

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

Complaint no. : 621 of 2019
First date of hearing : 11.09.2019
Date of decision : 12.12.2019

1.M3M India Private Limited

Address: Unit No. SB/C/5L/Office/008,
M3M Urbana, Sector-67, Gurugram-122102

2.Manglam Multiplex Private Limited

Address: LGF,F-22, Sushant Shopping Arcade,
Sushant Lok, Phase-1,
Gurugram-122002.

Complainants

Versus

1.Subhas Mangla

2.Tanuj Mangla

Address: rr/o: 62/4, Behind Kalyani Hospital,
M.G.Road, Gurgaon, Haryana.

Respondents

CORAM:

Shri Samir Kumar

Member

Shri Subhash Chander Kush

Member

APPEARANCE.

Ms. Shriya Takkar

Advocate for the complainants

None Present

Advocate 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 allottees Subhas Mangla and Tanuj Mangla 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) and (10) of the Act.

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

S.No.	Heads	
1.	Project name and location	M3M Golf Estate-Fairway East, Sector-65 Gurugram
2.	Project area	63 acres
3.	Nature of project	Group Housing Colony
4.	RERA registered/ not registered	Not Registered
6.	License No. & validity status	234 of 2007 dated 16.10.2007, 52 of 2009 dated 28.08.2009 and 35 of 2010 dated 06.05.2010 valid upto 05.05.2020
7.	Name of licensee	Mungram Multiplex Pvt. Ltd.
8.	Unit no. Tower no.	MGE-2 TW-01/08A, level 08, Tower 01
9.	Super area	Revised area from 3799 sq. ft. to 3850 sq. ft.
10.	Increase area	51 sq. ft.
11.	Date of execution of agreement	31.10.2012 (page no. 51 of the complaint)
12.	Payment plan	Construction linked payment plan

13.	Basic sale price	Rs. 4,02,69,400/- plus other charges (as per payment plan, page 93 of the complaint)
14.	Total amount paid by the complainants	Rs. 4,71,20,718 /- (as per receipt attached, page no. 113 to 133 of the complaint)
15.	Due date of delivery of possession as per agreement (as per Clause 16.1, 36months from the date of commencement of construction or from the date of execution of agreement whichever is later plus 180 days grace period	03.05.2016 Note:- calculated from the first plain cement concrete/mud slab of the tower (i.e. 03.11.2012) as alleged by the complainant in Claus 7 (ii) at page no. 6 of the complaint
16.	Date of offer of possession	15.09.2017 (annexure-G, Page 137 of the complaint)
17.	Status of project (ongoing/complete)	OC for tower 01 received on 25.07.2017
19.	Period of delay in handing over possession	1 years 4 months 12 days
20.	Specific relief sought	<ul style="list-style-type: none"> • To direct the respondents to take the possession of the said apartment • To pay the balance consideration and delayed interest • To pay holding charges • To pay outstanding maintenance dues of the maintenance agency

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 dated 31.10.2012 is available on record for the aforementioned apartment according to which the possession of the aforesaid unit was to be handed over on 03.05.2016 to the respondents. However, the respondents have failed to fulfil its contractual obligation by not taking the possession within stipulated period despite several reminders. Hence, this complaint for issuing above mentioned directions to the respondent.
4. Respondents have not filed the reply to the complaint.
5. Arguments heard.
6. Facts are not in dispute. Documents are also not in dispute.
7. Shri Manish Yadav, Advocate appeared on 12.12.2019 and file power of attorney. He has placed on record a copy of order dated 25.11.2019 passed by NCDRC, New Delhi in consumer case No. 2126 of 2017 filed by Subhash Mangla and Anrs. Against M/s M3M India Limited and Anrs.
8. Respondents had booked a flat with the complainants/promoter and deposited a sum of Rs.

4,71,20,718/- against a basic sale price of Rs. 4,02,69,400/-
As per clause 16.1 of the BBA dated 31.10.2012 the possession was to be handed over within a period of 36 months from the date of commencement of construction or from the date of execution of BBA plus 180 days grace period which comes out to be 03.05.2016. The occupation certificate of the project was received by the complainants/promoter on 25.04.2017 and offer of possession letter was issued to the respondent/allottee on 15.09.2017 copies of both the documents are placed on record. However, as per section 19(6) (7) and (10) of the RERA Act, the respondent is under obligation w.r.t. making of timely payment with interest at the prescribed rate and to take over possession respectively. In the instant case, when the occupation certificate as well as offer of possession have already been made, all the pleas now being taken by the respondents/allottee are after thought. However, they are at liberty to knock the doors of superior courts/apex court. He is once again directed to make the requisite payment and to take over the possession as the provisions of Section 19 (6) (7) and (10) within a period of 30 days.

As such, the complainants/allottee is entitled for delayed possession charges w.e.f. 03.05.2016 to 15.09.2017 at the prescribed rate of interest i.e. 10.20% per annum. Respondents/allottees is directed to pay outstanding dues, if any, after adjustment of interest awarded for the delayed possession period. Interest on the due payment from the respondents shall be charged at the prescribed rate of interest i.e. 10.20% p.a. by the complainants/promoter which is the same as is being granted to the complainants/promoter in case of delayed possession. Therefore, the complainants/promoter is liable to pay the delayed possession charges (DPC) for the said period to the respondents at the prescribed Rate of interest.

9. In view of the above discussion the authority pass an order under section 34(f) of the Act, and issue the following direction:-


- a) The respondents/allottees shall make the requisite payments and take the possession of the subject apartment as per the provisions of Section 19(6), (7) and (10) of the Act, within a period of 30 days.
- b) The complainants/promoter shall pay the delayed possession charges (DPC) with effect from


03.05.2016 to 15.09.2017 at the prescribed rate of interest of 10.20% per annum to the respondents and shall adjust the said amount towards the final amount to be paid by the respondents.

- c) The respondents/allottees shall be charged interest at the prescribed rate of interest that is at the rate 10.20% per annum by the complainants/promoter.

10. Complaint stands disposed of.

11. File be consigned to the registry.


Subhash Chander Kush
(Member)


Samir Kumar
(Member)

Date 12.12.2019

JUDGEMENT UPLOADED ON 13.03.2020