



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1966 OF 2019

Sunil Kumar

....COMPLAINANT

VERSUS

Ansal API

....RESPONDENT

Hearing: 8th

CORAM: Rajan Gupta
Dilbag Singh Sihag
Nadim Akhtar
Geeta Rathee Singh

Chairman
Member
Member
Member

Date of Hearing: 07.09.2022

Present through Video call: - Sh. Balkar Singh, learned counsel for the complainant

Sh. Aditya Pratap Singh, learned counsel for the respondent

ORDER (DILBAG SINGH SIHAG - MEMBER)

1. While initiating his arguments, learned counsel for the complainant apprised the Authority that present matter was heard at length and was disposed of while granting relief of refund along with permissible interest to the complainant on last date of hearing i.e. 04.08.2022. However, While perusing the file, it was revealed that neither the total paid amount by complainant had been mentioned nor he had attached a clear copy of receipts issued by respondent for paid payments. Therefore, matter was relisted for today for placing on record the receipts of paid amounts. Accordingly, today complainant has submitted said receipts in the Court.

Further learned counsel for complainant stated during the hearing that the decision dated 07.07.2022 taken by the Authority in Complaint No. 1373 of 2021 titled as Ram Pal Vs. Ansal Properties Infrastructure Pvt. Ltd. squarely covers the controversy involved in the above mentioned complaints. To support his contention he briefly averred facts of the case that vide application dated 13.03.2011, a plot bearing no. 0037-B-1502 measuring 209 sq.mtrs. was allotted to complainant for total sale consideration of Rs. 13,99,798/-. Complainant had paid an amount of Rs. 14,30,000/- to the respondent-promoter. As evidence of said paid amounts, complainant has filed receipts issued by respondent vide an application dated 07.09.2022. As per Builder buyer agreement dated 29.03.2011 respondent was under an

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obligation to handover possession of booked plot after clearing all dues. S per records, complainant has paid an amount of Rs. 14,30,000/- till July 2012 to respondent, Accordingly, possession was to be delivered in the year 2012 itself. But till date neither refund of the paid amount nor possession of booked plot has been handed over to complainant. Aggrieved by the action of the respondent, complainant sought refund of possession along with permissible interest as per Rule 15 of HRERA Rules, 2017 framed under RERA Rules, 2016. Hence, these complaints be disposed of in the same manner. Operative part of said order dated 07.07.2022 is reproduced below for ready references:

1. "Initiating his pleadings, learned counsel of the complainant pleaded that complainant had booked a plot bearing no.0037-C-2033, admeasuring 300 sq.meters. in respondent's project "Sushant City", Yamunanagar on 31.03.2011. Total Sale consideration of the flat was Rs. 19,55,460/-, against which complainant has already paid an amount of Rs. 19,10,000/-. In support of the paid amount, he referred page no 39-40 of complaint book, whereby statement of account issued by respondent has been attached. Said statement of account shows that an amount of ₹ 19,10,000/- has been paid by the complainant in the year of 2011-2012 itself.

Both parties signed plot buyer agreement on 31.03.2011. Accordingly, respondent was under an obligation to handover possession by 31.06.2012. However, no information of progress regarding completion of the project had been received from the respondent in this regard till date even after nine years. Moreover, there is no possibility to get project completed in near future. Therefore, complainant has sought relief of refund of ₹ 19,10,000/- along with permissible interest as per Rule 15 of HRERA Rules, 2017 or in alternative relief of possession.

2. On the other hand, respondent in their reply have raised by and large technical objections like complaint is not maintainable; RERA Act cannot be implemented with retrospective effect; Authority does not have jurisdiction to hear the complaint; complaint has not been filed on proper format etc. Further in reply submitted by the respondents, he stated that project got delayed due to reasons beyond their control and various land disputes.

3. Sh. S.K.Gupta, learned counsel for the complainant reiterated the facts mentioned in para 1 of this order and pressed for relief of refund along with permissible interest. On the other hand, ld. counsel for respondent Sh. Ajay Ghangas, made a statement during course of hearing that respondent is not in a position to complete the project, therefore, possession to complainant cannot be delivered.

4. After going through the records available on file and considering the statement made by learned counsel of the respondent, Authority observes that Complainant has paid a total amount of ₹ 19,10,000/- to the respondent, as stated in para 1 of this order. In support of the assertion, complainant has annexed a statement of account issued by the respondents at page no. 39-40 of complaint. Accordingly, it is concluded that complainant had paid an amount of ₹ 19,10,000/- to the respondent against total sale consideration of ₹ 19,55,460/- and respondent despite having received said amount against the booking of the unit has failed to deliver possession to the complainant till date. Since, admittedly respondent have failed to offer possession and ld. Counsel for respondent has further stated that they are not in position to do so, relief of refund deserves to be allowed.

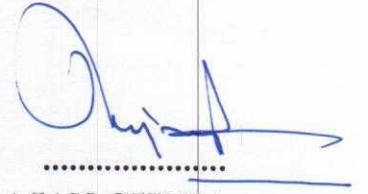
5 Respondent are directed to refund the amount of ₹ 19,10,000/- paid by the complainant to the respondents along with interest @ Rule 15 of RERA, Rules, 2017 from respective dates of making payments till passing of this order. Authority has got the interest calculated, which works out to ₹ 19,23,506/-. This interest has been calculated from the date of making payments by the complainant upto the date of passing of this order i.e. 07.07.2022 at the rate of 9.70%. Respondent shall pay ₹ 38,33,506/- (19,10,000/-+ ₹ 19,23,506/-) to the complainant 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”.

2. On the other hand, learned counsel for respondent Sh. Aditya Pratap Singh made a statement during course of hearing that respondent is not in a position to complete the project, therefore, possession to complainant cannot be delivered.
3. Authority is satisfied that the issues and controversies involved in present complaints are of similar nature as in Complaint No. 1373 of 2021 titled as Ram Pal Vs. Ansal Properties Infrastructure Pvt. Ltd. Therefore, captioned complaint be disposed of in terms of the order passed by Authority in Complaint no. 1373 of 2021.
4. In furtherance of above mentioned observation, Authority would dispose of the complaint with the order that refund of the amounts paid by them to the respondents along with interest in terms of Rule 15 of RERA, Rules, 2017 deserves to be granted from respective dates of making payments till passing of this order.
5. Accordingly, respondent is directed to refund the amount of ₹ 14,30,000/- paid by the complainant to the respondents along with interest @ Rule 15 of RERA, Rules, 2017 from respective dates of making payments till passing of this order. Authority has got the interest calculated, which works out to ₹ 15,37,256/-. This interest has been calculated from the date of making payments by the complainant upto the date of passing of this order

i.e. 07.09.2022 at the rate of 8 plus 2%= 10%. Respondent shall pay ₹ 29,67,256/- (14,30,000/-+ ₹ 15,37,256/-) to the complainant within 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. File be consigned to the record room after uploading of this order on website of Authority.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]



NADIM AKHTAR
[MEMBER]



GEETA RATHEE SINGH
[MEMBER]