

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

**Complaint no.** : 77 of 2021  
**Date of decision** : 04.12.2023

Sunil Gupta  
ADDRESS: Flat no. 87, Pocket 16, Adarsh  
Apartment, Sector-3, Dwarka, New Delhi -  
110075.

**Complainant**

Versus

BPTP Limited  
ADDRESS: M-11, Middle Circle, Connaught  
Circus, New Delhi-110001.

**Respondent**

**APPEARANCE:**

For Complainant:

Complainant in person

For Respondent:

Mr. Harshit Batra Adv.

**ORDER**

1. This is a complaint filed by Mr. Sunil Gupta (allottee) under section 31,35,36,37 and 38 of The Real Estate (Regulation and Development) Act, 2016 against BPTP Limited (promoter).
2. As per complainant, he booked a flat on 18.01.2013, admeasuring 1646 sq.ft. in a project of respondent viz. Park Sentosa at sector 77, Faridabad (old unit) under Subvention





Scheme on payment of Rs.3 Lakhs. A Flat Buyer Agreement (FBA) was executed between the parties on 18.7.2013. Till 18.08.2013, he (complainant) has paid total of Rs.41,85,165. Subvention scheme ended in March 2016 which was later on extended by one year i.e. till March 2017. After March 2017, respondent did not pay any pre EMI, but, HDFC Ltd. Bank, from which loan was advanced by him, deducted EMI from his (complainant's) salary account on monthly.

3. After various correspondences and meetings, respondent refused to refund Rs. 42 Lakhs, instead offered, an alternate property viz., E-26 on ground floor admeasuring 1149 sq. ft. in Monet Floors at Astaire Garden, sector 70 and 70A, Gurugram (new unit), for Rs.1 Crore which is 20% more than the market price.
4. A Settlement deed was executed between parties on 23.07.2018, wherein respondent agreed to adjust Rs.3,58,308/-, as compensation of pre EMI, which was not paid by BPTP after extended Subvention period till March 2017. On 08.08.2018, allotment letter for new unit was given to him (complainant) and fresh Flat Buyer Agreement for new unit was executed on 01.09.2018. Offer of possession was made by respondent on 23.11.2018, with a demand for payment of Rs.58,14,835. Till 24.01.2019, he (complainant) made full payment of Rs. 1 Crore.

*Handwritten signature*





## HARERA GURUGRAM

5. After completion of extended subvention period till March 2017, he (complainant) paid pre-EMI on monthly basis till the time of possession in February 2019. He paid Rs.6,89,455 as interest on home loan before possession. Finally the property was registered in March 2020.
6. No objection certificate for physical possession was issued on 07.02.2019 and actual physical possession was taken by him in April 2019. Respondent failed to provide basic amenities, as promised by the same. New unit has poor construction quality, seepage all over house, cracks and falling plaster.
7. Citing all this, complainant has sought following reliefs:
  - i. To compensate for subvention amount with interest @ 18%. This amount is Rs.6,13,470/- at the time of filling the complaint.
  - ii. To refund with interest the excess amount of Rs.20,00,000, charged for the substitute property.
  - iii. To compensate the complainant for the tax deductions, which is result of overall delay in possession.
  - iv. To compensate the complainant for repairing and refurbishing the substitute property to make it habitable.
  - v. To provide the complainant with alternate free of charge accommodation else refund Rs. 1 Crore along with interest @ 18% till realisation of the same.





8. Respondent contested the complaint by filling written reply. The facts as claimed by the complainant were not disputed by respondent. However, the later averred that the alternative unit was allotted to the complainant, on latter's request as per his own sweet will. It is denied that the complainant was forced to take alternative unit. It is further stated by respondent that after taking possession of the alternative unit, complainant rented out the same in favour of two tenants. Firstly, to Mr. Sarthak Singla and then to Mr. Gaurav Aggarwal.
9. Respondent denied the claim of complainant that there were defects in the unit like poor construction quality, seepage, cracks or falling of plaster.
10. Respondent requested for dismissal of complaint.

I heard complainant (in person), learned counsel representing the respondent and went through record on file.

11. It is not in dispute that, complainant initially booked a unit in the project namely "Park Sentosa" at Sector 77, Faridabad under Subvention scheme. It is disclosed that, due to some payment issues by allottees, this project could not be completed, so respondent offered new unit to complainant at E-26 on ground floor admeasuring 1149 sq. ft. in Monet Floors at Astaire Garden, sector 70 and 70A, Gurugram. A Settlement Deed was executed between both of the parties on 04.08.2018, after settling all their claims and disputes.
12. As discussed above, although the complainant claims that respondent did not adhere to its obligation under subvention scheme, he (complainant) was constrained to pay the



installments to the bank, which the respondent was liable to pay as pre -EMI. Copy of tripartite agreement was not placed on file by any of the parties. Though both of parties agreed that initial unit of Faridabad was purchased under Subvention Scheme, which is extended twice till February 2018. Copy of email for same is annexed as R6.

13. Complainant did not adduce any evidence to prove that same made payments to the bank, which the respondent was liable to pay. No relief can be granted in this regard.

14. The complainant has requested for refund of amount with interest i.e. Rs.20,00,000/- charged for substitute property. Even as per complainant, substitute unit was allotted to him on the basis of an agreement, executed between the parties. There is nothing on record to verify that complainant was forced to enter into any such agreement. No reason for any such direction. Even otherwise, the undersigned (AO) has no jurisdiction to pass order for refund.

15. Complainant has requested for compensation for tax deductions, which is result of overall delay in possession. Complainant did not adduce any evidence to verify that he was entitled for tax deduction or same was due to delay in possession.

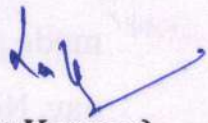
16. Complainant claimed that the construction raised by the respondent is of poor quality, resulting in seepage all over the house and cracks appeared in the building, plaster on the wall fell down. He put on file some photographs, which do not depict date and location. In the absence of any evidence, complainant failed to prove that there are any defects in fixtures in the



subject unit(new unit). Thus, no compensation can be granted in this regard.

17. On the basis of above discussion, complainant failed to prove his case. Complaint in hands is thus dismissed.

18. File be consigned to record room.

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

