

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

Complaint no. : 6195 of 2019  
First date of hearing : 23.01.2020  
Date of decision : 23.01.2020

1. Mr. Manish Gupta  
R/o 172, Sector-19, Chandigarh- 160019 **Complainant**

Versus

1. M/s Sepset Properties Pvt. Ltd.  
2. M/s Paras Buildtech India Pvt. Ltd.  
Regd. office: Room No-205, Welcome Plaza,  
S-551, School Block - II, Shakarpur, Delhi-  
110092

**Respondents**

Corporate office: 11<sup>th</sup> Floor, Paras Twin  
Towers (tower-E), Sector-54, Golf Course  
Road, Gurugram - 122002

**CORAM:**

Shri Samir Kumar  
Shri Subhash Chander Kush

**Member  
Member**

**APPEARANCE:**

Shri Ganesh Kamath  
Shri Jasdeep S. Dhillon

Advocate for the complainant  
Advocate for the respondents

**ORDER**

1. The present complaint 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	"Paras Dews", Sector 106, Dwarka expressway, Gurugram
2.	Project area	13.762 acres
3.	Nature of the project	Residential group housing project
4.	DTCP license no. and validity status	61 of 2012 dated 13.06.2012 valid upto 12.06.2020
5.	Name of licensee	M/s Sepset Properties Pvt. Ltd.
6.	RERA Registered/ not registered	<b>Registered vide no. 118 of 2017 dated 28.08.2017</b>
7.	RERA registration valid up to	31.07.2021
8.	Unit no.	05, 7 <sup>th</sup> Floor, Tower-B [Page 23 of complaint]
9.	Unit measuring (super area)	1760 sq. ft.
10.	Date of execution of apartment buyer agreement	01.05.2013 [Page 16 of complaint]
11.	Payment plan	Construction linked payment plan [Page 47 of complaint]
12.	Total consideration of the subject unit	Rs. 1,11,29,078/- as per SOA dated 24.01.2019 and same is alleged by complainant in its

		complaint [ Page 57 of complaint]
13.	Total amount paid by the complainants	Rs. 1,03,07,572/- [page 57 of complaint]
14.	Due date of delivery of possession as per clause 3.1 - 42 months + 6 months' grace period from the date of execution of agreement or date of obtaining all licenses or approvals for commencement of construction, whichever is later <b>EC:- 06.09.2013</b> [Page 27 of complaint]	06.09.2017 (the due date has been calculated from the date of receipt of environment clearance)
15.	Date of offer of possession	24.01.2019 [ Page 48 of the complaint]
16.	Delay in handing over possession till date of offer of possession i.e. 24.01.2019	1 year 4 months and 18 days
17.	Occupation certificate received on	15.01.2019 (taken from similar case file 1622/2019)
18.	Specific reliefs sought	i. Direct the respondent to pay interest for every month of delay at prevailing rate of interest as delay possession charges.

3. As per clause 3.1 of the apartment buyer agreement dated i.e. 01.05.2013, the possession was to be handed over within a period of 42 months from the date of execution of apartment buyer agreement or date of obtaining all licenses or approvals for commencement of construction, whichever is later plus 6

months grace period. However, the date of commencement of construction has not been given by either of the parties. The environment clearance of subject project was granted on 06.09.2013. Accordingly, the due date of possession comes out to be 06.09.2017. Clause 3.1 of the apartment buyer agreement is reproduced below:

**“3. Possession:**

3.1 .....the seller proposes to hand over the possession of the Apartment to the Purchaser(s) within a period of 42(forty two) months with an additional grace period of 6 months from the date of execution of this Agreement or date of obtaining all licenses or approvals for commencement of construction, whichever is later, subject to force majeure.....”

4. The possession of the subject apartment has been offered by the respondent to the complainant on 24.01.2019. The complainant seeks delay interest as per section 18 of the Act. Hence, this complaint for the reliefs as stated 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. Also, the respondents have failed to file any reply despite service of notice and being represented through counsel.
6. 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.

7. The Authority on the basis of information, explanation, other submissions made, and the documents filed by the parties of considered view that there is no need of further hearing in the complaint.
8. The Authority is of the view that 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 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.
9. On consideration of the circumstances, the evidence and other record; submissions made by the parties 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 3.1 of the apartment buyer agreement executed between the parties on 01.05.2013, possession of the booked unit was to be delivered within a period of 42 months

plus 6 months' grace period from the date of execution of agreement or date of obtaining all licenses or approvals for commencement of construction, whichever is later. However, the date of commencement of construction has not been given by either of the parties. The environment clearance of subject project granted on 06.09.2013. Accordingly, the due date of possession comes out to be 06.09.2017. Accordingly, it is the failure of the promoter to fulfil his obligations, responsibilities as per the apartment buyer agreement dated 01.05.2013 to hand over the possession within the stipulated period. Therefore, 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 the complainants are entitled for delayed possession charges @10.20% p.a. w.e.f. 06.09.2017 till offer of possession i.e. 24.01.2019 as per provisions of section 18(1) of the Act read with rule 15 of the Rules.

10. Hence, the Authority hereby pass this order and issue the following directions under section 34(f) of the Act:

- i. The respondents are directed to pay the interest at the prescribed rate i.e. 10.20% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 06.09.2017 till the date of offer of

possession i.e. 24.01.2019 within 90 days from the date of this order.

- ii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- iii. The respondents shall not charge anything from the complainant which is not part of the apartment buyer agreement.

11. Complaint stands disposed of.

12. File be consigned to registry.

  
**(Samir Kumar)**

Member

Haryana Real Estate Regulatory Authority, Gurugram

  
**(Subhash Chander Kush)**

Member

Dated: 23.01.2020

Judgment uploaded on 13.02.2020