



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1172 OF 2021

Deepti Gupta and Rajan Gupta

...COMPLAINANTS

VERSUS

Puri Construction Pvt. Ltd.

....RESPONDENT

CORAM: Rajan Gupta
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 07.04.2022

Hearing: 2nd

Present: Mr. Arjun Kundra, Ld. counsel for the complainants through VC.

Mr. Himanshu Juneja, Ld. counsel for the respondent through VC.

ORDER (DILBAG SINGH SIHAG-MEMBER)

1. Case was listed for arguments. Perusal of files reveals that complainants had purchased an apartment bearing unit no. T12-2B in project of the respondent namely "Aanand Vilas, Sector 81, Faridabad". Provisional allotment letter dated 15.11.2016 was issued in favour of the complainants. Apartment buyer agreement was executed between the complainants and the respondent on 26.07.2017. Complainants have already paid an amount of Rs.

82,02,446/- against total sale consideration of Rs. 85,87,410/-. Offer of possession was made to the complainants on 16.09.2019 after obtaining occupation certificate on 24.01.2019.

2. Grievance of the complainants is that at the time of offer of possession, respondent had illegally levied delay penalty charges for the period project of the respondent was pending for registration before RERA i.e. from 01.08.2017 till 06.06.2018 despite a letter dated 08.06.2018 issued by the respondent to the complainants. Vide letter dated 08.06.2018, respondent had agreed to waive off delay penalty charges for the period project of the respondent was pending for registration before RERA. Complainants had written emails dated 07.01.2020 and 16.04.2020 requesting the respondent to waive off the delay penalty charges as per its commitment.

However, respondent instead of waiving off delay penalty charges, issued cancellation and refund letter dated 15.02.2021 in furtherance of earlier cancellation letter dated 08.02.2018 without any justification. Ld. counsel for the complainants further argued that cancellation letter dated 08.02.2018 was withdrawn by the respondent by sending offer of possession dated 16.09.2019. Thus, he argues that cancellation letter dated 15.02.2021 was issued by the respondent against complainant along with a cheque of refund for Rs. 57,31,047/- after deducting earnest money of Rs. 10,91,250/-, Brokerage recovery of Rs. 3,36,512/-, Interest as on (08.02.2021) of Rs. 3,96,487/-, Taxes



recovered of Rs. 6,48,240/- which comes to a total deduction of Rs. 24,72,489/-.
Complainant had also issued legal notice against respondent dated 22.02.2021
citing

3. Reply filed by the respondent that the promoter's project is registered in RERA. Registration certificate bearing memo no. HRERA-PKL-FBD-13-2018 dated 04.06.2018 and submits that occupation certificate was obtained by the respondent on 24.01.2019 and offer of possession of said unit was made on 16.09.2019. Copy of the same is annexed as Annexure-R2 and Annexure- R3. Respondent further apprised Authority that complainant has defaulted in timely payment of instalments and various reminder letters were issued by respondent dated 01.12.2017,14.12.2017, 27.12.2017 and cancellation letter dated 08.2.2018. After revocation of cancellation letter again a reminder letter dated 19.06.2018, 04.07.2018, 17.09.2018, 30.11.2018, 30.03.2019 the same is annexed as Annexure-R6. It is further submitted by the respondent that before cancellation of the unit respondent sent two reminder letter dated 07.10.2019 and 18.10.2019 and sent a final call notice dated 04.11.2019. Thereafter receiving cancellation letter, complainant made payment of Rs. 4,00,000/- and sent an email dated 01.03.2018 that she is in process of taking the bank loan against said unit. Copy of the same is annexed as Annexure-R8. Respondent further apprised the Authority that Respondents had a scheme where interest was waived off on the

outstanding installment from 01.08.2017 till 16.06.2018 for all those allottees whose bank disbursal was put on hold due to non-receiving of RERA registration certificate. The complainant vide an email dated 01.03.2018 submitted that she is in the process of taking loan against the said unit and in reply to that respondent sent a letter vide dated 08.06.2018 for waiving off the interest on all outstanding installment from 01.08.2017 to 16.06.2018. It is averred that interest accrued on all outstanding installments from 01.08.2017 to 16.06.2018 was to be waived off completely only in case the allottees who have already availed a retail home loan or needs to avail a retail home loan against their units. Therefore, since the complainant did not availed the loan facility at the time non-registration of the project henceforth complainants does not fall under the scheme in which interest was waived off. With all the submissions by respondent it is further averred by him that interest waived off would not apply in the case of complainants and therefore delay penalty would be applicable on them. Further, respondent had already offered possession of the unit vide letter dated 16.09.2019 after receiving the occupation certificate on 24.01.2019. Even after sending a valid offer of possession and demand letter of Rs. 7,50,158/- for the same respondent alleges that complainant has failed to make timely payment of her dues. Therefore respondent pleads that in the present matter the complainants have defaulted in payments despite reminders therefore they cancellation is valid.



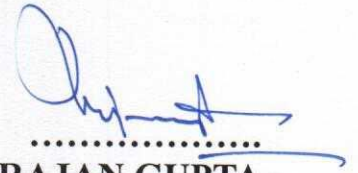
After hearing pleadings of both the parties Authority is of view that both the parties agreed to enter into an agreement to purchase the unit. However Respondent had applied for registration of the project and received the same dated 04.06.2018. Respondent launched a scheme to waive of interest accrued on all outstanding installments from 01.08.2017 to 16.06.2018 was to be waived off completely only in case the allottees who have already availed a retail home loan or needs to avail a retail home loan against their units. Therefore respondent had waived of interest on the basis of letter dated 01.03.2018 submitted by complainant. However, complainant has not submitted any proof with respect to any loan being taken by him in his complaint.

Respondent had received occupation certificate on 24.01.2019 and a valid offer of possession was made dated 16.09.2019. However, complainants have not made timely payments of dues and also defaulted in payment even after various reminder letters. On account of default in payment by complainant, respondent after issuing reminder letters had cancelled the allotment of the unit as per the terms of agreement. Respondent had also issued refund cheque of Rs.57,31,047/- after issuing cancellation letter. Since both the parties were in a contractual obligation to abide by the terms of agreement wherein the complainant was supposed to pay dues timely and respondent had to timely deliver the project as the terms. It can be observed that respondent that has abide by his duties and complainant has failed to do so. Therefore, Authority is of the



view that complainant cannot take benefit of his own wrong. Hence the present case is **dismissed**.

4. Case is **disposed of as dismissed**. Files to be consigned to record room after uploading of order.



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RAJAN GUPTA
[CHAIRMAN]



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DILBAG SINGH SIHAG
[MEMBER]

