



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 780 OF 2021

(Re-opened for Rectification Application)

Sunita Dixit

....COMPLAINANT

VERSUS

TDI Infrastructure Limited.

....RESPONDENT

CORAM:

Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 18.04.2023

Hearing: 8th

Present: -

Mr. Deepak Dahiya, Counsel for complainant
Mr. Shubhnit Hans, Counsel for the respondent.

ORDER (NADIM AKHTAR- MEMBER)

1. Captioned complaint was disposed of by the Authority vide order dated 08.02.2022, granting relief of payment of delay interest amounting to ₹ 18,06,873/- - and further monthly interest @ ₹ 28426/- to be paid to complainant by the respondents w.e.f. . 08.02.2022 till the date a legally valid offer of possession is made. Relevant part of order dated 08.02.2022 is reproduced below for reference:

“4..... Since complainant wishes to wait for delivery of possession till offer of possession after obtaining Occupation Certificate by the respondent, therefore, she

shall be entitled to a further amount of delay interest till a legally valid possession will be offered after obtaining Occupation Certificate from department concerned. 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 unit up to the date of passing of this order has been worked out to Rs. 18,06,873/- .The Authority orders that upfront payment of Rs.18,06,873/- will be made to complainant on account of delay caused in offering possession within 90 days and further monthly interest @ Rs. 28426/- will be paid to complainant by the respondent w.e.f. 08.02.2022 till the date a legally valid offer of possession is made.

5. In regard to request made by complainant regarding quashing of impugned demands made by the respondent vide said offer letter (namely following categories: (a) External Development Charges (EDC) Rs. 81,288/- (b) Miscellaneous Expenses (ME) Rs. 11,800/- (c) Interest Free Maintenance Security (SEC) Rs. 20,000/- (d) Charges demanded on the pretext of increase in apartment area from 1499 sq. ft. to 1783.81 sq. ft. Rs. 7,16,798/- (e) Club Membership Charges(CMC) Rs. 50,000/- (f) Value Added Tax (VAT) Rs. 33,889/-, Authority observes that since the offer for fit out possession dated 03.04.2019 is sans Occupation Certificate, therefore, it could not be termed a proper and legal offer of possession. Therefore, aforesaid offer sans Occupation Certificate is illegal, and resultantly, aforesaid demands made by respondent vide offer letter dated 03.04.2019 are also rendered void.



Respondent is directed to make a legal offer after obtaining Occupation Certificate. Said offer letter shall be accompanied with statement of accounts showing lawful payables and receivables along with justification at that time.

Respondent while issuing such statement shall follow the principles laid down by the Authority in Complaint No. 607 of 2018 titled Vivek Kadyan Versus M/s TDI Infrastructure Pvt. Ltd., Complaint No. Parmeet Singh vs M/s TDI Infrastructure Pvt. Ltd. and Complaint No. 83 of 2019 titled Adesh Vats Versus M/s TDI Infrastructure Pvt. Ltd. Respondent is directed to charge complainant for External Development Charges(EDC), Miscellaneous Expenses (ME), Interest Free Maintenance Security (SEC), increase in super area of the apartment, Club Membership Charges(CMC) and Value Added Tax (VAT), strictly as per principles laid down in aforesaid complaints. In case respondent fails to follow aforesaid principles formulated by the Authority on all aforesaid issues, complainant will be at liberty to approach this Authority for resolution of the same.

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

2. Thereafter, respondent filed an application for review of order dated 08.02.2022 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 file by the respondent, it is observed that the respondent is seeking amendment of substantive part of order dated 08.02.2022 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. Authority cannot review its order, therefore the application filed by the respondent is rejected. Respondent is at liberty to avail other remedies available as per law.
4. Application filed by the respondent for review of the order dated 08.02.2022 is dismissed. Order be uploaded on the website and file be consigned to record room.

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DR. GEETA RATHEE SINGH
[MEMBER]

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NADIM AKHTAR
[MEMBER]