



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE ADJUDICATING OFFICER

Complaint no. 2886 of 2022

Date of Institution: 11.11.2022

Date of Decision: 05.04.2023

1. Ranmeet Singh alias Ranmeet Singh Batras/o Dr. Waryam Singh, r/o H-9, D2-2377, Ward no.1, Waryam Singh Hospital, Yamunanagar, Haryana
2. Valerie Jane Hara w/o Surinder Singh Hara, r/o Hara Farms, Amadalpur, Jagadhari, Haryana

....COMPLAINANTS

VERSUS

Ansal Properties and Infrastructure Ltd., through its Managing Director/Authorized Signatory, 115, Ansal Bhawan, 16, Kasturba Gandhi marg, New Delhi-110001

....RESPONDENT

Hearing: 8th

Present: - Mr. Ripudaman Advocate, Counsel for the complainants
Respondent ex-parte

साहित्य अस्पताल

JUDGEMENT:

The brief facts culminating into the institution of the present complaint are:

1. The complainants had purchased a school site measuring 1 acre/4046.82 sq. mtrs. in 'Sushant City' being developed by respondent in the Revenue Estate of Village Kheri Rangran, Tehsil Jagadhari, District Yamunanagar. The said school site was earmarked as PSC in Block-A for primary school site. The said school site forms part of residential colony namely Sushant City. Before booking of the said school site, the respondent had assured the complainants that it had already obtained all the approvals for development of said colony. The respondent had further assured to deliver the possession of the said school site within a period of 2 years. The total sale consideration of the said school site measuring 1 acre was fixed at ₹96,80,000/-. An agreement was executed between the complainants and respondent on 16.04.2013. As per said agreement, ₹9,68,000/- was to be paid at the time of allotment, ₹77,44,000/- was to be paid within 30 days of the booking and balance amount of ₹9,68,000/- was to be paid at the time of handing over of the possession. There was no default on the part of complainants in paying the instalments. The complainants had paid an amount of ₹10,00,000/- vide cheque dated 16.04.2013. ₹77,12,000/- was paid through cheque dated 15.05.2013 within 30 days of booking. By 16.05.2013, the complainants had already paid an amount of ₹87,12,000/-. The balance amount

of ₹9,68,000/- was to be paid at the time of handing over of the possession. As per clause 9 of the agreement, respondent was bound to handover the possession of the said school site within a period of 2 years from the date of execution of said agreement. Thus the stipulated date for handing over the possession was 16.04.2015. The respondent has failed to deliver the possession by the said stipulated date. During the year 2015 to 2019, the complainants had visited the office of respondent company a number of times to enquire about the exact time within which the possession of the said school site would be handed over. Despite that, the respondent kept on assuring the complainants that possession would be handed over very soon. Till the year 2019, the respondent kept on befooling the complainants. Despite paying substantial amount of sale consideration, the complainants were feeling harassed and cheated. They were compelled to send legal notice to the respondent on 06.06.2019. The respondent did not respond to said legal notice. The complainants again sent legal notices to respondent on 01.07.2019 and 27.08.2019 asking the respondent to handover the possession of the school site and execute sale deed in favour of complainants. The said notices were also not replied by the respondent. Since even after passing considerable time possession was not handed over to the complainants, the complainants served a legal notice dated 02.03.2020 upon the respondent seeking refund of amount of ₹87,12,000/- alongwith interest and compensation. Neither the notice has been responded nor the amount has been refunded to the complainants. The respondent never raised the demand of balance amount of ₹9,68,000/- since it had

failed to handover the possession of the said school site to the complainants. Since, the respondent has failed to handover the actual physical possession of the school site, it is liable to pay compensation to the complainants for causing delay in handing over the possession. The complainants were to start the construction of the school after getting possession of the site and further to operationalize the same after getting the building constructed. The complainants have suffered financial loss of around ₹5,00,00,000/- due to the fact that it could not start operation of the school. They could construct the school building within 2 years. The complainants have lost very viable business opportunity due to non-delivery of possession of the school site. There has been exorbitant increase in cost on construction which has got almost doubled from the year 2015. The complainants had filed Complaint bearing no.704 of 2020 before Hon'ble Authority seeking refund of paid amount alongwith interest which was allowed vide order dated 12.10.2022 passed by Hon'ble Authority. By way of the present complaint, the complainants have sought compensation of ₹1,00,00,000/- for deficiency in service, unfair trade practice, financial loss, loss of business opportunity and damages for physical and mental torture, agony, discomfort by not delivering the possession in time bound manner and ₹1,00,000/- as cost of litigation.

