



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 276 OF 2022

Nandhagopal Babu

....COMPLAINANTS

VERSUS

Ansal Crown Infrabuild Pvt. Ltd.

....RESPONDENTS

Hearing: 4th

2. COMPLAINT NO. 1197 OF 2021

Ravinder Kumar Dang & Ankur Aggarwal

....COMPLAINANTS

VERSUS

Ansal Crown Infrabuild Pvt. Ltd.

....RESPONDENTS

Hearing: 4th

CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 15.12.2022

Present through video call: - Sh. Gaurav Rawat, learned counsel for the complainant(in complaint no. 276/2022)

Sh. Karan, learned counsel for the complainant (in complaint no. 1197 of 2021)

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Sh. Adarsh Jain, learned counsel for the respondents in both the cases.

ORDER (DR. GEETA RATHEE SINGH-MEMBER)

1. Captioned bunch of complaints is being disposed of together by this common order as grievances of the complainants are similar in nature and against the same respondent promoter. Complaint No. 276 of 2022 titled "Nandhagopal Babu Versus Ansal crown Infrabuild Pvt. Ltd." has been taken as lead case.
2. While initiating his pleadings, learned counsel for complainant Mr. Gaurav Rawat stated during the hearing that the decision dated 10.02.2022 taken by the Authority in Complaint No. 371 of 2021 titled as Yatish Kumar V/S Ansal Crown Infrabuild Pvt. Ltd. squarely covers the controversy involved in the above mentioned complaints. To support his contention he briefly averred facts of the case that vide application form dated 10.04.2012, a unit bearing no. 1701 in tower-3 admeasuring 2118 sq.ft. was allotted to complainant for total sale consideration of Rs. 71,97,790/-. Complainant had paid an amount of Rs. 72,20,634/- to the respondent-promoter. As evidence of said paid amounts, receipts issued by respondent has been annexed by complainant at page no. 62-101 of complaint book. As per clause 4 of builder buyer agreement dated 26.06.2012, builder was under an obligation to handover possession of booked plot within a period of 36 months from date of execution of agreement, which comes to 26.06.2015. But till date neither

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refund of the paid amount nor possession of booked plot has been handed over to complainant. Since inordinate delay of seven years have already been caused by the respondent-promoter, complainant has prayed for possession of the booked unit along with permissible delay interest as per provisions of Section 18 of the RERA Act, 2016 and Rule 15 of RERA Rules, 2017. Hence, these complaints be disposed of in the same manner in which complaint no. 371 of 2021 titled as Yatish Kumar V/S Ansal Crown Infrabuild Pvt. Ltd was disposed of. Operative part of said order dated 10.02.2022 is reproduced below for ready references:

1. *"While initiating his pleadings, learned counsel of the complainant submitted that complainant has sought possession of a flat bearing no. 703 in Tower-7, booked in the year 2011 in respondent project namely, 'Ansal Crown Heights, Faridabad'. He has already paid ₹ 54,61,423/- against basic sale price of ₹48,54,850/-. As per agreement dated 28.02.2012, respondent had committed to deliver possession of the unit within 36 months from the date of execution of agreement, which comes to 28.02.2015. Even after lapse of six years from the deemed date of possession, respondent has not given possession of the booked flat. Since project is still incomplete. So, complainant has prayed for possession of the unit along with delay interest.*

2. *No reply has been filed till date by the respondent even after lapse of five opportunities given to him.*

3. *Authority observes that this complaint was received on 22.03.2021. A notice along with a copy of the complaint was delivered to the respondent on 02.04.2021. Thereafter, matter had been listed for hearing on 28.04.2021, 14.07.2021, 02.09.2021, 11.11.2021, 14.12.2021. Each time respondent had been given opportunity to file reply but they had remained fail to do so. So, Authority was constraint to strike off respondent's defence and proceeds to dispose of his matter on the basis of admitted facts available in the file. Further, Authority got certain information with regard to the project in question from the project Section of the Authority. As per records, this project*

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is a registered project vide Id no. PKL- FBD- 28-2018. Earlier project was to be completed by 01.10.2020. Now after granting extension to the project completion date is 30.09.2022.

