



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO.2753 OF 2019

Disha Enterprises

....COMPLAINANTS

VERSUS

ANSAL PROPERTIES AND INFRASTRUCTURE LTD.RESPONDENT

**CORAM: Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 05.05.2022

Hearing: 5th

Present through video call: - Sh. Aseem Gupta, learned counsel for the complainant

Sh. Ajay Ghangas, learned counsel for the respondent.

ORDER (DILBAG SINGH SIHAG- MEMBER)

1. While initiating his pleadings, learned counsel of the complainant submitted that complainant had booked a flat bearing No.381203-, in Tower- 38, in respondent project named "Green Escape Apartments" situated in Sonepat by paying said booking amount of ₹ 3,50,000/- on 09.02.2006. In support of his contention of amount paid, he annexed receipt of ₹ 3,50,000/- at page no 12 of the complaint. Immediately after depositing said amount complainant had visited project site and found that no work is going on the site of project. Aggrieved, complainant has sought refund along with interest on the ground that no construction has been undertaken by the respondent at site. So, complainant sought relief of refund along with permissible interest as per Rule 15 of HRERA Rules, 2017.

2. On the other hand, respondents, in their reply have raised by and large technical objections like complaint is not maintainable, RERA Act cannot be implemented with retrospective effect, Authority does not have jurisdiction of hearing the complaint, complaint has not been filed on proper format etc. Respondent had admitted in Para 2 of reply that complainant paid ₹ 3,50,000/- as booking amount and thereafter failed to pay balance amount. Further, respondent had stated that allotment was cancelled on 22.12.2011 on the ground that complainant neither came forward to sign builders buyer agreement nor paid balance amount.



3. After hearing both parties and going through records, Authority during hearing, had asked specific question to both parties with regard to communication if any made between parties from the year 2006 to 2011. Complainant counsel referred to annexure C-2 and C-3 at page no 13,14 of complaint, whereby a letter dated 19.05.2012 was written to the respondent to refund paid amount. A legal notice dated 23.01.2019 was also served to the respondent for the same. But respondent choose not to reply any of them rather he cancelled the allotment without refunding of already paid amount to him. Respondent counsel argued that complainant had paid only booking amount. No payment made there after. Resultantly, his allotment was cancelled on 22.12.2011 after sending various demand notices to him. Respondent counsel sought time to place on record relevant demand letters and documents.

After examining records of the case and hearing of oral arguments put forth by both counsels, Authority observes that complainant had booked a unit in respondent project in the year of 2006 by paying a booking amount of ₹ 3,50,000/-. An receipt of ₹ 3,50,000/- is annexed with the file at page no 12 of complaint , which shows that said amount was paid by the complainant to the respondent for booking a unit in Project M2 of the respondent. However respondent had only stated that allotment made to the complainant was cancelled on 22.12.2011 but he had not attached said cancelation letter with reply.



In view of above observation, Authority is of the view that admittedly complainant had paid an amount ₹ 3,50,000/- to the respondent for a unit but respondent had failed to prove that allotment was cancelled in year 2011 as no such letter was produced before authority till date even after availing three opportunities and respondent had not refunded paid amount to the complainant in year 2011 when his allotment was cancelled by the promoter. Therefore, Authority deems appropriate to allow prayer of complainant for refund of paid amount.

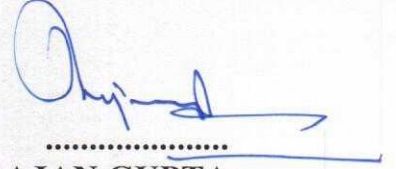
So in view of above findings, relief claimed by the complainants of ₹ 3,50,000/- along with interest @ Rule 15 of RERA, Rules, 2017 deserves to be granted from respective date of making payment till the actual realization of the amount.

Further Authority directs the respondent to refund entire principal amount of ₹ 3,50,000/- to complainant with interest. Authority has got calculated interest, which works out to be ₹ 5,34,332/-. This interest has been calculated from the date of making payments by the complainant i.e. 10.02.2006 upto the date of passing of this order i.e. 05.05.2022 at the rate of 9.40%. Now, respondent has to pay total amount of ₹ 8,84,332/- (₹ 3,50,000/- + ₹ 5,34,332) to the complainant within a period prescribed under Rule 16 of HRERA Rules i.e. 90 days in two equal instalments. First instalment of 50% of total amount shall be payable by

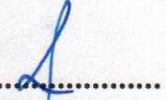
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respondent to complainant within 45 days of uploading of this order and remaining 50% in next 45 days.

Disposed of. File be consigned to record room after uploading of this order on the website of the Authority.



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RAJAN GUPTA
[CHAIRMAN]



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DILBAG SINGH SIHAG
[MEMBER]

