



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY

Day and Date	Tuesday and 10.12.2019
Complaint No.	CR/3842/2019 Case titled as Varun Attrey And Anr V/S Anant Raj Limited
Complainant	Varun Attrey And Anr
Represented through	Mr R S Yadav, Adv
Respondent	Anant Raj Limited
Respondent Represented through	Mr Rohit K Aggarwal, Adv
Last date of hearing	
Proceeding Recorded by	Naresh Kumari/S.L.Chanana

Proceedings

Arguments heard.

As per clause 7.1. of the BBA dated 11.04.2012 executed between the parties, the respondent was duty bound to deliver the possession of the allotted unit to the complainant within a period of 36 months plus six month as grace period which comes out to be 11.10.2015.

Respondent has received occupation certificate on 07.06.2019 and offered the possession of the allotted unit to the complainant on 30.06.2019.

As such, the complainant is entitled for delayed possession charges w.e.f. 11.10.2015 to 30.06.2019 at the prescribed rate of interest i.e. 10.20.% p.a.

The complainant is directed to take over the possession of the unit within a period of 30 days by making the requisite payments to the respondent failing which the respondent shall be entitled to charge holding charges.

Complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण

भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम


New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

The promoter shall not charge anything from the complainant which is not part of the BBA.

Interest on the due payments from the complainant shall be charged at the prescribed rate of interest i.e. 10.20% p. a. by the promoter which is the same as is being granted to the complainant in case of delayed possession.

Complaint stands disposed of. Detailed order will follow. File be consigned to the registry.


Samir Kumar
(Member)
10.12.2019


Subhash Chander Kush
(Member)

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

**Complaint no. : 3842 of
2019**
Date of first hearing: 10.12.2019
Date of decision : 10.12.2019

Mr. Varun Attrey & Mrs. Niyati Sharma
Both R/O 17, Madhya Marg, 2nd Floor, Dlf City,
Phase-2, Gurgaon-122002

Complainants

Versus

M/s Anant Raj Limited
Registered office: Office At : H-65, Connaught
Circus, New Delhi-110001.

Respondent

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

**Member
Member**

APPEARANCE:

Mr. R S Yadav

Advocate for the complainant

Mr. Rohit Aggarwal

Advocate for the respondent

ORDER

1. A complaint dated 04.09.2019 was filed under section 31 of the Real Estate (Regulation and Development Act, 2016(in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017(in short, the rules) by the complainants Mr. Varun Attrey & Mrs. Niyati Sharma against the promoter M/s. Anant Raj Ltd., on account of violation of clause 7.1 of apartment buyer's agreement



executed on 11.04.2012, in respect of apartment/unit bearing no. J-103, 1st floor, tower J with a super area of 1285 sq. ft. in the project "Maceo" at Sector 91, Gurugram for not handing over the possession on due date which is an obligation under section 11 (4) (a) of the Act.

2. The particulars of the complaint are as under: -

1.	Name and location of the project	"Maceo", Sector-91, Gurugram
2.	Allotted unit no.	J-103, 1st Floor, Tower J
3.	Project area	15.575 acres
4.	DTCP license no.	71 of 2008 dated 25.03.2008
5.	RERA Registered/ not registered	Registered vide no. 63 of 2017
6.	RERA registration valid upto	17.08.2019
7.	Nature of the project	Group housing colony
8.	Payment Plan	Possession linked payment plan
9.	Area of the allotted apartment	1285 sq. ft.
10.	Date of apartment buyer's agreement	11.04.2012
11.	Total consideration as per statement of account	Rs. 42,89,225/- as per payment plan annexed at page no.60 of the complaint
12.	Total amount paid by the complainant	Rs. 40,94,810/- as per statement of account dated 06.07.2019 at page no.16 of reply
13.	Occupation Certificate	07.06.2019
14.	Due date of delivery of possession as per the agreement clause 7.1 - 36 months + 180 days grace	11.10.2015



	period from the date of execution of agreement	
15.	Offer of Possession	30.06.2019
16.	Delay of number of months/ years till date	3 years, 8 months, 19 days
17.	Relief Sough(in specific terms)	Direct the respondent to handover the possession of the flat along with prescribed interest per annum as per the provisions of section 18(1) of the Real Estate (Regulation & Development) Act, 2016 till the handing over the possession.

