



Complaint no. 2706 of 2019

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA
Website: www.haryanarera.gov.in

COMPLAINT NO. 2706 OF 2019

Anil Gupta

....COMPLAINANT(S)

VERSUS

Haryana Urban Development Authority

....RESPONDENT(S)

CORAM:

Rajan Gupta
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 09.08.2022
Hearing: 21 st
Present: Mr. Ankush Jain, Counsel for the complainant.
through video conferencing.
Mr. Surinder Chaudhary, Counsel for the
respondent

ORDER (RAJAN GUPTA-CHAIRMAN)

1. This matter had come up before Authority on 26.04.2022
when after hearing both parties Authority had passed following order:

“ Plot no. 3395-E situated at Sector-15, Part
III Sonapat was initially allotted to Ms Kitab
Kaur on 26.06.2001. On 16.01.2003
complainant had agreed to purchase said plot
from original allottee . Deed of conveyance
for said plot sold by allotment was executed
between Shri Anil Gupta, complainant and

respondent Authority on 19.03.2007 which is annexed as Annexure-A of complaint file. It is alleged by the complainant that respondent had fraudulently allotted the plot in question without acquiring the land/killa no. 21/8 underneath said plot and respondent had no right to develop a project on said piece of land. Therefore he has filed present complaint seeking refund of his paid amount or alternatively allotment of another plot in another sector.

2. Shri Ankush Jain, representative of the complainant submitted that in this case plotting of the project was carried out on killa marked as killa no. 21/8 and 21/7 situated at village garh shazanpur of Sonipat however, respondent has allotted said plots to various allottees without acquiring them from the local harijan residents for whom the land had been reserved by order of Hon'ble Prime Minister Smt Indira Gandhi. He further submitted that although in this case conveyance deed has been executed and possession has been offered to the complainant but complainant cannot enjoy his rights attached with the plot as he does not have ownership of said piece of land. Without ownership rights he is unable to make use of said plot and cannot even sell the same.

3. On the other hand, respondent in its reply has submitted that plot no. 3395-E Sector 15, part III, Sonipat was initially allotted to one Smt Kitab Kaur on 14.06.2001 for a tentative price of Rs 1,79,221/-. Said plot was transferred in the name of complainant vide re-allotment letter dated 16.01.2003.

Possession of said plot was offered to the complainant on 01.03.2004. It is further submitted that allottee applied for approval of building plan which was granted vide memo dated 17.03.2004. Further a no dues certificate was issued in favour of the complainant on 19.05.2004 and a conveyance deed for the plot in question was executed between both parties on 19.03.2007. The complainant after completion of construction work applied for occupation certificate which was issued to him on 07.10.2008.

It is submitted by the respondent department that the plot underneath the house allotted to the complainant has been carved out on land acquired by the department. There has been no malafide intention on the part of respondent and the allegations in regard to non acquiring of land is completely wrong and frivolous. It is further submitted that all the basic facilities like water, sewerage, roads atcc are available there since the time of offering of possession and no complaint from any other inhabitant has been received by respondent till date. Therefore, complainant is not entitled to any relief. Today no one is present on behalf of the respondent.

4. Considering the facts and submissions of both parties, Authority observes that, on one hand, complainant submits that respondent has allotted him the plot in question without acquiring the land underneath it and thus complainant cannot enjoy ownership rights over it, and on the other hand it is submitted by the respondent that the possession of the plot has already

been offered to the complainant and occupation certificate for the house built on the plot in question has also been issued by the respondent department after completion of construction work. If respondent had not acquired the land on which the project is situated then conveyance deed for said plot could not have been executed. Rival contentions put forth by both the parties are so diametrically opposite that it is difficult for the Authority to reconcile the facts and establish a clear picture. For proper adjudication of the matter it is vital to firstly adjudicate the issue as to whether respondent had acquired the land in dispute i.e. killa no. 21/8 in which the plot of the complainant is situated. Secondly whether complainant has constructed his house on the plot and has received occupation certificate thereof. Complainant should bring latest photographs of the plot in question.

