

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

Complaint no. : 736 of 2019
Date of first hearing: 23.05.2019
Date of decision : 03.01.2020

1. Mr. Parvesh Kumar
R/o. House no. 55, Ward no. 11,
Near Old Police Chowki, Sohna,
Gurugram (Haryana) - 122103.

Complainants

2. Mr. Desh Bandhu Gupta
R/o. N-132/GF, Mayfield Garden,
Gurugram.

Versus

1. M/s Brahma city Pvt. Ltd.,
Regd. Office: 1206-B, Surya Kiran
Building, 19 Kasturba Gandhi Marg,
New Delhi-110001

Respondents

2. Krrish Realtech Pvt. Ltd.
406, 4th floor, Elegance Tower, 8 Jasola
District Center, New Delhi- 110025

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE:

Shri Parvesh Kumar
Shri Pankaj Chandola
Shri Kamal Taneja
Smt. Avantika Mishra and Shri
Sidharth Das

Complainant is Person
Advocate of the complainants
Advocate of the respondent 1
Advocate of the respondent 2

ORDER

1. A complaint dated 25.02.2019 was filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 by the complainants Mr. Parvesh Kumar and Mr. Desh Bandhu Gupta against the promoter M/s. Brahma City Pvt. Ltd., on account of violation of clause 12(a) of plot buyer's agreement dated 14.08.2013 in respect of plot described below in the project 'Brahma City', for not handing over possession by the due date which is an obligation of promoter under section 11(4)(a) of the Act *ibid*.
2. Since the plot buyer's agreement has been executed on 21.10.2013 i.e. prior to the commencement of the Real Estate (Regulation and Development) Act, 2016, therefore, penal proceedings cannot be initiated retrospectively. Hence, the authority has decided to treat the present complaint as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Real Estate (Regulation and Development) Act, 2016.

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

1.	Name and location of the project	"Brahma City", Sectors-60, 61, 62,63 and 65 near the Golf Couse Extension Road, Gurugram
2.	Project area	147 acres
3.	Plot no.	E-006, block E (shifted from plot no. 2D11)
4.	Plot admeasuring area	268 sq. yards
5.	RERA Registered/ Unregistered	277 of 2017 (block J) 268 of 2017 (Block K) 274 of 2017 (Block M) Note - Block E is not registered
6.	Revised date of completion of project as per RERA registration certificate	31.03.20220 (for block J) 30.06.2019 (for block K and M)
7.	DTCP No.	64 of 2010 dated 21.08.2010
8.	Nature of real estate project	Residential plotted colony
9.	Payment plan	Instalment linked plan
10.	Date of allotment letter	23.11.2012 (Annx C-2)
11.	Date of plot buyer's agreement	21.10.2013 (Annx C-5)
12.	Total BSP of the plot	Rs. 71,12,000/- (as per agreement)
13.	Total amount paid by the complainants	Rs. 68,08,008/- (as per the complainants' version)
14.	Due date of delivery of possession as per plot buyer's agreement Clause 12(a) of the plot buyer's agreement - within	21.10.2016



	36 months from the date of execution of this agreement	
15.	Delay in handing over the possession till 03.01.2020	3 years and 2 months and 13 days
16.	Penalty clause as per plot buyer's agreement clause 12(d)	Rs. 300/- per sq. mtr. Per month

4. The details provided above have been checked on the basis of the record available in the case file. A plot buyer's agreement dated 21.10.2013 is placed on record for the aforesaid plot according to which the possession of the said plot was to be delivered by 21.10.2016. The respondent has failed in delivering the possession of the said plot as on the date to the complainants. The promoter has not fulfilled his committed liability as on date.
5. Taking cognizance of the complaint, the authority issued notice to the respondent for filing reply and appearance. The case came up for hearing on 23.05.2019, 30.08.2019, 09.09.2019, 01.10.2019, 23.10.2019, 06.11.2019, 03.01.2020. The reply filed by the respondent on 16.04.2019 and the same has been perused by the authority.

Facts of the complaint: -

6. The complainant submitted that facts relevant for the disposal of the present complaint are that the complainants believing on the representation of the respondent in July 2010 agreed to purchase a plot admeasuring 268 sq. yds. for an agreed sale consideration of Rs. 25,200/- per sq. yds. for 260 sq. yds. and Rs. 70,000/- per sq. yds. for 8 sq. yds. and paid an amount of Rs. 16,00,000/- as an advance payment for registration.
7. The complainant submitted that the complainants were provisionally allotted a plot bearing no. 2D11 in the project vide allotment letter dated 23.11.2012. On 14.08.2013, the buyer agreement was executed between the complainants and the respondent.
8. The complainant submitted that as per clause 12(a) of the buyer's agreement possession of the said plot was to be handed over within a period of 36 months from the date of execution of agreement.

