



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 51 OF 2022

Sh. Raj Pal Singh

....COMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(S)

CORAM:

**Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 16.08.2022

Hearing: 2nd

Present: - Mr. Vikas Deep, learned counsel for the complainant through video conference
Ms. Rupali S. Verma, learned counsel for the respondent through video conference

ORDER (RAJAN GUPTA - CHAIRMAN)

1. Facts of this complaint are that complainant herein is deriving his booking rights from original applicant Mr. Naresh Kumar Jain who had booked a plot in respondent's project under 'Present and Future Scheme' in

the year 2005 by paying booking amount of ₹2,34,000/-. Thereafter payment of ₹ 1,56,000/- was also made by original applicant to respondent on 11.03.2005. Complainant has purchased the booking rights from Mr. Naresh Kumar and receipts were endorsed in his favour on 19.01.2006. Letter dated 23.02.2006 acknowledging and evidencing the transfer of booking rights was also issued by respondent. Complainant had also made payment of ₹3,93,750/- to respondent on 19.01.2006. Accordingly, complainant and their predecessor-in-interest have paid to the respondent a sum of ₹ 7,83,750/- till date. Complainant has annexed copies of receipts of payments as Annexure C-1 to C-4. Complainant claims that the booking was made for the project at Sonapat, Haryana. Complainant's grievance is that even after lapse of approximately 17 years from the date of booking, respondent has not allotted him any plot till date, no builder buyer agreement has been executed between the parties despite partial payment being made by the complainants, and respondent has not even refunded the amount paid. Respondent has not completed the project and has failed to develop the same as per schedule. Moreover respondent had received the booking amounts and further payments without mandatory license for setting up colony. Aggrieved by conduct of respondent, this complaint has been filed seeking allotment and possession of plot with delay interest or in alternate refund the amount paid by him along with applicable interest.



2. Respondent in its reply has contended that this complaint is not maintainable for the reason that complainant is not an allottee of respondent company. However, respondent has admitted the fact that original applicant Mr. Naresh Kumar Jain had applied for advance registration of a plot in any of new/upcoming project of respondent on 10.02.2005. The booking was subsequently purchased by present complainant and endorsement in his favour was made on 23.02.2006. Respondent admits that payment of ₹7,83,750/- has been received by him against said booking from complainant and his predecessor-in-interest. It has however been contended that there is no agreement to sell executed between the parties. Neither location nor site of the project was confirmed at the time of registration. It has been contended as per clause (f) of application form submitted by original applicant that in case no allotment is made, he shall accept refund of the amount deposited along with interest @10% p.a. It has further been stated on 19.11.2006, complainant signed an Affidavit-cum-Undertaking and Indemnity, and as per clause 7 of which in case no plot is allotted to complainants, they shall accept refund of the deposited amount with 9% simple interest per annum. Respondent has contended that at the time endorsement in favour of complainant, neither complainant nor his predecessor-in-interest raised any demand for refund and respondent made it very clear that no allotment was made in favour of original applicant and same was never objected by complainant. It has been stated that no demand was ever raised by



respondent after 2006. It has been contended that in the absence of any agreement to sell, complainant is bound by terms and conditions of Affidavit-cum-Undertaking and Indemnity duly signed by them. Further it has been contended that this complaint is barred by limitation and hence respondent sought dismissal of this complaint.

3. During oral arguments both parties reiterated their arguments as were submitted in writing. Learned counsel for respondent also argued that respondent does not have any plot available with them to be offered to complainant, but is ready to refund the amount.

4. After hearing arguments of both parties and going through documents placed on record, it is observed that that in this complaint booking was made in 'present and future' scheme; no agreement has been executed till date; complainant is interested to withdraw from the project and want refund of the amount deposited; respondent has expressed its inability to offer plot to the complainant and is agreeable to refund the amount deposited. For these reasons, a case is clearly made out to allow relief of refund as sought by complainant. Therefore, as per provisions of Section 18 of the Act, relief of refund as sought by the complainant deserves to be granted.

5. Hence, Authority directs respondent to refund the complainant the amount paid by him along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the

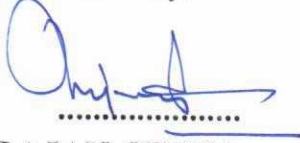


rate of SBI highest marginal cost of lending rate (MCLR) + 2 % which as on date works out to 10% (8.00% + 2.00%) from the date amounts were paid till today. Accordingly, total amount along with interest calculated at the rate of 10% works out to ₹21,19,112/- as per detail given in the table below:

S.No.	Principal Amount	Date of payment	Interest Accrued till 16.08.2022	TOTAL AMOUNT PAYABLE TO COMPLAINANT
1.	₹2,34,000/-	10.02.2005	₹4,10,109/-	₹6,44,109/-
2.	₹1,56,000/-	11.03.2005	₹2,72,167/-	₹4,28,167/-
3.	₹3,93,750/-	19.01.2006	₹6,53,086/-	₹10,46,836/-
Total	₹7,83,750/-		₹13,35,362/-	₹21,19,112/-

Respondent is directed to make payment of ₹21,19,112/- within 90 days from the date of uploading of this order, as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017.

6. The complaint is, accordingly, **disposed of**. File be consigned to the record room and order be uploaded on the website of the Authority.


 RAJAN GUPTA
 [CHAIRMAN]


 DILBAG SINGH SIHAG
 [MEMBER]