



BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no. : 439 of 2019 First date of hearing: 23.07.2019 Date of decision : 11.12.2019

1. Shri Sanjeev Sharma

2. Mrs. Shveta Sharma

Address: M 149, 1st Floor, Today Blossom 2, **Complainants**

Sector 51

Gurugram-120001

Haryana

Versus

M/s Ramprastha Promoters and Developers

Pvt. Ltd.

Address: 114, Sector-44 Respondent

Gurugram-122002

Haryana

CORAM

Shri Samir Kumar
Shri Subhash Chander Kush
Member

APPEARANCE:

Shri Nilotpal Shyam Advocate for the complainants

Authorised Representative

with Ms. Shivali

Ms. Rashmeet Virk Advocate for the respondent

Authorised Representative with Shri Dheeraj Kapoor

ORDER

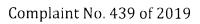
1. The present complaint dated 25.02.2019 has been filed by the complainants/allottees in Form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short,



the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions to the allottee as per the agreement for sale executed inter-se them.

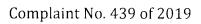
2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form: -

S.No	Heads	
1.	Project Name and location of	"The Edge Tower"
	the project	Sector 37D, Gurugram
2.	Project Area	60.5112 acres
3.	Nature of the project	Group housing complex
4.	DTCP license no. and validity	33 of 2008 Dated
	status	19.02.2008 valid up to
		18.02.2020
5.	Name of licensee	M/s Ramprastha
		Builders Private Limited
	*	and eleven others as
		mentioned in licence no.
		33 of 2008 issued by
		DTCP Haryana (copy as
		annexure R6 at page no.
		103 of reply)





6.	RERA registered/not registered	Registered vide no. 279
		of 2017 dated
		09.10.2017(Tower A to
		G, N and O)
7.	RERA registration valid Upto	31.12.2018
		Note: already expired but
		the respondent has
	a).	applied for extension of
ı		one year and the status
		of RERA extension is
		pending as on page 17 of
		reply
8.	Unit no.	1103, 11 th floor, Tower
		no. C
		(Page no. 32 of
		complaint)
9.	Unit measuring	1990 Sq. Ft.
		(Page no 32 of
		complaint)
10.	Date of execution of buyer's	27.06.2011
	agreement	(Page no 27 of
		complaint)
11.	Payment plan	Construction Linked Plan
		(Page no. 57 of
		complaint)





12.	Total sale consideration	1. ₹62,27,756/- as stated
	(Note: Including Tax)	in the complaint and as
		per Apartment buyer's
		agreement
		(Page 32 of complaint)
		2. ₹60,90,650 as per
		Annexure R-2
		(Page no 52A of reply)
13.	Amount paid by the allottee	₹53,51,397/- as per SOA
		annexure- R-2
		(Page no 52A of reply)
14.	Due date of delivery of	31.12.2012 as per clause
	possession	15(a) of the apartment
		buyer agreement: by
		31.08.2012 + 120 days of
	Marie Ma Marie Marie Ma	grace period for applying
	14 de 14	and obtaining the
		occupation certificate in
		respect of the group
		housing project
		(Page no 42 of
		complaint)
15.	Delay in handling over	Possession not offered
	possession till date	so far



Status of project	Ongoing
Specific relief sought	To direct the
	respondent to pay
	delayed possession
	interest at prescribed
	rate of interest per
	annum for delayed
	period in handing over
	the possession.
	. ,

3. As per clause 15(a) of the Apartment buyer's agreement the possession was to be handed over by 31.08.2012 plus grace period of 120 days for applying and obtaining the occupation certificate in respect of the group housing project which comes out to be 31.12.2012. Clause 15(a) of the buyer agreement is reproduced below:

"15. POSSESSION

(a) Time of handing over the Possession

Subject to terms of this clause and subject to the Allottee having complied with all the terms and condition of this Agreement and the Application, and not being in default under any of the provisions of this Agreement and compliance with all provisions; formalities, documentation etc., as prescribed by RAMPRASTHA. RAMPRASTHA proposed to hand over the possession of the Apartment by 31/08/2012 the Allottee agrees and understands that RAMPRASTHA shall be entitled to a grace period of hundred and twenty days (120)



days, for applying and obtaining the occupation certificate in respect of the Group Housing Complex."

- 4. The respondent has utterly failed in fulfilling their obligation of delivery of the unit as per the apartment buyer's agreement and failed to offer of possession in terms of section 18 of the Act read with the rules. Hence, this complaint for the relief detailed above.
- 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. According to the respondent the delay in construction was for the reasons stated in the reply which were beyond its control
- 7. 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 based on these undisputed documents.
- 8. The Authority based on 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.
 - Arguments are heard.
- 9. The Act is to protect the rights of the stakeholders i.e. the promoter, allottee and the real estate agent as provided under the Act and 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.
- 10. On consideration of the circumstances, the documents 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. In this complaint the complainant had booked a residential unit no. 1103, 11th floor, Tower-C in the project "The Edge Tower" sector 37D, Gurugram of the respondent and he had already paid an amount of ₹53,51,397/- as per annexure R-2 of reply out of total consideration of ₹62,27,756/-as per apartment buyer's agreement including taxes. By virtue of clause 15(a) of apartment buyer's agreement executed between the parties on 27.06.2011, possession of the booked unit was to be delivered by 31.08.2012 plus grace period of 120 days for applying and obtaining the occupation certificate in respect of the group housing project. Therefore, the due date of handing over possession comes out to be 31.12.2012. Accordingly, it is the failure of the respondent to fulfil his obligations, responsibilities as per the apartment buyer agreement dated 27.06.2011 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. As such complainants are entitled to delayed possession charges at the prescribed rate of



interest i.e. @ 10.20% p.a. w.e.f. 31.12.2012 till actual handing over the possession of the booked unit as per the proviso to section 18(1) of the Act read with rules 15 of the Rules.

- 11. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act:
 - i. The respondent is directed to pay interest at the prescribed rate of 10.20% p.a. for every month of delay from the due date of possession i.e. 31.12.2012 till the actual handing over the possession of the booked unit.
 - ii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - iii. The respondent is directed to pay interest accrued from 31.12.2012 till the date of this order to the complainant within 90 days from the date of this order and subsequent interest to be paid by the 10th of each succeeding month.
 - iv. Complaint stands disposed of.
 - v. File be consigned to registry.

Samir Kumar (Member)

Subhash Chander Kush (Member)

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 11.12.2019

Judgement uploaded on 28.01.2020