

new PWD Rest House, Civil Lines, Gurugram, Haryana

| PROCEEDINGS OF THE DAY | | 14 |
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| Day and Date | Wednesday and 07.05.2025 | |
| Complaint No. | CR/731/2024 Case titled as Nitin Tuteja and Jatin Tuteja VS Landmark Apartments Private Limited | |
| Complainant | Nitin Tuteja and Jatin Tuteja | |
| Represented through | Shri K.B. Thakur Advocate | |
| Respondent | Landmark Apartments Private Limited | |
| Respondent Represented | Shri Amarjeet Kumar Advocate | |
| Last date of hearing | 26.03.2025 | |
| Proceeding Recorded by | Naresh Kumari and HR Mehta | |
| Proceedings-cum-order | | |
| Order pronounced. | | |
| <p>The present complaint has been received on 06.03.2024. The respondent has filed an application for dismissal of the complaint stating that the respondent allotted a shop bearing no. 6 at Ground Floor measuring 520 sq.ft. in its project named "Landmark-The Outlet at Sector-67, Gurugram in favour of the complainants vide allotment letter dated 29.12.2011. On 09.04.2014, the complainants approached the respondent to cancel the said shop and adjust the deposited amount in another unit booked in the name of Nitin Tuteja & Jatin Tuteja in the project named Landmark- The Residency at Sector-103, Gurugram i.e. C-44 at 4th Floor measuring 3092 sq.ft. The complainants vide letter dated 26.05.2022 cancelled the unit bearing no. C-44 at 4th Floor and requested the respondent to allot a 3BHK unit admeasuring 1710 sq.ft. in the said project and also requested to adjust the amount received in the said unit. The respondent on such request vide letter dated 26.05.2022 allotted unit bearing no. A-36 at the 3rd Floor measuring 1710 sq.ft. in the name o complainants in the said project and as on date the unit bearing no. A-36</p> | | |

subsists with the complainants. Thus, the present complaint against the surrendered unit is not maintainable as the complainants do not fall under the purview of "allottee" as defined under Section 2(d) of the Act, 2016 and the complaint is liable to be dismissed.


The complainants vide its reply to the application for dismissal of complaint has submitted that the respondent misleads the complainants and took the signature of the complainants using its dominant position. The complainants have no option other than to sign the places where they wanted.

After considering the documents available on record as well as submissions made by the parties, it is determined that vide provisional allotment letter dated 29.12.2011, a unit bearing no. 06, measuring 520 sq.ft. on ground floor was allotted to complainants in the project of the respondent named "Landmark- The Outlet" at Sector-67, Gurugram. Later, the complainants vide indemnity bond dated 09.04.2015, had submitted that they are unable to pay the demand amount and requested the respondent to cancel the booking and adjust the amount paid by them in another unit bearing no. C-44 in the project named 'Landmark- The Residency' at Sector 103, Gurugram. Thereafter, the complainant vide letter dated 26.05.2022, again requested the respondent to cancel the allotted unit i.e. unit bearing no. C-44, admeasuring 3092 sq.ft. in the above said project and to allot a unit bearing no. A-36, measuring 1710 sq.ft. in the project named 'Landmark- The Residency' at Sector 103, Gurugram and to transfer the amount paid in lieu of unit no. C-44 to the proposed new unit i.e. A-36. Accordingly, the respondent vide provisional allotment letter dated 26.05.2022 allotted unit bearing no. A-36 at the 3rd Floor measuring 1710 sq.ft. in the name of complainants in the said project and as on date the said unit subsists with the complainants.

At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"

After considering the above, the authority is of view that the complainants do not fall under the definition of 'allottee', as the unit in question does not stand in the name of the complainants. Consequently, no case for refund under Section 18(1) of the Act, 2016 is made out. The present complaint stands dismissed being not maintainable. File be consigned to registry.


Ashok Sangwan
Member
07.05.2025