



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 568 OF 2021

Vidit Verma

....COMPLAINANT

VERSUS

TDI Infracorp

....RESPONDENT

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 01.06.2022

Hearing: 9th

Present: - Ms. Ritu Kapoor, Counsel for the complainant through VC.
Mr. Ajay Ghangas, Counsel for the respondent.

ORDER (RAJAN GUPTA-CHAIRMAN)

1 Case of the complainant is that he had initially booked a flat in 'Tuscan Heights' situated at Sonapat on 14.09.2010 and was allotted Unit No. - 402 in Tower No. 16 vide allotment letter dated 03.01.2012. Since construction of the tower in which unit of complainant was situated did not commence,

respondent shifted his booking to 'Lakeside Heights' at Sonapat in the year 2017. Builder Buyer Agreement was executed between parties on 30.03.2017. An apartment bearing no. T—8/1101 having area of 1170 sq. fts. was allotted to him. As per agreement, possession of booked apartment was to be handed over within 42 months from the date of agreement, thus deemed date of delivery comes to 30.09.2020. Complainant has paid Rs. 14,75,380/- out of his own pocket till date against basic sale consideration of Rs. 41,70,000/-. Loan of Rs. 34,20,022/- was raised by complainant from DHFL. A tripartite agreement was executed between complainant, respondent and DHFL on 09.01.2017. Clause L and clause 4 of said tripartite agreement stipulated that builder has undertaken to pay Pre-EMI interest on loan amount for a fixed period of 22 months.

Grouse of the complainant is that after initial booking of the apartment by him in the year 2010 in Tuscan Heights, his apartment should have been delivered to him latest by the year 2013-2014. It was due to lapse on part of respondent that construction of tower in which his apartment was situated did not commence and booking of his apartment was shifted to present project. Even after shifting his booking to the present project, respondent has failed to deliver him possession of his apartment. Thus, respondent has miserably failed in performance his contractual obligation to deliver possession of the apartment to him. In such circumstances, complainant cannot be compelled to wait further for indefinite time to get possession of his booked unit. Therefore, complainant is



seeking refund of Rs. 14,75,380/- along with interest as per Rule 15 of the HRERA, Rules 2017.

Complainant is also aggrieved on account of the fact of non-payment of interest as per tripartite w.e.f. Sept., 2019. Therefore, complainant is also praying for direction to respondent to make payment of Pre-EMI interest and settle loan account with DHFL.

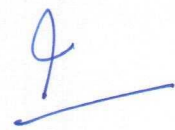
2. Learned counsel for respondent stated that construction of apartment is going on in full swing and possession of apartment is likely to be offered soon.

3. After hearing arguments of both the parties and perusal of record, Authority observes that respondent has failed on multiple accounts namely, failure to offer possession of apartment to complainant despite shifting the booking of apartment of complainant from 'Tuscan Heights' to the present project; status of Occupation Certificate qua the apartment as well as project is unknown; and respondent has been using the amount deposited by complainant for the last twelve years without any justifiable reason. Failure on part of respondent to deliver possession of apartment even after a huge delay of about twelve years from date of initial booking in the year 2010 has frustrated the very purpose of booking the apartment. Respondents are even in breach of tripartite agreement with DHFL by defaulting in making payments of Pre-EMI interest. Thus, respondents are to make payment of Pre-EMI interest and settle loan account with DHFL.

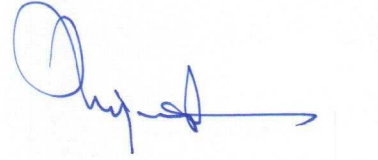


In such circumstances, complainant cannot be compelled to wait for indefinite period to get possession of the apartment. Purpose of buying the apartment has got totally frustrated due to inordinate delay. Therefore, Authority finds it to be a fit case for allowing refund of the amount paid by the complainant and directs the respondent to refund Rs. 14,75,380/- paid by the complainant along with interest at the rate stipulated under Rule 15 of the HRERA Rules, 2017 from the date of making payments up to the date of passing of this order.

4. After perusal of record, Authority observes that complainant has sought refund of Rs. 14,75,380/-. Learned counsel for the complainant vide email dated 15.06.2022, has stated that prayer for refund of Rs. 14,75,380/- be read as refund of Rs. 14,52,436/-. She has requested that Rs. 14,52,436/- which was paid by complainant to respondent as per Page 23 of Annexure-3 be taken for calculation of interest. Therefore, respondent is directed to refund of Rs. 14,52,436/- paid by complainant along with interest. As per calculations made by Accounts Branch, amount payable by the respondent to the complainant along with interest till the date of this order has been worked out to Rs. 29,79,127 /- (Rs. 14,52,436/- + Rs. 15,26,691/-) till date. Therefore, Authority directs the respondent to refund Rs. 29,79,127/-. The respondent shall pay entire amount to the complainant within 90 days of uploading this order on the web portal of the Authority. In addition, respondent shall also make payment of Pre-EMI interest and settle loan account with DHFL.



Disposed of in these terms. File be consigned to the record room and the order be uploaded on the website of the Authority.



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RAJAN GUPTA
[CHAIRMAN]



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DILBAG SINGH/SIHAG
[MEMBER]

