



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 434 OF 2021

Rakesh Mahendra

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

CORAM:

**Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 06.05.2022

Hearing: 7th

Present: Mr. Mohit Kapoor, Ld. Counsel for the complainant
Mr. Kamaljit Dahiya, Ld. Counsel for the respondent

ORDER (DILBAG SINGH SIHAG-MEMBER)

1. While perusing the case file, following facts are observed:

- i) Complainant booked a 1 BHK apartment in an affordable housing project named 'Krishna Housing Scheme' at Sector- 11 and 14, Sohna. In the year 2016 complainant deposited an amount of Rs. 82,863/- as booking amount. Respondent provisionally allotted unit bearing no. 11002 Tower E4 on eleventh floor to the complainant.

ii) Unit allotted to complainant was an apartment measuring 452.33 sq. ft. carpet area and 57.74 sq. ft. as balcony area. Flat was allotted under 'Time Link Payment Plan'. Total agreed sale consideration was Rs.16,57,258/-.

iii) Flat buyer agreement was executed on 17.11.2016 in which it was stipulated that possession will be offered within 4 years from sanction of building plans or from the date of receipt of environment clearances. Complainant averred that environment clearance was granted on 09.03.2015 and building plans were sanctioned on 12.11.2014. Accordingly, possession of the apartment became due on or before 27.04.2019. Complainant claimed to have already paid an amount of Rs. 8,24,529/-. He further alleges that agreement was for 'Time Link Payment Plan' and even after receiving over 45% of the total sale consideration, no construction at all had taken place by the year 2018.

iv) He also submitted that said apartment was booked for his personal use which was to be handed over by April, 2019, but nothing substantial happened on the ground. Respondents themselves have communicated to the complainant that possession would be offered by 3rd quarter of 2021 but the same would not be completed even after 3 years from now since no construction work undertook at site.



v) Complainant further stated that the licence No. 115 of 2014 issued to the respondents stands expired in August, 2019. RERA Registration No. 21 of 2017 issued to the builder has also lapsed in March 2020. Complainant requested for refund of money paid by him to the respondents along with delay interest as admissible under Section 18 of the RERA Act and Rule 15 of the RERA Rules on account of severe breach of terms of the agreement

3. On the other hand, respondents has submitted their reply dated 16.03.2022 with following submissions:-

i) This Authority does not have jurisdiction to deal with this matter because complainants have sought relief of “possession of the flats with interest and compensation”.

ii) Authority further lacks jurisdiction because the project has not been registered with the Authority. Authority has jurisdiction to regulate the affairs only of the projects which are registered with Authority.

iii) Respondents have also stated that agreement with the complainant-allottee had not been executed in accordance with the format of the agreement provided in the Rules. Further, agreement with complainant had been executed much prior to coming into force of the RERA Act. On this very reason, Authority has no jurisdiction and the complaint is not maintainable.

iv) Now project is in full swing and delay of the project was on account of non-sanction of necessary approvals from the competent authorities of the State Government and non-provision of external development services like sewer, water etc.

v) Respondent-company has averred that they had sought funds from M/s DMI Finance Pvt. Ltd. for financing its affordable housing project pursuant to licence No. 115 of 2014. Rs.55 crores were sanctioned out of which Rs. 33 crores have been disbursed and Rs.22 crores remains un-disbursed by the financier. Respondent-company claim in para 11 of their reply that out of the RERA Escrow account Rs.18 crores have been invested in the project and remaining amount has been withdrawn/ self-serviced by the vendor illegally. Respondents states that M/s DMI Finance Pvt. Ltd. is not releasing the money from RERA account and they are refusing to remove their lien.

4. This matter is similar to the bunch of matters with lead complaint no. 183 of 2021 titled 'Srishti Wadhwa And Jolly Wadhwa Vs. Raheja Developers Ltd.' which was decided by the Authority on 06.05.2022 whereby relief of refund was allowed to the complainants. Relevant part of the order is reproduced as below:

8) Respondents-promoters have not submitted any time-line as to when project is likely to be completed. They are only hiding behind bald technicalities like jurisdiction of the Authority to justify their utter failure



in completing the project. Photographs of the projects presented by complainants clearly show that the project is at very preliminary stages. It is not possible to be completed in foreseeable future. Since nothing substantial is happening on the ground, the promoters are going to find it difficult to arrange more money either from the allottees or from financiers. In any case, respondent is in serious disputes with both of them.

9) In such circumstances, when there is no hope of completion of project in foreseeable future, Authority is duty bound to allow relief of refund as prayed by complainants. Accordingly, Authority orders refund of entire amount paid by complainants along with interest.

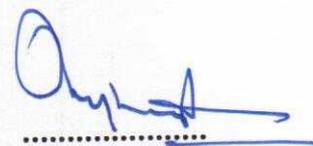
5. Since this matter is based on similar facts, relating to same project of the respondent, these complaints are also disposed off in terms of complaint no. 183 of 2021 titled 'Srishti Wadhwa And Jolly Wadhwa Vs. Raheja Developers Ltd.' Authority accordingly hereby orders refund of the amount paid by the complainants along with interest in accordance with Rule 15 of the RERA Rules, 2017. The principal amount and interest thereon payable to complainant is tabulated below:-

S.No.	Amount paid	Date of Payment	Interest till 06.05.2022 @ 9.40%	Total
1.	Rs. 82,863/-	27-10-2016	Rs. 43,064/-	Rs. 1,25,927/-
2.	Rs. 3,31,452/-	27-12-2016	Rs. 1,67,050/-	Rs. 4,98,502/-
3.	Rs. 2,07,157/-	01-01-2017	Rs. 1,04,139/-	Rs. 3,11,296/-
4.	Rs. 2,03,057/-	01-04-2017	Rs. 97,372/-	Rs. 3,00,429/-
Total	Rs. 8,24,529		Rs. 4,11,625/-	Rs. 12,36,154/-



6. Respondents are directed to refund above stated amounts along with interest shown in the table above within time period of 90 days as prescribed in Rule 16 of RERA Rules, 2017.

7. Complaint is **disposed off**. File be consigned to the record room after uploading of order.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]

