



Complaint no. 1120 of 2019

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1120 OF 2019

Rajesh Sihag

....COMPLAINANT(S)

VERSUS

Omaxe Pvt Ltd

...RESPONDENT(S)

CORAM: Rajan Gupta

Chairman

Anil Kumar Panwar

Member

Dilbag Singh Sihag

Member

Date of Hearing: 09.10.2019

Hearing: 2nd

Present: - Mr. S.N. Pillania, Counsel for complainant.

Mr. Sanjeev Sharma, Counsel for respondent.

ORDER

(ANIL KUMAR PANWAR-MEMBER)

1. Complainant's case is that he has booked a plot with the respondent in the year 2005. The respondent has delivered him possession in December, 2012 after execution of conveyance deed. His main grievance is that the respondent had charged an excess amount of Rs. 5,51,348/- from him and he has therefore prayed for the refund of this excess amount along with interest.

2. Respondent has pleaded that the possession of the plot was offered on 05.12.2011 after obtaining Occupation Certificate and the conveyance deed was also executed in favour of complainant on 19.04.2012. According to him, the complaint filed by the complainant is not maintainable since the contract between parties has already come to an end with the delivery of the plot in the year 2012 and no cause of action survives after lapse of such a long time after execution of conveyance deed.

3. The complainant has not disputed that he had received the possession and a conveyance deed has been already executed in his favour on 19.04.2012.

Section 11(4) of THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 enumerates duties and functions of promoter. Sub Section 4 of said section reads as under :



“(4) The promoter shall –

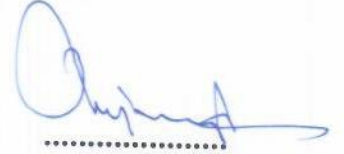
(a) be responsible for all obligations, responsibilities and functions under provisions of this Act or the rules and regulations made there under or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots, or buildings as the case may be, to the allottees are executed.”

It is plain from the above quoted provisions that promoter is responsible for discharging all obligations except in respect of structural defect only till the conveyance of the purchased property to the allottee. After the execution of the conveyance deed in favour of the complainant, the promoter's obligation survives, as per provision of section 14 (3) of the Act, only for rectifying such structural defects which have been brought to his notice by the allottee within a period of five year from date of handing over of possession. Said period of five years in this case had also lapsed because possession to the complainant was delivered in the year 2012. So, the present case is one in which the respondent - promoter by virtue of having already delivered possession and conveyance deed to the complainant is no more liable for discharging any further obligation towards the complainant.



4. Viewed from the above perspective, the present complaint is not maintainable before the Authority and the same is dismissed. File be consigned to record room and the order be uploaded on the website of the Authority.



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RAJAN GUPTA
[CHAIRMAN]



.....
ANIL KUMAR PANWAR
[MEMBER]



.....
DILBAG SINGH SIHAG
[MEMBER]

