

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

**Complaint no. : 2780 of 2019**  
**First date of hearing : 25.09.2019**  
**Date of decision : 23.01.2020**

1. Mr. Jayant Sinha  
2. Mrs. Bhawana Sinha  
Both R/o 2C-117, PO Vasunshra,  
Opp. Mewar College, Ghaziabad-201020

**Complainants**

Versus

M/s Selene Constructions Ltd.  
Corporate office: F-60, Malhotra Building,  
2<sup>nd</sup> Floor, Connaught Place, New Delhi-  
110001

**Respondent**

**CORAM:**

Shri Samir Kumar  
Shri Subhash Chander Kush

**Member**  
**Member**

**APPEARANCE:**

Shri Raunaq Dutt  
Shri Rahul Yadav

Advocate for the complainants  
Advocate for the respondent

**ORDER**

1. The present complaint 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.

2. The particulars of the project, the details of sale consideration, the amount paid by the complainants, 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	"Indiabulls Centrum Park", sector-103, Daultabad Village, Dist. Gurugram
2.	Project area	17.081 acres
3.	Nature of the project	Group housing project
4.	DTCP license no. and validity status	252 of 2007 dated 02.11.2007 valid upto 01.11.2017 50 of 2011 dated 05.06.2011 valid upto 04.06.2019 63 of 2012 dated 19.06.2012 valid upto 18.06.2020
5.	Name of licensee	M/s Selene Construction Pvt. Ltd.
6.	RERA Registered/ not registered	<b>Registered vide no. 10 (phase II and 11 of 2018 (phase I))</b>
7.	RERA registration valid up to	31.07.2021
8.	Unit no.	K3 052, 5 <sup>th</sup> Floor, Tower-K3 [Page 29 of complaint]
9.	Unit measuring (super area)	2000 sq. ft.
10.	Date of execution of flat buyer agreement	01.06.2011 [Page 25 of complaint]

11.	Payment plan	Construction linked payment plan
12.	Total consideration of the subject unit (as per applicant ledger dated 24.10.2018)	Rs. 72,41,000/- [Page 30 of complaint]
13.	Total amount paid by the complainants (as per applicant ledger dated 24.10.2018)	Rs. 75,42,948/- [page 60 of complaint]
14.	Due date of delivery of possession as per <b>clause 22</b> - 3 years + 6 months grace period from the date of execution of agreement subject to timely payment by the buyer(s) of total sale price payable according to the payment plan as demanded by the developer.	01.12.2014
15.	Date of offer of possession (Annexure A-4 on page 55 of the complaint)	24.10.2018 [Page 55 of the complaint]
16.	Delay in handing over possession till date of offer of possession i.e. 24.10.2018	3 year 10 months and 23 days
17.	Specific reliefs sought	i. Direct the respondent to pay the interest for every month of delay in delivering possession, till actual handing over of the possession of the unit to the complainants.

3. As per clause 22 of the Flat Buyers agreement dated 01.06.2011, the developer shall endeavor to complete the building/unit within a period of 3 years with an six months grace period thereon from the date of execution of the Flat

buyers Agreement subject to timely payment by the Buyer(s) of total sale price payable according to the payment plan applicable to him or as demanded by the developer. Accordingly, the due date of possession comes out to be 01.12.2014. Clause 22 of Flat Buyer Agreement is reproduced below:

***“22. Possession:** The Developer shall endeavor to complete the construction of the said building/unit within a period of three years, with an six months grace period thereon from the date of execution of the Flat Buyers Agreement subject to timely payment by the buyer (s) of Total sale price payable according to the payment plan applicable to him or as demanded by the developer.”*

4. The possession of the subject flat buyers Agreement has been offered by the respondent to the complainants on 24.10.2018. The complainants seeks delay interest as per section 22 of the Act. The complainants reserve their right to file a separate application for seeking cost of litigation from the Adjudicating Officer. 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.
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.


7. The Authority on the basis of information, explanation and other submissions made and the documents filed by the complainants is of considered view that there is no need of further hearing in the complaint.
8. Arguments Heard.
9. 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.
10. On consideration of the circumstances, the evidence and other record, submissions made by the complainants 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 22 of the flat buyers agreement executed between the parties on 01.06.2011, the developer shall endeavour to complete the construction of the said building/unit within a period of three years, with an six months grace period thereon from the date of execution of the

flat buyers agreement subject to timely payment by the buyer (s) of Total sale price payable according to the payment plan applicable to him or as demanded by the developer. Possession of the unit was offered on 24.10.2018. Accordingly, the due date of possession comes out to be 01.12.2014. Accordingly, it is the failure of the promoter to fulfil his obligations, responsibilities as per the agreement dated 01.06.2011 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. As such the complainants are entitled for delayed possession charges @10.20% p.a. w.e.f. 01.12.2014 till offer of possession i.e. 24.10.2018 as per provisions of section 18(1) of the Act read with rule 15 of the Rules.

11. Hence, the Authority hereby pass this and issue the directions under section 34(f) of the Act:
  - i. The respondent is 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 complainants from due date of possession i.e. 01.12.2014 till the offer of possession i.e. 24.10.2018.

- ii. The complainants are directed to take over the possession of the unit within a period of one month failing which respondent shall be well within its rights to levy holding charges.
  - iii. Holding charges levied by the builder may be obviated in this case.
  - iv. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
  - v. The respondent shall not charge anything from the complainants which is not part of the agreement for sale.
12. Complaint stands disposed of.
13. File be consigned to registry.

  
**(Samir Kumar)**  
Member

  
**(Subhash Chander Kush)**  
Member

Dated: 23.01.2020