

**HARYANA REAL ESTATE REGULATORY AUTHORITY,  
PANCHKULA.**

1. **Complaint. No. 504/2018-** Shamsher Singh  
Versus  
Suncity Projects Pvt. Ltd.
2. **Complaint. No. 743/2018-** Anil Kuchhal  
Versus  
M/S Sonika Properties Pvt. Ltd &  
Suncity Projects Pvt. Ltd

**Date of Hearing: 18.12.2018**

**Coram: -** Shri Rajan Gupta, Chairman.  
Shri Anil Kumar Panwar, Member.  
Shri Dilbag Singh Sihag, Member.

**Appearance: -** Sh. Sunny Dhull, Counsel for Complainants  
Sh. Kamal Dahiya, Counsel for Respondent

**ORDER:**

1. The facts of the **Complaint no. 504 of 2018 Shamsher Singh Versus Suncity Projects Pvt. Ltd.** have been taken into account for disposal of these two complaints.
2. In brief, complainant's case is that he was allotted a unit no. G105, 3BHK, super area of 1250 sq. ft vide allotment letter dated 28.10.13 by the respondent in Project named "Suncity Heights", Rohtak, Sector 36,



Haryana. On the same date, unit buyer's agreement was executed between both the parties and respondent committed to deliver the possession within 48 months from the date of agreement which comes in October, 2017. There has been a delay of 1 year in delivering the possession of unit. The total sale consideration of the unit is Rs. 23,56,250/- and the complainant has already paid an amount of Rs. 23,47,872/- till 01.11.16. The complainant prays for refund of the entire amount paid by him along with 24% interest, compensation for mental agony and imposition of penalty on respondent. Alternatively, he prays for delivery of possession of unit without charging any additional charges.

3. The respondent's case is that the Project against which this complaint has been filed is not registered with the Authority, hence, the Authority has no jurisdiction to entertain the complaint. Further, development of the said Project is complete, part occupation certificate had already been received in the year 2017 and part occupation certificate for the remaining towers has been applied for on 12.03.18. The respondent will be in a position to handover the possession of the unit in near future, therefore, the prayer of the complainant for refund should not be accepted.
4. During verbal arguments Learned Counsel for respondent stated that the respondent builder has already received part Occupation Certificate of the Project, and have also applied for Occupation Certificate for the remaining towers on 12.03.18. The Department of Town and Country Planning had

7

raised a few objections which have been duly replied to. The respondent company has again applied for the Occupation Certificate on 09.10.18. There are no outstanding dues pending against the Project, therefore, Occupation Certificate is likely to be received by the respondent shortly, thereafter, possession shall be offered to the complainants.

5. This matter has been heard twice earlier. Today is the 3<sup>rd</sup> hearing. On the last date of hearing, the Authority had directed the respondent to specify the definite date by which the Project shall be completed. The Authority now observes that development of the Project is complete and part occupation certificate has already been obtained by the respondent, and for the remaining part an application has already been filed by the respondent. As per the statement made by Learned Counsel for respondent, no outstanding dues are pending against the Project and all the conditions required for grant of Occupation certificate have been fulfilled, therefore, the respondent company is likely to obtain the Occupation certificate from the DTCP, Haryana for remaining towers in near future. Hence, the Authority observes that this is not a fit case for refund as the Project is nearly complete. It is a responsibility of Authority to strike a balance between interests of the allottees as well as developers of the Project.
6. Hence, the Authority, after going into submissions and statements made by both the parties, orders that:

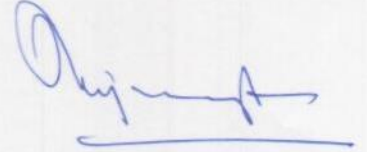
- (i) This Authority has jurisdiction to deal with these complaints. The Authority has already settled the dispute regarding jurisdiction of this Authority in **Complaint no. 144 of 2018 Sanju Jain V TDI**. The reasons cited in the said complaint shall be applicable as far as the dispute regarding jurisdiction is concerned.
- (ii) As the funds collected from the allottees in both the above-mentioned complaints have not been siphoned away and the same have been invested in the Project, hence, prayer for refund by the allottees is not justified. Therefore, the Authority directs the respondent to offer the possession of units in question to the allottees within 30 days from the date of receipt of Occupation Certificate/date of grant of deemed Occupation Certificate. The Authority, further, directs the Director, Town & Country planning Department, Haryana to expedite the process of grant of Occupation certificate for the remaining towers of this Project in the interests of the allottees.
- (iii) Regarding compensation for delay in handing over the possession, the principles evolved by this Authority in **Complaint no. 113 of 2018 Madhu Sareen Versus BPTP Ltd.** and **Complaint no. 49 Parkash Chand Arohi Versus M/S Pivotal Infrastructure Pvt. Ltd.** shall be applicable

**Disposed of.** The order be uploaded on the website and files be  
consigned to the record room.



**Dilbag Singh Sihag**  
Member

**Anil Kumar Panwar**  
Member




**Rajan Gupta**  
Chairman

Sh. A.K. Panwar, Hon'ble Member vide his email dated 07.01.2019,  
has approved and consented to the above orders.

Dated:07.01.2019



  
Executive Director  
HRERA, Panchkula