

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

**Complaint no.- 246 of 2020
Date of first hearing – 11.02.2020
Date of decision- 19.02.2020**

1. Mr. Ashish Sood; and

2. Mr. Raman Kumar Sood.

**Both R/o. 121/62, Silver Oaks Apartments,
DLF Phase -1, Gurugram – 122002.**

Complainants

Versus

M/s Haamid Real Estates Private Limited

**Address:- 232 B, Okhla Industrial Estate, Phase –III,
New Delhi – 110020.**

Respondent

CORAM:

Shri Samir Kumar

Member

Shri Subhash Chander Kush

Member

APPEARANCE-

Shri Sanjeev Sharma Advocate for the complainants

Shri Jasmeet Singh Authorized representative for the respondent

ORDER

1. The present complaint has been filed by the complainants/allottees in Form CRA 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 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	The Peaceful Homes, Sector 70A, Gurugram
2.	Project area	27.4713 acres
3.	Nature of project	Group housing colony
4.	RERA registered	Unregistered
5.	License No. & validity status	16 of 2009 dated 29.5.2019 valid upto 28.5.2024
6.	Name of licensee	M/s. Haamid Real Estate P. Ltd. and others
7.	Unit no., Tower no.	C-051, Tower C
8.	Carpet area	1565 sq. ft.
9.	Date of execution of apartment buyer agreement	03.02.2015 (Pg. 22 of the complaint)
10.	Payment plan	Construction linked payment plan (as per SOA dated 5.11.2019, Pg. 47 of the complaint)

11.	Total sale consideration	1,14,29,000/- (as per SOA dated 5.11.2019, Pg. 47 of the complaint)
12.	Total amount paid by the complainant	1,10,92,766.44/- (as per SOA dated 5.11.2019, Pg. 47 of the complaint)
13.	Due date of delivery of possession as per agreement	10.11.2017 (Clause 11(a): 36 months + 6 months' grace period from the date of commencement of construction) Note - as per SOA dated 5.11.2019 construction was commenced on 10.05.2014
14.	Period of delay in handing over possession till date	Continuous
15.	Status of project (ongoing/complete)	Ongoing
16.	Date of offer of possession, if any	N/A
17.	Relief sought (in specific terms)	<ul style="list-style-type: none"> • Direct the respondent to pay delayed possession charges at the prescribed rate of interest. • Direct the respondent to refund the extra money charged on account of garage and on common areas or basements. • Direct the respondent to get the conveyance deed executed in the name of association of allottees for common areas etc. and hand over the complex to them in three months time.

3. As per the apartment buyer agreement in question vide clause no. 11(a) the possession was to be handed over within a period of 36

months from the date of commencement of construction plus 6 months' grace period. As per statement of accounts dated 05.11.2019 (annexure A 3 of the complaint) construction was commenced on 10.05.2014, so the due date of delivery of possession on calculation from the said date comes out to be 10.11.2017.

The relevant clause of the apartment buyer's agreement reads as under: -

*".....the Company endeavours to hand over the possession of the Unit to the Allottee within a period of 36 (Thirty-Six) months from the date of commencement of construction of the Project, which shall mean the date of commencement of the excavation work at the Project Land and this date shall be duly communicated to the Allottee ("**Commitment Period**"). The Allottee further agrees and understands that the Company shall additionally be entitled to a period of 6 (six) months ("**Grace Period**")"*

4. Possession of the apartment has not been offered or given so far. Hence, this complaint for the following reliefs-


- Direct the respondent to pay delayed possession charges at the prescribed rate of interest.
- Direct the respondent to refund the extra money charged on account of garage and on common areas or basements.
- Direct the respondent to get the conveyance deed executed in the name of association of allottees for common areas etc. and hand over the complex to them in three months' time.


5. Notice of the complaint was duly served to the respondent by the Authority. Tracking report in this regard is available on the record. Despite service of notice, the respondent has not filed reply to the complaint. But the authorized representative appeared on behalf of the respondent on the date of hearing i.e. 19.02.2020.
6. 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.
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 and explanation and other submissions made and the documents filed by the complaints is of the considered view that there is no need of further hearing in the complaint.
9. 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. Arguments heard at length.
11. 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 section 35(1) read with rule 28(2)(a), the Authority observed that the due date of delivery of possession i.e. 27.11.2017 Accordingly, it is the failure of the promoter to fulfil his obligations, responsibilities as per the buyer's agreement dated 03.02.2015 to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) of the Act on the part of the respondent is established.
12. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act :-
1. The complainants are entitled for delayed possession charges at the prevalent prescribed rate of interest of 10.20% p.a. with effect from 10.11.2017 (due date of delivery of possession) till the offer of possession in terms of section 18(1) of the Act read with Haryana Real Estate (Regulation and Development) Rules, 2017.
 2. The arrears of interest accrued so far from the due date of delivery of possession 10.11.2017 till the date of this order shall be paid to the complainants at the prescribed rate of interest i.e. 10.20 % p.a. within a period of 90 days and thereafter monthly

payment of interest till offer of possession shall be paid on or before 10th of each subsequent English calendar month.

13. Complaint stands disposed of.
14. Case file be consigned to the registry.


Samir Kumar
(Member)


Subhash Chander Kush
(Member)

Haryana Real Estate Regulatory Authority, Gurugram.

Date - 19.02.2020

judgement uploaded on 26.02.2020