4. After going through the records available on file, Authority observes that complainant has paid to the respondent total amount of ₹ 54,61,423/- , receipt of each payment has been annexed as Annexure P-3 at page no. 25- 38 of the complainant book. Further, complainant has annexed a copy of dully signed buyer agreement as annexure P-2 of the complaint book which clearly shows that both parties had entered into this agreement. Accordingly, it is concluded that complainant had paid full amount to the respondent and respondent despite having received full price of the flat had remained fail to deliver the possession to the complainant till date. Complainant has sought possession of the booked flat along with interest on account of respondent's failure to deliver possession on the agreed date. Though ignoring delay on the part of the respondent in completing the project, complainant is still interested to retain his allotment. Therefore the only relief which at present can be awarded to him is to direct the promoter to pay interest for every month of delay till the handing over of possession as provided in Section 18 of RERA Act, 2016.

So, Authority has no hesitation in concluding that the complainant is entitled to be paid upfront interest on the already paid amount from the deemed date of possession i.e. 28.02.2015 till today i.e. 10.02.2022. Account branch of this Authority on calculation of interest as per Rule 15 of HRERA, Rules 2017, has worked out this amount of ₹ 35,31,730/- as interest payable to the complainant from deemed date of possession i.e. 28.02.2015 till 10.02.2022.

5. Now, interest payable to the complainant on account of delay in delivery of possession from deemed date of possession i.e. 28.02.2015 till 10.02.2022 works out to ₹35,31,730/-. Besides said amount of interest, complainant is also entitled to receive each month's interest on the paid amount of ₹54,61,423/- from 10.02.2022 onwards till the delivery of actual possession after obtaining Occupation Certificate from the competent Authority. Such interest works out to ₹ 42,326/- per month as calculated by the accounts branch of this Authority.

6. In view of above conclusion, complaint is disposed off with a direction that respondent shall pay to the complainant interest of ₹ 35,31,730/- within 45 days from the date of

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uploading of this order and will further pay to the complainant every month's interest till handing over of possession of the flat, which on calculation as per Rule 15 of HRERA Rules, 2017 i.e SBI highest marginal cost of lending rate plus 2%. Said amount works out to ₹ 42,326/- per month.

7. **Disposed of.** File be consigned to record room and order be uploaded on the website of the Authority."

3. On the other hand, respondents in its reply have stated that project is registered with Authority vide id HRERA- PKL-28-2018 dated 24.08.2018 and extension till 30.09.2022 was also granted to the respondent promoter to complete the project. Copy of the same is also annexed as Annexure R-2 at page no. 18-58 of reply. With regard to current status of construction of the project it is stated by the respondent promoter in its reply that construction work of 4 towers out of the 8 towers i.e. 7,8,9,10 is 90 % complete. Whereas construction works of remaining 4 towers are also nearing completion as 75 % of the work is complete. Respondent counsel pleaded that as stated above that the project is near completion, possession to the complainant will be handed over soon. Further, the apartment buyer agreement dated 26.06.2012 is subject to force majeure conditions and respondent could not complete construction of project in time due to following reasons:

- I. Respondent applied for renewal of license in the office of DTCP on 21.09.17 and same was granted by the department on 30.04.18, which caused delay of about 221 days.
- II. The building plans sanctioned by DTCP were valid

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only till 07.12.14 and the same were renewed by the department on 26.06.15.

- III. The construction work was hampered by the lackadaisical attitude of the contractor.
- IV. Number of allottees have defaulted in making timely payments. Till date Rs. 10,35,54,884.72/- are recoverable from the defaulting allottees.

Under such circumstances, respondent prays for dismissal of present complaints.

