



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

## 1. COMPLAINT NO. 1057 OF 2021

Sheela Jain

....COMPLAINANTS(S)

VERSUS

Rama Krishna Buildwell Pvt. Ltd.

....RESPONDENT(S)

## 2. COMPLAINT NO. 1058 OF 2021

Sheela Jain

....COMPLAINANTS(S)

VERSUS

Rama Krishna Buildwell Pvt. Ltd.

....RESPONDENT(S)

**CORAM: Rajan Gupta  
Dilbag Singh Sihag**

**Chairman  
Member**

**Date of Hearing: 12.05.2022**

**Hearing: 3<sup>rd</sup>**

**Present: Mr. Akshat Mittal, Ld. counsel for the complainant.**

**Mr. Pritam Lal Sehgal, Ld. counsel for the Respondent.**

**ORDER: (DILBAG SINGH SIHAG-MEMBER)**

1. Captioned complaints are more or less identical and relate to the same project of the respondent. Therefore, complaint no. 1057 of 2021 is taken as lead case.
2. Initiating his pleadings, ld. Counsel for the complainant submitted that complainant was allotted a shop bearing no. FF-44, 1<sup>st</sup> floor measuring 493.4 sq. ft in the respondent's project "The Destination" situated at Divine City, NH-1, Gannaur, Sonipat on 30.05.2018. Builder buyer agreement was executed between the parties on 08.06.2018. Complainant had paid Rs. 14,27,381/- against basic sales price of Rs. 12,67,026/-. In support of the contention that complainants have paid an amount of 14,27,381/- the complainants refer to conveyance deed dated 01.08.2018 executed between the parties.
3. Further facts of the matter are that respondent has not adopted model agreement for sale as provided in Haryana Real Estate (Regulation and Development) Rules, and builder buyer agreement is in violation of term/condition no. xi of the RERA registration certificate. Respondent has not specified any date of handing over possession to the complainant in the agreement but it was assured that possession of the shop would be completed



within 6 months from the booking i.e., by 20.09.2018. Conveyance deed had been executed between the parties on 01.08.2018 but respondent has failed to handover physical possession to the complainant till date. Complainant refers to photographs annexed as annexure C-5 colly depicting that construction has not been completed. Complainant also sent a legal notice dated 10.12.2020 calling the respondent to complete the development works and handover possession along with interest.

Complainant is seeking possession of shop along with delay interest as per Haryana Real Estate (Regulation and development) Rules, revocation of registration, Compensation of Rs. 10 lakhs, Penalty u/s 61 of the Act and cost and litigation expenses of Rs. 1,00,000/-.

4. On the other hand, Id. Counsel of the respondent appeared and filed his reply on 31.01.2022. Respondent has admitted the fact of executing the agreement and basic sales price of Rs. 12,67,026/-. It is stated that respondent never disclosed any date of offer of possession to the complainant. Clause 17 of the agreement has been quoted which says promoter shall endeavor to give possession within reasonable time after receipt of full consideration and other charges. Delay has been caused due to the circumstances prevailing due to Covid-19. Respondent has sent an email dated 24.11.2021 which clearly indicated that possession and NOC would be provided after 26.01.2022. As far

as the construction is concerned it is stated that completion of the structure could be verified at the site and respondent is ready to handover possession to the complainant.

5. On the last date of hearing Authority posed a specific question to learned counsel for the respondent with respect to reasonable time mentioned in clause 17 of the agreement. He was asked as to how and what time be considered as reasonable time. He confessed that it is difficult to define this term and apprised the Authority that only glass work is pending in the building and respondent is ready to handover the possession. It was informed by learned counsel for the complainant that Occupation Certificate has not been received by the respondent.

6. After hearing both the parties, Authority observes and orders as follows:

(i) Conveyance deed has already been executed on 01.08.2018 but respondent has himself admitted that construction is not completed and possession has not been handed over to the complainant till date as evident from the email sent by the respondent dated 24.11.2021 which indicated that possession and NOC would be provided after 26.01.2022.

(ii) Respondent admits the allotment and execution of builder buyer agreement dated 08.06.2018. There is no denial to the fact of Rs. 14,27,381/- having been paid by the complainants to the respondents. Payment of this amount is further adequately proved from conveyance deed executed between the parties in which receipt of said amount by the respondent from the complainant has been duly acknowledged dated 01.08.2018.

(iii) In the agreement dated 08.06.2018, no date of possession has been specified. Only a clause stating reasonable period has been written. It has already been confessed by ld. counsel for the respondent that reasonable period cannot be defined. This clause is unconscionable. Respondent had no right to seek money from the complainants if they were not in position to specify a date of offer. In these circumstances, deemed date of possession shall be considered 2 years from the date of execution of builder buyer agreement. It works out to 08.06.2020.

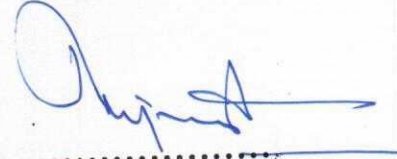
The possession was required to be delivered latest by 08.06.2020 and since the respondent could not offer possession by that date, the complainant is entitled for delay interest from 08.06.2020 till the date of order i.e. 12.05.2022 and monthly interest till the date of handing over of possession along with statement of accounts after obtaining occupation certificate.

Accordingly, the respondent is liable to pay the upfront delay interest of Rs. 2,58,790/- in complaint no. 1057 of 2021 and Rs. 1,55,419/- in complaint no. 1058 of 2021 to the complainant towards delay already caused in handing over the possession. Further, on the entire amount of Rs. 14,27,381/- in complaint no. 1057 of 2021 and on Rs. 8,57,229/- monthly interest of Rs. 11,763/- and 7,065/- respectively shall be payable up to the date of actual handing over of the possession after obtaining occupation certificate. The Authority orders that the complainant will remain liable to pay balance consideration amount to the respondent when an offer of possession is made to him.

7. The Authority further orders that respondent shall issue fresh offer along with statement of accounts duly incorporating delay interest and pay upfront delay interest of Rs. 2,58,790/- in complaint no. 1057 of 2021 and Rs. 1,55,419/- in complaint no. 1058 of 2021 within 90 days of uploading of this order on the website of the Authority as per Rule 16, ~~the~~ monthly interest of Rs. 11,763/- in complaint no. 1057 of 2021 and Rs. 7,065/- in complaint no. 1058 of 2021 will commence w.e.f. 13<sup>th</sup> May, 2022, payable on 13<sup>th</sup> June 2022 onwards.



**Disposed of** in above terms. File be consigned to record room after uploading order on the website of the Authority.



.....  
**RAJAN GUPTA**  
**(CHAIRMAN)**



.....  
**DILBAG SINGH SIHAG**  
**(MEMBER)**

