

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.578 of 2021**Date of Decision: 10.12.2024**

Hargian Singh son of Sh. Dalip Singh, resident of House No. 1664, Housing Board Colony, Sector 10-A, Gurugram

Appellant

Versus

M/s Jindal Realty Pvt. Ltd., registered office at DSM, 609-610, 6th Floor, DLF Tower, Shivaji Marg, Najafgarh Road, Moti Nagar, New Delhi-also at Jindal Global City, Sector 35, Sonapat Narela Road, Haryana

Respondent

CORAM:**Justice Rajan Gupta****Chairman****Rakesh Manocha****Member (Technical)**

Present : Mr. Balram Prashar, Advocate for the appellant.
Mr. Madhur Panwar, Advocate with
Mr. Drupad Sangwan, Advocate for the
respondent

ORDER:**RAJAN GUPTA, CHAIRMAN (ORAL):**

The present appeal is directed against the order dated 25.03.2021, passed by the Authority¹.

2. The brief factual matrix of the case is that the allottee-Hargian Singh purchased a Villa measuring 1298

¹ Haryana Real Estate Regulatory Authority, Panchkula

square feet in respondent's project, namely, Jindal Global City, Sonapat. An agreement dated 12.12.2011 was executed between the parties. Admittedly, as per the agreement, possession of the unit was to be delivered on 12.12.2014. As per the allottee, he kept on making payments, as demanded by the promoter. However, there was considerable delay in completing the project. The allottee filed the instant complaint before the Authority at Panchkula seeking directions to the respondent to deliver possession of the unit along with DPC².

3. The respondent, in its reply, relied upon force majeure conditions incorporated in the agreement. It took a stand that delay in delivery of possession was not deliberate but was due to amendments carried out by Department of Town and Country Planning in sectoral plan without obtaining any consent. It also represented against the change of plan. As per the promoter, possession was ultimately offered vide letter dated 15.03.2019 but the complainant did not take possession promptly after paying outstanding amount of Rs.44,97,741/-.

4. The Authority considered the pleas of both the parties and in paragraphs 6 and 7 of its order, observed as under:

“6. On the last date of hearing dated 17.02.2021 the case was discussed at length taking into account statement of account filed by respondent and tentative observations in respect of issues pertaining to maintenance charges,

² Delayed Possession Charges

holding charges, Preferential location charges, GST charges and increase in area were given by the Authority. A copy of said statement has been supplied to the complainant by the office.

7. Considering the statement made today by counsels appearing on behalf of both the parties, it has been observed that both parties agree upon amount of Rs.7,76,768/- mentioned at page 1 of statement of accounts under the head of Jindal Realty, respondent's liability. Said amount include delay interest, amount of interest to be paid on account collected during force majeure period and GST charges to be borne by the respondent. Ld. Counsel for the complainant argues that respondent could not charge both holding as well as maintenance charges. Further Preferential Local charges was contested as the respondent is yet to prove whether green area specified in the layout plan has been approved as a green belt from the concerned department. He also disputed the amount of Rs.71,760/- charged as IFMS stating that said amount is to be charged at the rate of Rs.150 per sq yards in terms of builder buyer agreement but respondent is charging it at the rate of Rs.300/- per sq yards.”

5. We have perused the aforesaid observations and find no infirmity with the same.

6. This Bench is of the view that the promoter cannot charge holding charges from the allottee as per settled position of law.

7. As regards imposition of PLC same would be reconsidered by promoter keeping in view of the layout plan & terms of Agreement.

8. As regards IMFS charges payable, counsel for the respondent-promoter fairly submits that this liability will not be foisted on the allottee and same shall be excluded from the revised statement to be issued by the promoter. However, the allottee shall be liable to pay maintenance charges as applicable as per revised statement.

9. The Authority has already absolved the allottee from paying any charges for minor civil component work undertaken by the promoter which was being considered as cost of super area. This Bench upholds the finding to that effect.

10. In addition, this Bench feels that the promoter should also be restrained from charging any cost for raised platform in front and rear court-yard. Finding of the Authority to this extent is modified.

11. Needless to observe that this order has been passed in the peculiar facts and circumstances of the case and would not act as precedent.

12. While disposing of the appeal in the aforesaid terms, we hereby direct as under:

(i) That the promoter shall issue revised statement of accounts in terms of the aforesaid order within thirty days from uploading of this order;

(ii) The allottee shall be at liberty to make payment within sixty days of the receipt of such communication from the promoter; and

(iii) Possession of the unit shall be handed over to the allottee within thirty days of the payment, failing, which the promoter shall be liable to pay penalty @ Rs.5,000/- per day.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

10.12.2024.
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