possession. Allottee cannot be forced to wait for an indefinite period for possession of booked unit. So, Authority deems it a fit case for allowing relief of refund. Accordingly, Authority grants relief of refund of paid amount to the complainants along with interest as per Rule 15 of HRERA Rules, 2017 i.e., SBI MCLR+2% (9.70%) from the respective dates of making payment till the actual realization of the amount.

7. Authority directs the respondent to refund entire principal amount of Rs. 15,17,261/- to the complainant. Authority has calculated the interest payable to the complainant that works out to Rs. 12,73,570/-. This interest has been calculated from the date of making payments by the complainant up to the date of passing of this order at the rate of 9.70%. Now, respondent has to pay total amount of Rs. 15,17,261/- + Rs. 12,73,570/- which comes out to be Rs.

27,90,831/- to the complainant within a period prescribed under Rule 16 of HRERA Rules i.e., 90 days in two equal instalments.

8. It is pertinent to mention that this project is funded by SWAMIH Investment Funds. Construction of phase 1 is near completion. Authority is of the view that project is likely to be completed. However, complainant is pressing for refund, Authority cannot force him to stay with the project. Therefore, Authority orders refund of the payments made by complainant to respondent. Here, it is being made clear that execution of the order may take some time as accounts of the respondent-promoter are being controlled by SWAMIH Investment Fund. The amount of the refund will be dispersed once the project gets completed.

9. **Disposed of** in above terms. File be consigned to record room.



RAJAN GUPTA  
[CHAIRMAN]

DILBAG SINGH SHAG  
[MEMBER]