9. The complainant submitted that on 16.10.2013, the respondent vide letter intimated the complainants that provisionally allotted plot (s) in the project have been renamed/renumbered by the Company from 2D11 to E-6. In this regard, a new plot buyer's agreement was executed between the parties on 21.10.2013. As per clause 12(a) mentioned above, the due date for handing over the possession was 21.10.2016, but the respondent has failed to handover the possession of the plot to the complainants within time.
10. It is submitted by the complainant they had always paid all the instalments as and when demanded by the respondent. The complainant till date have paid a huge amount of Rs. 68,08,008/- i.e. 95% of the agreed sale consideration as per the agreement till 22.08.2013.
11. The complainant submitted that even after collecting huge sum of sales consideration and repeated requests of the complainants, the respondent has failed to handover the possession of the plot in question to the complainants.

12. The complainant submitted that the respondent has failed in fulfilling its obligation as per the provisions of the Real Estate (Regulation and Development) Act, 2016. However, the complainants being interest in the plot and had purchased the same for the personal use, intend to continue and thereby wish to exercise their rights under proviso to section 18(1) of the Act.
13. The complainant submitted that the respondent has utterly failed to fulfil his obligations to deliver the possession in time and has caused mental agony and huge losses to the complainant, hence the present complaint.
14. **Reliefs sought: -**
- i) Direct the respondent to handover the plot to the complainants with all the amenities under the terms of agreement.
 - ii) Alternatively, provide the complainants with a plot in the developed sector of their project as per the choice of the complainants.

- iii) Direct the respondent to provide the complainants with prescribed rate of interest on delayed possession from the schedule date of possession till the actual date of possession.
- iv) To refer to the adjudicating officer for ascertaining the compensation of Rs. 2,00,000/- for causing mental agony, Rs. 1,00,000/- as compensation towards legal costs and to ascertain the payment of difference in interest equivalent to the interest charges by the respondent i.e. 18% per annum.
- v) To conduct such inquiry under section 35 of the Act into the affairs of the respondent.

Reply by respondent no. 1: -

15. Respondent submitted that Brahma City is an integrated community spread across more than 141 acres in sectors 60, 62, 63, 64 and 65 off of the Golf Course Extension Road, Gurugram, Haryana. The said project's location offers green, open spaces with strong connectivity to the rest of Gurugram and the broader Delhi/NCR region. It is situated on a



contiguous land parcel featuring scenic landscapes. The planned community's residential offerings include plots, villas and floors; and other areas will include retail, commercial, recreational, leisure, spa, schools, day cares, medical facilities and other ancillary areas and facilities.

16. The complainants have no *locus standi* against respondent no.

1: -

- i. From the correspondences filed by the complainants themselves, it is evident that the complainants purportedly requested for booking of a residential plots in krrish world situated at Sectors 60, 61, 62, 63 and 65 Gurugram. Thereafter, Krrish Realtech Pvt. Ltd., i.e. respondent no. 2 vide purported allotment letter dated 23.11.2012 bearing reference no. KRPL/ALLT/DB-011 accepted the booking/ registration of the complainants in Krrish World and purportedly allotted residential plot no. 2D 11 to the complainants to be developed by Krrish Realtech Pvt. Ltd. in Sectors 60, 61, 62, 63 and 65 Gurugram. Later on, respondent no. 2 vide its letter dated 16.10.2013



purportedly allotted plot no. E-6 instead of plot no. 2D 11 due to re-numbering of the plots.

- ii. Further, from the documents filed by the complainants it appears that at the time of the allotment of the plot(s) to the complainants it was specifically made clear to the complainants by the respondent no. 2, that all the payments /cheques / demand drafts / must be drawn in favour of the "Krrish Realtech Private Limited - collection A/c". It is further submitted that all the payments purported to have be made by the complainants in relation to basic sale price, PLC, external development charges, infrastructure development etc. were made for the benefit of and in favour of the M/s Krrish Realtech Private Limited, i.e. respondent no. 2.
- iii. The complainants are not allottees of the respondent no. 1. As a result, thereof, the respondent no. 1 has no role to play in between the complainants and the Krrish Realtech Pvt. Ltd. It is submitted that the said allotment to the Complainants, if at all, has not been carried out



by Respondent no. 1. It is further submitted that the Respondent No. 1 does not have any direct role in the present litigation between the parties and it is submitted that respondent no. 1 as such deserves to be deleted from the array of parties.

