

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,
HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM**

Complaint no. : 6704 of 2022
Date of decision : 04.10.2023

Ms. Pratibha Khan and
Mr. Afzal Ahmad Khan

Both resident of : A-602, Prateel Edifice, Sector 107,
Noida 201304.

Complainants


Versus

Ramprastha Promoters And Developers

ADDRESS: C10, C Block Market, Vasant Vihar, New Delhi
110057.

Respondent

APPEARANCE:

For Complainant:

Mr. Siddhant Sharma Advocate

For Respondent:

Ms. R Gayathri Mansa Advocate

ORDER

1. This is a complaint filed by Pratibha Khan and Afzal Ahmad Khan(allottees) under section 31 read with section 72 of The Real Estate (Regulation and Development) Act, 2016 (in



short, the Act of 2016) against respondent/developer viz. Ramprastha Promoters and Developers.

2. As per complainants, both of them are co-owners of residential plot no E-98 in Ramprastha City in sector 37C-37D admeasuring 300 sq.ft., having purchased it from the respondent. Basic Sale Price of the subject property was decided as Rs.18,00,000/- excluding other charges.
3. That they (complainants) paid Rs.18,00,000/- on 26.07.2008 (through three separate cheques), Rs.12,75,000/- on 30.11.2015 (through two separate cheques) and Rs.3,75,000/- on 22.07.2016. After 7 years of making initial payment, Plot Buyer Agreement was executed between both of the parties on 24.11.2015. On 02.08.2016, respondent sent them (complainants) Allotment Letter.
4. That they (complainants) kept on reminding the respondent for plot possession and sent various mails for the same but respondent did not pay heed to it. Respondent did not even register the project with RERA. Owing to the negligence and delay in handing the plot, they (complainants) filed complaint no.4331/2021. On 15.02.2022, Haryana Real Estate Regulatory Authority (Authority) in the said complaint directed respondent to pay interest @9.30% p.a for every month of delay from due date of possession i.e. 24.11.2018 till date of handing over of possession, after receiving OC



from competent authority. Arrears of such interest were to be paid within 90 days from the date of order.

5. No amount was paid by the respondent. They (complainants) have filed an execution petition, which is pending. Respondent did not hand over possession of their unit.

6. Citing facts as described above, complainants have sought following reliefs:

- a. To direct respondent to handover the possession of the plot to the complainants.
- b. To direct the respondent to pay the prescribed amount along with interest @24% for delay in handing over the possession from 2008 till now.
- c. To direct the respondent to not create any third party interest in the said unit.
- d. To direct the respondent to waive off any escalation cost, hidden charges which will be forcibly imposed on buyer at the time of possession, as a general practice.
- e. To hold the respondent guilty of indulging into unfair practices and providing deficient services to the complainants and award a compensation of Rs.10,00,000/-.



7. Respondent contested the complaint by filing a written reply.

Apart from disputing the complaint on merits, the respondent challenged very maintainability of this complaint.

8. It is further plea of it(respondent), that the grounds raised by the complainant for claiming compensation before Ld. Adjudicating Officer vide the present complaint are same as the grounds in complaint no 4331 of 2021, which was filed before the Ld. Authority for the possession along with Interest. Hence the present complaint is not maintainable as the complainant has already availed the rewards on the basis of on the said grounds.

9. It is contented by learned counsel for respondent that, this forum(Adjudicating Officer) has no jurisdiction to try and entertain this complaint. The complainants even if wanted any such relief , could have approached the Real Estate Regulatory Authority, Gurugram.

10. True, Act of 2016 has specifically provided about jurisdiction of the Adjudicating Officer. Same ^{is} has power to determine the compensation, in view of sections 12, 14,18 and 19 of the Act of 2016. Rest of the matters fall

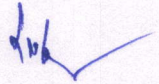


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within the jurisdiction of Real Estate Regulatory Authority (in brief the Authority). Hon'ble Supreme Court of India, in the case of *Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2020-2021 (1) RCR (C), 357*, has upheld aforesaid scheme of jurisdiction between Adjudicating Officer and ^{the} Authority.

11. Considering the facts mentioned above, in my opinion, this forum has no jurisdiction to grant reliefs, as sought by complainants. The complainants may approach the proper forum.
12. Complaint in hand is thus dismissed.
13. File be consigned to the Registry.

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(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory Authority
Gurugram

