

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

Complaint no. : 1120 of 2019
First date of hearing : 12.12.2019
Date of decision : 12.02.2020

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

Mr. Gagan Sehgal

Address: Orchid Garden Suncity, Sector-54,
Gurugram-122001

Also, at: Tower 2/001, Bemonte, Sector-53,
Gurugram

Respondent

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE.

Ms. Shriya Takkar

Advocate for the complainants

None on behalf of respondent

ORDER

1. The present complaint has been filed by the complainants/promoter M3M India Private Limited and Manglam Multiplex Private Limited against the allottee Mr. Gagan Sehgal

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 upto 15.10.2007 52 of 2009 dated 28.08.2009 valid upto 27.08.2017 35 of 2010 dated 06.05.2010 valid upto 05.05.2020
6.	Name of licensee	Manglam Multiplex Pvt. Ltd.
7.	Unit no., Tower no.	MGE-2 TW-07/07b, level 07, Tower 07
8.	super area as per BBA	4465 sq. ft.
9.	super area	4992 sq. ft. (revised area) (As per notice of possession dated 13.03.2018)

10.	Increase/decrease in super-area	Increase 527 sq. Ft.
11.	Date of execution of agreement	08.04.2011 (page no. 57 of the complaint)
12.	Payment plan	Construction linked payment plan
13.	Total sale consideration	Rs. 5,41,92,832/- (As per statement of account, page no. 105 of the complaint)
14.	Total amount paid by the complainant	Rs. 5,12,63,121/- (As per statement of account, page no. 105 of the complaint)
15.	Date of construction	18.02.2013
16.	Due date of delivery of possession as per agreement (as per Clause 14.1, 36months from the date of commencement of construction or from the date of execution of agreement whichever is later plus 6 months grace period)	18.08.2016 (calculated from the first plain cement concrete/mud slab of the tower (i.e. 18.02.2013) as alleged by the complainant in Claus 8 at page no. 15 of the complaint)
17.	Date of offer of possession	13.03.2018 (page no. 103 of the complaint)
18.	Status of the project	OC for tower 07 received on 25.07.2017

19.	Period of delay in handing over possession till offer of possession	1 year 6 months 23 days
20.	Specific relief sought	<ul style="list-style-type: none"> • To direct the respondent to take the possession of the said apartment • To direct the respondent to pay the balance consideration and delayed interest • To direct the respondent to pay holding charges • To direct the respondent 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 aforementioned 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 filed a consumer complaint No. CC/1403/2017 before the national consumer disputes redressal Commission (NCDRC) for seeking refund of the deposited amount of Rs. 5,12,63,121/- against a total sale consideration of Rs. 5,41,92,832/- as per the statement of accounts. Hence, this complaint for issuing above mentioned directions to the respondent.

4. Before filing the complaint in the authority, the complainants sent copies of the complaint and the documents to the respondent at his given address through speed post as well as on his email address which were delivered to him. Service proof has been filed on the record. After the filing of the complaint in the authority, notice was also sent to the respondent through speed post as well as on the given email address. The same have been duly delivered to/ received by the respondent both ways. Despite that the respondent has failed to put his appearance or to file a reply before the authority. Respondent is accordingly proceeded ex-parte.

5. Arguments on behalf of the complainants are heard.

6. Facts are not in dispute. Documents are also not in dispute. The averments made in the complaint stand unrebutted. After receiving the occupation certificate of the project by the

complainants/ promoter on 25.07.2017 offer of possession letter was issued to the respondents on 13.03.2018 (page no. 103 of the complaint) submitting the documents as per the offer of possession letter for handing over the possession but the respondent did not comply with the same.

7. 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.
8. The possession of the subject apartment was to be handed over to the respondents within 36 months from the date of commencement of construction which shall mean the date of laying of the first plain cement concrete/mud slab of the tower i.e. 18.02.2013 as alleged by complainant in clause 8 page 15 of the complaint or the date of execution of agreement whichever is later and 180 days grace period which comes to 18.08.2016. However, admittedly the offer of possession letter in respect of the subject apartment was issued by the complainants to the respondent on 13.03.2018. Therefore, the complainants/promoter is liable to pay the delayed possession charges (DPC) for the said period to the respondent at the prescribed rate of interest.

Decision and directions of the Authority:


10. 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 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/promoter shall pay the delayed possession charges (DPC) with effect from 18.08.2016(due date of possession) to 13.03.2018 (offer of possession) at the prescribed rate of interest of 10.15% per annum to the respondents and shall adjust the said amount towards the final amount to be paid by the respondent.
- c) In the event the respondent(allottee) fails to take over the possession of the allotted unit within a period of one month the promoter (complainants) shall be entitled to charge maintenance charges.
- d) The allottee/respondent is directed to take over the possession of the allotted unit within a period of one

month by paying remaining dues, if any alongwith prescribed rate of interest i.e. 10.15% per annum to the promoter/complainant failing which the promoter (complainants) shall be entitled to charge maintenance charges.

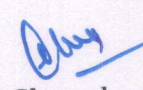
10. Complaint stands disposed of.

11. File be consigned to the registry


Samir Kumar
(Member)

Date 12.02.2020

JUDGEMENT UPLOADED ON 19.03.2020


Subhash Chander Kush
(Member)