



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 674 OF 2021

(Re-opened for Rectification Application)

Kiran Capital Services Limited

....COMPLAINANT

VERSUS

TDI Infrastructure Limited.

....RESPONDENT

CORAM:

Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Date of Hearing: 24.01.2023

Hearing: 5th

Present: -

Mr. S. K Jindal, Counsel for the complainant through VC.

Mr. Shubhnit Hans, Counsel for respondent through VC.

ORDER (NADIM AKHTAR- MEMBER)

1. Captioned complaint was disposed of by the Authority vide order dated 24.03.2022, granting relief of payment of delay interest amounting to Rs. 26,70,627/- to be paid to complainant by the respondent on account of delay interest till the date receipt of Completion Certificate i.e. 12.06.2019. Relevant part of order dated 24.03.2022 is reproduced below for reference:

“7. After hearing arguments of both the parties and perusal of record, Authority observes that respondent has received Part Completion Certificate for the said project was obtained on on 23.01.2008, 18.11.2013 and 22.09.2017. Occupation Certificate for the said shop was also granted by Department of Town & Country Planning, Haryana on 12.06.2019. Respondent has offered possession to the respondent on 18.03.2019. Complainant is also willing to accept handover of possession of shop along with permissible interest as per Rule 15 of the HRERA, Rules 2017. In such scenario, Authority decides that date of receipt of Occupation Certificate Department of Town & Country Planning, Haryana i.e. 12.06.2019 shall be taken as valid offer of possession. Accordingly, complainant shall be entitled to delay interest for the delay caused by respondent in offering possession at the rate prescribed in Rule 15 of HRERA Rules, 2017 for the period from the deemed date of possession i.e. 06.01.2010 upto the date of receipt of occupation certificate i.e. 12.06.2019. Respondent is also entitled to same rate of interest for the period of delay, if any, caused by the complainant in payment of the outstanding amounts. It is further directed that period between date of receipt of occupation certificate i.e. 12.06.2019 and date of order i.e. 24.03.2022 shall be treated as zero period for both parties for purposes of no charges/interest would be receivable/payable for said period.

Respondent shall issue fresh statement of accounts within 30 days of uploading of this order. Respondent is directed to issue said statement of accounts strictly as per provisions of THE REAL ESTATE


(REGULATION AND DEVELOPMENT) ACT, 2016 and principles laid down by the Authority. In case, respondent fails to follow provisions of THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 and principles formulated by the Authority. In case, respondent fails to follow provisions of THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 and principles formulated by the Authority and the complainant is aggrieved by said statement of accounts, he will be at liberty to approach this Authority for resolution of the same.

*As per calculations made by Accounts Branch, amount payable by the respondent to the complainant on account of interest for delay in handover of possession of the shop up to date of receipt of Occupation Certificate i.e. 12.06.2019 has been worked out to Rs. 26,70,627/- .The Authority orders that payment of Rs. 26,70,627/- will be made to complainant on account of delay caused in offering possession within 90 days of uploading of this order on the web portal of the Authority. **Disposed of** in these terms. File be consigned to the record room and the order be uploaded on the website of the Authority. ”*

2. Thereafter, respondent filed an application for review of order dated 24.03.2022 on the ground that in the impugned order it has not been stated that respondent is entitled to collect the outstanding dues from complainant at the time of final settlement of receivable and payable amount.



3. Upon perusal of the application filed by the respondent it is observed that the respondent is seeking amendment of substantive part of order dated 24.03.2022 which amounts to review of the impugned order. It is pertinent to mention that under section 39 of the RERA Act of 2016, the Authority may, with a view to rectify any mistake apparent from the record, amend any order passed by it. However, proviso to section 39 further provides that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of the RERA Act, 2016. Thus, Authority cannot review its order. Therefore, the application filed by the respondent for review of the order dated 24.03.2022 is rejected/dismissed.


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DR. GEETA RATHEE SINGH
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]