4. Counsel for complainant Sh. Gaurav reiterated the facts mentioned in para 2 of this order and pressed for relief of possession along with delay interest. Further, respondent has also admitted that project in question is about to complete in near future. However, inordinate delay of seven years has already been caused in handing over of possession.
5. Sh. Adarsh Jain, learned counsel for respondent has also made an oral statement during hearing that project will be completed by June 2023 in all aspects. To substantiate his statement he referred to page no.12 of reply, whereby respondent has stated that possession to the allottees of Tower-3 would be handed over by 30 September 2023 and possession to allottees of Tower-9, are being offered as per booking made. So, possession to the complainants would be handed over soon.


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6. After going through the records available on file and after considering statement made by learned counsel for respondent and facts averred by respondent-promoter in its reply, Authority observes that complainant has paid to the respondent total amount of ₹ 72,20,634/- , which is proved by the complainant in para-1 of this order. Further, complainant has annexed a copy of faintly signed buyer agreement as annexure C- 3 of the complaint book at page no. 38-51 which clearly shows that both parties had entered into this agreement. Accordingly, it is concluded that complainant had paid full amount to the respondent and respondent despite having received full price of the flat had failed to deliver the possession of the flat to the complainant till date. Considering the inordinate delay on part of respondent to deliver the possession, complainant has sought relief of possession along with permissible interest.

Furthermore, it is observed that phase I of the project consisting of four towers i.e. 7,8,9,10 of project are complete and respondent had also applied for the Occupation Certificate for the same on 24.05.2022. However, same is yet to be approved by the concerned department. Furthermore, respondent has stated at page no 12 of reply that Tower-3 wherein complainant had booked the unit will be complete by 30 September 2023. Meaning thereby the tower in which complainants units are situated are near completion in foreseeable future. So, complainant wishes to stay in the project under


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Section 18 of RERA Act 2016. Since inordinate delay has already been caused, the relief of possession of the booked unit along with upfront interest for the delay caused be granted to the allottee as per provisions of Section 18 of the RERA Act, 2016 and Rule 15 of RERA Rules, 2017.

7. In furtherance of above mentioned observation, Authority is satisfied that the issues and controversies involved in present complaints are of similar nature as in Complaint No. 371 of 2021 titled as Yatish Kumar V/S Ansal Crown Infrabuild Pvt. Ltd. Therefore, captioned complaints are disposed of in terms of the order passed by Authority in Complaint no. 371 of 2021.

Accordingly, Authority would dispose of captioned complaints with the directions that possession of booked units shall be delivered by the respondent-promoters to the allottees on obtaining occupation certificate from the competent authority concerned. Since inordinate delay has already been caused, respondent-promoters are directed to pay upfront delay interest to the allottees as per provisions of Section 18 of the RERA Act, 2016 and Rule 15 of RERA Rules, 2017. The upfront delay interest is being got calculated from the due date of possession upto the date of passing this order i.e. 15.12.2022. Allottee would be further entitled to monthly interest for each month of further delay caused. Upfront interest and monthly interest payable to complainant is shown in the table below:-


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J. K. Lathia

Sr. No.	COMPLAINT NO.	AMOUNT PAID BY THE COMPLAINANT (In Rs.)	DEEMED DATE OF POSSESSION	UPFRONT DELAY INTEREST CALCULATED @ 8.60 + 2 = 10.6% BY AUTHORITY TILL 15.12.2022 (In Rs.)	FURTHER MONTHLY INTEREST (In Rs.)
1.	276/2022	72,20,634/-	26.06.2015	57,24,677/-	65,005/-
2.	1197/2021	45,23,020/-	26.02.2015	37,43,574/-	40,720/-

8. Respondent is directed to pay the above mentioned upfront interest to the complainants within a period prescribed under Rule 16 of HRERA Rules.

Disposed of. Files be consigned to record room after uploading of this order on the website.


 DR. GEETA RATHEE SINGH
 [MEMBER]


 NADIM AKHTAR
 [MEMBER]