



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 392 OF 2021

Manish Kumar

....COMPLAINANT

VERSUS

SRS Real Estate Ltd.

....RESPONDENT

CORAM:

**Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 12.05.2022

Hearing: 5th

Present: Mr. Rajan Kumar Hans, Id. counsel for the complainant
through video conference

None for the respondent

ORDER (DILBAG SINGH SIHAG-MEMBER)

Today is 5th hearing of the matter. Efforts were made to get the service effected to the respondent. It has transpired that Directors of the respondent company were confined in District Jail, Faridabad, therefore, notice of the

complaint got served through Superintendent of Neemka Jail, Faridabad. Despite service of notice, respondent neither appeared nor filed his reply till date. Therefore, respondent was ordered to be proceeded against ex-parte.

2. Brief facts of the case of the complainant are that original buyer namely, Manish Dahiya had purchased a flat bearing no.C1/01/PH/87/103 from the respondent on 08.09.2011. Complainant bought the said flat from the original buyer vide NOC dated 03.06.2013 and agreement to sell dated 19.07.2013, copies of which are attached at Annexure P-1 and P-2 respectively. Total cost of the flat was ₹37,55,520/- against which the complainant paid ₹36,69,129/-. Copies of payment receipts have also been attached at Annexure P-4. Builder buyer agreement was executed between complainant and the respondent on 16.10.2013, copy of which has been annexed at Annexure P-3. As per clause 4.1 of the agreement, respondent was under obligation to hand over possession within 48 months from the date of execution of the agreement i.e. up to 16.10.2017. however, complainant has received demand cum offer of possession letter dated 18.08.2017 with a demand of ₹5,58,066/- as outstanding dues on account of increased BSP, club membership charges, development charges, IFMS and preferred location charges.

Further it has been contended by learned counsel for the complainant that without any intimation and justification, respondent had increased sale consideration of the flat from ₹29,89,980/- to ₹31,75,456/- on the pretext of increase in area of the flat from 1290 sq. ft to 1364 sq. ft; preferred location

charges has been increased from ₹96000/- to ₹1,02,300/-; development charges increased from ₹5,30,190/- to ₹5,60,604/- and IFMS has been increased from ₹64,500/- to ₹68,500/-. Thus, complainant has been seeking relief of possession along with interest on account of delay in handing over possession and quashing of illegal demands.

3. After going through pleadings of the complainant and perusing of record placed on file, it is observed that complainant had purchased flat in the year 2013 and had paid ₹36,69,129/- against total sale consideration of ₹37,55,520/-. Complainant's grievance is regarding illegal demand in respect of increased BSP, development charges, IFMS, and preferred location charges. Upon perusal of complaint file, it is observed that complainant has placed on record copies of two statement of accounts dated 18.08.2017 and 07.01.2020, at page 70 and 68 of the complaint book respectively. The statement of account which has been issued later in time is being taken into consideration i.e. statement of account dated 07.01.2020 which shows a demand of ₹2,58,588/- (BSP of ₹2,24,181/-, PLC of ₹24,187/-, interest of ₹303/- and service tax of ₹9,917/-). This statement of account reveals that none of the charges as disputed by complainant have been increased by the respondent.

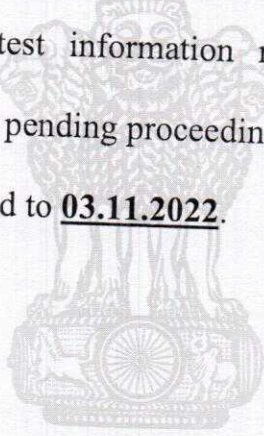
4. Now pertaining to issue of relief of delay interest for the period of delay in handing over possession of booked unit i.e. by 16.10.2017 (deemed date of possession), it is observed that respondent had issued an offer of possession to the complainant before due date of possession i.e. on 18.08.2017. However,

respondent had issued demand of ₹5,58,066/- along with said offer which has been agitated by complainant. On account of illegal demands raised by the respondent, he did not accept said offer of possession dated 18.08.2017 at that time. It was later revealed that occupation certificate granted on 19.07.2017 to the respondent promoter for said project by the competent authority was revoked on 17.10.2018 on finding that forged documents were submitted to the department with regard to installation of lifts. Copy of the same has been placed on record at page 87 of the complaint book. In the light of above findings and submissions made by the complainant, Authority observes that offer of possession dated 18.08.2017 made to complainant was not a valid offer in the eyes of law as it was based on the occupation certificate later revoked by the competent authority. A valid offer of possession is yet to be made to the complainant, therefore, there has been a significant delay in handing over of valid possession. Taking into consideration such inordinate delay in issuing valid offer of possession and subsequent non handing over of physical possession of booked unit, Authority has no hesitation in concluding that the complainants are entitled for the delay interest in terms of Rule 15 of HRERA Rules 2017 from the deemed date i.e., 16.10.2017 to the date on which a valid offer is sent to the complainant after obtaining valid and genuine occupation certificate.

Authority is of the considered view that complainant is entitled to the relief of possession along with delay interest. However, before allowing the

said relief, it has come to the knowledge of the Authority that directors of the respondent company are confined in jail and multiple proceedings are pending against them. Enforcement Directorate has attached properties of the respondents. Proceedings are also going on before NCLT. After hearing, Authority has disposed of present complaint allowed relief of possession along with delay interest. Since it has now come to the knowledge of Authority that entire projects have been attached by also by Enforcement Directorate under PMLA-2002, at this stage, Authority would like to hear the complainant on this aspect of the matter. Authority decides to relist this matter for further hearing asking the complainant to provide latest information regarding attachment done by Enforcement Directorate and pending proceedings before Hon'ble NCLT.

5. Case is adjourned to 03.11.2022.



सत्यमेव जयते

(RAJAN GUPTA)
CHAIRMAN

(DILBAG SINGH SIHAG)
MEMBER