



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1226 OF 2021

Ram Singh Thakur

....COMPLAINANT(S)

VERSUS

Konark Rajhans Estates Pvt Ltd.

....RESPONDENT(S)

CORAM:

Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 28.06.2022

Hearing: 4th

Present: - Complainant in person
Mr. Vivek Sheoran, Ld. Counsel for the respondent

ORDER (RAJAN GUPTA-CHAIRMAN)

1. Facts of the matter are as follows:-

- i) That complainant in the year 2016 booked a 2 BHK apartment in the project named 'Asha Panchkula' of respondent, at Sector 14, Kot Behla, Panchkula. Complainant deposited an amount of Rs. 1,99,628/- as booking amount. Respondent allotted unit bearing no. C-1001 admeasuring 1110 sq. ft. in tower C to complainant. No allotment letter has been annexed with complaint file, but allotment is confirmed by details mentioned in apartment buyers agreement annexed as annexure P3. Basic sale

price agreed between parties for the 2 BHK apartment was Rs. 19,10,310/-.

ii) Flat buyer agreement was executed on 10.08.2016 wherein as per clause 9 it was stipulated that possession will be offered within 36 months from the date of receipt of first instalment against allotment of the said apartment plus grace period of 6 months. The date of first instalment was 02.06.2016, therefore due date of completion works out to be 02.06.2019 exclusive of grace period. In case, there was any grace period, the project was to be handed over up till 02.12.2019. Complainant has paid an amount of Rs. 1,99,628/- as is evident from the bank statement as annexed by the complainant as Annexure A1 (at page 14 of the complaint file.

iii) Via communication dated 10.08.2017, respondent informed the complainant that work on Tower C and D has commenced from 10.08.2017. However, on 07.11.2018, representative of respondent company informed complainant that Tower C and D could not be constructed as company has failed to reach targeted sales. In response to this, complainant asked for refund of paid money. Respondent via email dated 04.12.2018 agreed to refund Rs. 1,99,628/- along with 10% simple interest. At the same time,

option was given to complainant to relocate to tower B. Complainant refused the offer of relocation. Respondent has not refunded the money therefore complainant has filed this complaint praying for refund of the amount paid.

2. Respondent filed their reply on 22.04.2022 wherein they stated that due to slowdown in real estate market, economic meltdown and defaults committed by allottees in making timely payments, they could not complete the project within tentative time frame given. But the work for completion of Tower A and B in the said project is going on and at an advance stage. For this reason they have requested all their customers in Tower C to H to take flats in Tower A and B. They have also requested the present complainant to shift to Tower B but complainant has refused the offer which amounts to voluntary withdrawal from project.

3. Complainant on 08.06.2022 submitted rejoinder wherein he stated that respondent is not constructing tower C and D. Respondent himself has agreed that sales for past 3 years has been extremely low and hence they will not be constructing tower C and D. Options to either reallocate or get refund was given to complainant, against which complainant opted for refund, but even after making his intention clear for refund, the same has not been processed till date.



4. This matter is similar to the complaint no. 39 of 2020 titled 'Sumant Singh Ajay Vs. Konark Rajhans Estates Pvt. Ltd.' which was decided by the Authority on 01.06.2022 wherein relief of refund was allowed to the complainant. Relevant part of the order is reproduced below:

5. Matter was reheard on 15.03.2022 when Authority gave its tentative view that since alternate unit is not acceptable to the complainant therefore refund is admissible in this case. Relevant order is reproduced below:

1. Ld. Counsel for the complainant states that the tower D is not ready and the he is not willing to take possession in tower A or B as offered by the respondent.
2. Based on the argument advanced by the counsel for complainant the Authority observes that as the complainant has made his intention clear, the Authority is inclined to allow refund to the complainant. The complainant has paid only 25% of the total consideration they cannot be made to pay the balance 75% if they are not interested in the alternative unit.
3. Ld counsel for respondent seeks some time to argue the matter. Accepting his request,



case is adjourned to **31.03.2022**
for arguments.

6. Ld. Counsel for complainant submitted their written arguments on 31.05.2022. During hearing, they restated the same facts as mentioned under written submissions dated 31.05.2022. Ld. Counsel for complainant submitted that respondent builder has not adhered to the sanctioned plans and projects specifications. Respondent is not constructing Tower D as per the original sanctioned plans in which petitioner has booked apartment No. D-0405 and thus violated the terms and conditions of agreement. Therefore, final submission of complainant is that he prays for refund of Rs. 9,89,960/- along with permissible interest rate.

7. Authority is of the considered view that the matter has been tentatively decided on 15.03.2022, and alternate offer of possession in Tower A or B is not acceptable to complainant, therefore the view taken by the Authority in the order dated 15.03.2022 stands confirmed. Authority directs the respondent to refund entire amount of Rs. 9,89,960/- paid by complainant along with interest rate as prescribed under Rule 15 of HRERA, Rules 2017, i.e. SBI highest MCLR rate + 2% which is 9.40% p.a. simple interest.

5. Since present matter is based on similar facts, relating to same project of the respondent, this complaint is also disposed off in terms of complaint no. 39 of 2020 titled 'Sumant Singh Ajay Vs. Konark Rajhans Estates Pvt. Ltd.' Authority accordingly hereby orders refund of the amount paid by complainant 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.	Principal Amount	Date of Payment	Interest till 28.06.2022 @ 9.70% p.a.	Total
1.	Rs. 1,99,628/-	02.06.2016	Rs. 1,17,669/-	Rs. 3,17,297/-

Respondent is directed to refund above stated amounts along with interest shown in the table above within 90 days prescribed in Rule 16 of RERA Rules, 2017.

6. **Disposed off** in above terms. File be consigned to record room.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]