- iv. In view of the above, it is submitted that the complainants have no legal right to approach the court and seek any relief against the respondent no. 1 since there is no legal wrong or injury which has been caused by the respondent no. 1 to the complainants.
- v. In view of the facts enumerated and objections taken hereinabove, the complaint totally fails to disclose a cause of action in favour of the complainants as against the respondent no. 1 and the same is liable to be rejected qua the respondent no. 1.
- vi. The claim against the Respondent No. 1 is totally arbitrary, baseless and without any justification and accordingly requires to be dismissed at the very threshold for this reason alone.

- vii. The respondent no. 1 not being a necessary party to the dispute, deserves to be deleted from the array of parties.
17. Development of the project - "krrish world" to be made by the krish realtech pvt. Ltd., i.e. respondent no. 2 in terms of the settlement agreement dated 06.08.2012 -
- viii. Initially M/s Krrish Buildtech Pvt Ltd. was developing the project with the funds infused by Brahma group.
- ix. Certain disputes arose between the Krrish Group and Brahma Group, resulting in filing of complaint before the Hon'ble Company Law Board, whereafter in order to bring an end to the existing disputes between the disputing management groups respondent no. 1 company, the Settlement Agreement was executed and Company Law Board disposed of the pending disputes in terms of the Settlement Agreement dated 06.08.2012 vide order dated 09.08.2012.
- x. Thus, M/s Brahma City Private Limited, entered into a settlement agreement dated 06.08.2012 with M/s Krrish Infrastructure Private Limited and others. It is brought to

the kind attention of this authority, that in terms of the settlement agreement:

- (a) the development and construction of the project and all other areas / lands including the agreements / transactions / arrangements with third parties for any advance booking / advance registration / allotment of plots or built up area / developed areas in respect of areas falling in the allocation of Krrish Realtech Pvt. Ltd. shall be made by the Krrish Realtech Pvt. Ltd.
- (b) Further, it was also agreed vide the settlement agreement dated 06.08.2012 that Brahma shall not in any way be liable for allotment of any plots or built-up / developed areas or refund of any money or any costs and / or compensation in respect thereof to any person wherein Krrish Realtech Pvt. Ltd have allotted any plots or built-up / developed areas.
- (c) The settlement agreement further states that no liability of any nature shall be imposed on Brahma.
- (d) Further, it is evident from clause 3.3.2 of the settlement agreement that if Brahma is made a party to any litigation

pertaining to a plot claim, in that event Krrish Realtech Pvt. Ltd. shall exclusively handle and control such litigation and shall keep the Brahma indemnified in this regard.

18. The above-mentioned settlement agreement indicates that the respondent no. 1 cannot be made liable for development / construction/allotment of any residential plot to the Complainants specially when the same is being developed / constructed by Krrish Realtech Pvt. Ltd. which is a completely different entity from the respondent no. 1.

xi. That *vis a vis* the allotment to the complainants herein, the factum of no liability accruing to the respondent no. 1 herein, is also further established by the Letter dated 21.10.2013 whereby Krrish Realtech Pvt. Ltd. specifically stated that they had sold the said plot being E-006 to the complainants herein for a total consideration of Rs. 71,12,000/- and that the respondent no. 1 herein shall have no liabilities whatsoever either to Krrish Realtech Pvt. Ltd. or to the customer i.e. the complainants herein with relation to the allotment of plot.



- xii. Thereafter an addendum dated 31.10.2015 to the settlement agreement dated 06.08.2012 was entered into whereby it was *inter alia* agreed that the entitlement to develop and construct their respective allocations as well as the obligations, risk, responsibility and liability towards the same i.e. Krrish allocation and Brahma allocation would be of the respective parties i.e. Krrish Realtech Pvt. Ltd. and Brahma City Private Ltd. respectively. It was further agreed that no liability will be created by either party on the other party in any manner whatsoever. It was further agreed and understood that Respondent No. 1 would not be liable to fulfil any obligations towards any prospective buyers in respect of the other party's allocation.
- xiii. Accordingly, the respondent no. 1 cannot be made liable for development / construction / allotment of any residential plot to the complainants specially when the same is being developed / constructed by Krrish Realtech Pvt. Ltd. which is a completely different entity from the respondent no. 1.

