

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

Complaint no. : 1098 of 2019
First date of hearing : 12.12.2019
Date of decision : 12.12.2019

1.M3M India Private Limited

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

Also, at: 6thFloor, M3M Tee Point,
Sector-65, Gurugram

2.Manglam Multiplex Private Limited

Address: LGF, F-22, Sushant Shopping Arcade,
Sushant Lok, Phase-1,
Gurugram-122102.

Complainants

Versus

Nirmal Bansal

Address: R/o: E-154, 1st Floor, Kalkajee,
New Delhi-110019

Respondent

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE.

Ms. Shriya Takkar

Advocate for the complainants

Sh. Manoj Yadav

Advocates for the respondent

and Ms. Mehr Kaur

ORDER

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



Manglam Multiplex Private Limited against the allottee Sh. Nirmal Bansal 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 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
5.	License No. & validity status	234 of 2007 dated 16.10.2007 valid up to 15.10.2011, 52 of 2009 dated 28.08.2009 valid up to 27.08.2017 and 35 of 2010 dated 06.05.2010 valid upto 05.05.2020
7.	Name of licensee	Manglam Multiplex Pvt. Ltd.
8.	Unit no., Tower no.	MGE-2, TW-01/06, level 06
9.	Super area	3843 sq. ft.
10.	Date of execution of agreement	25.02.2013
11.	Payment plan	Construction linked plan

12.	Total sale consideration	Rs. 5,10,67,750/- (as per the statement of accounts, pg. no. 145 of the complaint)
13.	Total amount paid by the complainant	Rs. 4,19,13,912/- (as per the statement of accounts at pg. no. 145 of the complaint)
14.	Due date of delivery of possession as per agreement	25.08.2016 36months from the date of commencement of construction or from the date of execution of agreement whichever is later plus 6 months grace period,
15.	Date of offer of possession	01.08.2017 (Annexure-G of the complaint)
17.	Details of Occupation Certificate	Dated 25.07.2017
18.	Period of delay in handing over possession	11 months 6 days
19.	Specific relief sought	<ul style="list-style-type: none"> • To direct the respondent 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 has been provided by the complainants. 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 his 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 respondent has filed a complaint No. CC/3509/2017 before the national consumer disputes redressal commission (NCDRC). Hence, this complaint for issuing above mentioned directions to the respondent.

4. Respondent has not filed any reply to the complaint though the respondent has 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 respondent. After receiving the occupation certificate of the project by the complainants/ promoter on 25.07.2017 offer of possession letter was issued to the respondent on 01.08.2017 thereby asking the respondents to clear all

their dues on or before 30.09.2017, submitting the documents as per the offer of possession letter for handing over the possession. However, the respondent adopted a peculiar way instead of clearing dues and filing documents with the complainants, they filed the above stated complaint before the national consumer disputes redressal commission (NCDRC) with an intention to sideline the provisions of section 19(6),(7),(10) of the Act. 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 respondent against the complainants is pending before the national consumer disputes redressal commission (NCDRC). This Authority holds that the respondent was/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. After the receipt of the offer of possession letter, no plea is now opened to the respondent 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 possessor of the subject apartment was to be handed over to the respondent within 36 months and 6 months grace period from the date of commencement of construction which comes out to be 25.08.2016. However, admittedly the offer of possession letter in respect of the subject apartment was issued by the complainants to the respondents on 01.08.2017. Therefore, the complainants/promoter is liable to pay the delayed possession charges (DPC) w.e.f. 25.08.2016 to 01.08.2017 at the prescribed rate of interest.

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 respondent/allottee 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/promoters shall pay the delayed possession charges (DPC) with effect from 25.08.2016 to 01.08.2017 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 respondent.

- c) The respondent/allottee shall be charged interest at the prescribed rate of interest that is at the rate 10.20% per annum by the complainants/promoters which is same as is being granted to the respondent/allottee in case of delayed possession.

7. Complaint stands disposed of.

8. 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