



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 152 of 2021

Joginder Singh Rana

...COMPLAINANT(s)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(s)

**CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar**

**Member
Member**

Date of Hearing: 22.11.2022

Hearing: 5th

Present: - Ms Sanjeev Sharma, learned counsel for the complainant through
video conference

Ms. Rupali. S. Verma, learned counsel for the respondent through
video conference

ORDER (NADIM AKHTAR-MEMBER)

Case of the complainant is that he had booked a residential plot in the project named as "Parsvnath Royale" of the respondent situated in sector 20, Panchkula, Haryana and paid ₹1,00,000/- as booking amount by cash on 10.09.2010. Flat no. T-2-G01 on ground floor in tower/block no. T2 admeasuring area of 1780 sq. ft was allotted to the complainant. Flat Buyers Agreement was

executed between the complainant and the respondent on 08.12.2010. The basic sale price of the plot was ₹57,85,000/-. Complainant alleged that he has paid ₹57,47,987/- against the basic sale price. However, no substantial proof of payments has been annexed in the complaint file corresponding to the amount of ₹57,47,987/-.

2. As per averments made by the complainant, possession was to be delivered within 36 months with a grace period of six months from the date of agreement by 08.06.2014 as per clause 10(a) of Plot- Buyer Agreement. However, possession of the plot has not been handed over to him till date. The complainant had time and again requested the respondent for handing over the possession of the allotted flat but respondent had not provided any definite timelines for the development and completion of the project and always kept on extending the timelines for handing over the possession to the complainant. A copy of letter dated 14.07.2015 of extension of completion schedule of the project sent by the respondents is annexed as Annexure C-6. Complainant also wrote letters to the respondent for refund of their money along with interest and compensation but no satisfactory response was ever given to him. A copy of the letter dated 14.09.2016 and 19.10.2016 are annexed as Annexure C-7 and Annexure C-8.

3. Aggrieved on account of conduct of the respondents and inordinate delay of over 10 years having already been caused and flat still not being ready,



complainant has sought relief of refund of entire money paid by them along with interest.

4. Respondent filed his reply on 11.07.2022. Respondent has admitted execution of plot buyer agreement on 08.12.2010 and payment of Rs.50,55,987/- having been received from complainants. A copy of customer ledger is annexed as Annexure R-4. He further stated that complainant has opted for construction linked payment plan to pay further instalments. However, he has argued that complainant has defaulted in making timely payments and various reminders letters were issued to him for making payment but he never replied to any of the reminder letters. Copies of reminder letters dated 15.12.2010, 11.02.2013, 08.05.2013 and 09.07.2013 are annexed as Annexure R-5(colly). It has been further stated that the respondent has already offered letter for fit-outs for flat no. T2-G01 to the complainants along with final statement of accounts. A copy of letter for fit-outs dated 29.07.2017 and final statement of accounts are annexed as Annexure R-1.

As per averments made by respondent, the project was being developed as Group Housing Project (GHP) and total 09 towers had been constructed. Out of 9 towers, tower 1,2,3,4,5,9 and EWS had been completed and fit outs were already offered to allottees. The structure and internal plaster of tower 6,7,8 had been completed whereas external plaster of the towers was still in progress. It has been further alleged that respondent company had already obtained Fire NOC of



tower.1 and 2 and has already applied for part occupation certificate for these towers. However, no substantial proof has been placed on record regarding the same.

5. Today learned counsel for the complainant submitted that inordinate delay of almost more than 10 years has already been caused, still the respondent had only offered fit-outs possession to the complainant. Moreover, Occupation Certificate has not been obtained till date. He further submitted that the complainant has made a payment of ₹57,47,987/- but respondent is admitting the payment of ₹50,55,987/- only. To prove his contentions, he further stated that ₹6,92,000/- was collected by respondent no.1 and respondent no.2 in cash through an authorised agent i.e., Respondent no.3 and a copy of the receipt acknowledged by respondent no.3 is annexed in complaint file as Annexure C-5.

6. Learned counsel for the respondent, on the other hand submitted that project is at the verge of its completion therefore, allowing refund at this stage will not only hamper the project but the interest of allottees. She further stated that out of 9 towers, tower 1,2,3,4,5,9 and EWS block of group housing are also complete but Directorate of Town and Country Planning has required some bank guarantees which the respondent has prepared for assessment and will submit it to the concerned department in a short while. In regard to the proof of payments, she further stated that as per customer ledger placed on record, amount paid by the complainant amounts to ₹ 50,55,987/- and any payment made to any other agent and company is not their liability.



7. Authority has gone through respective arguments put forward by both sides. It observes and orders as follows: -

i) Respondents have admitted basic facts of the matter that a flat-buyer agreement was executed in the year 2010. Against consideration of Rs. 57,85,000/-, an amount of ₹ 50,55,987/- has already been paid by the complainant which has been duly proved as per the customer ledger. Further, in the flat-buyer agreement dated 08.12.2010, possession was to be delivered within 36 months with a grace period of six months from the date of agreement which means possession should have been delivered by 08.06.2014.

ii) Admittedly, occupation certificate of the project has still not been received i.e., even after eight years from the due date of offering possession the project is still not complete.

