



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1308 OF 2021

Deepak Sharma.

....COMPLAINANT(S)

VERSUS

Advitya Residency LLP

....RESPONDENT(S)

CORAM: Nadim Akhtar Member

Dr. Geeta Rathee Singh Member

Date of Hearing: 29.11.2022

Hearing: 3rd

Present: -Mr. Bharat Sharma, Ld. Counsel for the complainant through VC.
Mr. Neeraj Goel, Ld. Counsel for the respondent through VC.

ORDER (NADIM AKHTAR - MEMBER)

Perusal of record reveals that today is 3rd hearing of the case. Brief facts of the case are that complainant had visited the site of the project and booked a commercial unit shop bearing no. F-35 on first floor of the real estate project namely Advitya Plaza situated in Sector 6, Faridabad having a super area of 236.80 sq.ft. Total cost alleged by complainant is Rs. 26 lakhs against which complainant paid booking amount of Rs. 2,60,000/-. Grievance of the complainant is that at the time of booking no tax related payments information was disclosed by respondent and later respondent has made illegal demands

which are not acceptable to the complainant. Therefore has prayed for relief of cancellation of unit and refund of entire amount paid.

2. On the other hand, respondent/promoter in his written submissions has challenged the facts of complainant and submitted that complainant had submitted wrong statements before the Authority. Mr. Neeraj Goel, Ld. counsel for the respondent submitted that as per the Provisional allotment letter dated 15.09.2021 issued by the respondent/promoter the basic sale price of the said unit was fixed for Rs. 27,23,200/-and payment schedule for future payments was to attached along with provisional allotment letter. He further averred that complainant with his own consent signed an application dated 04.08.2021 wherein it is admitted that complainant had paid a sum of Rs. 2,60,000/-. Further clause 9 of the said application clearly mentions that all the statutory and regulatory charges, taxes, cess, GST and/or levis including any incidents of enhancement therein demanded or imposed by the concerned authorities shall be payable proportionately by the complainant from the date of booking as notified by the respondent firm. He submitted that vide provisional allotment letter dated 15.09.2021 issued by respondent it was clearly written that allottee/complainant shall be responsible to come forth and execute and register builder buyer agreement within 30 days of this letter. Thereafter respondent/promoter issued another letter dated 21.09.2021 to complainant calling for further 10% payment along with pending arrears of Rs. 13,000/-,

while registering and executing builder buyer agreement and has alleged that complainant had never come forward for the same.

3. Authority observes that complainant had shown interest in the project of the court and had booked a unit bearing no.F-35 on first floor of Advitya Plaza situated in sector 6, Faridabad having a super area of 236.80 sq.ft and for same signed an application form dated 05.08.2021 for booking the unit. The said application form is a valid legal document having all the necessary details including terms and conditions. Further within one month time respondent had issued a provisional allotment letter dated 15.09.2021 along with payment schedule. Second letter was issued by the respondent demand letter dated 21.09.2021 of Rs. 2,86,000/-. Authority observes that application dated 05.08.2021 signed by both the parties an obligation on both the parties to abide by the terms and conditions of the said application. Para 2 on first page of the application reads as follow:

"I/we agree to abide by the terms and conditions incorporated in this application form and also agree to sign and execute, as and required by the LLP Firm, the Allotment Letter and/ or the Buyer's Agreement. I/We accept the specifications of the shop and I/We shall pay the basic sale price, other additional charges and the applicable taxes, stamps duty, registration fee etc. as and when demanded by the LLP Firm".

Further, clause 9 of the terms and conditions reads as follow;

"9. All statutory/regulatory charges, taxes, cess, GST and/or other levies, including any incidence of enhancement therein demanded or imposed by the concerned authorities shall be payable proportionately by



the applicant(s)/allottee(s) from the date of booking as notified by the LLP Firm.

4. Authority observes that complainant with his voluntarily signed the application dated 15.08.2021 for booking of the said unit in the commercial project. Authority is of view that complainant now at this stage cannot submit that he was unaware of the fact and information related to taxes. Further, the fact related to payment of taxes was very much a part of the application form signed between the parties, therefore now complainant cannot say that he was not aware about his obligations with regard to payment of taxes. Further the respondent has fulfilled his duty of issuing provisional allotment letter dated 15.09.2021. Wherein, respondent had called the complainant to come forth for execution of builder buyer agreement within 30 days. Complainant has not approached respondent for execution as per the terms of Provisional allotment letter and reminder dated 21.09.2022 was also issued, therefore, it could not be proved that respondent was charged anything beyond what was mentioned application form. As confirmed from the record of project branch the project is registered in the Authority FBD-223 of 2020 and due date 31.03.2024. The Authority is of the view that since the date of possession has still not become due the refund could not be allowed. Nevertheless, if the allottee is not keen on continuing with the project, he can directly make an application for cancellation/ withdrawal to the office of the promoter and the promoter may

allow withdrawal after deducting 10% of the amount (as per provisions of the RERA Act, 2016).

6. Case is disposed of as dismissed. File be consigned to record room after uploading of order on the website of Authority.

Geeta Rathee

DR. GEETA RATHEE SINGH
[MEMBER]

Nadim Akhtar

NADIM AKHTAR
[MEMBER]

