



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	333 of 2024
Date of filing:	09.04.2024
First date of hearing:	27.05.2024
Date of decision:	03.03.2025

Anu

Flat no. 63, Pocket-1,
Sector-23, DDA Flats,
Dwarka, New Delhi

....COMPLAINANT

VERSUS

Shiv Yash Infratower LLP
5-B, Block I,
First Floor, Sector-10,
Faridabad-121006

.....RESPONDENT

CORAM: Nadim Akhtar
Chander Shekhar

Member
Member

Present: - None for the complainant
None for the respondent

ORDER (NADIM AKHTAR-MEMBER)

1. Present complaint has been filed by the complainant on 09.04.2024 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.
2. The complainant in his complaint has stated that on 20.12.2019, promoter/developer of the real estate project "Royal Green Homes" in Sector-36, Bahadurgarh, advertised the project inviting applications for villa/flat purchases. (*Annexure P/1*) On 23.02.2020, complainant sent a cheque of Rs. 2,00,000/- as an advance deposit for booking a villa. (*Annexure P/2*). On 07.03.2020, developer acknowledged the receipt of Rs. 2,00,000/- for booking the villa. (*Annexure P/3*). Further, on 10.03.2022, a meeting was held with Mr. Saurabh (Site Incharge), where the nature of the property and a draft agreement were provided. (*Annexure P/4*). The Builder-Buyer Agreement was executed between the complainant and the developer for Villa No. 126,



measuring 90.99 square yards, at a total price of Rs. 37,00,000/- in the name of Mrs. Anu. The complainant made most of the payments on time but faced financial difficulties due to the COVID-19 pandemic, leading to some delays. Complainant regularly communicated with the developer regarding her financial condition. On 03.06.2023, developer issued a final intimation letter demanding the balance payment to avoid cancellation. (*Annexure P/5 & P/6*) On 13.07.2023, complainant formally requested an extension of three months for the final payment via letters sent to the developer's offices in Agra, Rohini, and Bahadurgarh. (*Annexure P/7 & P/8*). On 27.10.2023, Rs. 10,00,000/- was transferred in favour of developer via RTGS. (*Annexure P/9*). The complainant visited the developer's Agra office on 02.11.2023, where a meeting with Mr. Arpit (promoter's representative) took place. Complainant demanded possession, but Mr. Arpit told that Villa No. 126 had been cancelled due to late payment and had already been allotted to another customer. Complainant requested a detailed schedule of payments made from 01.04.2019 to 31.10.2023. (*Annexure P/10*). On 09.11.2023, complainant sent a formal request via email for possession, as the full and final payment had been cleared. (*Annexure P/11*). On 11.11.2023, the complainant received a partial refund of Rs. 33,40,205/- via NEFT, with Rs. 3,72,668/- deducted

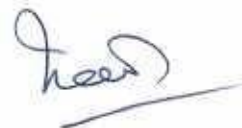


without any explanation. (*Annexure P/12*). On the same day, the complainant sent another letter demanding possession and warning of legal action if denied. (*Annexure P/13*) On 21.11.2023, a legal notice was sent by the complainant to the developer. (*Annexure P/14*). On 30.11.2023, developer replied to the legal notice. (*Annexure P/15*).

3. Upon careful examination of the complaint, Authority has made its observations regarding the conduct of the complainant and maintainability of captioned complaint.
4. The Authority had previously issued orders dated 27.05.2024 and 28.10.2024, directing the complainant to take specific actions, including:
 - a. Serving a dasti notice to the respondent and submitting a service report.
 - b. Filing a Vakalatnama/Power of Attorney to establish proper legal representation.
 - c. Providing complete payment receipts or, in their absence, an affidavit supported by a bank statement highlighting payments made. Despite these clear directions, the complainant failed to adhere to the Authority's orders, demonstrating a lack of diligence and seriousness toward the case.



5. The complainant failed to provide essential documents, which made it difficult for the Authority to examine the claims sought in the captioned complaint:
- a. Absence of the complete copy of Builder-Buyer Agreement (BBA):
The complainant only submitted first few pages of the agreement, lacking details of the payment plan, possession clauses etc. Without complete copy of agreement, it is very difficult to ascertain the exact terms and conditions agreed upon by both parties.
 - b. Incomplete Payment Receipts: While the complainant claimed to have made payments totaling ₹37,00,000, the records submitted only confirm payments of ₹2,00,000 (as a booking amount) and ₹10,00,000 (after a demand letter was issued on 03.06.2023). The lack of comprehensive payment records has created ambiguity regarding the actual payments made.
6. Furthermore, final demand letter issued by the respondent on 03.06.2023 clearly instructed the complainant to make the remaining payment within 10 days (i.e., by 13.06.2023) to avoid cancellation of the booking. Instead of complying, complainant sent a request for an extension on 13.07.2023, citing financial difficulties. This delay clearly establishes that the complainant failed



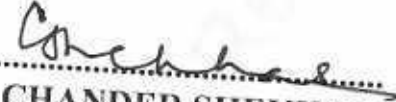
to adhere to the agreed payment schedule, which led to the cancellation of the villa by the respondent. The complainant was duly refunded ₹33,40,205/- out of the total amount paid, after deduction of cancellation charges as per the agreed terms.

7. The complainant's correspondence dated 11.11.2023 acknowledges receipt of the refund but still insists on acquiring the villa, despite the cancellation being in accordance with contractual terms. The Authority finds that the default in payment lies solely with the complainant, and the respondent was within its rights to cancel the booking. Additionally, the complainant failed to provide any justification for re-acquiring the villa after cancellation and refunding the paid amount.
8. After thorough consideration, the Authority concludes that the complaint lacks merit and appears to be an attempt to misuse of legal proceedings for personal gain. The case is an example of litigation pursued in bad faith, aimed at exerting undue pressure on the respondent rather than addressing genuine grievances. Furthermore, under the Real Estate (Regulation and Development) Act, 2016 (RERA), the legislation is intended to protect allottees who suffer due to the unfair practices of real estate promoters, not to facilitate unjust enrichment at the expense of developers who have acted in



accordance with the law. Given that the complainant received a refund as per the terms of the agreement, the relief sought is not maintainable under HRERA Act, 2016.

9. Thus, Authority decides to dispose of the captioned **complaint as dismissed**.
10. Hence, the captioned complaint is accordingly **disposed of as dismissed** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.


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CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]