Respondent states that a fit-out possession was offered to the complainants in the year 2017. Authority observes that non-acceptance of a fit-out possession is optional for complainant. Complainant had contracted for purchase of a completed flat. A flat is said to be complete only when it has received occupation certificate from the Authorities concerned, complete in all respects as per provisions of agreement and is in habitable condition. Mere fact that occupation certificate has not been obtained is a proof enough that flats are still not complete. Complainant has booked his



apartment in the year 2010. He made all payments as per demands and most of the payments have been made by the end of the year 2013. Legitimate expectations of the complainant, therefore, was that apartment would be delivered to them by the year 2013 or may be with some delay of say 5-6 months.

iii) A proper legal offer of possession, however, has still not been made even after lapse of eight years. Such inordinate delay tantamount to complete breach of agreement. Such huge delay defeats the very purpose of booking a flat. No reasonable cause for such huge delay has been presented.

iv) For the foregoing reasons and observations, Authority finds it a fit case for allowing the prayer of complainant for refund of entire amount paid by the complainants to the respondents.

It is pertinent to mention that Complainants claimed to have paid ₹57,47,987/-, out of which ₹ 50,55,987/- has been duly proved by a copy of customer ledger annexed in complaint file. But no substantial proof has been placed on record of the payment of ₹ 6,92,000/- which the complainant claimed to have paid to the respondent no.3. Therefore, Authority allows the refund of an amount of ₹50,55,987/- which has been duly proved as per the customer ledger and the interest accrued shall be calculated upon the same amount.

Hence, Authority directs respondent to refund the complainant the amounts paid by them along with interest at the rate prescribed in Rule 15 of Haryana Real



Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 10.35% (8.35% + 2.00%) from the date amounts were paid till today.

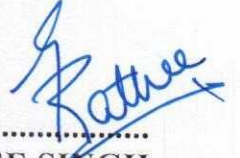
Accordingly, total amount along with interest calculated at the rate of 10.35% works out to ₹1,06,39,269 /- as per detail given in the table below:


| Sr. No. | Date of Payment | Principal Amount | Interest accrued till 22-11-2022 | Total Amount payable to complainant |
|---------|-----------------|------------------|----------------------------------|-------------------------------------|
| 1. | 2010-10-12 | ₹ 4,87,448/- | ₹6,11,630/- | ₹10,99,078/- |
| 2. | 2010-10-12 | ₹12,552/- | ₹15,750/- | ₹28,302/- |
| 3. | 2010-12-04 | ₹3,80,302/- | ₹47,1472/- | ₹8,51,774/- |
| 4. | 2010-12-04 | ₹9,698/- | ₹12,023/- | ₹21,721/- |
| 5. | 2010-12-11 | ₹5,78,500/- | ₹7,16,036/- | ₹12,94,536/- |
| 6. | 2010-12-11 | ₹14,900/- | ₹18,442/- | ₹33,342/- |
| 7. | 2011-08-10 | ₹14,987.32/- | ₹17,522/- | ₹32,509.32/- |
| 8. | 2011-08-10 | ₹5,78,499.68/- | ₹6,76,338/- | ₹12,54,838/- |
| 9. | 2012-03-29 | ₹5,78,500.62/- | ₹6,38,282/- | ₹12,16,782.62/- |
| 10. | 2012-03-29 | ₹90.94/- | ₹100/- | ₹191/- |
| 11. | 2012-03-29 | ₹14,805.44/- | ₹16,335/- | ₹31,140.44/- |
| 12. | 2012-08-28 | ₹17,875.65/- | ₹18,952/- | ₹36,827.65/- |
| 13. | 2012-08-28 | ₹5,78,124.35/- | ₹6,12,949/- | ₹11,91,073.35/- |
| 14. | 2013-02-18 | ₹5,78,875.35/- | ₹5,85,184/- | ₹11,64,059.35/- |

| | | | | |
|-----|------------|---------------------|---------------------|-----------------------|
| 15. | 2013-02-18 | ₹17,875.65/- | ₹18,070/- | ₹35,945.65/- |
| 16. | 2013-06-28 | ₹5,78,694.00/- | ₹5,63,668/- | ₹11,42,362/- |
| 17. | 2013-06-28 | ₹17,882/- | ₹17,418/- | ₹35,300/- |
| 18. | 2013-08-13 | ₹5,78,306.70/- | ₹5,55,747/- | ₹11,34,053.70/- |
| 19. | 2013-08-13 | ₹17,869.30/- | ₹17,172/- | ₹35,041.30/- |
| 20. | 2013-08-13 | ₹200/- | ₹192.00/- | ₹392.00/- |
| | | ₹50,55,987/- | ₹55,83,282/- | ₹1,06,39,269/- |

Respondent is directed to make the entire payment of ₹ 1,06,39,269 /- to the complainant within 90 days from the date of uploading of this order, as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017.

8. Complaint is, accordingly, **disposed of**. File be consigned to the record room and order be uploaded on the website of the Authority.


 DR. GEETA RATHEE SINGH
 [MEMBER]


 NADIM AKHTAR
 [MEMBER]