5. Since no one is present on behalf of the respondent, case is adjourned 06.07.2022 for arguments on the rival contentions. Both parties shall present their arguments along with documentary evidence on the next date of hearing.”

2. Authority vide order dated 26.04.2022 had directed both parties to produce relevant documents in support of their respective contentions and file latest photographs of the plot in question. However, no such documents have been filed by either party.



3. Today, Shri Ankush Jain, learned counsel for complainant reiterated his argument submitting that respondent Authority had fraudulently plotted the land in question and allotted it to various applicants without lawfully acquiring the land on which plot of complainant is situated. For this reason complainant is not able to enjoy his rights and cannot sell the same as he does not have ownership of said piece of land. Therefore, he prayed the Authority to issue directions to respondent to refund the amount paid by complainant alongwith interest.

4. Authority after considering submissions of learned counsel for complainant and perusing all documents placed on record observes that in this case, plot no. 3395-E situated at Sector 15, Sonipat was initially allotted to Ms Kitab Kaur on 26.06.2001. Thereafter, complainant had purchased rights of said plot from original allottee on 16.01.2003, Possession of which was offered to complainant on 01.03.2004 and conveyance deed for the same was executed on 19.03.2007 which is annexed as Annexure-A of complaint file. It is a further admitted fact that after completion of construction work, complainant had applied for occupation certificate which was issued to him on 07.10.2008.

It has been alleged by complainant that the plots which have been allotted by the respondent in the project in question have been carved out on the site without lawfully acquiring the land from local

residents for whom said site had been reserved by Government. For this reason complainant cannot fully enjoy ownership rights over the said plot, as he is not the rightful owner.

5. On the other hand it has been submitted by respondent that the plot was allotted to complainant after duly acquiring it and respondent was owner in possession of the site before transferring it further to various allottees including present complainant. Possession of said plot was duly given to complainant on 01.03.2004. Further conveyance deed for said plot had also been executed between both parties on 19.03.2007. If respondent had not acquired said land, conveyance deed in question could not have been executed. Therefore for all intent and purposes, all obligations towards allottee-complainant have been discharged by the respondent, therefore there remains no liability which now needs to be discharged. Allegations of complainant therefore are completely baseless.

6. Authority observes that the, complainant has alleged that the plot in question had been allotted to him by the respondent without having legal title, because of which complainant himself cannot enjoy rights attached with said plot. On the other hand, refuting the arguments of complainant, respondent has submitted that all obligations in respect of said plot have already been discharged by them after handing over

possession on 01.03.2004 and execution of conveyance deed on 19.03.2007 in favour of complainant in respect of said plot. This complaint has been registered with Authority in the year 2019 whereas all contractual obligations between both parties had ended in the year 2008 itself with issuance of occupation certificate to complainant 11 years prior to filing of this complaint. As per submission of respondent there remains no liability to be discharged by them.

7. Vide order dated 26.04.2022 both parties were directed to submit latest photographs of site to ascertain current status of the plot which has not been submitted by either of the parties. Further in respect of duties and obligations of respondent in terms of provisions of RERA Act, 2016 it is observed that respondent in present complaint has fulfilled all the obligations about 11 years ago. Further, after execution of conveyance deed, complainant has got his house constructed on the plot and has received occupation certificate on 07.10.2008. Despite availing several opportunities, complainant has failed to substantiate with supporting documents as to what obligations are still pending to be discharged by respondent. Factual position regarding handing over of possession, execution of conveyance deed and grant of occupation certificate have been admitted by complainant himself. Now after a lapse

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of more than 11 years this complaint cannot be entertained by this Authority.

7. With regard to the issue of illegal acquisition of land by respondent and defective title of plot, Authority observes that RERA is a court of summary proceedings limited to and originating from existence of a builder-allottee relationship which in the present case has already ended more than 10 years ago. Now this Authority does not have any jurisdiction to deal with grievances of this nature.

8. Disposed off. Files be consigned to record room after uploading the order on website.



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RAJAN GUPTA
[CHAIRMAN]

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DILBAG SINGH SIHAG
[MEMBER]