19. Delay if any, was on account on force majeure conditions

xiv. It is submitted that respondent no. 1 cannot be made liable for the delay or failure due to reasons beyond its control. That the alleged delay caused in the development of the said project is due to force majeure conditions relating to cancellation of license no. 64/2010 by the Hon'ble High Court of Punjab & Haryana in *M/s Fondant Propbuild Pvt. Ltd. and Ors. Vs. State of Haryana and Ors.* vide final order dated 05.02.2015, read with order dated 13.03.2015 passed by Hon'ble Supreme Court in SLP (C) No.4115/2015, and directed DTCP to reconsider the fresh application by respondent no. 1 in terms of the approved layout plan. The development could only commence after the reissue of license and approval of revised layout-cum-demarcation plan by the DTCP. Subsequent to the aforesaid order, the DTCP after reviewing the application of respondent no. 1 afresh and after considering all the documents, restored the license no. 64 of 2010 on 02.12.2015. It is submitted that the Director Town and

Country Planning Department finally approved the revised layout-cum-demarcation plan of the said project on 12.06.2017 and zoning plan on 07.07.2017.

Reply by Respondent no. 2:-

20. That the Respondent No.2 is a company incorporated under the provisions of the Companies Act, 1956 having its registered office at 406, 4th floor, Elegance Tower, Jasola District Centre, New Delhi. Mr. Vipin Jain, the authorised representative of the Respondent No.2 is conversant with the facts and circumstances of the present matter in his official capacity and as such is competent to sign and verify the present reply on behalf of the Respondent No.2. Mr. Vipin Jain, the authorised representative of the Respondent No.2 is duly authorized to sign, verify and act in support of the present reply by virtue of Board Resolution date 18.02.2019 authorizing him to sign and appear on behalf of the Respondent No.2 and to do all other acts in connection with the present matter.
21. That the Respondent No.1 earlier known as Krrish Buildtech Pvt. Ltd. was incorporated under the provisions of Companies

Act, 1956 on 13.03.2008. The name of the Respondent No.1 was changed to Brahma Krrish Buildtech Pvt. Ltd. on 06.10.2010. Thereafter the name of the Respondent No.1 was again changed to Brahma City Pvt. Ltd. on 17.02.2011.

22. That the Respondent No.1 proposed to develop a residential township namely "Brahma City" in Sectors 60, 61, 62, 63 & 65, Gurgaon, Haryana. The Directorate, Town and Country Planning, Haryana, ("DTCP") granted Letter of Intent (hereinafter referred to as "the LOI") dated 26.07.2010 (pg. no. 2 of reply) to the Respondent No.1 on land admeasuring 151.931 acres in Sectors 60, 61, 62, 63 & 65, Gurgaon, Haryana for the said residential township.
23. That thereafter the Directorate, Town and Country Planning, Haryana, ("DTCP") issued a License bearing No. 64 of 2010 dated 21.08.2010 to the Respondent No.1 on land admeasuring 151.569 acres in Sectors 60, 61, 62, 63 & 65, Gurgaon, Haryana for the development of the said residential township.

24. That Complainants approached the Respondent No.2 to buy a plot at the said residential township of the Respondent No.1. Thereafter, the Respondent No.2 vide provisional allotment letter dated 23.11.2012 provisionally allotted plot No. 2D11 to the Complainants.
25. That thereafter, a Plot Buyer's Agreement dated 14.08.2013 was executed between the Complainants and the Respondent No.2.
26. That thereafter the Respondent No. 2 renumbered the Plot allotted to the Complainant from 2D 11 to E-6 and vide letter dated 16.10.2013 duly informed the Complainants regarding the same.
27. That thereafter, a new Plot Buyer's Agreement dated 21.10.2013 was executed between the Complainants and the Respondent No.2 to allot a plot of land admeasuring 268 Sq, Yds. @ Rs.26,537.00 (Rupees Twenty Six Thousand and Five Hundred and Thirty Seven only) per Sq. Yds. in the said residential township for a total basic sale price of Rs.71,12,000.00 (Rupees Seventy One Lakhs Twelve Thousand



only). The Complainant paid a total sum of Rs. 68,08,088/-) to the Respondent No.2. The Respondent No.2 allotted Plot No. E-6 to the Complainants. In terms of the Clause 12(a) of the Plot Buyer's Agreement, the Respondent No.2 is to hand over the actual, vacant, physical possession of the plot to the Complainant on or before 20.10.2016. In terms of the Clause 11 of the Agreement, the Complainant agrees that if as a result of any issues any issues relating to approvals, permissions, notices, notifications by the competent authority(ies) become subject matter of any suit/writ before competent court or due to force majeure conditions, the Respondent No.1 unable to deliver possession of the said plot to the Complainant, the Respondent No.1 is liable to refund the amount of Rs 68,08,088/- received from the Complainant to the Complainant with simple interest @ 9% per annum and the Complainant agrees that they will not make any other claim from the Complainant.

