



Complaint no. 2475 of 2019.

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 2475 OF 2019

Dharampal and Another

....COMPLAINANT(S)

VERSUS

Asian Developers Ltd.

....RESPONDENT(S)

CORAM: Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag

Chairman
Member
Member

Date of Hearing: 27.11.2019

Hearing: 1st

Present: - Mr. Akshat Mittal, Counsel for the complainant.

None for the respondent.

ORDER (DILBAG SINGH SIHAG-MEMBER)

1. The case of complainant is that he booked a flat no. 603, 6th floor, 2 BHK, Tower A-1, having an area of 1290 sq. ft. in a project of respondent namely "Bawal Residency" situated at Bawal by paying a booking amount of Rs. 1,00,000/- on 23.04.2013 for total sale consideration of Rs. 31,82,300/-. As the payment plan opted by the complainant was construction linked plan, so, he had made following payment:

S.NO	Date of Payment	Amount paid
1.	30.04.2013	Rs. 2,00,000/-
2.	06.06.2013	Rs. 2,00,000/-
3.	12.06.2013	Rs. 1,00,000/-
4.	03.08.2013	Rs. 2,67,000/-
5.	08.08.2013	Rs. 11,50,000/-
6.	03.12.2013	Rs. 5,78,072/-
	Total	Rs. 24,95,072/-

Further Buyer Agreement was executed between the parties on 06.06.2013 and as per this agreement, possession of the flat was to be handed over to the complainant within a period of twenty-seven months from the date of booking and the same stood lapsed on 23.07.2015. So, there is a delay of

more than 4 years and latest photographs taken on 28.09.2019 by the complainant reveal that project is nowhere near completion and appears to be abandoned.

Under these circumstances, complainant files the present complaint seeking refund of entire amount paid of Rs. 24,95,071/- along with interest at the rate of 18% p.a.

2. Notice sent to the respondent on 17.10.2019 and the same could not be delivered as per the report on record. Earlier also Authority tried to deliver notices but the same could not be delivered on account of non-availability of the respondent on given address. So, Authority decided to proceed against the respondent ex-parte as similar matter of Asian Developer Ltd. had been disposed of under lead complaint case no. 513 of 2018 wherein it was observed that:-

“Repeated notices were sent to the M/s Asian Developers Ltd. and the same were never delivered to them as the respondent was not found at the given address. A publication in the newspapers was also done in “Indian Express” on 10.09.2019. Despite notices nobody appeared before the Authority. Since repeated efforts have been made to seek reply of M/s Asian Developers Ltd. and they have failed to appear”

3. In the view of above, Authority decided to dispose of the present complainant in the terms of complaint case no. 513 of 2018 namely “Sunil Yadav and Laxman Yadav versus Saera Auto India Pvt. Ltd”.The

operative part of the order of this Authority in the said complaint is reproduced below:

8. "this authority is of the confirmed view that the owner in possession of the plot M/s Saera Auto India Pvt.Ltd. shall be liable jointly and severally with the promoters of the project who was authorised by them to sell and develop the apartments. For achieving their objective, both parties executed several documents including an MoU and an agreement. For active participation or for the passive ignorance of the facts happening on the ground, both respondent No.1 & respondent no.2 are answerable and liable towards the complainants jointly and severally.

9. Now this project is stuck. Sale of the apartments has been done in violation of the conditions of allotment of the land, as such, valid allotment of the apartments cannot be made in favour of the complainants. Legally and practically speaking there is no likelihood that the respondents will be able to complete the project. Accordingly, as provided under Section 18 of the RERA Act, all the complainants are entitled to get refund of the money paid by them along with interest calculated in accordance with Rule 15 of the RERA Rules which is SBI MCLR+2%. This order shall be executable against both the respondents No.1 and No.2 jointly and severally. All the complainants shall calculate the interest payable as per Rule on each instalment paid from the date of payment upto the date of passing this order. A table of those calculation shall be sent to the respondent within 30 days with a copy to this Authority. If the respondent agrees with the calculations, the amount shall be refunded to the complainant. If they do not agree, then respondent may file an application with this Authority for settling the dispute regarding calculations. A copy of the said application shall be sent to the complainant also.


10. The respondents are directed to refund the amounts as per this order to the complainants within a period of 90 days failing which the complainant shall be free to file petitions for execution of these orders. The complainants are free to get these orders executed both against respondent No.1 & respondent No.2 or against any of their bank accounts or properties.

11. **Disposed of** in above terms. Orders be uploaded on the website of the Authority and file be consigned to the record room. "

4. Complainant-allottees are entitled to the same relief as were allowed by this Authority in complaint case no. 513 of 2018 and the present complaint ~~is~~ **disposed of** accordingly.

l.

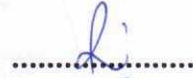
5. Orders be uploaded on the website of the Authority and file be consigned to the record room.



.....
RAJAN GUPTA
[CHAIRMAN]



.....
ANIL KUMAR PANWAR
[MEMBER]



.....
DILBAG SINGH SIHAG
[MEMBER]

