



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

## COMPLAINT NO. 694 OF 2021

Sanghamitra Sarkar

....COMPLAINANT

VERSUS

Heritage Cottage Pvt. Ltd.

....RESPONDENT

**CORAM: Dr. Geeta Rathee Singh  
Nadim Akhtar**

**Member  
Member**

**Date of Hearing: 15.12.2022**

**Hearing: 8<sup>th</sup>**

**Present: -** Mr. Vikasdeep, learned counsel for the complainant through video conferencing  
Sh. Sourabh Goel, learned counsel for the respondent through video conferencing

### **ORDER (NADIM AKHTAR - MEMBER)**

1. Captioned complaint has been filed by the complainant seeking relief of possession of his apartment along with interest as applicable as per Rule 15 of HRERA Rules, 2017 on account of delay in offering possession, as and when promoter obtains occupation certificate.

2. Brief facts as averred by the complainant are that he booked an apartment in the project "Ozone Square" developed by the respondent promoter, on 25.03.2007. A 3BHK with flat No. 404, Tower Block-C with 1500 sq. ft. super area, on 4<sup>th</sup> floor was allotted to the complainant. Apartment Buyer Agreement was not executed. Therefore, deemed date of possession ought to be 3 years from date of booking, i.e., 25.03.2010. Complainant claims to have already paid Rs. 25,50,000/- against basic sale price of Rs. 15,00,000/- and total sale consideration of Rs. 31,35,000/-.

3. Main grouse of the complainant is that despite lapse of about twelve years from the date of booking, respondent has failed to deliver possession of the apartment to him and not even provided reasonable justification for such unreasonable delay. But complainant is still inclined to take the possession of the apartment along with payment of delay interest as per Rule 15 of HRERA Rules, 2017 on account of delay in offering possession.

4. Notice had been successfully delivered to the respondent vide publication made in newspaper dated 02.06.2022. Learned counsel for the respondent accepted notice during last hearing dated 28.06.2022. However, no reply has been filed. Therefore, the Authority decides to proceed ex-parte.

5. During the last hearing, Authority made observation vide its orders dated 10.08.2022, wherein it was established that project in question is in legal dispute and nowhere near completion. Relevant part is reproduced as under -



“ 5. While perusing the case file, Authority in its project jurisdiction has observed that an agreement dated 18.02.2008 was executed between Triveni Ferrous (now Maximal Infrastructure Pvt. Ltd.) in respect of land measuring 2.0643 acres which was purchased by the respondent M/s Heritage Cottages Pvt. Ltd. for a total consideration of Rs. 9,20,31,356/-. Based on above DTCP, Haryana granted permission of joint development and marketing rights to M/s Heritage Cottages Pvt. Ltd. vide letter dated 07.03.2022. M/s Maximal went in appeal against the said orders before ACS Town and Country Planning. Appeal was dismissed on 21.02.2022 by Id. ACS being devoid of any merits. Respondent thereafter, filed a CWP before the Hon'ble High Court against the orders of ACS Town and Country Planning mentioning that agreement dated 18 February, 2008 has been cancelled vide cancellation deed dated 08.06.2016 for failure on part of respondent to abide by the terms and conditions of the agreement. M/s Maximal while suspending GPA and also development agreement, had also issued a cheque to refund agreement amount of Rs. 9,20,31,356/- vide Cheque no. 466082 dated 08.06.2016 drawn on Corporation Bank NFC New Delhi. But, the cheque was not honoured/encashed. The matter is now pending adjudication before Hon'ble Punjab and Haryana High Court and is listed for hearing on 25.08.2022.

This itself establishes that project is in legal dispute and not likely to be completed in foreseeable future.”



Therefore, Authority clarified from the complainant if he is interested in amending his relief from possession to refund since project is not likely to be completed in the near future.

6. Today, during the hearing, Mr. Vikasdeep, learned counsel for the complainant reiterated the factual matrix of the case as narrated above and prayed that relief of possession be granted to him.

7. On the other hand, Mr. Sourabh Goel, learned counsel for respondent verbally apprised the Authority that project is 80 percent complete and possession will be delivered in near future. However, nothing has been placed on record to establish the current status of project.

8. In view of forgoing discussions, Authority deems it appropriate to dispose of the present complaint with the order that possession of booked apartment shall be delivered by respondent-promoter to the allottee whenever they complete the project and obtain occupation certificate from the competent authorities concerned. However, since inordinate delay has already been caused, respondent-promoter is ordered to pay upfront delay interest to the allottee as per provisions of Section 18 of the RERA Act, 2016 and Rule 15 of RERA Rules, 2017. The upfront interest is being calculated from the due date of offering possession, i.e., 25.03.2010 upto the date of passing this order i.e. 15.12.2022. Allottees would be further entitled to monthly interest for each month of further delay caused. Accordingly, upfront interest payable to



complainant works out to be Rs. 34,18,953/- and monthly interest is Rs. 22,957/-.

The respondent shall pay the above stated upfront interest and monthly interest to the complainant within the period of 90 days as provided in Rule 16 of the RERA Rules, 2017.

9. **Disposed of** with above directions. File be consigned to record room and order be uploaded on website of the Authority.



.....  
DR. GEETA RATHEE SINGH  
[MEMBER]



.....  
NADIM AKHTAR  
[MEMBER]