

PROCEEDINGS OF THE DAY

Day and Date	Wednesday and 18.12.2019
Complaint No.	CR/3256/2019 Case titled as Anshu Yadav V/S Ild Millennium Private Limited
Complainant	Anshu Yadav
Represented through	Shri G.S.Jarodia Advocate
Respondent	Ild Millennium Private Limited
Respondent Represented through	Shri Venket Rao Advocate
Last date of hearing	First hearing
Proceeding Recorded by	Naresh Kumari & S.L.Chanana

Proceedings


Arguments heard.

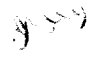
By virtue of clause 10.1 of the Builder Buyer Agreement executed between the parties on 11.1.2013 possession of the booked unit was to be delivered within a period of 3 years plus 6 months grace period from the date of execution of agreement, therefore, the due date of handing over possession comes out to be 11.07.2016. As such, the complainant is entitled for delayed possession charges @ 10.20 % p.a. w.e.f. 11.07.2016 till the offer of possession as per provisions of section 18 (1) of the Real Estate (Regulation and Development) Act, 2016. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and thereafter monthly payment of interest till offer of possession shall be paid before 10th of subsequent month.

The complainant is directed to pay outstanding dues, if any, after adjudgment of interest for the delayed period. The respondent shall not charge anything from the complainant which is not part of the BBA.

Interest on the due payments from the complainant shall be charged at the prescribed rate of interest @ 10.20% by the promoter which is the same as is being granted to the complainant in case of delayed possession charges.

Complaint stands disposed of. Detailed order will follow. File be consigned to the registry.


Samir Kumar
(Member)
18.12.2019


Subhash Chander Kush
(Member)



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

**Complaint no. 3256 of 2019
Date of First hearing 18.12.2019
Date of decision 18.12.2019**

- 1. Shri Ajay Yadav**
- 2. Smt. Anshu Yadav**

Address – House no. C-130, Gali no. 4,
West Rajiv Nagar, Gurugram (Haryana)

Complainants

Versus

M/s ILD MILLENNIUM PVT. LTD.

Regd. Office: -B-418, New Friends Colony,
New Delhi – 110025.

Corporate Office – ILD Trade Centre, 9th Floor,
Sohna Road, Gurugram (Haryana)- 122001.

Respondent

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE.

Shri G.S. Jarodia

Advocate for the complainants

Shri Venkat Rao

Advocate for the respondent

ORDER

1. The present complaint dated 02.08.2019 has been filed by the complainant/allottee 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	ILD Spire Greens, Sector 37 C, Gurugram
2.	Project area	15.4829 acres
3.	Nature of project	Group Housing Colony
4.	RERA registered/ not registered	Registered vide no. 60 of 2017 dated 18. 08.2017 (for Tower 2, 6 and 7)
5.	RERA registration valid upto	16.8.2018 (already expired)
6.	License No. & validity status	13 of 2008 dated 31.1.2008 valid/renewed upto 31.1.2008.
7.	Name of licensee	M/s. Jubilant Malls Pvt. Ltd. and M/s. Goldman Malls Pvt. Ltd.
8.	Unit no., Tower no.	103, 1 st floor, Tower 6
9.	Carpet area	1875 sq. ft. (super area)
10.	Increase/decrease in super-area	N/A

11.	Date of execution of agreement	11.1.2013 (Pg. 40 of the complaint)
12.	Payment plan	Construction linked payment plan (Pg. 54 of the complaint)
13.	Total sales consideration	52,20,625/- (as per SOA dated 25.7.2019, Pg. 35 of the complaint)
14.	Total amount paid by the complainant	52,67,433/- (including taxes as per SOA dated 25.7.2019, Pg. 35 of the complaint)
15.	Due date of delivery of possession as per agreement	11.07.2016 (clause 10.1 - 3 years + 6 months from the date of agreement)
16.	Period of delay in handing over possession till date	3 years 5 months and 7 days.
17.	Status of project (ongoing/complete)	ongoing
18.	Details of Occupation Certificate, if any,	OC received on 31.10.2016 for tower 3 and 4, Further OC was received on 19.12.2017 for Tower 5
19.	Date of offer of possession, if any	Not offered till date
20.	Specific relief sought	<ul style="list-style-type: none"> To direct the respondent to pay delayed interest on the amount received from the complainant in respect of flat in question w.e.f. 11.07.2016 till the offer of possession. To direct the respondent to pay litigation charges of Rs. 1,00,000/- to the complainants.

3. As per the apartment buyer's agreement in question vide clause no. 10.1 the possession was to be handed over within a period of three years plus grace period of six months which comes out to 11.07.2016. The relevant clause of the apartment buyer's agreement reads as under:

“The Developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete the construction of the said Building/said Unit within three years from the date of execution of this agreement, with grace period of Six Months.....”

4. Possession of the apartment has not been offered or given so far despite repeated reminders and requests. It is alleged by the complainants that respondent has failed to honour the obligations under buyer’s agreement. Hence, this complaint for the abovementioned reliefs.
5. Arguments heard, despite service of notice through speed post as well as vide email the respondent did not file its reply to the complaint.
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 and 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. The Act is to protect the rights of the stake-holders 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.

9. On consideration of the circumstances, the evidence and other record and submissions made by the complainants and based on the findings of the authority regarding contravention as per provisions rule 28(2)(a), the Authority is satisfied that the respondent is in contravention of the provisions of the Act. Accordingly, it is the failure of the promoter to fulfil his obligations, responsibilities as per the apartment buyer's agreement dated 11.01.2013 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.

10. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act:-

1. The respondent shall pay delay possession charges at the prescribed rate of interest of 10.20% p.a. with effect from 11.07.2016 (due date of delivery of possession) till the date of this order as provided under the proviso to section 18(1) of the Act read with Rule 15 of the Rules.
2. The arrears of interest accrued so far from the due date of delivery of possession i.e.11.07.2016 till the date of this order

shall be paid to the complainants within a period of 90 days and thereafter monthly payment of interest till offer of possession shall be paid before 10th of each subsequent English calendar month;

3. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. Interest on the due payments from the complainants shall be charged by the respondent at the prescribed rate of interest @ 10.20% p.a. which is the same as is being granted to the complainants in case of delayed possession charges.
4. The respondent shall not charge anything from the complainants which is not the part of buyer's agreement.

11. Complaint stands disposed of.
12. Case file be consigned to the registry.


Samir Kumar
(Member)


Subhash Chander Kush
(Member)

Haryana Real Estate Regulatory Authority, Gurugram

Date: -18.12.2019.