

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

Complaint no. : 2497 of 2019
First date of hearing : 25.09.2019
Date of decision : 08.01.2020

1. Mr. Sharad Singhal
2. Mrs. Juhi Singhal
Address: - both r/oD1/34A,
4th floor, Palam Kunj, Palam Extn.
Sector-7, Dwarka, New Delhi-110077

Complainants

Versus

M/s Supertech Limited.
Regd. office: 1114, 11th floor,
Hemkunt Chambers, 89, Nehru
Place, New Delhi- 110019

Respondent

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE:

Sh. Sharad Singhal Complainant in person
Sh. Rishabh Gupta Advocate for the respondent
Ms. Pushpa Dabas A.R of the respondent company

ORDER

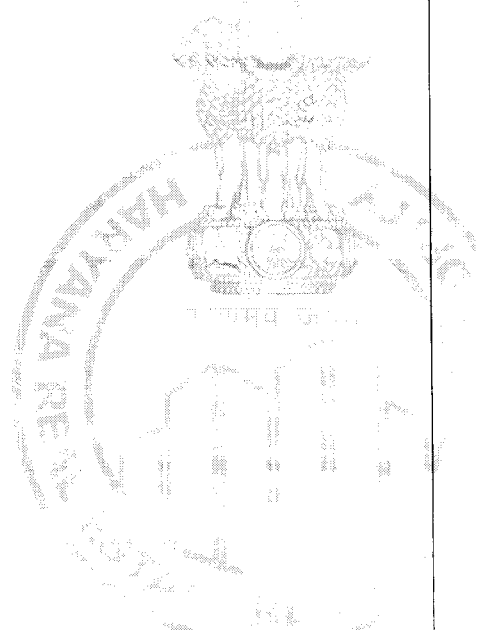
1. The present complaint dated 18.06.2019 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and

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.

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

S.No.	Heads	Information
1.	Project name and location	"Hill Town" Sector- 02, Sohna Road Gurugram.
2.	Project area	18.37 acres [as per RERA Registration]
3.	Nature of the project	Residential Plotted Colony
4.	DTCP license no. and validity status	124 of 2014 dated 23.08.2014 valid till 22.08.2019
5.	Name of licensee	M/s Dolphin Build well Private Limited and others
6.	RERA Registered/ not registered	Registered vide no. 258 of 2017 Dated 03.10.2017
7.	RERA registration valid up to	02.10.2020
8.	Unit no.	R058LR00C5B, 2 nd floor, Tower C5 [Page 38 of complaint]

9.	Unit measuring	1375 sq. ft.
10.	Date of execution of buyer's agreement	N.A
11.	Allotment Letter	10.06.2016 [Page 38 of complaint]
12.	Payment plan	Subvention linked payment plan [Page 39 of complaint]
13.	Date of Execution of Memorandum of Understanding	29.06.2016 [Page 54 of complaint]
14.	Loan amount under the tripartite Agreement dated 30.06.2016 (builder subvention facilities)	Rs.47,79,500/- [Page 63 of complaint]
15.	Total consideration as per payment plan	Rs.57,20,000/- [Page 39 of complaint]
16.	Total amount paid by the complainants as per receipt information alleged by complainant	Rs.5,91,100/- [Page 30&36 of complaint]
	Indian Bulls Home Loan amount as per statement of account dated 29.05.2019	Rs.47,79,500/- [Page 69to72 of complaint]
	Total amount	Rs.53,70,600/-
17.	Due date of delivery of possession as per clause L (26) of the allotment letter: by June 2019 + 6 month's grace period	31.12.2019 [Page 46 of complaint]
18.	Delay in handing over possession till date to this order	8 days Possession not handed over so far
19.	Status of the project	Ongoing
20.	Specific relief sought	To direct the respondent: -

	 <p>HARERA GURUGRAM</p>	<p>i. To pay all the outstanding PRE EMIs payable to Indiabulls Housing Finance Limited till the end of the subvention period</p> <p>ii. To reimburse the amount of Rs. 53,088/- to the complainant towards the amount debited by Indiabulls Housing Finance Limited from th complainant's bank account</p> <p>iii. To reimburse all the PRE EMI payment to the complainant by the 30th of every month from the end of the subvention period till the offer of possession</p> <p>iv. To resume construction of the project which has not seen any development from the last 1 year</p>
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3. As per clause L (26) of the allotment letter, the possession was to be handed over by June 2019 plus further grace period of 6 months. Clause L (26) of the Allotment Letter is reproduced below:

"L. POSSESSION

26 POSSESSION OF ALLOTTED FLOOR/APARTMENT

*The possession of the allotted floor/Apartment shall be given by **JUNE, 2019** subject to force majeure conditions with an extended grace period of **6(Six)** months. The developer also agrees to compensate the Allottee(s) @ **Rs. 5.00/- (Five rupees only) per (Sq. ft.)** of area of the Floor/Apartment per month for any delay in handing over possession of the Floor/Apartment beyond the given promised plus the grace period of **6(Six)** months and up to the Offer Letter of possession or actual physical possession whichever is earlier."*

4. The respondent has utterly failed in fulfilling their obligation to deliver the unit as per the allotment letter and failed to offer the possession in terms of section 11(4) (a) and 18 of the Act read with Rules. Hence, this complaint for the inter alia reliefs, detailed herein 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. The respondent submitted that there was no intentional delay in the construction on the part of the respondent and delay was due to the reasons detailed 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 on the basis of these undisputed documents.
8. The Authority on the basis of information, other submissions made and the documents filed by the complainants is of considered view that there is no need of further hearing in the complaint.

Arguments heard

9. The Authority observed that 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.

10. That by virtue of clause L (26) of allotment letter executed between the parties on 10.06.2016, possession of the booked unit was to be delivered within stipulated time i.e. by 30.06.2019 plus grace period of 6 months to cover any unforeseen circumstances. Therefore, the due date of handing over possession comes out to be 31.12.2019. Accordingly, it is the failure of the respondent/promoter to fulfil his obligations, responsibilities as per the allotment letter dated 10.06.2016 to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4) (a) read with section 18(1) of the Act on the part of the respondent is established. Respondent is directed to remit the Pre-EMIs as per the terms and conditions incorporated in clause (b) of the MOU dated 29.06.2016 which has been paid by the complainants to Indiabulls Housing Finance since January 2019 alongwith prescribed rate of interest i.e. 10.20% per annum from 10.01.2019 within a period of 90 days and is further directed to pay the Pre-EMIs till the actual handing over physical possession of the booked unit as per the provision of section 18(1)(a) 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 Pre-EMIs at the prescribed rate of 10.20% p.a. w.e.f. 10.01.2019 till the actual handing over physical possession;
- (ii) Complaint stands disposed of.
- (iii) File be consigned to registry.

(Samir Kumar)

Member

Haryana Real Estate Regulatory Authority, Gurugram

(Subhash Chander Kush)

Member

Dated: 08.01.2020

Judgement uploaded on 05.02.2020