28. That it is pertinent to bring to the notice of this Hon'ble Authority here that the License No. 64 was granted for an area admeasuring 151.569 acres of land for the residential

township. However, a land admeasuring 4.2875 Acres was inadvertently included in the said License. As such the Directorate, Town and Country Planning, Haryana vide order dated 07.12.2011, revised the land area admeasuring 151.569 to 147.281 acres for the residential township.

29. That at the time of grant of License the building plans and all necessary documents were submitted to the concerned authorities. However, in the year 2011, it came to the knowledge of the Authorities that a gas pipe line of Indian Oil Corporation is marked on the layout plan of the residential township and thus necessary modification were required in the building plans. Further there was also an issue with respect to the alignment of 66 KV High Tension wires passing over the said layout plan submitted and approved by the DTCP.
30. That in view of the aforementioned facts and circumstances, the Respondent was forced to re-submit the revised plans taking into consideration reduced area, the Indian Oil Corporation gas pipe line and line alignment of 66KV High Tension wires passing over the lay out plan.

31. That during the said period certain disputes arose between Respondent No.1 and the Respondent No.2 and others, pertaining to the affairs and management of the Respondent No.1 and implementation of the project of the Respondent No.1. Accordingly, both the parties filed petitions before the Hon'ble Company Law Board, Delhi. The parties settled their disputes and entered into a Settlement Agreement dated 06.08.2012. In view of the settlement agreement, the petitions were disposed by the Hon'ble Company Law Board, Delhi vide order dated 9.08.2012 disposed of the matter. The settlement agreement was subsequently amended vide addendum dated 31.10.2015.
32. That further one M/s. Fondant Propbuild filed a writ petition (C.W.P. No. 27665/2013) titled M/s. Fondant Propbuild versus State of Haryana and Others before the Hon'ble High Court of Punjab and Haryana for quashing of the License bearing No. 64 of 2010 dated 21.08.2010 issued in favour of the Respondent No.1. The Hon'ble High Court vide order dated 17.12.2013 directed to maintain status quo on the said land of the said residential township of the Respondent No.1. The Hon'ble

High Court vide order dated 03.02.2014 modified the interim order and clarified that the interim order is qua land admeasuring 15.4268 acres only and the private owners of the undisputed lands may continue the development works at their own risk and responsibility and subject to the outcome of the writ petition. It is pertinent to bring to the notice of this Hon'ble Authority that in view of the condition put by the Hon'ble High Court and risk and uncertainty, the Respondents were unable to move ahead with the development of the said residential township project.

33. That the Directorate, Town and Country Planning, Haryana vide letter dated 08.05.2014 provisionally approved the revised demarcation plan cum lay out plan subject to outcome of the aforementioned Writ Petition No. 27665/2013 pending before the Hon'ble High Court of Punjab and Haryana.
34. That the Hon'ble High Court of Punjab and Haryana vide final order dated 05.02.2015 quashed the license bearing No. 64 of 2010 dated 21.08.2010 and remanded back the matter to the Directorate, Town and Country Planning, Haryana to consider the Application of the Respondent No.1 a fresh.

35. That aggrieved by the said order dated 05.02.2015 passed by the Hon'ble High Court of Punjab and Haryana, the Respondent filed a Special Leave Petition (Special Leave to Appeal No. 4115/2015) before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India vide order dated 13.03.2015 disposed of the Special Leave Petition and directed the Directorate of Town and Country Planning, Haryana to consider the application of the Respondent No.1 uninfluenced by the observation, if any, in the impugned judgment.
36. That in compliance of the direction of the Hon'ble High Court of Punjab and Haryana in Writ Petition No. 27665/2013 vide order dated 05.02.2015 and the Hon'ble Supreme Court of India in Special Leave to Appeal No. 4115/2015 vide order dated 13.03.2015, the Directorate of Town and Country Planning, Haryana considered the application of the Respondent No.1 afresh and directed the Respondent No.1 to fulfill the certain requirements before restoration of license for an area admeasuring 141.781 acres for the said residential township of the Respondent No.1.

