



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1102 OF 2021

Shri Bhagwan

....COMPLAINANT(S)

VERSUS

Housing Board, Haryana

....RESPONDENT(S)

CORAM:

**Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 28.06.2022

Hearing: 3rd

Present:

Shri Bhagwan, Complainant in person
Shri Vijay Pal Singh, Counsel for the respondent

ORDER (RAJAN GUPTA-CHAIRMAN)

This case was heard at length on 07.04.2022 when Authority after considering submission of both parties had passed following orders:

“ While initiating his pleadings, Shri Bhagwan, complainant submitted that on 23.12.2014 respondent board had conducted a draw of lots for the purpose of allotment of flats being developed at Sector 31, Panchkula. His father was declared as a successful applicant and had paid Rs 1,90,000/- to the respondent as booking amount. Vide

allotment letter dated 12.12.2015, his father got registration no. 313 for said allotment with a further demand of Rs 2,85,000/-. His father expired on 01.09.2017 and complainant had no information in regard to deposition of any money. Later on, complainant got said allotment transferred to his name on 17.09.2019 and requested from the respondent, a schedule for making payments but he did not receive it. Rather, respondent cancelled the registration of flat vide letter dated 26.02.2020 on account of non payment.

Shri Bhagwan further submitted that he deposited an amount of Rs 4,50,000/- with the respondent Board for restoration of the flat in his name, which was restored on 09.08.2021. Despite restoring the flat and taking an amount of Rs 6,40,000/- for the same, respondent had failed to deliver him possession of booked unit.

2. Vide order dated 23.11.2021, respondent Board had submitted that at present there is no unallotted flat available with the department but had confirmed that the complainant is included in the preference list for the second draw of lots to be held by the department whereby flat will be allotted to complainant. Authority had directed the respondent to file an affidavit duly incorporating therein that complainant shall be included in the second draw of lots and will be allotted a flat. Pursuant to the same, respondent filed

an affidavit dated 10.01.2022 whereby it has been submitted that the complainant will be included in next draw of lots for allotment of flats at Panchkula and will be allotted a flat in near future. Process for drawing of lots is under way and same will be intimated to the complainant as and when it will be held. Today, Shri Vijay Pal Singh, learned counsel for the respondent also confirmed the same.

3. On the other hand, Shri Bhagwan, complainant, submitted that he had filed an RTI application seeking information with regard to availability of unallotted flats in the project being developed by respondent. In response, he was apprised that there are still some vacant flats in the project which are available for allotment purpose, however, respondent Board is deliberately not allotting him a flat. Therefore, he requested that directions be issued to respondent to allot him a flat and thereafter offer him possession at the earliest.

4. In order to ascertain availability of a flat for the purpose of allotment to complainant, Authority directs Chief Administrator, Haryana Housing Board, Panchkula to file a detailed affidavit providing information with regard to (i) total no. of flats that were available for allotment during first draw of lots ;(ii) list of sold and unsold flats in the project ;(iii) total no. of flat that will be available in the second draw



of lots to be conducted by department; (iv) a schedule of balance payment that is to be made by complainant for said flat. Said affidavit should be filed by the respondent atleast 15 days before next date of hearing with an advance copy supplied to complainant.

5. Adjourned to 28.06.2022. "

2. In compliance of directions issued vide order dated 07.04.2022 respondent filed an affidavit dated 17.06.2022 and a copy of the same was supplied to the complainant.

3. Today, Shri V. P Singh, learned counsel for the respondent referring to said affidavit submitted that a total number of 234 flats were available for allotment during first draw of lots out which 217 were allotted to respective applicant and 46 number of allottees failed to take possession. Further for the second draw of lots a total number of 63 flats will be available for allotment and schedule of balance payment will be intimated at the time of allotment. He reiterated that in the second draw of lots complainant will be given preference.

At this point Authority asked the learned counsel for respondent whether the flats that are to be allotted in second draw are ready and when will the department conduct the said draw. Learned counsel for respondent apprised that flats were ready for the purpose of



allotment however, he was not aware as to when the department will conduct second draw of lots.

4. On the other hand, Shri Bhagwan, complainant submitted that after demise of his father, respondent had restored the flat in his name after taking a deposit of ₹ 4,50,000/- and he is further ready to make balance payment in respect of booked flat however, it is the respondent who has failed in offering him possession. Respondent has already submitted that he will be given preference in the second draw of lots and that the flats available for second draw are ready for possession. However, respondent is uncertain as to when the second draw of lots will be conducted. Complainant, Shri Bhagwan, submitted that he has already waited for a long time to get possession of booked plot and is not in a position to wait any longer. The allotment still stands in his name and respondent has given his assurance that complainant will have first priority in second draw, in such circumstances he prayed the Authority to issue direction to respondent to deliver him possession of one out of sixty three flats which are available for the purpose of allotment and also to issue him schedule of balance payment.

5. After hearing submissions of both parties, Authority observes that in this case the father of the complainant had agreed to purchase a flat in the project of the respondent for which purpose an allotment letter



12.12.2015 was issued in his favour. However, after the demise of his father complainant stepped into his shoes and got the allotment transferred in his name on 17.09.2019. Registration of the flat was cancelled vide letter dated 26.02.2020 but the flat was restored in the name of complainant on 09.08.2021 upon payment of Rs 4,50,000/-. On the other hand, respondent submitted that by the time the flat was restored in the name of complainant, all available flats for said draw of lots held on 23.12.2014 had been duly allotted. However, complainant has been included in the preference list for second draw of lots to be held by the department whereby flat will be allotted to the complainant.

A specific query was put up to respondent as to how many flats will be available for allotment in second draw of lots and when that second draw of lots will be held by the department. In reply, it has been submitted by Id. Counsel for respondent that a total number of 63 flats will be available for allotment of second draw of lots. Said flats are ready for possession but department has not given a particular time/date conducting said of draw lot. As per the submissions of respondent it is observed that there are 63 flats in the project of the respondent which are ready and available for possession and department will conduct a second draw of lots for the purpose of allotment of these flats in which the complainant is stated to be given preference. However, at this moment



even the respondent department cannot clearly state as to when it will conduct said draw but it is understandable that the draw might not get conducted in foreseeable future. Therefore, In these circumstances, the allottee who has paid an amount of Rs 6,40,000/- by the year 2021 and has been waiting for possession for a long time cannot be kept waiting for further indefinite period. It is an admitted fact that respondent has 63 flats available for possession and have also stated before Authority that complainant shall be included in the preference list as and when said draw of lots will be conducted, in that case, there is no injustice caused to any of the parties if respondent is directed to deliver possession of one flat from 63 flats available for second draw of lots to the complainant. It has already been established that complainant has a right to have a flat allotted to him in the second draw of lots therefore, considering the peculiar circumstances of this case, Authority deems it fit to issue directions to respondent to deliver possession of one of the flats from the lot of 63 flats to complainant prior to conducting second draw of lots. Respondent shall provide to the complainant schedule of balance payment that is to be paid by the complainant and will handover possession of such flat to the complainant within 60 days of uploading of this order. If complainant feels further aggrieved, he will be at liberty to approach the Authority for redressal of his grievances.



6. Case is disposed of. Order be uploaded and files be consigned to record room.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]

