

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

Complaint no. : 3759 of 2019
First date of hearing : 06.11.2019
Date of decision : 03.01.2020

Mr. Rahul Jagga
Address: - R/o 284-C, MIG Flats,
Rajouri Garden, Delhi- 110027

Complainant

Versus

M/s Ramprashtha Promoters and
Developers Private Limited.
Regd. office: 114, Sector-44,
Gurugram-122002.(Haryana)

Respondent

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE:

Sh. Sushil Yadav

Advocate for the complainants

Sh. Dheeraj Kapoor

Advocate for the respondent

Ms. Rashmeet Virk

A.R of the respondent company

ORDER

1. The present complaint dated 26.08.2019 has been filed by the complainants/allottees 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.

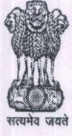
2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.No.	Heads	Information
1.	Project name and location	"Ramprastha City" Sector-92, 93 and 95, Gurugram.
2.	Project area	128.594 acres
3.	Nature of the project	Residential colony
4.	DTCP license no. and validity status	44 of 2010 dated 09.06.2010 valid till 08.06.2016
5.	Name of licensee	Ramprastha Estates Private Limited [Page 20 of complaint]
6.	RERA Registered/not registered	Un Registered
7.	Unit no.	Plot no. 350, Block D [Page 20 of complaint]
8.	Unit measuring	300 sq. yds.
9.	Allotment Letter	08.04.2014 [Page 45 of complaint]
10.	Date of execution of plot buyer's agreement	09.05.2014 [Page 17 of complaint]



11.	Payment plan	Possession linked payment plan [Page 31 of complaint]
12.	Total consideration as per account statement dated 10.09.2019 (page no 50 of reply)	Rs. 36,90,000 /-
13.	Total amount paid by the complainants as per account statement dated 10.09.2019 (page no 50 of reply)	Rs.31,08,000/-
14.	Due date of delivery of possession as per clause 11(a) of the apartment buyer agreement: 30 months from the date of execution of agreement [Page 23 of complaint]	09.11.2016
15.	Delay in handing over possession till date	Possession has not been handed over so far
16.	Status of the project	Ongoing
17.	Specific relief sought	To direct the respondent to deliver handing over possession along with delayed possession interest at prescribed rate of interest per annum in handing over the possession

3. As per clause 11(a) of the agreement, the possession was to be handed over within 30 months from the date of execution of



this agreement which comes out to be 09.11.2016. Clause 11 of the buyer agreement is reproduced below:

"11. Schedule for possession

(a) *"The company shall endeavour to offer possession of the said plot, within thirty (30) months from the date of this Agreement subject to timely payment by the intending Allottee(s) of Total Price, stamp duty, registration charges and any other changes due and payable according to the payment plan."*

4. The respondent has utterly failed in fulfilling their obligation to deliver the unit as per the plot buyer agreement and failed to offer of 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 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. Delay was due to 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 and submission made by the parties.
8. The Authority on the basis of information, explanation, other submissions made and the documents filed by the parties is of considered view that there is no need of further hearing in the complaint.

Arguments heard.

9. The Authority is of the view 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. On consideration of the circumstances, the evidence and other record and submissions made by the complainant 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 11(a) of plot buyer agreement executed between the parties on 09.05.2014, possession of the booked

unit was to be delivered within time by 30 months from the date of execution of this agreement. Therefore, the due date of handing over possession comes out to be 09.11.2016. Accordingly, it is the failure of the respondent/promoter to fulfil his obligations, responsibilities as per the plot buyer's agreement dated 09.05.2014 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. As such complainant is entitled to delayed possession charges at the prescribed rate of interest i.e. @ 10.20% p.a. w.e.f. 09.11.2016 till actual handing over the possession of the booked unit as per the proviso to section 18(1)(a) of the Act read with rules 15 of the Rules.

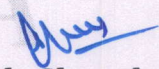
11. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act:
 - (i) The respondent is directed to pay interest at the prescribed rate of 10.20% p.a. for every month of delay from the due date of possession i.e. 09.11.2016 till the offer of possession.
 - (ii) The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period;

- (iii) The respondent is directed to pay interest accrued so far from 09.11.2016 till the date of this order to the complainant within 90 days from the date of decision and subsequent interest to be paid by the 10th of each succeeding month till offer of possession;
- (iv) Interest on due payment from the complainant shall be charged at the prescribed rate of interest @10.20% by the promoter which is the same as is being granted to the complainant in case of delayed possession charges;
- (v) The respondent shall not charge anything from the complainant which is not part of the plot Buyer Agreement
- (vi) Complaint stands disposed of.
- (vii) File be consigned to registry.


(Samir Kumar)

Member

Haryana Real Estate Regulatory Authority, Gurugram


(Subhash Chander Kush)

Member

Dated: 03.01.2020

Judgement Uploaded on 12.02.2020