37. That the Respondent No.1 complied with the direction of the Directorate of Town and Country Planning, Haryana and accordingly the Directorate of Town and Country Planning, Haryana vide order dated 02.12.2015 restored the License No. 64 of 2010 for an area admeasuring 141.66875 acres of land to the Respondent No.1 for the said residential township. Vide the said order the Directorate of Town and Country Planning, Haryana also in principal approved the revised layout-plan-demarcation plan and invited objections and suggestions from existing allottees.
38. That after considering the objections and suggestions of the allottees and others, the Directorate of Town and Country Planning, Haryana vide letter dated 07.07.2017 approved the layout demarcation plan and zoning plan in an area of 141.66875 acres in license No. 64 of 2010 dated 21.08.2010.
39. That the Respondent No.2 has already completed the development of the plots and the Authority has also granted registration of the project under the Real Estate (Regulation and Development) Act, 2016. The Respondent No.2 is also

completing the construction sewage treatment plant at the project.

40. It is most respectfully submitted that in view of the circumstances beyond its control, the Respondent No.2 was unable to develop the residential plots in the township within the stipulated period of time. It is most respectfully submitted that in view of the aforementioned facts and force majeure circumstances, there is no failure on the part of the Respondent No. 2 in allotting plot to the Complainant and further there is no deficiency of service on the part of the Respondent No. 2, as such the present Complaint is not maintainable.
41. It is most respectfully submitted that the present Complaint along with the reliefs sought for is not maintainable before this Hon'ble Authority as this Authority does not have the Jurisdiction to award any reliefs prayed for in the complaint. As such the present Complaint is not maintainable.

42. It is most respectfully submitted that in view of the aforementioned facts and circumstances, the present Complaint is liable to be dismissed with an exemplary cost.

Findings of the authority: -

43. The project "Brahma City" is located in Sector 60,61,62,63 and 65, Gurugram, thus the authority has complete territorial jurisdiction to entertain the present complaint. As the project in question is situated within the planning area of Gurugram, therefore the authority has complete territorial jurisdiction vide notification no.1/92/2017-1TCP issued by Principal Secretary (Town and Country Planning) dated 14.12.2017 to entertain the present complaint. As the nature of the real estate project is commercial in nature so the authority has subject matter jurisdiction along with territorial jurisdiction.
44. The authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter as held in *Simmi Sikka v/s M/s EMAAR MGF Land Ltd.* leaving aside compensation which is to be decided by the

adjudicating officer if pursued by the complainants at a later stage.

45. The complainant reserves their right to seek compensation from the promoter for which he shall make separate application to the adjudicating officer, if required.
46. Arguments Heard
47. By virtue of this complaint, the complainant has knocked the doors of the authority seeking relief in the form of directions against the respondent to handover the physical possession of the developed plot bearing no. E-006 booked on 23.11.2012 in their project known as "Brahma City" and to pay interest for the delayed period. As per clause 12(a) of the BBA executed inter-se parties, the respondent was bound to handover the possession of the booked plot by 21.10.2016.
48. On hearing arguments advanced on behalf of the parties and going through the record, the authority is of considered opinion that the respondents have miserably failed to fulfil its obligations to handover the physical possession of booked plot till date and as such, the complainant is entitled for delayed

possession charges at the prescribed charges at the prescribed rate of interest i.e. @10.20% p.m. till the actual handing over the possession of the plot.

49. Accordingly, both the respondents are directed to pay cumulative amount of interest jointly and severally till date within a period of 90 days from the date of this order and thereafter interest on the deposited amount shall be paid on 10th of every month till the physical possession is handed over to the complainant.


Decision and directions of the authority: -

50. After taking into consideration all the material facts as adduced and produced by both the parties, the authority exercising powers vested in it under section 37 of the Real Estate (Regulation and Development) Act, 2016 hereby issues the following directions in the interest of justice and fair play:
- i. The complainant is entitled for delayed possession charges at the prescribed rate of interest i.e. @10.20% p.m. till the offer of possession of the plot.

ii. Both the respondents are directed to pay cumulative amount of interest jointly and severally till date within a period of 90 days from the date of this order and thereafter interest on the deposited amount shall be paid on 10th of every month till the physical possession is handed over to the complainant.

51. The complaint is disposed of accordingly.

52. The order is pronounced. Case file be consigned to the registry.


(Samir Kumar)
Member


(Subhash Chander Kush)
Member

Haryana Real Estate Regulatory Authority, Gurugram

JUDGEMENT UPLOADED ON : 05.02.2020