



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 1094 OF 2018

Vikas Aggarwal

.... COMPLAINANT(S)

VERSUS

SRC Buildtech Pvt. Ltd.

....RESPONDENT(S)

2. COMPLAINT NO. 765 OF 2019

Kapil Aggarwal

....COMPLAINANT(S)

VERSUS

SRC Buildtech Pvt. Ltd.

....RESPONDENT(S)

**CORAM: Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 12.08.2022

Hearing: 14th (in complaint no. 1094/ 2018)
10th (in complaint no. 765/2019)

Present through video call: - Sh. Sumit Mehta, learned counsel for the complainants (in both complaints)

Sh. Vineet Sehgal, learned counsel for the respondents in both complaints.

ORDER (RAJAN GUPTA- CHAIRMAN)

1. Both the captioned complaints were taken up together for hearing as grievances involved therein are identical and pertain to same project of the respondent. Therefore, complaint no. 765 of 2019 titled as Kapil Aggarwal versus SRC Buildtech Pvt. Ltd has taken as a lead case.
2. In this case complainant claims that he had booked a plot in the project of respondent named, " SRC Industrial Park" situated at Palwal . Builder Buyer agreement between the parties was executed on 30-09-2015 for total sale consideration of Rs. 50,26,065/- against which complainant claims that he had made full payment in cash on 01.10.2015 to the respondent. Complainant's grievance is that even after receiving entire consideration respondent has failed to offer him possession till date which was supposed to be delivered by 30-06-2016. In support of his contentions, complainant has annexed copy of Builder buyer agreement and receipts issued by one Mr. Munish Goel representative of respondent at page no. 15-21. His prayer is for delivering him possession or in alternative to refund the amount paid alongwith interest and compensation.

4

3. On the other hand, respondent briefly states that complainant alleges to have paid the amount of Rs. 50,26,065/- in cash to one Shri Munish Goel and has relied upon an agreement executed by Munish Goel who is neither a representative nor an authorized signatory of the respondent company. Therefore respondent owes no obligation towards the complainant.

4. On perusal of file, it is revealed that captioned matter has come up for hearing today fourteenth time. On different dates, various orders have been passed by the Authority. Vide Orders dated **18.04.2019** detailed arguments were recorded by Authority, relevant portion of which is reproduced below:

“1. While initiating the arguments, learned counsel for the complainant state that in the previous hearing, the issue regarding the actual payment made by the complainant was raised as the respondent rebutted that Mr. Manish Goyal to whom the payment made, was neither his employee nor his representative. So, the Authority had directed the respondent to file an affidavit to the effect that Mr. Manish Goyal had never been his employee/agent nor authorised to negotiate any dealing in respect of any property of the project.

2. Today, learned counsel for the respondent has submitted an affidavit signed by the Director of the company whereby it is stated that the respondent company has never executed any document/agreement/receipt in

favour of the complainant and Mr. Manish Goyal had never been authorized as signatory of the company for the above said allotment. Respondent company has not received entire sale consideration from said complainant in cash.

3. ***

4. ***

5. Learned counsel for the respondent denied each and every averment and contention raised by the complainant. It was stated that the present complaint is liable to be dismissed on the ground that Mr. Manish Goyal was neither the Director/Partner/authorized signatory of the respondent company and any document signed and executed in the name of Mr. Manish Goyal is not binding upon the respondent company. The respondent further, denied the payments of Rs.50,26,065/- made by the complainant. Further, Id. Counsel stated that a public notice had also been issued in the newspaper and FIR against Mr. Manish Goyal was also lodged.

6. After consideration of written and oral pleadings of both the parties and on perusal of the documents appended by the complainant, Authority is prima facie of the view that Mr. Manish Goyal was an authorized representative of the respondent company and had signed the documents/received the payments while acting in such capacity. But considering the seriousness of the matter as per undertaking submitted by the respondent in the form of an affidavit, further investigation of all

information/documents sought by the learned counsel of the complainant as per detail given in para 4 become relevant to be asked from the respondent”

5. Further vide orders dated 20.10.2020, Authority in para 4 of this order had given its tentative view that considering delay caused by the respondent in not providing requisite documents could lead to proving of claims of the complainant:

“2. ***

3. Respondent has filed an application dated 18.02.2020 for dismissal of the present complaint on the ground that the Mr. Manish Goyal who was stated to be an authorised representative of the respondent company has filed a private complaint before Chief Judicial Magistrate, Palwal against the complainant, his father and brother for committing fraud with him. The order passed in the said complaint is pending adjudication before Ld. Session Judge, Palwal. The complainant thus has no locus standi to file the present complaint and the same may be dismissed.

Learned counsel for the complainant however, apprised the Authority that the respondent was directed to produce certain documents as listed in Para 4 of the order dated 18.04.2019 but till date he has not supplied those documents in support of his contention.

4. The Authority after consideration of the matter is of the view that the respondent has not supplied documents as ordered by the Authority vide order dated 18.04.2019. Since then, more than one and half year has lapsed, but the

respondent has not complied with the orders of the Authority. The complainants cannot be made to wait endlessly as they had booked the plot in the year 2015. The respondent was under obligation to hand over possession by the year 2018 but till date no offer of possession has been made nor the project is complete. Therefore, the Authority is prima facie of the view that money paid by the complainants should be refunded to them along with interest.

