



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 639 OF 2021

Shweta Baweja and Anr.

....COMPLAINANT(S)

VERSUS

Alpha

....RESPONDENT(S)

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 04.08.2022

Hearing: 7th

Present: - Mr.Rit Arora , Ld. Counsel for the Complainants.

Mr. Vivek Sethi, representative of Respondent.

ORDER (DILBAG SINGH SIHAG - MEMBER)

While perusing case file it is observed that today is the 7th hearing of the case. Relevant facts and grievance of the complainant had been recorded vide its order dated 30.06.2022. Same is reproduced below for reference:

Perusal of record file reveals that today is the 6th hearing of the matter. In nutshell, facts of the case are that complainants booked a plot admeasuring 250 sq. yards in the respondents project Alpha

International City, Phase II, sector 28A-29 Karnal, Haryana on 23.05.2011. Both parties entered into Plot buyer agreement dated 19.10.2011 and as per the agreement, deemed date of possession was fixed 28 months from the commencement of development works, which arrives at 19.02.2014 as per contentions of the complainant. Basic sale price of the plot was fixed for Rs. 42,75,000/- out of which complainant has claimed to have paid Rs.40,32,258/-. Complainant has approached the Authority with a grievance that even after more than eight years of passing of deemed date of possession, respondent failed to offer a valid offer of possession till date.

2. Further, complainant also submitted that an offer of possession was made to him on 11.05.2016, but the same was challenged by the complainant submitting that the said offer of possession was not a valid offer of possession since it was made without obtaining a part completion or completion certificate as per Rule 16 of Haryana Development and Regulation of Urban Areas Rules 1976. He further averred that company had levied illegal charges and moreover, decreased the area of the plot from 250 sq.yards to 234.91 sq. yards. Complainant also challenge holding charges levied by the respondent from the date of offer of possession i.e. 11.05.2016 treating it illegal.

3. Respondent vide order 23.11.2021 was directed to pay a cost of Rs. 5000/- to the Authority and Rs. 2000/- to the complainant. Vide order dated 07.04.2022 it was recorded that respondent had paid Rs. 2000/- to the counsel of complainant however as per office record, he failed to pay cost of Rs. 5000/- to the Authority. He is directed to pay cost as per orders of the Authority. Since, none present on behalf of the respondent. Case is adjourned to 04.08.2022 for arguments.



2. Ld. counsel for the complainant reiterated facts of the case, in his oral averments and pressed for his relief of possession of unit along with delayed interest.

3. On the other hand, respondent has acknowledged the basic facts averred by the complainant. He also submitted that service plan and estimates were approved by DTCP dated 13.02.2013. He further averred that water supply, drainage, sewer lines Electricity lines, rainwater harvesting system and roads were completed as per approved plan/ standards in the licenced area and part completion was applied on 23.01.2014. He put forth renewal of licence was applied on 16.03.2015 and was the same was renewed w.e.f. 05.04.2015 vide letter dated 21.06.2017. Respondents received part completion certificate on 19.04.2018 and the same is annexed as annexure R6. He further submitted that infrastructural development activities at the site was completed as per approved plan therefore, they issued letter for offer of possession to complainant on 30.12.2015 along with demand of Rs. 12,69,612/- including stamp duty and registration charges. He again sent a letter to complainant dated 16.05.2016 along with demand letter for Rs. 12,98,657/-.

4. Both parties have submitted their written submissions in registry of the Authority. After perusal of written submissions of the parties Authority observes as follow:



(i) Both parties have agreed to basic facts of the case and these undisputed facts are that allotment letter was issued dated 23.06.2011. Plot buyer agreement was executed between the parties dated 19.10.2011 and deemed date of possession as per the agreement, was fixed 28 months from the commencement of development works, which works out to be 19.02.2014.

(ii) Main disputed fact are that complainant alleged that respondent had issued letter for offer of possession dated 11.05.2016. He has challenged the said offer dated 11.05.2016 thereby, submitting that it was illegal offer of possession because respondent had not obtained part completion or completion certificate at the time of making such offer. On the other hand respondent has claimed to have offered possession on 30.12.2015 along with demand of s. 12,69,612/- stating that such offer was made only after availability of functional infrastructural development activities at the spot was complete as per approved plan and as per guidelines of concerned authorities. He has annexed copy of same as annexure R-30 in his reply file.

(iii) Perusal of file reveals that letter dated 30.12.2015 was not an offer of possession rather it was a letter issued by the respondent to invite complainant to build boundary wall to ensure proper demarcation. Actual



offer was made on 11.05.2016 which is annexed as annexure R-31 of reply.

5. Next issue involved in this case is whether said offer of possession be treated as a valid offer or not. Authority is of considered view that respondent had applied for grant of part completion certificate on 23.01.2014 but the same was granted on 19.04.2018, annexed as annexure R8 of the Reply. Therefore, offer made by the respondent on 11.05.2016 was not a valid offer as it was made without obtaining part completion certificate. Therefore, complainant is entitled to delay interest from the deemed date of possession i.e 19.02.2014 to the dated of obtaining of part completion certificate i.e. 19.04.2018. The delay interest payable by respondent is calculated by Accounts Department of the Authority which works out to Rs. 13,74,379/- after deduction of amount of Rs. 4,50,000/- payable towards EDC/IDC from total paid amount of Rs. 40,32,258/-. Delay interest is calculated after deducting EDC/IDC charges and Service tax from the total paid amount/ receipts. The amount of such taxes are not payable to the builder and are rather required to passed on by the builder to the concerned revenue department/authorities. If a builder does not pass on this amount to the concerned department the interest thereon becomes payable only to the department concerned and the builder for such default of non-passing of amount to the concerned department will himself be liable to bear the burden of interest.



6. Respondent is directed to issue a fresh offer of possession along with latest statement of account as per direction given in this order. Further, he is directed to pay ~~the~~ delay interest as per Rule 15 of HRERA,2017 within prescribed period of 90 days.
7. Case is **disposed of**. File be consigned to the record room after uploading of order on the website of the Authority.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]