

PROCEEDINGS OF THE DAY

Day and Date	Thursday and 5.7.2018
Complaint No.	85/2018 case titled as Mr. Sanjay Yadav Vs. M/s Supertech Ltd. and others
Complainant	Mr. Sanjay Yadav
Represented through	Complainant in person
Respondent	M/s Supertech Ltd. and others
Respondent Represented through	Shri Prashant Advocate for respondent No.1. Shri Abhey Raj Sharma Advocate for respondent No.2.

Proceedings

The counsel for the complainant made a statement that he is not appearing before the authority for compensation but for fulfilment of the obligations by the promoter as per the Real Estate (Regulation & Development) Act, 2016.

The respondent no.1 has already filed reply. The respondent no.2 has filed reply today itself. Copies supplied to the complainant.

The counsel for the respondent no.1 intimated that for the Project, the complainant has booked a residential flat at Officer Enclave-High Rise is not an registered project. Neither there is a permission to construct from competent authority nor any building plans have been approved so far. It seems that with a view to cheat the complainant as well as other buyers, they have sold/booked large number of flats to similar situated buyers. About the total project, no information is available with the learned counsel for the respondent no.1. He does not know whether the project is on-going and registerable. Accordingly, this matter needs to be investigated in detail and if need be, a criminal case be filed under the Indian Penal Code for cheating the allottees. This course of action of cheating the people shall be in addition to any other penal/criminal action warranted under the RERA Act. It is a very sad state of affairs that inspite of adjourning the matter 2-3 times, the respondents have not only failed to provide information about the project but also trying to mis-lead the authority. The Investors Clinic is hand in gloves with the respondent no.1 i.e. M/s Supertech Ltd. Investors Clinic knowing fully well that this project has not been sanctioned or approved has allured large number of buyers to invest in this project. This is certainly an unfair trade practice adopted by respondent no.1 and respondent no.2. It is understood that respondent no.1 took most of the booking through Investors Clinic. The authority not only act upon this complaint but also taking suo-moto cognizance of the fraud and mischief committed with large number of buyers are hereby orders to appoint Shri Varinder Chaudhary, HCS,

New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

Executive Secretary, HARERA Gurugram to be the Enquiry Officer to investigate the whole matter. He should submit the report within 30 days.

Meanwhile to take care of the interest of the present complainant, the authority hereby orders refund of the entire amount alongwith prescribed rate of interest within a period of 45 days failing which penal and criminal consequences will follow. The registry is also directed to refer the matter to the Registration Branch to look at the whole project and also find out violations in respect of registration, if any, so that further course of action could be taken. The (Enquiry Officer will also investigate the conduct of the Investors Clinic and various acts of omission and commission committed by them which are in violation of not only the Real Estate (Regulation and Development) Act 2016 but also any other law so that the matter may be referred to the competent authority for further action in the matter).

The Investors Clinic has also charged an amount of Rs.17175.00 from the complainant which was given to them by way of cheque. Any Real Estate agent cannot charge for the service which is fraudulent and mischievous. The registration certificate of the Investors Clinic shall also be cancelled after giving him a show cause notice. The matter be also given wide publicity through the local Newspapers so that other people are not cheated by such mischievous unscrupulous real estate agents.

The complaint is disposed of accordingly. File be consigned to the registry.

Samir Kumar
(Member)

Subhash Chander Kush
(Member)

Dr. K.K. Khandelwal
(Chairman)

5.7.2018

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

Complaint No. : 85 of 2018
Date of Institution : 21.03.2018
Date of Decision : 05.07.2018

Mr. Sanjay Yadav, 2399, First Floor, Sector 46,
Gurugram - 122003 **Complainant**

Versus

1. M/s Supertech Ltd., Urban -5, Sector 68,
Gurugram **Respondent**
2. M/s Investors Clinic Infratech Pvt Ltd. IRIS
Tech Park, 8th floor, Block-A, Sohna Road,
Sector 48, Gurgaon - 122101 **Respondent**

CORAM:

Dr. K.K. Khandelwal
Shri Samir Kumar
Shri Subhash Chander Kush

Chairman
Member
Member

APPEARANCE:

Shri Sanjay Yadav
Shri Prashant
Shri. Abhey Raj Sharma

Complainant in person
Advocate for the respondent (1)
Advocate for the respondent (2)

ORDER



1. This is a peculiar case where even the non-existent property, where neither the project was approved, nor the plans were approved but the property was sold by the developer. This case relates to the complaint filed by Shri Sanjay Yadav, S/o Shri B.S. Yadav, resident of 2399, First Floor, Sector

46, Gurugram, Haryana-122003 against M/s Supertech Limited, Urban -5, Sector 68, Gurugram and M/s Investors Clinic Infratech Pvt Ltd. IRIS Tech Park, 8th floor, Block-A, Sohna Road, Sector 48, Gurgaon. M/s Supertech issued an advertisement in Dainik Bhaskar Rewari Edition on 16.01.2016 inviting the applications for their newly launched project "Officer Enclave", High Rise independent floors in which their service provider was M/s Investors Clinic and the project is located at Sector 2, Sohna Road, Gurgaon.

