



Complaint no. 2094 of 2019

## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

### COMPLAINT NO. 2094 OF 2019

Mr. Anil Kumar Gadodia

....COMPLAINANT

VERSUS

M/s TDI Infrastructure Pvt. Ltd.  
Formerly Known as Intime Promoters Pvt. Ltd.

....RESPONDENT

**CORAM:**

<b>Dr. Geeta Rathee Singh</b>	<b>Member</b>
<b>Nadim Akhtar</b>	<b>Member</b>
<b>Dilbag Singh Sihag</b>	<b>Member</b>

**Date of Hearing:** 12.10.2022

**Hearing:** 11<sup>th</sup>

**Present: -** Ms. Priyanka Aggarwal, Ld. Counsel for the complainant through VC.  
Mr. Shubhnit Hans, Ld. Counsel for the respondent through VC.

**ORDER** (DR. GEETA RATHEE SINGH - MEMBER)

This matter had come up before Authority on 29.07.2022, whereby a detailed order was passed by the Authority, recording facts of

the case and arguments advanced by the parties. Aforementioned order is reproduced below for reference:-

"1. While perusing case file, it is observed that on last date of hearing i.e. 08.03.2022, a detailed order was passed by the Authority. Facts of the case and arguments advanced by both parties were recorded therein. Vide order dated 08.03.2022, Authority had given a last opportunity to respondent to file evidence that plot of complainant and surrounding area/colony is developed, inhabitable, ready for usage and a Completion Certificate qua plot of complainant has been received failing which the Authority will grant refund of the amount paid by the complainant along with interest at the rate stipulated under Rule 15 of the Haryana Real Estate (Regulation and Control) Act, 2017. Relevant part of aforementioned order dated 08.03.2022 is reproduced below:

"4. Case of the complainant is that he had booked a commercial plot in the project named "Oxford Street-TDI City" of the respondent situated at Sonipat on 04.01.2006. Plot No. HC-1/6, measuring 204 sq. yards was allotted to him on 21.09.2006. No builder buyer agreement has been executed between the parties. In certain similar cases respondent had



*assured allottees to deliver possession of plots within three years from the date of booking. After taking entire consideration amount, three year period for delivery of possession is quite reasonable. Thus, learned counsel for the complainant pleaded that even in the present case since no agreement has been executed by the respondent, therefore, the deemed date of delivery of plot should be taken as three years from the date of booking, meaning thereby that complaint's plot should have been delivered to complainant by Sept.,2009.*

*Complainant has paid Rs. 22,03,200/- till Dec, 2008 against basic sale consideration of Rs. 43,86,000/-. Learned counsel for the complainant stated that respondent has failed to offer possession of the plot to him till date. Moreover, since requisite infrastructural facilities in the project have not been developed and whole area/ colony is uninhabited so, it will not be viable for him to construct a shop in middle of nowhere. Therefore on account of multiple defaults by respondent, complainant is seeking refund of Rs. 22,03,200/- along with interest as per Rule 15 of the HRERA, Rules 2017.*

5. *Learned counsel for the respondent has disputed the allegations made by complainant on the ground that project has already been developed to the extent that Part Completion Certificate was granted by the Department of Town & Country Planning, Haryana on*



23.01.2008, 18.11.2013 and 22.09.2017. He stated that respondent has also offered possession of plot to the complainant on 22.08.2017 after development of basic infrastructural facilities in the project. He stated that the Commercial zone as well as area near the Commercial zone is developed and sought some time to place on record the latest photographs showing existence of basic infrastructural facilities near the plot and the project as a whole. On a query put by the Authority that whether respondent has obtained Completion Certificate qua complainant's plot, learned counsel sought adjournment to seek instructions.

6. Learned counsel for the complainant has denied receipt of aforesaid offer letter dated 22.08.2017.

7. After hearing arguments of both the parties and perusal of record, Authority observes that in such circumstances, when respondent claims that he has received Part Completion Certificate for the project but the complainant asserts that his plot has not been developed, respondent company has to prove by way of photographs as well as necessary documentary evidence that plot of complainant and surrounding area/colony is developed, inhabitable, ready for usage and a Completion Certificate qua plot of complainant has been received. Respondent shall also file an affidavit stating total number of plots in the project, number of plots handed



over to the allottees and number of plots already constructed along with a copy of layout plan of the said project. Said information shall also be reflected in the layout plan with distinct colour differentiation. Respondent shall also prove delivery of offer letter dated 22.08.2017 to the complainant. All aforesaid information shall be filed within two weeks with an advance copy to the complainant failing which the matter will be heard and decided on merits on basis of documents available on record.

In case, respondent fails to establish that the plot is developed and has received completion certificate and the colony is inhabitable and ready for usage, the Authority will consider it to be a fit case for allowing refund of the amount paid by the complainant and will proceed to grant refund of the amount paid to the complainant along with interest at the rate stipulated under Rule 15 of the HRERA Rules, 2017 from the date of making payments up to the date of passing of the order on the next date of hearing.

8. Complainant is also at liberty to file latest photographs showing current stage of completion of his plot with an advance copy to the respondent."

2. Learned counsel for respondent has submitted only one copy of submissions in compliance of order dated 08.03.2022 in the Court today. Respondent will supply copy of

the same to complainant's counsel. Respondent has annexed copy of Part Completion Certificate dated 18.11.2013 with aforesaid submissions. Learned counsel for the respondent stated that the basic infrastructure qua the project as well as the plot in question i.e. JC-3/14 is developed and respondent company has also been granted Completion Certificate qua plot of complainant. Allottees of 151 plots out of 255 plots have taken possession of their plots in this project. Therefore, since respondent company has already completed the project and invested amounts received from allots for its development, no case for refund is made out in this complaint.

