

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

Complaint no. : 1522 of 2019  
First date of hearing : 28.08.2019  
Date of decision : 12.12.2019

1. M3M India Private Limited  
**Registered Office:** Unit no.  
SB/C/5L/Office/008, M3M Urbana, Sector  
67, Gurugram-122102.
2. Cogent Realtors Private Limited  
**Office at:** LGF, F-22, Sushant Shopping  
Arcade, Sushant Lok, Phase-1, Gurugram  
(Haryana)-122002.

**Complainants**

**Versus**

Mr. Balendra Kumar  
R/o L-1/95-B, DDA flats,  
Kalkaji, New Delhi-110019.

**Respondent**

**CORAM:**

Shri Samir Kumar  
Shri Subhash Chander Kush

**Member**  
**Member**

**APPEARANCE**

Ms. Shriya Takkar and Mr. Amarjeet Singh Advocates for complainants

None present

For the respondent

**ORDER**

1. The present complaint has been filed by the complainants/Promoter M3M India Private Limited and

Cogent Realtors Private Limited against the allottee Balendra Kumar, 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 19(6),(7),(10) of the Act.

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

1.	Name and location of the project	"M3M Woodshire", Sector-107, Gurugram
2.	Nature of the project	Group housing colony
3.	Current status of project	<b>Occupation certificate received on 24.07.2017</b> (Page 99 of complaint)
4.	RERA registration status	<b>Not registered</b>
5.	DTCP license no.	33 of 2012 dated 12.04.2012 valid up to 11.04.2018
6.	Name of licensee	Cogent Realtors
7.	Building plan approved on	12.10.2012
8.	Apartment/unit no.	MW TW-B10/0804, 8 <sup>th</sup> floor, tower B10
9.	Unit area	1366 sq. ft.

10.	Provisional allotment letter dated	25.01.2013 <b>(page no. 43 of complaint)</b>
11.	Date of execution of apartment buyer's agreement-	06.05.2013
12.	Payment plan	Construction linked plan <b>(page 93 of complaint)</b>
13.	Total sale consideration	Rs.79,58,274/- <b>(as per statement of account attached with notice of possession, page 103 of complaint)</b>
14.	Total amount paid by the respondent-allottee	Rs.73,22,115/- <b>(as per statement of account attached with notice of possession, page 103 of complaint)</b>
15.	<b>Notice of possession letter</b>	28.08.2017 <b>(Annx. E, page no. 101 of complaint)</b>
16.	Due date of delivery of possession (Note - as per clause 16.1 of apartment buyer's agreement: within 36 months from the date of commencement of construction which shall	<b>30.04.2017</b> (Note: -As alleged by the complainants in the present complaint, <b>the first mud slab was laid on 30.10.2013</b> , page 7 of complaint)

	mean the date of laying of the first plain cement concrete/mud slab of the tower i.e. 30.10.2013 or the date of execution of agreement i.e. 06.05.2013 whichever is later plus 180 days grace period)	
17.	Delay in handing over possession till date of offer of possession i.e. 28.08.2017	3 months 29 days

3. The details provided above have been checked on the basis of the record available in the case file which have been provided by the complainants. An apartment buyer's agreement has not been executed between the parties but the allotment letter is available on record for the aforementioned apartment according to which the possession of the aforesaid unit was to be taken by the respondents/allottees after paying the balance consideration. However, the respondents have failed to fulfil their contractual obligation by not taking the possession within stipulated period despite several reminders.

4. Arguments heard.
5. Facts are not in dispute. Documents are also not in dispute. It stands established that the averments made in the complaint have been admitted to be correct by the respondents to the extent that even after receiving of the occupation certificate of the project by the complainants/promoters on 24.07.2017, offer of possession letter was issued to the respondents on 28.08.2017. Thereby asking the respondents to clear all their dues on or before 26.09.2017 by submitting the documents as per the offer letter for handing over the possession. This authority holds that the respondent is under an obligation of making timely payment with interest at the prescribed rate as provided under Rule 15 of the Rules and to take possession of the subject Apartment without further delay.
6. That after the receipt of the offer of possession letter, no plea is now open to the respondents and the plea if any taken by them in this regard is nothing but an after thought.
7. The possession of the subject apartment was to be handed over to the respondents within 36 months and 6 months grace period from the date of commencement of construction

or from the date of execution of BBA i.e. 06.05.2013 which comes out to be 30.04.2017. However, admittedly the offer of possession letter in respect of the subject apartment was issued by the complainants to the respondents on 28.08.2017. Therefore, the complainants/promoters are liable to pay the delayed possession charges (DPC) for the said period to the respondents at the prescribed rate of interest

8. In view of the above discussion the authority pass this order under section 34(f) of the Act hereby issuing the following directions: -
  - a) The complainants are directed to pay delayed possession charges for every month of delay at the prescribed rate of interest of 10.25%per annum from due date of delivery of possession i.e. 30.04.2017 till actual offer of possession i.e. 28.08.2017.
  - b) Since the complainants are charging interest on delay payments at prescribed rate of 10.25% per annum. Hence, the complainants are directed not to charge any holding charges.

- c) The respondents/allottees are directed to take possession of the allotted unit after clearing all pending dues with delayed interest at the prescribed rate of 10.25% p.a. within sixty days after adjusting the delay possession interest to be paid by the complainants to the respondents.
9. Complaint stands disposed of.
10. File be consigned to the registry.

  
**(Samir Kumar)**  
Member

  
**(Subhash Chander Kush)**  
Member

Haryana Real Estate Regulatory Authority, Gurugram

22.10.2020

JUDGEMENT UPLOADED ON 13.03.2020