

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

Complaint no. 1638/2019

Date of First hearing 12.12.2019

Date of decision 12.12.2019

1.M3M INDIA PRIVATE LIMITED

Address: SB/C/5L/Office/008, M3M Urbana,
Gurugram Manesar Urban Complex,
Gurugram-122102, Haryana

2.COAGENT REALTORS PRIVATE LIMITED

Address: LGF, F-22, Sushant Lok, Phase-1,
Gurugram-122002, Haryana

Complainants

Versus

1.ROHIT MALIK

2.DEEPTI MALIK

Both C/o: Agilent Technologies International Pvt. Ltd.,
CP-II, Sector-8, Technology Park,
IMT Manesar, Gurugram-122050

Respondents

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE.

Ms. Shriya Takkar
Sh. Manoj Yadav And
Ms. Mehr Kaur

Advocate for the complainants
Advocates for the respondents

ORDER

1. The present complaint has been filed by the complainant/Promoter M3M India Private Limited and Cogent Realtors Private Limited against the allottee Rohit Malik and Deepti Malik, 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: -

S.No.	Heads	Details
1.	Project name and location	M3M Woodshire, Dwarka Expressway Sector-107, Gurugram
2.	Project area	18.88125 acres
3.	Nature of project	Group Housing Colony
4.	RERA registered/ not registered	Not Registered
5.	RERA registration valid up to	N/A
6.	License No. & validity status	33 of 12 Dated 12.04.2012 valid up to 11.04.2018
7.	Name of licensee	Cogent Realtors
8.	Unit no., Tower no.	MW TW-B10/0601,6 th floor
9.	Carpet area	1366 sq. ft.
10.	Date of execution of agreement	01.04.2014
11.	Payment plan	Construction linked plan
12.	Total sale consideration	Rs. 99,95,088/- (according to statement of accounts-cum-invoice, Annexure-A at pg. 111)

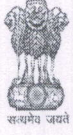
13.	Total amount paid by the complainant	Rs. 76,87,291/- (according to statement of accounts-cum-invoice, Annexure-A at pg. 111)
14.	Due date of delivery of possession as per agreement	01.10.2017 (36 months from the date of commencement of construction or from the date of execution of agreement, whichever is later+ 6 months grace period)
15.	Period of delay in handing over possession	No delay
16.	Status of project	Complete
17.	Details of Occupation Certificate	Date of OC granted, if any, by the competent Authority: Dated 24.07.2017 Area/Tower for which OC obtained- B10
18.	Date of offer of possession	25.08.2017
19.	Specific relief sought	<ul style="list-style-type: none"> • To be directed 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 complainant. An apartment buyer's agreement



executed between the parties is available on record for the afore-mentioned apartment according to which the possession of the aforesaid unit was to be taken by the respondent/allottee after paying the balance consideration. However, the respondent has failed to fulfil its contractual obligation by not taking the possession within stipulated period despite several reminders. As per the averments made in the complaint instead of clearing the outstanding dues and taking possession of the subject apartment the complainant filed this complaint no. CC/268/2018 before the National Consumer Dispute Redressal Commission (NCDRC). Hence, this complaint for issuing directions to the respondent.

4. Respondents have not filed any reply to the complaint though the respondents have been represented through Sh. Manoj Yadav and Ms. Mehar Kaur Advocates.
5. Arguments heard.
6. 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. After receiving the occupation certificate of the project by the complainants/ promoter on 24.07. 2017 offer of possession letter was issued to the respondents on 25.08.2017 thereby



asking the respondents to clear all their dues on or before 25.09.2017, submitting the documents as per the offer of possession letter for handing over the possession. However, the respondents adopted a peculiar way, instead of clearing dues and filing documents with the complainants, they filed the above stated complaint before National Consumer Dispute Redressal Commission (NCDRC) with an intention to side line the provisions of section 19(6),(7),(10) of the Act.

7. Here we say that the jurisdiction of this Authority does not get ousted by a mere fact that the complaint for the refund of the deposited amount filed by the respondents against the complainants is pending before the National Consumer Dispute Redressal Commission (NCDRC). This authority holds that the respondents were/ are 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. After the Receipt of the offer of possession letter, no plea is now opened to the respondents and the plea, if any, taken by them in this regard is nothing but after thought. They are at the liberty to knock the doors of the superior court/apex court. 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 execution of agreement which comes out to be 01.10.2017. However, the complainants/promoter has already offered the possession to the respondent/allottee on 25.08.2017.

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

- 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 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.
8. Complaint stands disposed of.
 9. File be consigned to the registry.


(Samir Kumar)
Member


(Subhash Chander Kush)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Date 12.12.2019

JUDGEMENT UPLOADED ON 14.03.2020