



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 252 OF 2020

Rahul Goyal

...COMPLAINANT(S)

VERSUS

RPS Infrastructure Limited

...RESPONDENT(S)

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 05.07.2022

Hearing: 9th

Present: - Adv Kamal Dahiya, Ld. Counsel for the complainant through VC.

Mr. R.C Gupta, for the respondent though VC.

ORDER (RAJAN GUPTA-CHAIRMAN)

1. Learned counsel for complainant states that he had booked a unit in the project named "RPS AURIA" of the respondent in Sec-88, Faridabad in the year 2013. Type-A Apartment No. 804 in tower no T-04 measuring 1565 sq. ft was allotted to complainant vide allotment letter dated 24.09.2013. Apartment Buyer's Agreement was executed between the parties on 24.09.2013. As per agreement, construction of the apartment was to be

completed within 48 months from the date of execution of agreement, thus deemed date of delivery was on 24.09.2017. Complainant has paid about Rs. 59,44,323/- against basic sale consideration of Rs. 55,43, 856/-. Copies of payment receipts has been annexed as Annexure C-5(Colly) with the complaint book.

2. Grouse of the complainant is that after delay of three years from due date of delivery of possession, there is no intimation or reply from respondent in respect to completion or offer of possession to complainant despite numerous requests made to respondent to handover possession of apartment allotted to him along with delayed possession interest. Considering above facts complainant has lost faith in respondent and prays for refund of paid-up amount of Rs. 59,44,323/- along with interest.

3. Respondent in his Financial statement upto 31.03.2021 vide Annexure-A/6 of his reply has admitted that complainant has paid total amount of Rs. 59,44,323/- including service tax of Rs.2,83,812/- and VAT of Rs. 25,258/-.

4. Learned counsel for respondent while admitting payment made by complainant stated that about 95% construction is complete and respondent has applied for the grant of Occupation Certificate on 05.04.2022, but same has not been granted by Department of Town & Country Planning.

5. After hearing submissions of both parties and perusing relevant record, the Authority is of the view that relief of refund cannot be allowed to the complainants on the ground that project construction is complete and




occupation certificate has already been applied for. Authority is of view that upfront delay interest from due date upto actual handing over of possession deserves to be allowed to complainants-allotees, and the same will be credited by respondent in the accounts of complainant. These views are being taken by Authority for the reason that RERA Act mandates that authority has to safeguard the interests of allottees who approach it by way of complaint, the non-complainant allottees, as well as the project as a whole. Authority has been consistently taking a view that the projects which are either complete or likely to be completed in near future will be tried to be got completed. Allottees of such projects will be entitled to possession along with interest for the period of delay caused in handing over possession. It is to be assumed that promoters of completed projects have invested the money contributed by allottees in the project. Allowing refund to some allottees of a completed project will not only jeopardise interests of the project as a whole but also of those allottees who wish to continue with the project. If cash flow is diverted towards making refund to some allottees, project cannot be completed. For these reasons Authority has been allowing refund only in those cases in which projects are abandoned or there is no hope of their completion. In this case promoters have already applied for grant of occupation certificate. Deemed date of offer of possession was September,2017. Further, nearly 1-2 years were lost due to Covid-pandemic.



6. As per calculations made by Accounts Branch of this Authority, the amount of delay interest for the period ranging from 24.09.2017 to 05.07.2022 comes to **Rs.26,14,789/-**. and further monthly interest w.e.f. 06.07.2022 till the date of legally valid offer of possession worked out to @ **Rs. 46,425/-**. This delay interest has been calculated as per SBI MCLR +2% which works out to 9.7% at the time of passing this order on all amount of Rs. 56,35,255/- in respect of which documentary evidence has been placed on record by complainant.

7. Respondent is further directed to make a lawful offer after obtaining Occupation Certificate. Said offer letter shall be accompanied with statement of accounts showing payables and receivables at that time.

8. **Disposed of.** File be consigned to record room and order be uploaded on the website of the Authority.



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RAJAN GUPTA
[CHAIRMAN]



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DILBAG SINGH SIHAG
[MEMBER]