2. The complainant booked a flat ON 05.02.2016 at "Officers Enclave at Hill Town Sector 2, Sohna road, Gurugram and deposited an amount of Rs. 10,26,033 /- (Rupees Ten lacs twenty-six thousand and thirty-three- only) against the unit A/1602 and Rs. 17,175/- (Rupees Seventeen thousand one hundred seventy-five only) as service charge to M/s Investors Clinic against the same unit. In the month of June 2017(i.e. nearly after one and a half years, the representative of M/S Supertech told the complainant that the project where the he had booked the unit i.e, Unit No. A/1602 has been scraped he has further advised the complainant to shift his booking in some other projects as per the price slab of the chosen project. The complainant asked the representative to give these statements in writing, which the representative refused. The



complainant tried to meet other representatives of Supertech but everyone pressurized the complainant to shift his booking that too at a very high price band which the complainant was unable to afford.

3. The complainant went to their office so many times to get refund but failed every time. The complainant further reported that till date he has neither received any reply nor refund from Supertech Limited. The Counsel for the complainant has made a statement that he is not appearing before the authority for compensation but against non-fulfilment of the obligations by the promoter as per the Real Estate (Regulation & Development) Act, 2016. Respondent no.1 has filed reply on 04.07.2018 and Respondent no. 2 has not filed any reply. Copies supplied to the complainant.

4. The counsel for the respondent no. 1 intimated that, the complainant has booked a residential flat at Officer Enclave- High Rise is not a registered project where neither there is any permission for construction from competent authority nor any building plans have been approved so far. It seems that with a view to cheat the complainant as well as other buyers, the respondent have sold/booked large number of flats to similar situated buyers. About the total project, no information is available with the counsel for the respondent no. 1 and even he

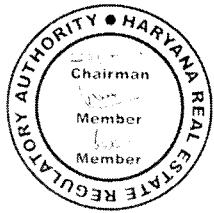


does not know whether the project is ongoing and registerable. Accordingly, this matter needs to be investigated in detail and if need be, a criminal case be filed under the Indian Penal Code for cheating the allottees. This course of action of cheating the people shall be in addition to any other penal/criminal action warranted under the RERA Act. It is a very said state of affairs that in spite of adjourning the matter 2-3 times, the respondents have not only failed to provide information about the project but also trying to mislead the authority. The Investors Clinic knowing fully well that this project has not been sanctioned or approved by the competent authority has allured large number of buyers to invest in this project. This is certainly an unfair trade practice adopted by respondent no. 1 and respondent no. 2 jointly. This is violation of provisions of Section 7 by the promoter and liable to be punished under Section 61, which is reproduced below:

61. Penalty for contravention of other provisions of this Act –

If any promoter contravenes any other provisions of this Act other than that provided under Section 3 or Section 4, or the rules or regulations made thereunder, he shall be liable to a penalty which may extend upto five per cent of the estimated cost of the real estate project as determined by the Authority.

5. The violation of provisions of Section 10 by the real estate agent is liable to be punished under section 62, which is reproduced below:



If any real estate agent fails to comply with or contravenes he provisions of section 9 or section 10, he shall be liable to a penalty of ten thousand rupees for every day during which such default continues, which may cumulatively extend upto five per cent of the cost of plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated as determined by the Authority.

6. It is understood that respondent no. 1 took most of the booking through Investors Clinic. The authority not only act upon this complaint but also taking suo-moto cognizance of the fraud and mischief committed with large number of buyers and hereby orders to appoint Shri Virender Chaudhary, HCS, Executive Secretary, Haryana Real Estate Regulatory Authority, Gurugram the Enquiry Officer to investigate the whole matter exercising powers under Section 35 of the Real Estate (Regulation and Development) Act, 2016. He should submit the report within 30 days.
7. Meanwhile to take care of the interest of the present complainant, the authority hereby orders refund of the entire amount along with prescribed rate of interest within a period of 45 days failing which penal and criminal consequences will follow. The registry is also directed to refer the matter to the Registration Branch to look at the whole project and also find out violations in respect of registration, if any, so that further course of action could be taken. The Enquiry Officer will also investigate the conduct of Investors Clinic and various facts of omission and commission committed by them which are in



violation of not only the Real Estate (Regulation and Development) Act, 2016 but also any other law so that the matter may be referred to the competent authority for further action in the matter.

8. The Investors Clinic has also charged an amount of Rs. 17,175.00 from the complainant which was given to them by way of cheque. Any Real Estate agent cannot charge for the service which is fraudulent and mischievous. For cancellation of the registration certificate of M/s Investors Clinic a show cause notice shall be issued. The matter be also given wide publicity through local newspapers so that other people are not cheated by such mischievous/unscrupulous real estate agents. The complaint is disposed of accordingly. File be consigned to the registry.



(Dr. K.K. Khandelwal)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram


(Samir Kumar)

Member


(Subhash Chander Kush)

Member

