



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 173 OF 2020

Ved Prakash

....COMPLAINANT

VERSUS

JOP International Limited

....RESPONDENT

CORAM: Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Dilbag Singh Sihag

Member

Date of Hearing: 29.09.2022

Hearing: 7th

Present: Mr. Yaman, proxy counsel for complainant.

Ms. Deepika Chaudhary, proxy counsel for respondents.

ORDER (DILBAG SINGH SIHAG - MEMBER)

1. While perusing case file, it is observed that case of the complainant is that original allottee booked a residential apartment in the project "JOP Palms" of the respondent situated in Sector 28, Rohtak on 19.09.2014. flat no. 703, seventh floor, Block A 2 with Super area of 1100 sq. ft. was allotted to him on the same date. Builder-Buyers Agreement which was executed between the previous owner and

respondent on 16.10.2014. According to clause 34 of the BBA, respondent-promoter shall endeavor to complete construction within 30 months (with a grace period of 6 months) from the date of BBA. Therefore, deemed date of possession came out to be 19.09.2017. Complainant got said unit transferred in his name on 01.02.2018. Total Sales Consideration was Rs. 21,86,176/- against which complainant claims to have paid Rs. 18,95,191/- till date. But receipts of payment made to the respondent were not appended with complaint file. He further stated that even after lapse of 5 years, possession has not been offered by the respondent. Aggrieved complainant filed present complaint with the prayer to refund of paid Amount.

2. As per office record, notice was successfully delivered to respondent promoter on 17.02.2020. But, he has not filed his reply till date. From last three hearings, none appeared on behalf of respondent promoter.

3. On last date of hearing i.e., 13.07.2022 learned counsel for the complainant requested the Authority to dispose of present complaint in terms of complaint case no.1326 of 2018 titled "Narsi Grewal & Sunita Devi versus JOP International Pvt. Ltd." Perusal of the file revealed that no evidence has been placed on record to establish that an amount of Rs. 18,95,191/- has paid by the complainant. Therefore, Authority granted one last opportunity to the complainant to place on record relevant receipts of payments made by him.

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4. Today, proxy counsel for complainant submitted receipts of payments during the hearing. After perusing file, Authority is satisfied that issues and controversies involved in this complaint are of similar nature as **Complaint No. 1326 of 2018** titled as **Narsi Grewal & Sunita Devi versus JOP International Pvt. Ltd.** Therefore, present complaint deserves to be disposed of in terms of said order passed by Authority in Complaint no. 1326 of 2021, relevant part of the said order is reproduced below for ready reference:

“1. While perusing case file, it is observed that case of complainant is that Original allottee booked a residential flat/apartment in the project “JOP Palms” of the respondent situated in Sector 28, Rohtak on 20.07.2011 by paying Rs. 4,00,000/- as the booking amount. On 18.02.2013 flat no. 301, third floor, Block B 4 with Super area of 1450 sq. ft. was transferred in the name of the complainant. Builder-Buyers Agreement was executed between the parties on 9.11.2015. Allotment letter dated 19.11.2015 was issued to the complainant. Total Sales Consideration for the unit was fixed at Rs. 34,31,000/- against which complainant has paid Rs. 33,48,078/- till date. According to clause 34 of the BBA,



respondent-promoter shall endeavor to complete construction within 30 months (with a grace period of 6 months) from the date of BBA. Therefore, deemed date of possession comes out to be 19.11.2018. However, even after the lapse of 7 years from the date of booking, no possession has been offered by the respondent. Aggrieved by the same, complainant has filed present complaint with the prayer for refund of the paid Amount.

2. Respondents filed his reply 15.01.2019. Averments made by him in the reply are limited to the extent that his project is not complete due to the non payment by allottees. He further stated that they sent letters to the allottees to attend joint meeting, dated 10.06.2018. In this meeting prospective dates of handing over possession of units in different phases. Therefore, it cannot be alleged that respondent did not inform the allottees regarding status of the project.

3. Ld. counsel for the complainant verbally stated during hearing that complainants want to stay with the project and pleaded to amend their prayer from refund of

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paid amount to possession of the unit after completion of the project along with delay interest. Counsel for the complainants further reiterated the facts of the case which have already been recorded in para 1 and stated that now the project is being financed by SWAMIH Investment Funds and is near completion. Therefore, they want to stay with the project and take possession of their booked unit after completion. Complainant claiming interest for the delay caused in possession.

4. In view of the above facts Authority observes that since Id. Counsel for complainant stated in his oral averments that he wants to change his prayer from relief of refund to possession of the unit, Section 18 of the RERA Act, 2016 confer choice on the allottee whether he wants to stay with the project or withdraw from the project. And if he decides to stay with the project even if there is delay in handing over possession, he is entitled to take possession along with delay interest.

Further it is observed that Authority is aware of the fact this project is funded by SWAMIH Investment



Funds. There are several other litigations pending before Authority against same promoter and project. Respondent in those complaints have taken the plea that project is now being financed by SWAMIH Investment Funds. Construction of phase 1 is near completion. Authority is of the view that project is likely to be completed. Therefore, keeping in view the interest of allottee as well as the builder, prayer of the complainant is allowed.

5. In view of forgoing discussions, Authority would dispose of the present complaints with an order that possession of booked apartments shall be delivered by the respondent-promoter to the allottees as and when they complete the project and obtain occupation certificate from authorities concerned. However, since inordinate delay has already been caused, respondent-promoters are ordered to pay upfront interest to all the allottees as per provisions of Section 18 of the RERA Act, 2016 and Rule 15 of RERA Rules, 2017.

Authority has got the interest payable to the complainant calculated from its Accounts Branch which

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works out to Rs. 11,94,952/-. Upfront interest has been calculated from the due date of offering possession i.e., 09.11.2018 upto the date of passing this order i.e. 13.07.2022 at the rate of 9.70% (SBI MCLR). Complainant would be entitled to monthly interest for each month of further delay caused which works out to be Rs. 27,583/-.

7. **Disposed of** in above terms. File be consigned to record room.”

5. Authority accordingly dispose of the present complaint with a direction that possession of booked unit be delivered by respondent-company to the complainants after obtaining occupation certificate from authority concerned. Since inordinate delay has already been caused, respondent-promoters are ordered to pay upfront interest to the allottee as per provisions of Section 18 of the RERA Act, 2016 and Rule 15 of RERA Rules, 2017.

6. Authority has got calculated interest payable to the complainant from its Accounts Branch which works out to Rs. 9,29,780/-. Upfront interest has been calculated from the due date of offering possession i.e., 19.09.2017 upto the date of passing this order i.e. 29.09.2022 at the rate of 10.00% (SBI MCLR + 2%). Complainant would be entitled to monthly interest for each month of further delay



caused which works out to be Rs. 15,577/-. In view of the above observation, respondent is directed to pay upfront delay interest after adjusting the amount payable by complainant towards the unit.

7. **Disposed of** in above terms. File be consigned to record room.

Geeta Rathee

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Dr. GEETA RATHEE SINGH
[MEMBER]

Nadim Akhtar

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NADIM AKHTAR
[MEMBER]

Dilbag Singh Sihag

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DILBAG SINGH SIHAG
[MEMBER]

