



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2380 OF 2019

Shelly Madan

.....COMPLAINANT

Versus

Ansal Crown Infrabuild Pvt. Ltd.

..... RESPONDENT

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

Member
Member
Member

Date of Hearing: 12.10.2022

Hearing: 7th

Present through video call: - Sh. Shubhnit Hans, counsel for complainant

Sh. Bhavuk Aggarwal, proxy counsel for respondents

ORDER (Dr. GEETA RATHEE SINGH-MEMBER)

1. On the last date of hearing in the matter dated 26.07.2022 a detailed and reasoned order was passed reflecting tentative view of the Authority. Said order is being reproduced for ready reference:

"1. Complainant's case is that in the year 2011, he booked a flat in a project named 'Ansal Crown Heights, Faridabad' being developed by respondents. Flat buyer agreement (FBA) was executed between the parties on 07.09.2011 for flat bearing no. 401 in Tower 7 having an area of 1820 sq.ft. Complainant had paid Rs. 53,58,415/- till August 2014 against the basic sale price of Rs. 47,54,750/-. Respondent

was obliged to hand over possession of booked flat within 36 months from the date of execution of flat buyer agreement. Accordingly, due date of possession comes to 08.09.2014. He further submitted that eight years have gone from the deemed date of possession but he has not got any offer of possession or refund of the paid amount. Therefore, he has approached this Authority seeking relief refund of the amount paid along with interest and compensation.

2. On the other hand, learned counsel for respondent Sh. Adarsh Jain made statement that tower-7 in which flat of complainant is situated is complete in all respects and Occupation Certificate for the same has been applied for by the respondent-promoter. Therefore, he prayed for some time to handover lawful possession of the booked flat to the complainant.

3. After hearing both parties, Authority is of the view that as per statement of learned counsel for respondent's that tower 7 in which complainant has booked a flat is complete in all respects and Occupation certificate for the tower in question has been applied for by the respondent-promoter, therefore granting relief of refund at this stage may jeopardize the whole project. However, Authority take note of eight long years delay caused by respondent in completing the project. Further to balance the equity between promoter and allottees, Authority grants last opportunity to respondent to place on record a copy of the application filed for grant of Occupation Certificate along with latest photographs of the project and Tower-7 showing stage of developments at the site. If respondent fails to establish that the tower in question is complete and it is habitable, relief claimed by complainant will be granted. Both parties file latest photographs of the project and the booked flat on or before next date of hearing."

2. Further, respondent was given an opportunity to file the documents showing current stage of construction of Towe-7 or put up any additional fact having bearing on the outcome in this case.

3. Authority observes that present complaint was received on 26.09.2019 and was listed for hearing on 22.10.2019, 27.11.2019, 14.01.2020, 03.03.2020, 21.10.2020 and 26.07.2022. Each time respondent was given opportunity to file

documents substantiating his claims that project is complete, however respondent has failed to submit such documents till date. Today, proxy counsel for respondent sought more time to comply with the last order dated 26.07.2022 and to file required documents. However, no additional facts have been placed on record by the respondent-promoter. Therefore, no further opportunity can be granted to the respondent to file documents to substantiate his claim.

4. In view of aforesaid facts, the Authority hereby confirms the view expressed by it vide order dated 26.07.2022. Authority directs the respondent to refund entire principal amount of ₹ 53,58,415/- to the complainant. Interest has been calculated from the date of making payments by the complainant up to the date of passing of this order at the rate of 10%, which comes to Rs. 55,77,535/-. Accordingly, respondent is directed to pay total amount of ₹ 1,09,35,950/- (53,58,415/- + ₹ 55,77,535/-) to the complainant within a period of 90 days as prescribed under Rule 16 of HRERA Rules 2017.

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

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DR. GEETA RATHEE SINGH
[MEMBER]

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NADIM AKHTAR
[MEMBER]

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DILBAG SINGH SIHAG
[MEMBER]