2. Despite notice respondent company had not appear either through counsel or any other representative and was ordered to be proceeded against ex-parte vide order dated 17.02.2023.

3. Arguments raised by learned counsel for the complainants have been carefully heard and records of the case have been meticulously examined.
4. Averment of the complainants is that a school site measuring 1 acre was booked in 'Sushant City' Project of respondent company by the complainants and an agreement was executed between the parties on 16.04.2013, copy of said agreement has been placed on record as Annexure C-1. ₹96,80,000/- was agreed as basic sale price of the school site. As per Clause 2 of the said agreement, 10% i.e. ₹9,68,000/- was to be paid at the time of allotment, 80% i.e. ₹77,44,000/- within 30 days of the booking and remaining 10% i.e. ₹9,68,000/- at the time of handing over of possession. The complainants had paid ₹10,00,000/- vide cheque dated 16.04.2013 at the time of allotment. Copy of customer ledger placed on record as Annexure C-2 shows entry dated 17.04.2013 in the sum of ₹9,68,042.4/- . The remaining amount of ₹77,44,000/- was paid by the complainants vide cheque dated 16.05.2013, copy of customer ledger placed on record as Annexure C-2 shows two entries in the sum of ₹31,957.6/- and ₹77,12,000/-. Though the respondent has not appeared, yet the entries in customer ledger of the complainants was being maintained by the respondent, copy of which has been placed on record as Annexure C-2. Meaning thereby the complainants have proved payment of ₹87,12,000/-. It is also averment of the complainants that possession was not handed over and the complainants were constrained to file complaint for refund of paid amount alongwith interest. Copy of order dated 12.10.2022 passed by Hon'ble Authority in Complaint no.704 of 2020 titled as

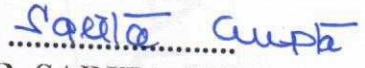
Ranmeet Singh and Valerie Jane Hara v/s M/s Ansal Properties and Infrastructure Pvt. Ltd. has been placed on record vide which the respondent has been directed to refund the amount of ₹87,12,000/- paid by the complainants alongwith interest which was calculated at ₹82,11,820/-. It is the averment of the complainants that they have suffered mental agony and harassment and financial loss. The complainants have sought compensation to the extent of ₹1,00,00,000/- under this head. It is not disputed that the amount of ₹87,12,000/- deposited by the complainants was being utilized by the respondent which amounts to undue loss to the complainants and undue gain to the respondent. It is also not disputed that this is recurring loss to the complainants, for which the complainants are entitled to be compensated. At the same time, it is worthwhile to mention here that vide order dated 12.10.2022 passed by Hon'ble Authority, alongwith paid amount of ₹87,12,000/-, interest of ₹82,11,820/- has also been granted to the complainants. If compensation is to be calculated @ 6% per annum, it would be calculated around ₹50,00,000/-. It is not a spirit of the Act to enrich the complainants/allottee at the cost of respondent/promoter. It would be too harsh if after paying an amount of ₹87,12,000/-, complainants are awarded 3 times of the paid amount. In these circumstances, in nutshell compensation ₹10,00,000/- (Rupees Ten Lakhs only) is awarded on account of mental agony and harassment.

5. So far as cost of litigation is concerned, a sum of ₹25,000/- is granted as cost of litigation.

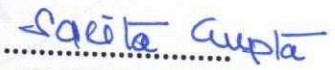
6. Sequel to aforesaid discussion, this complaint is partly allowed. Respondent is directed to pay an amount of (₹10,00,000/- + ₹25,000) = 10,25,000/- (Rupees Ten Lakhs and Twenty Five Thousand only) to the complainants in lieu of compensation. The amount shall be paid in two instalments, first instalment of 50% of the amount shall be paid within 45 days of uploading of this order and remaining amount to be paid as second instalment within next 45 days.

7. In these terms, the present complaint stands disposed of. File be consigned to record room after uploading order on the website of the Authority.

05.04.2022


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(DR. SARITA GUPTA)
ADJUDICATING OFFICER

Note: This judgement contains 7 pages and all the pages have been checked and signed by me.


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(DR. SARITA GUPTA)
ADJUDICATING OFFICER