HARERA
GURUGRAM

BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.	:	**1093/2019**
First date of hearing:		**10.10.2019**
Date of decision	:	**12.12.2019**

M3M INDIA PRIVATE LIMITED
Address: SB/C/5L/Office/008, M3M Urbana,
Gurugram Manesar Urban Complex, Sector-67
Gurugram-122102, Haryana

Complainant

Versus

FAIRWEALTH SECURITIES LIMITED
Address: 651-652, Udyog Vihar Phase-5,
Gurugram, 122001, Haryana

Respondent

CORAM:
Shri Samir Kumar   **Member**
Shri Subhash Chander Kush   **Member**

APPEARANCE:
Ms Shriya Takkar   Advocate for complainant
None present   Advocate for respondent

ORDER

1. The present complaint has been filed by the complainant/promoter M3M India Private Limited against the allottee company Fairwealth Securities Limited, 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 complainant, 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 16.10.2007valid 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
6.	Name of licensee	Manglam Multiplex Pvt. Ltd.
7.	Unit no., Tower no.	MGE-2, TW-04/07A, level 07
8.	Carpet area	3799 sq. ft.
9.	Date of execution of agreement	26.10.2012 (Page 63 of the complaint)
10.	Payment plan	Construction linked plan
11.	Total sale consideration	Rs. 4,86,70,892/- (as per statement of account, page 132 of the complaint)
12.	Total amount paid by the complainant	Rs. 4,40,00,630/- (as per statement of account, page 132 of the complaint)

13.	Due date of delivery of possession as per agreement (clause 16.1 36 months from the date of commencement of construction and the date execution of agreement, whichever is later plus 180 days grace period)	**26.04.2016** **(due date of possession is calculated from the date of agreement)**
14.	Period of delay in handing over possession	1year 3 months 5days
15.	Details of Occupation Certificate	Dated 25.07.2017 (page 125 of the complaint)
16.	Date of offer of possession	01.08.2017 (page 130 of the complaint)
17.	Specific relief sought	• 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. Hence, this complaint for issuing directions to the respondent.

4. Respondent has not filed the reply to the complaint.

5. Arguments heard.

6. Facts are not in dispute. Documents are also not in dispute. Respondent after receiving of the occupation certificate of the project by the complainant/promotor on 25.07.2017 and offer of possession letter was issued to the respondent on 01.08.2017. Thereby asking the respondent to clear all his dues on or before 30.09.2017, submitting the documents as per the offer letter for handing over the possession. 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 him in this regard is nothing but after thought. He is 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 respondent within 36 months and 6 months grace period from the date of commencement of construction or the date of execution of agreement, whichever is later, which comes out to be 26.04.2016 as calculated from the date of execution of agreement. However, admittedly the offer of possession letter in respect of the subject apartment was issued by the complainant to the respondent on 01.08.2017. 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.

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 complainant/promoter shall pay the delayed possession charges (DPC) with effect from 26.04.2016 to 01.08.2017 at the prescribed rate of interest of 10.20% per annum to the respondent 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/promoter.

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 16.05.2020