



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 992 OF 2021

(Re-opened for Rectification Application)

Pasupati Bartar Private Limited
(Now known as Pasupati Bartar LLP)

....COMPLAINANT

VERSUS

TDI Infrastructure Ltd.

....RESPONDENT

CORAM:

Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Date of Hearing: 27.04.2023

Hearing: 11th

Present: -

Mr. Sanskriti Tyagi, Counsel for the complainant
Mr. Shubhnit Hans, Counsel for the respondent.

ORDER (NADIM AKHTAR- MEMBER)

1. Captioned complaint was disposed of by the Authority vide order dated 29.07.2022, granting relief of refund of the paid amount along with

interest to the complainant in the complaint. Relevant part of order dated 29.07.2022 is reproduced below for reference:-

“5. Authority further observes that even after lapse of fourteen years from the date of agreement, respondent has failed to handover possession of unit/office space to the complainant till date. Respondent has not even mentioned the date of delivery of handover of possession in BBA or even in MOU. Respondent has also failed to specify the date by which the construction of office space will be complete and delivered to the complainant. Even, present status of construction of unit/office space has not been mentioned by the respondent. Even, status of Occupation Certificate/ Completion Certificate qua the unit/office of the complainant or the project is unknown as respondent has given no information regarding the same.

Thus, extraordinary delay has already been caused by respondent in completion and in delivery of possession of booked unit/office space which amounts to breach of terms of agreement. Already about fourteen years have lapsed from the date of booking and delivery of possession of unit/office space with Occupation Certificate does not seem possible in foreseeable future. Therefore, complainant cannot be forced to wait for indefinite time to get delivery of possession of his booked unit/office space.

In view of above facts, Authority is of the considered opinion that construction of unit/office space is incomplete even after fourteen years from the date of booking. Therefore, even purpose of buying commercial unit/office space may have got totally frustrated after such extraordinary delay, therefore, complainant cannot be compelled to continue with the booking and wait for more time to get its possession.

In view of above facts, Authority finds this to be a fit case for allowing refund of the

amount paid by the complainant and directs the respondent to refund Rs. 24,50,000/- to the complainant. As per copy of subsidiary ledger and statement of accounts annexed as Annexure R-2 & R-3 with reply, respondent has paid assured monthly return to the complainant till 31.10.2019. Therefore, respondent shall also pay assured monthly return till date of order which comes to Rs. 4,70,869.40/- (Rs. 22458/- x 20 months + 29 days). Respondent shall also pay interest on Rs. 4,70,869.4/- w.e.f. 01.11.2019 up to the date of passing of this order.

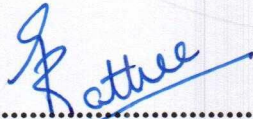
*6. As per calculations made by Accounts Branch, amount payable by the respondent to the complainant has been worked out to **Rs. 30,47,547.40/-** (Rs. 24,50,000/- + Rs. 4,70,869.40/- + Rs. 1,26,678). Therefore, Authority directs the respondent to refund **Rs. 30,47,547.40/-** to complainant. ”*

2. Thereafter, complainant filed an application for rectification of the order dated 29.07.2022 on grounds that (i) Respondent is bound to pay provisional rental rate till the date of handing over of possession i.e 07.09.2022 & not till date of order.; (ii) Ld. Authority has skipped awarding the interest in the form of ‘delay penalty charges’ to the complainant. (iii) Further, the Authority is requested to consider the prayer of complainant on account of mental harassment and agony & (iv) to initiate suo-moto action against the developer on account of unlawful and void sales



3. Upon perusal of the application filed by the complainant, it is observed that the complainant is seeking amendment of substantive part of order dated 29.07.2022 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. Since, Authority cannot review its order, therefore the application filed by the respondent for review of order dated 29.07.2022 is rejected. However, complainant is at liberty to avail other remedies available as per law.

4. File be consigned to record room after uploading the order on website of the Authority.



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DR. GEETA RATHEE SINGH
[MEMBER]



.....
NADIM AKHTAR
[MEMBER]