



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1278 OF 2021

Mr. Jagdeep Kumar

....COMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(S)

CORAM:

**Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 30.03.2022

Hearing:

1st

Present: -

Mr. Jagdeep Kumar, complainant through video conference

Ms. Rupali S. Verma, learned counsel for the respondent through video conference

ORDER (DILBAG SINGH SIHAG - MEMBER)

1. While perusing case file, it is observed that in nutshell complainant's case is that he booked a plot measuring 358 sq. yards in a project named 'Parsvnath City, Rohtak' being developed by the respondent by paying a booking amount of ₹2,90,000/- on 30.09.2009. Respondent at

the time of booking assured that possession would be given by March 2014. Complainant has only paid ₹2,90,000/- to the respondent against basic sale price of ₹19,51,100/- and is further ready to pay balance sale consideration. He claimed that he visited the office of the respondent company numerous times requesting them to allot a plot against his payment of booking amount but was returned with false assurances and till date no plot has been allotted to him. Therefore, present complaint has been filed seeking allotment of a plot along with interest for delay in offering possession.

2. Respondent filed its reply on 14.01.2022 taking preliminary objection that claim of the complainant is barred by limitation. Respondent has not disputed the booking of a plot by the complainant and payment of ₹2,90,000/- received by them from the complainant. Respondent has, however, disputed complainant's right for allotment of plot on the ground that such booking was for advance registration of a plot admeasuring 350 sq. yards in upcoming project of the respondent company by depositing a sum of ₹2,90,000/- . Name of the project was not confirmed nor was any number of plot given. Complainant while filling the application form had also given an undertaking that in case no allotment is made, he shall accept refund of the advance deposit. Relevant clause of application form is reproduced below for ready reference:

“(f) Though the company shall try to make an allotment but in case it fails to do so for any reason whatsoever, no claim of any nature, monetary or otherwise would be raised by me/us except

that the advance money paid by me/us shall be refunded to me/us with 10% simple interest per annum.”

Since, neither any allotment has been made nor any agreement has been executed between the parties, complainant is bound by terms of application form especially clause (f) which provides that allottee shall accept refund of the advance paid along with interest @10% p.a. He has further contended that respondent has never raised any demand after 2009 from the complainant which proves that registration was a mere expression of interest towards the future project of the respondent. Further, it has also been submitted that respondent is ready to allot an alternative plot to the complainant in other townships subject to availability and mutual negotiations.

3. Learned counsel for the complainant argued that respondent has illegally kept money of the complainant for such a long period of 12 years without allotment of any plot to the complainant. He further argued that complainant never denied making further payments for the booked plot but respondent neither issued allotment letter nor possession of the plot was offered. No communication has been made in this regard. He further argued that present case is similar to complaint case no. 730 of 2020 titled as Dr. Sukhvir Singh Rathi versus Parsvnath Developers Ltd. which has already been decided by the Authority on 17.08.2021 giving direction to the respondent to offer possession of the plot to the complainant. Therefore, he



requested that complainant should be given possession of the plot along with interest for delay caused in handing over the possession.

4. On the other hand, first and foremost argument of learned counsel for the respondent is that complainant had booked the plot in future projects of respondent and no project was specified in the application form. Secondly, no formal allotment was ever made in favour of the complainant or even promised to him, meaning thereby he is not an allottee of the project. Thirdly, as per application form submitted by the complainant, he should accept refund as the respondent is ready to refund the amount along with interest.

5. Considering written and verbal pleading of both the parties, Authority finds that complainant had booked the plot in the year 2009 by depositing earnest money of ₹2,90,000/-. Thereafter, no demand was ever raised by the respondent, no allotment was made, no agreement was executed nor further payment was made by the complainant. Moreover, in the present case, there is no record of any communication between the parties from the year 2009 to 2021. Mere payment of certain sum to the respondent by complainant doesn't make him an allottee of the project unless and until allotment was made in his favour of a specific unit in a specific project.

Moreover, there is no similarity between present case and complaint no. 730 of 2020 titled as Dr. Sukhvir Singh Rathi versus Parsynath

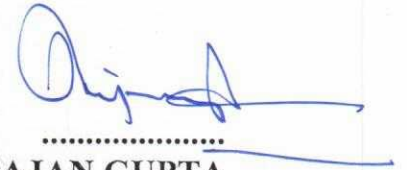
Developers Ltd. as in Mr. Rathi's case unit no. of the complainant was mentioned in one of the receipts along with name of the project. Whereas in the present case receipt annexed as Annexure P-1 at page 25 shows that booking was made in 'Present and Future Project'. No proof has been placed on record depicting the name of the project or the unit of the complainant. Therefore, it is difficult for the Authority to consider complainant as an allottee of the project and hence his claim for possession after approximately 12 years of booking is time barred. However, there is no dispute that he had deposited a sum of ₹2,90,000/- with the respondent who was under an obligation to allot a plot to the complainant otherwise he should have exercised the option of refunding the paid amount along with interest. Whereas, respondent kept with him and utilized the money of the complainant for nearly 12 years. Therefore, complainant can't be made to suffer because of the wrong done by the respondent and money deposited him shall be refunded back to him along with interest.

6. Hence, Authority directs the respondent to refund to the complainant his booking sum of ₹2,90,000/- along with interest calculated as per provisions of Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the rate of SBI highest marginal cost of lending + 2% which as on date works out to 9.30% (7.30% + 2.00%) from the date of receipt till today. In view of this total amount payable to the

complainant including interest calculated till today amounts to ₹6,27,310/-
(₹2,90,000/- + ₹3,37,310/-).

Respondent is directed to make entire payment of ₹6,27,310/- within
90 days from the date of uploading of this order, as provided in Rule 16 of
Haryana Real Estate (Regulation & Development) Rules, 2017.

7. **Disposed of.** File be consigned to record room and order be
uploaded on the website of the Authority.



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RAJAN GUPTA
[CHAIRMAN]



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DILBAG SINGH SIHAG
[MEMBER]