3. Learned counsel for complainant has pointed out that as per Allotment letter dated 21.09.2006 attached as Annexure-P-2, complainant was allotted PLOT No. -HC-1/6 but respondent is sending invoices for maintenance charges attached as Annexure P-5 (Colly) qua Plot No JC-3/14 which was never allotted to the complainant. Therefore, since respondent has unilaterally changed allotted plot of the complainant and said changed Plot No. JC-3/14 is not acceptable to the complainant, therefore,

*complainant be allowed refund of amount paid by him along with interest as per Rule 15 of the HRERA, Rules 2017.*

4. *At this stage, learned counsel for respondent, has sought an adjournment to seek clarification qua the change of plot from the respondent company.*

5. *On request of learned counsel for respondent case is adjourned to 12.10.2022, with an observation that, incase, it is established on next date of hearing that the allotted plot has been changed from PLOT No. -HC-1/6 to Plot No. JC-3/14 without taking consent of complainant, he cannot be compelled to accept the possession of the same and his prayer for refund of amount paid by complainant along with interest as per Rule 15 of the HRERA, Rules 2017 will be accepted and allowed.*

2. Vide order dated 29.07.2022, it was essentially observed by the Authority that complainant had booked a unit in the project of the respondent namely in the year 2006. Vide allotment letter dated 21.09.2006 he was allotted plot no. HC- 1/6 , measuring 204 sq. yds. No builder buyer agreement had been executed between both parties. Complainant had paid an amount of ₹ 22,03,200/- till December 2008 against basic sale consideration of ₹ 43,86,000/-. Despite taking almost 50

% of the basic sale consideration, respondent failed to offer possession of the plot to complainant and further failed to develop infrastructural facilities in the project. Therefore, complainant had filed present complaint seeking refund of paid amount along with interest.

On the other hand respondent had submitted that the project has received part compilation certificate dated 18.11.2013 and that the basic infrastructure qua the project as well as the plot in question i.e JC-1/3 is developed.

3. In response , it was pointed out by complainant that as per allotment letter dated 21.09.2006 attached as Annexure P-2, complainant was allotted plot No. HC-1/6 but respondent is sending invoices for plot no. JC-3/14 . It was alleged by the complainant that respondent had unilaterally changed the plot of the complainant and said changed plot no JC-3/14 was not acceptable to him.

In light of above facts, Authority vide order dated 29.07.2022 had observed that *'incase, it is established on next date of hearing that the allotted plot has been changed from PLOT No. -HC-1/6 to Plot No. JC-3/14 without taking consent of complainant, he cannot be compelled to accept the possession of the same and his prayer for refund of amount paid by complainant along with interest as per Rule 15 of the HRERA, Rules 2017 will be accepted and allowed.'* as also reproduced in para 1 of this order.



Learned counsel for the respondent had sought time to seek clarification with regard to said change in plot from respondent company.

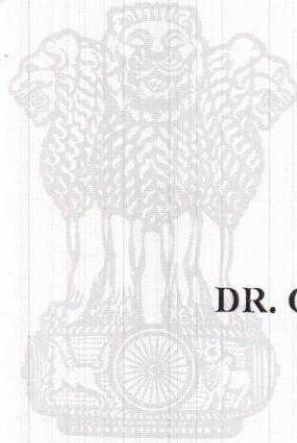
4. Today, learned counsel for respondent submitted that in regard to the allotment of plot to the complainant, the complainant was originally allotted plot no. HC-1/6 . However, the construction of the block in which said plot was situated had been abandoned and respondent had shifted the complainant to a new block and a fresh allotment for plot no. JC-3/14 was made in favour of the complainant. Although no consent was obtained from the complainant but no objections were raised by the complainant either. Presently plot no. JC-3/14 stands in the name of the complainant.

5. Learned counsel for the complainant referred to para 5 of aforementioned order and submitted that the respondent had unilaterally changed the allotment of the complainant to another plot, and since said changed Plot No. JC-3/14 is not acceptable to the complainant, therefore, complainant be allowed refund of amount paid by him along with interest as per Rule 15 of the HRERA, Rules 2017.

6. In view of the submissions of learned counsel for respondent, Authority, observes that since the plot allotted to complainant had been unilaterally changed by respondent, complainant cannot be forced to accept the alternative plot and therefore complainant is entitled to seek refund of the amount paid by him. Respondent is directed to refund the

amount paid by complainant along with interest as per Rule 15 of the HRERA, Rules 2017. The amount of interest payable is calculated at the rate of SBI MCLR+2%(=10%) and works out to ₹ 35,02,001/-. Therefore, respondent is directed to refund an amount of ₹ 57,05,201/- to the complainant as per provisions of Rule 16 of HRERA Rules 2017.

7. Case is disposed of. Order be uploaded on the website of the Authority and files be consigned to record room.



सत्यमेव जयते

*Geeta Rathee*  
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**DR. GEETA RATHEE SINGH**  
[MEMBER]

*Nadim Akhtar*  
.....  
**NADIM AKHTAR**  
[MEMBER]

*Dilbag Singh Shag*  
.....  
**DILBAG SINGH SHAG**  
[MEMBER]