3. The details provided above have been checked on the basis of the record available in the case file which have been provided by the complainant and the respondent. An apartment buyer's agreement dated 11.04.2012 is available on record for the aforementioned apartment according to which the possession of the aforesaid unit was to be delivered on or before 11.10.2015 but the respondent offered the possession on 30.06.2019. However, the respondent has failed to fulfil its contractual obligation by neither delivering the possession within stipulated period nor paying the compensation as per terms of agreement.

4. The possession was offered to the complainants on 30.06.2019. The respondent has utterly failed in fulfilling their



obligation of delivery of the unit as per the buyer's agreement and failed to offer the possession in terms of section 18 of the Act read with the Rules. Hence, this complaint for the aforementioned reliefs.

5. On the date of hearing the Authority explained to the respondent/promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.
6. The respondent contests the complaint inter alia on the grounds mentioned in the reply which according to him were beyond his control.

Arguments heard.

7. As per clause 7.1. of the apartment buyer's agreement dated 11.04.2012 executed between the parties, the respondent was duty bound to deliver the possession of the allotted unit to the complainant within a period of 36 months plus six month as grace period which comes out to be 11.10.2015.
8. Respondent has received occupation certificate on 07.06.2019 and offered the possession of the allotted unit to the complainant on 30.06.2019. However, the respondent has put the entire blame on the complainant-allottee by pleading that



it is the complainant who has made violation of the terms of the buyer's agreement by not making timely scheduled payments of the sale consideration amount in time. Respondent has also made a futile attempt to take recourse to force majeure clause.

9. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents.
10. The Authority on the basis of information and explanation and other submissions made and the documents filed by both the parties is of considered view that there is no need of further hearing in the complaint.
11. The Act is to protect the rights of the stake-holders i.e. the promoter, allottee and the real estate agent as provided under the Act and also to balance their interest as per its provisions. The Authority is empowered to not only monitor the projects but also to ensure their timely compliance and in case where the projects are held up or stopped to take steps so that these are completed in time and interests of allottees are protected.
12. On consideration of the circumstances, the evidence and other record and submissions made by both the complainant and



respondent and based on the findings of the authority regarding contravention as per provisions of rule 28(2)(a), the Authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 7.1 of the apartment buyer's agreement executed between the parties on 11.04.2012, possession of the booked unit was to be delivered within a period of 36 months with 180 days grace period from the date of execution of agreement. Therefore, the due date of handing over possession comes out to be 11.10.2015. The respondent has offered possession of the subject unit to the complainants on 30.06.2019. Accordingly, it is the failure of the promoter to fulfil his obligations, responsibilities as per the buyer's agreement dated 11.04.2012 to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) of the Act on the part of the respondent is established.

13. As such the complainants are entitled for delayed possession charges w.e.f. 11.10.2015 to 30.06.2019 at the prescribed rate of interest i.e. 10.20.% p.a. as per provisions of section 18(1) of the Act read with rule 15 of the Rules.

14. The authority, exercising powers vested in it under section 37 of the Real Estate (Regulation and Development) Act, 2016 hereby issue the following directions to the respondent:

- i. The respondent is liable to pay delay possession charges at the prescribed rate of interest @ 10.20% from the due date of delivery of possession i.e. 11.10.2015 till offer of possession i.e. 30.06.2019 to the complainants as per the provisions of section 18 (1) of the Real Estate (Regulation & Development) Act, 2016 read with rule 15 of the rules.
- ii. Interest on the due payments from the complainants shall be charged at the prescribed rate of interest i.e. 10.20% p.a. by the promoter which is the same as is being granted to the complainants in case of delayed possession.
- iii. The complainants are directed to take over the possession of the unit within a period of 30 days by making the requisite payments to the respondent failing which the respondent shall be entitled to charge holding charges.
- iv. Complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

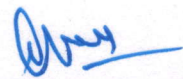


- v. The promoter shall not charge anything from the complainant which is not part of the apartment buyer's agreement.

15. The order is pronounced.

16. Case file be consigned to the registry.


(Samir Kumar)
Member


(Subhash Chander Kush)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Date:10.12.2019



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