



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1159 OF 2021

MRS MEENAKSHI YADAV

....COMPLAINANT(S)

VERSUS

B M GUPTA DEVELOPERS PVT LIMITED

....RESPONDENT(S)

**CORAM: Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 07.04.2022

Hearing: 1st

**Present through video call: - Ms. Priyanka Aggarwal, learned counsel for
the complainant**

**Sh. Sahil Gupta, learned counsel for the
respondent**

ORDER (RAJAN GUPTA- CHAIRMAN)

1. Case of the complainant is that she had booked a flat bearing no.201, Second floor in Tower T-2, admeasuring 1640 sq. ft. in respondent's project "Elegant Heights" situated in sector 26, Rewari by paying a booking amount of Rs. 3,00,000/- on 23.05.2012. Complainant alleges that he has paid an amount of ₹ 47,02,422/- against total sale price of ₹ 49,32,385/-. In support of the contention, of an amount of ₹ 49,32,385/-, complainant refer to Annexures P-4 at page no. 51- 54 of complaint, which are statement of Accounts issued by respondent/promoter.

As per agreement dated 25.09.2013, respondent had committed to deliver possession of the unit within 36 months plus grace period of 90 days from the date of execution of agreement. Accordingly, due date of offering possession comes to 26.12.2016. However, lapse of more than four years from the deemed date of possession, respondent had offered possession to the complainant on 30.03.2021. Complainant alleges that the flat in question is not in habitable condition as basic amenities are yet to be installed. Complainants have prayed for possession of properly completed unit along with permissible delay interest for the interior period of delay caused.



2. On the other hand, learned counsel for respondent argued that respondent had received Occupation Certificate on 26.03.2021 from the competent Authority, a copy of same is annexed as annexure A-1 at page no 13 to 15 of reply. He submitted that after receipt of said OC, Respondent had immediately offered possession of allotted flat to the complainant vide letter dated 30.03.2021, annexed as annexure P-5 at page no 60-61 of complaint book. Respondent further states that the project is complete in all respects and other owners of the flats are already living there. Complainant is at fault by not taking possession even after delay of 10 months from the date of issuance of the possession letter. Respondent Further contended that present complaint deserves to be dismissed.
3. After hearing both parties, Authority observes that, admittedly, complainant had booked unit in the year 2012 and as per agreement respondent was under an obligation to handover the possession by 2016. It However was offered on 30.03.2021 to complainant after obtaining Occupation Certificate from the competent authorities on 26.03.2021, a copy of the same is annexed at page no 13-15 of reply. Complainant however refused to take possession due to alleged lack of basic amenities. Complainant has not mentioned as to which basic amenities were not provided by respondent. Further he had neither attached any document nor photographs to substantiate his claims in respect of allegation of lack of facilities.

After consideration, Authority is of the view that mere oral arguments or allegations put forth by complainant without evidence to substantiate his claims of lack of facilities cannot be accepted. Authority agrees with learned counsel for respondent that possession offered by the respondent was a valid offer of possession, as the same was offered after obtaining OC from department concerned. Further, as stated by respondent that other owners of the flat have taken the possession of their respective flats and are living in their respective flats without any hitch establish the fact that basic facilities have been provided in the project.

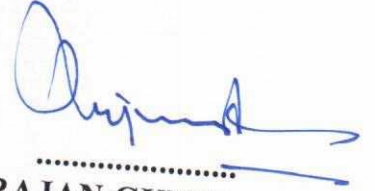
4. In view of above, Authority decides to dispose of the matter by granting relief of possession along with delay interest on the paid amount from the deemed date of possession i.e. 26.12.2016 till actual offer of possession i.e. 30.03.2021. Account branch of this Authority on calculation of interest @ 9.30 i.e. (SBI highest marginal cost of landing rate plus 2 %), as per Rule 15 of HRERA, Rules 2017, has worked out the amount of ₹ 18,63,125/- as interest payable to the complainant from deemed date of possession i.e. 26.12.2016 till 30.03.2021.

Further, Authority directs respondent to handover possession of the booked unit to the complainant within 30 days from uploading of this order on the website of the Authority. Respondent is also directed to issue fresh statement of Account to the complainant. While preparing the statement of receivables and payables, respondent shall adjust an amount of ₹18,63,125/-



assessed by this Authority as amount of delay interest payable to complainant.

5. **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]