However, learned counsel for complainant seeks time to file reply to the application filed by the respondent.”

6. Today, when matter came up for hearing for 14th time, complainant as well as respondent reiterated all the averments which were recorded in previous orders. Both parties sought time to file Written Arguments. They have submitted their written arguments.

7. Authority has gone through the written submissions, written arguments as well as verbal arguments put forward by both parties. Numerous allegations and counter allegations have been made against each other. References have been made to the FIRs, criminal suits and appeal.

8. A careful analysis of facts and situations reveals that the basic issue is regarding whether a lawful builder buyer agreement was executed between the complainant and respondents. Case of complainant is that builder buyer agreement dated 30.09.2015 placed at Page no. 15-21 of complaint book has been duly executed between parties. This agreement is

executed on 30.9.2015. Further, case of complainant is that they had made cash payment of Rs. 50,26, 065/- lacs in each case. Agreement as well as receipt allegedly were signed by one Mr. Munish Goel. Complainant states that Mr. Munish Goel was formerly a Director of the respondent-company and was duly authorised by respondent-company to sign agreement and to accept money and issue receipt thereof. Since respondents have not delivered plot, therefore, complainant states that either he should be given possession of the booked plot along with delay interest or in alternative refund the money paid along with interest.

9. Case of respondent on the other hand is that respondents have not signed any builder buyer agreement with complainant. They have not received cash money as has been claimed by complainant. Respondent denied that no money was received and Mr. Munish Goel was never a Director of the company or was authorised agent of the respondent. Mr. Munish Goel was not authorised to either sign the agreement, or to receive cash payments. In brief, respondents completely deny any relationship with Mr. Munish Goel with whom complainant claims to have executed the agreement.

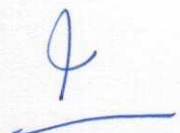
Respondents imply that complainant and Mr. Munish Goel themselves have estranged relationship. Mr. Munish Goel had also filed



certain FIR against complainants which have been duly taken into account by the Court of learned CJM, Palwal.

10. Authority has gone through available facts and circumstances. It observes and orders as follows:-

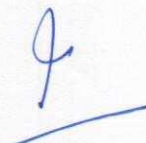
- i) In the order dated 18.4.2019, Authority had expressed tentative view that perusal of Board Resolution placed at Annexure CR-1 (page 14 of the complaint) and collaboration agreement (page 32) and certain other documents indicate that Mr. Munish Goyal was acting on behalf of respondents-company for certain purposes including for the purpose of acquisition of land for the project. Authority, however, had demanded certain documents to be able to arrive at final conclusion in the matter.
- ii) On perusal of documents, Authority observes that Mr. Munish Goel had acted on behalf of respondent-company for purchase of certain lands in the month of October 2011 and December 2011. However, alleged Board Resolution (Annexure CR-1) was supposed to have been passed on 15.12.2011. Accordingly, alleged Board Resolution for which complainant alleges that Munish Goel was conferred with powers for sale of plots etc. was passed after he had acted on behalf of



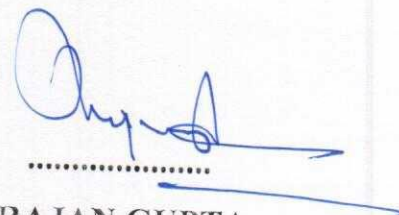
respondent-company for purchase of land. The Board Resolution states that the resolution bears signatures of Mr. Munish Goel, whereas, there are no signatures of Munish Goel on Annexure CR-1. Said board Resolution raises question mark on the authenticity of copy of alleged Board Resolution and alleged powers conferred upon Mr. Munish Goel.

- iii) The disputed agreement and disputed receipts of cash payments are of the year 2015. Authority observes that proceedings before it are of summary nature. In the summary proceedings only authentic documents can be relied upon. In this case, however, all the documents proposed to be relied upon are highly disputed. Alleged Board Resolution does not show signatures of Mr. Munish Goel. Respondents seriously dispute that they have ever authorised Mr. Munish Goel to act on their behalf. They even dispute builder buyer agreement allegedly executed by Mr. Munish Goel. Further doubtful circumstances to be noted are that the entire payments is alleged to have been made in cash. Source of cash generated have not been placed before this Authority.

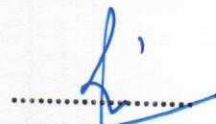
- iv) Therefore, in the absence of authentic documents, this Authority is not able to proceed further in the matter in these summary proceedings. Therefore, Authority is of the tentative view that whether Mr. Munish Goel was authorised signatory of the respondent-company to act on their behalf to execute builder buyer agreement and to receive cash payment etc. has to be proved before an appropriate court of law in regular proceedings. Authority is not able to arrive at any conclusion in the matter in the absence of reliable documentary evidence being placed before it by the parties.
- v) Authority proposes to direct the parties to prosecute this matter before Civil Court which after taking detailed evidence will be in a position to give its verdict about authenticity of the documents. Directions are proposed to be given on these lines. Authority would hear both the parties on the next date where after it will give its final decision.



11. Adjourned to 12.10.2022.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]

