

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Complaint no. : 724 of 2019
First date of hearing: 09.07.2019
Date of decision : 11.09.2019

1. Mrs. Preetinderjot Kaur
2. Mr. Gurpreet Singh
Both r/o. H. No. 2542, First Floor, Sector 46,
Gurugram

Complainants

Versus

1. M/s Today Homes and Infrastructure Pvt.
Ltd.
Regd. Office: Statesman House, 8th Floor
Barakhamba Road, New Delhi-110001
Also at: - Upper Ground Floor 8 to 9, Pragati
Tower, Rajendra Place, New Delhi- 110008

Respondent

CORAM:

(Former Additional District and Sessions Judge)
Registrar -cum- Administrative Officer (Petitions)
Haryana Real Estate Regulatory Authority, Gurugram
(Authorised by resolution no. HARERA,

GGM/Meeting/2019/Agenda 29.2/Proceedings/16th July 2019)
under section 81, Real Estate (Regulation and Development) Act,
2016

APPEARANCE:

Shri Sushil Yadav
Shri Amit Singh

Advocate for the complainant
Advocate for the respondent

EX PARTE ORDER



1. The present complaint relates to an agreement to sell dated 05.06.2017 executed between the complainants and respondent in respect of flat measuring 1622 sq. ft.(150.74 sq. mtr.) super area bearing no. CDT500001, Ground Floor, Tower no. T5 of the project, namely, " Callidora" situated in Sector 73, Sohna Road, Gurugram (in short, the subject flat). The said project is not registered with this Authority. The total consideration is Rs. 85,50,154.60/- which includes BSP, two car parking, IFMS, Club membership, PLC etc. as per the agreement to sell dated 05.06.2017.
2. The particulars of the complaint case are as under: -

1.	Name and location of the project	"Callidora", Sector 73, Sohna Road, Gurugram
2.	Nature of project	Group housing colony
3.	Area of project	33.22 acres
4.	Apartment/unit no.	CDT500001, ground floor, tower no. T5
5.	Flat measuring	1622 sq. ft.
6.	DTCP licence no.	Not available
7.	RERA registered/ not registered	Not registered
8.	Date of execution of agreement to sell	05.06.2017
9.	Payment plan	Construction linked payment plan
10.	Total sale consideration as per payment plan	Rs. 85,50,154.60/-

Maitstone
11-9-19



11.	Total amount paid by the complainants till date	Rs. 42,34,527/-
12.	Due date of delivery of possession as per clause 23 of agreement to sell (6 months from the date of execution of agreement with grace period of 6 months') i.e. 05.06.2017	05.06.2018
13.	Delay in handing over possession till date	Continuous
14.	Penalty clause as per agreement to sell dated 05.06.2017	Clause 23 of the agreement prescribe compensation @ Rs.5/- per sq. ft per month for the entire period of delay

3. The complainants till date have paid an amount of Rs. 42,34,527/- to the respondent vide different cheques on different dates. As per clause 23 of the agreement to sell, the respondent had agreed to handover the possession of the subject flat to the complainant within 6 months from the date of execution of this agreement with 6 months' grace period.

4. The complainants have submitted that respondent had allotted a unit bearing no. CDT500001, Ground Floor, Tower no. T5 having super area of 1622 sq. ft. to them in the project "Callidora", Sector 73, Sohna Road, Gurugram

Kishore
11-9-19



considered opinion of this Authority this is in violation of the terms and conditions of the buyer's agreement dated 05.06.2017 and also violation of section 11(4)(a) of the Act.

10. Hence, in the opinion of this Authority the complainants are entitled to interest on delayed offer of possession. Accordingly, it is held that the complainants are entitled for delayed possession charges at the prevalent prescribed rate of interest of 10.40% per annum for every month of delay in terms of section 18(1) proviso of the Act read with rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017. Payment schedule is given at page no. 33 which is reproduced as here under:-

S. No.	Stage	Charges	Total amount Rs.
1.	At the time of booking (850000)		
2.	60 days from booking date	50% of BSP	3783558.30
		50% of EDC	347919.00
		50% of LPLC	40550.00
		50% of club membership	37500.00

Handwritten signature
11-9-19



		50% of open car parking	25000.00
3.	On offer of possession	50% of BSP	3783558.30
		50% of EDC	347919.00
		50% of LPLC	40550.00
		50% of club membership	37500.00
		50% of open car parking	25000.00
		100% of IBMS	81100.00
	Total		85,50,154.60

11. From a bare perusal of payment plan it is evident that the amounts mentioned at serial no. 3 of payment schedule has to be raised by the respondent from the complainant on offer of possession. Therefore, demand raised vide notice dated 24.01.2019 is premature and against the terms and conditions of BBA and is accordingly struck down.

Findings of the Authority: -

12. The Authority has complete jurisdiction to decide the complaint in regard to non-compliance of obligations by the

M. K. Sharma
11-9-19
Page 9 of 12



promoter as held in **Simmi Sikka V/s M/s EMAAR MGF Land Ltd.** leaving aside compensation which is to be decided by the Adjudicating Officer if pursued by the complainant at a later stage. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose for promoter projects situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district, therefore this Authority has complete territorial jurisdiction to deal with the present complaint.

Decision and directions of the Authority: -

13. The Authority exercising its power under section 37 of the Real Estate (Regulation and Development) Act, 2016 and as prescribed in proviso to Section 18(1)(b) of the Act read with Rule 15 Haryana Real Estate (Regulation & Development) Rules, 2017 hereby directs the respondent to pay delayed possession charges at the prevalent prescribed rate of interest of 10.40% per annum with effect from the due date of delivery of possession till date within a period of 90 days from this order and to continue to pay interest at the said rate month by month by the 10th day of each succeeding English calendar month till the date of delivery of possession of the said flat to the complainant.

Handwritten signature
11-9-19



14. Demand notice dated 24.01.2019 is struck down. Respondent is directed to withdraw demand notice dated 24.01.2019.
15. Since the project is not got registered, so the Authority has decided to take suo moto cognizance of this fact and direct the registration branch to initiate action against the respondent under section 59 of the Act for violation of Section 3(1) of the Act. A copy of this order be endorsed to the registration branch.
16. The complaint stands disposed of accordingly.
17. The case file be consigned to the registry.

N. K. Goel

(Former Additional District and Sessions Judge)

Registrar -cum- Administrative Officer (Petition)
Haryana Real Estate Regulatory Authority, Gurugram
(Authorised by resolution no.

HARERA,GGM/Meeting/2019/Agenda 29.2/Proceedings/16th
July 2019) under section 81, Real Estate (Regulation and
Development) Act, 2016.

Dated: 11.09.2019

Order ratified by the Authority as above.

(Samir Kumar)

Member

(Subhash Chander Kush)

Member

(Dr. K.K. Khandelwal)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 11.09.2019



14. Demand notice dated 24.01.2019 is struck down. Respondent is directed to withdraw demand notice dated 24.01.2019.
15. Since the project is not got registered, so the Authority has decided to take suo moto cognizance of this fact and direct the registration branch to initiate action against the respondent under section 59 of the Act for violation of section 3(1) of the Act. A copy of this order be endorsed to the registration branch.



HARERA
GURUGRAM

(Dr. K.K. Khambhwal)

Chairman

Harera Real Estate Regulatory Authority, Gurugram

Dated: 11.09.2019