



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 1111 OF 2021

Snehdeep Deopa

....COMPLAINANT(S)

VERSUS

Shree Vardhman Developers Pvt. Ltd.

...RESPONDENT(S)

2. COMPLAINT NO. 1100 OF 2021

Rohit Mathur

....COMPLAINANT(S)

VERSUS

M/s Shree Vardhman Developers Pvt. Ltd.

...RESPONDENT(S)

Date of Hearing: 10.08.2022

Hearing: 8th

Present: Mr. Nitin Goel and Mr. Mayank Goel, Ld. counsel for complainant.

Mr. Sumit Kumar, Proxy counsel for the respondent through VC.

ORDER (DILBAG SINGH SIHAG- MEMBER)

Both captioned complaints are of similar nature and facts, grievances and relief sought by the complainant are also same. Therefore, facts of compliant no. 1100 of 2021 is taken as lead case.

2. Brief facts of the complainant is that he booked a unit no. 1101, 11th floor Tower no. C3 admeasuring 1315 sq.fts in the respondent project namely Shree vardhaman gardenia situated in Sonipat. Builder buyer agreement was executed between the parties on 19.08.2019 and as per the agreement the unit was to be delivered within 2 years from starting of constructions i.e. from 2017. Basic sale consideration for the same was fixed for Rs. 46,02,500/- against which complainant has paid a sum of Rs. 43,72,375/-. Complainant had paid Rs. 10,00,000/- through different payment modes along with Rs. 33,72,375/- through bank loan which was sanctioned on 06.09.2019. Proof of said payments are attached in the complaint file as annexure A7. Said loan was sanctioned after entering into tripartite agreement dated 10.09.2019. Later, complainant requested to cancel said unit through email dated 08.12.2020 and requested to refund the entire amount stating that he is not a good financial position to carry ahead with the unit. Further communication via email were done by him dated 10.12.2020 and 12.12.2020. He also submitted an application in the Bank to surrender his home loan and revoke tripartite agreement dated 11.12.2020. Later

complainant was served with notice for payment of dues in in home loans vide letter dated 23.07.2021 and further served legal notice under section 25 of The Payments and Settlements Systems Act, 2007 dated 10.09.2021. Therefore, complainant has approached the Authority seeking relief of refund of Rs. 10,00,000/- to the complainant and refund the remaining amount of Rs. 33,72,375/- to the bank along with the admissible interest, charges.

3. Respondent has submitted his reply in both the complaints. Respondent in their reply has acknowledged all basic facts of the complainant. He further submitted that their was delay to make offer of possession to the complainant due to force majeure circumstances i.e. due to Covid 19 and related issues due to nationwide lockdown. Nothing in reply has been stated by the respondent in relation to cancellation of the unit and refund of the said amount. Proxy counsel for the respondent did not apprise the Authority on the same.

4. Authority has gone through the facts of the case and observes as follow;

(i) Firstly, when complainant via email has requested for cancellation of the unit and wishes himself to withdraw on account of financial issues. Said communication deems to be valid. Thus his withdrawal is genuine and as per earnest money clause he should be allowed to refund the paid money after deducting 10% of basic sale price. This deduction of 10% of basic sale price is necessary because when a buyer purchase any unit or plot, promoter uses that money for the

construction in project. Thus to maintain balance between the right of allottees and promoter such deductions provides equity in such situations.

(ii) Secondly, there is default on part of the respondent as he has not cancelled the said unit and not made refund of the respective payments and because of same complainant has been facing legal issues against. Also, as per the oral averment of complainant legal proceedings are pending against the complainant before Hon'ble DRT. Further there is no reasoning submitted in the reply filed nor any oral averment made by the counsel to substantiate that why the unit was not cancelled despite necessary communication was made by the complainant.

5. Therefore, Authority is of the view that said withdrawal is the right of the complainant and should allowed to him. Therefore, Authority directs the respondent to refund the same along with permissible interest as calculated below in the table by accounts section of the Authority as per Rule 15 of the HRERA Rules i.e. @ SBI MCLR+2%. Respondent is directed to clear all the bank dues along with interest/charges first and refund the remainder to complainant.

Complaint No.	Principal Amount	Interest	Total Refundable
1111 of 2021	Rs. 48,28,850/-	Rs. 15,47,176/-	Rs. 63,76,026/-
1100 of 2021	Rs. 43,72,375/-	Rs. 12,51,789/-	Rs. 56,24,164/-



6. Respondents are directed to pay the calculated interest as shown in the table within a period of 90 days to the complainant.

7. Case is **disposed of**. Files be consigned to record room after uploading of order.



RAJAN GUPTA
(CHAIRMAN)



DILBAG SINGH SIHAG
(MEMBER)

