



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT No. 1045 OF 2021

Arun Sharma & Vimmi Sharma

....COMPLAINANT(S)

VERSUS

M/s Soni Realtors Pvt. Ltd.

....RESPONDENT(S)

CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar
Dilbag Singh Sihag

Member
Member
Member

Date of Hearing: 22.09.2022

Hearing: 7th

Present:-

Mr. Anurag Sharma, Learned counsel for the complainant
through video conferencing.
None for the respondent

ORDER (DILBAG SINGH SIHAG-MEMBER)

As per office record, notice had been been served upon respondent on 01.03.2022, but nobody has appeared on behalf of respondent nor reply has been filed till date. Authority had granted last opportunity to the respondent to file reply and appear before Authority, vide order dated 05.05.2022 failing which its defence shall be struck off.

2. Today is 7th hearing in the matter and none appeared on behalf of the respondent. Authority deems it fit to hear the matter ex-parte as sufficient opportunities have been given to the respondent to prosecute their case.

3. Complainant in this case had booked a plot in the project of the respondent namely 'Soni Palm City' situated at Sector 32/32-A, Karnal in the year 2015. Complainant was allotted plot bearing no. A1-13, admeasuring 502 sq. yds. for a basic sale price of ₹ 73,29,200/- against which complainant has paid the whole amount to the respondent. A builder buyer agreement was executed between both parties, however, it is alleged by the complainant that the agreement has been purposefully left undated by the respondent. A copy of builder buyer agreement has been annexed as Annexure P-2 in complaint file. As per clause 24 of the buyers agreement possession of the plot should have been delivered within 27 months from date of signing of the agreement. As per complainant, deemed date of possession works out to be by October 2017. Respondent has failed to offer possession of booked plot and further failed to develop the project. Feeling aggrieved complainant has filed present complaint seeking refund of the paid amount along with interest.

4. Mr. Anurag Sharma, learned counsel for the complainant submitted that complainants had booked a plot in the project of the respondent in the year 2015 for a basic sale consideration of ₹ 73,29,200/-. Entire amount had been paid by the complainants to the respondent partly by themselves and remaining by way of loan by the year of 2015 itself. He further averred that while executing the builder

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buyers agreement, respondent had malafidely left said agreement undated in order to avoid the liability of fixing a particular date for delivery of possession as clause 24 of the builder buyer agreement provides 27 months to deliver possession from date of signing of the agreement. As per complainants, possession was supposed to be delivered by October 2017. But, respondent failed to deliver possession of booked plot to the complainants by due date. Further possession of the plot is unlikely to be delivered in foreseeable future. Complainants had sent a legal notice dated 04.09.2019 to the respondent to return the amount advanced towards booked unit but no amount has been refunded till date. A copy of said notice is annexed as Annexure P/7 of the complaint file. Learned counsel for the respondent prayed the Authority that in the light of aforementioned facts, directions be issued to respondent to refund the entire amount paid by the complainants along with interest.

5. After hearing submissions of learned counsel for complainants and perusal of record, Authority observes that complainants in this case had booked a residential plot in the project of the respondent in the year 2015 itself, possession of the same should have been delivered by the year 2017 as per complainants' submission. Respondent failed to deliver possession of booked plot. Further, as per complainants, the project in question is nowhere near completion and complainants who


have already waited for more than four years are not willing to wait any further for delivery of possession.

Authority has granted sufficient time and opportunity to respondent to file reply or appear before Authority but none has appeared on behalf of the respondent nor reply has been filed. Therefore, in the absence on any verbal or written submissions on behalf of the respondent, Authority presumes correctness of the submissions and documents placed on record by the complainants and observes that on account of failure in delivery of possession, complainants are entitled to refund of the amount paid to the respondent along with interest in terms of Rule 15 of HRERA Rules 2017 i.e @ SBI MCLR + 2%(10%) as per provision of section 18 of the RERA Act.

6. In the complaint file³⁴ complainants have claimed to have paid entire amount of ₹ 73,29,200/- to the respondent out of which, an amount of ₹ 18,30,000/- has been paid by the complainants themselves and remaining amount of ₹ 52,31,585/- has been disbursed by ICICI bank to the respondent directly as per sanctioned loan. While perusing record, it is revealed that complainants have only attached receipts pertaining to amount of ₹ 18,30,000/- paid by them directly to the respondent whereas in respect of the remaining amount of ₹ 52,31,585/- complainants have only attached ICICI Loan document but no proof receipt/ statement of

account revealing date of disbursal of said loan to respondent has been annexed with file. Complainants have only attached a letter dated 30.10.2015 from the concerned bank stating that a loan of amount of ₹ 52,31,485/- has been sanctioned in their favour however, no statement in respect of disbursal of said amount has been attached.

In the light of aforesaid observation, Authority adjourns the matter to **19.10.2022** giving an opportunity to the complainants to provide receipts for remaining amount of ₹ 52,31,485/- paid to the respondent failing which Authority will consider only an amount of ₹ 18,30,000/- as paid amount and interest will be calculated accordingly.


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DR. GEETA RATHEE SINGH
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]


.....
DILBAG SINGH SIHAG
[MEMBER]