BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA REAL ESTATE REGULATORY AUHORITY, GURUGRAM.

Complaint No. :2462-2024
Date of Decision: 16.11.2026

Mr. Santosh Kumar son of Rajeshwar Prasad Singh, resident of H.No.1350, Sector-45, Gurugram, Haryana-122003.

..... Complainant.

Versus

M/s Sector-113, Gatevida Developers Private Ltd., formerly known as Lemon Tree Land and Developers Pvt. Ltd.) (A subsidiary of Tata Housing Development Company Ltd.), Flat No.GF-3, Naurang House, Plot No.5, Block-134, 21, Kasturba Gandhi Marg, New Delhi-110001.

..... Respondent.

APPEARANCE

For Complainant: **Mr. Ravi Kumar, Advocate.**
For Respondent: **Mr. Sumesh Malhotra, Advocate.**

ORDER

This is a complaint filed by Mr. Santosh Kumar(allottee) under section 31 of The Real Estate (Regulation

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and Development), Act 2016 (in brief Act of 2016) against M/s Sector-113, Gatevida Developers Private Ltd (promoter).

2. Briefly stated, according to the complainant, in the year 2011, he booked a flat bearing No.1504, Tower-E, having the super area of 1585 sq. ft. in the Residential Group Housing Project "Gurgaon Gateway" situated at Revenue village Bajghera, Sectors 112-113, Gurugram, being developed by the respondent. He (complainant) paid booking amount of Rs.10 lakhs. After that, he (complainant) and the respondent entered into a Builder Buyer's Agreement (BBA) for the property, which was duly allotted by the respondent in his (complainant) name. However, copy of that BBA has not been supplied to him by the respondent.

3. That he (complainant) paid an amount of Rs.52,44,207/-, out of total sale consideration of Rs.2,02,42,960/-. That thereafter, he (complainant) approached the respondent to change his flat/unit and on his request, the unit was changed to Flat No.1804, Tower-E and he (complainant) and respondent entered into an Agreement to Sell dated 19.01.2015 and an allotment letter was also issued on the same day.

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4. That he (complainant) adopted payment plan i.e. 25% at the time of booking and remaining 75% at the time of handing over of possession. That he (complainant) was shocked to know that vide letter dated 09.09.2015, the respondent cancelled his unit. When he (complainant) approached the respondent, it (respondent) assured him that unit No.1804 was in his name and the cancellation notice has been sent wrongly.

5. That in the year 2017, he (complainant) met with various ailments and was not able to make the payment on time and sought some more time for making payment. However, the respondent cancelled his unit No.1804 vide letter dated 17.04.2018. After that, he (complainant) came to know that the respondent has sold out his unit to some other allottee without refunding his hard-earned money. The respondent did not comply with the terms and conditions of the BBA and did not handover the possession of the unit till date. Therefore, it (respondent) is liable to pay pendent lite interest and further interest till date of actual payment.

6. Contending all this, complainant has sought following compensation: -

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i) to direct the respondent to refund of the amount of Rs.52,44,207/- received by the promoter in respect of the allotted unit with interest at the prescribed rate;

ii) to direct the respondent to pay Rs.50 lakhs towards the mental agony and pain suffered by them as well as loss of their valuables time, energy and money and travel expenses and staying in hotels; and

iii) to direct the respondent to pay compensation of Rs. One lakh towards litigation charges.

7. The respondent contested the complaint by filing a written reply. It is averred that the complainant approached it (respondent) in June 2013 and submitted an application for booking a residential apartment. The complainant has been a defaulter since inception. That the present complaint has been filed after 7 years of cancellation letter dated 17.04.2018.

8. That due to default of the complainant, it (respondent) issued a demand notice to him, however, he paid no heed to the demand notice. Accordingly, it (respondent) issued two reminders dated 22.08.2013 &17.09.2013 to the complainant. Upon non receipt of payment, it (respondent) issued a notice prior to cancellation dated 21.09.2013 intimating the complainant that in the event dues amount was not paid, the allotment of the apartment

shall be cancelled and booking amount of Rs.10 lakhs or 15% of sale consideration shall be forfeited.

9. That it (respondent) issued a final pre-cancellation letter dated 19.10.2013 extending due date of payment of last due till 31.10.2013. Due to malevolent inactions of the complainant, it (respondent) was left with no choice but to cancel the allotment of the apartment vide cancellation letter dated 06.11.2013.

10. That pursuant to the cancellation letter, the complainant paid the second instalment and proceeded with defaulting on the payment of third instalment. It (respondent) issued a reminder dated 01.09.2014. That upon passing a more than a year, on 09.01.2015, the complainant vide an email requested it (respondent) to revoke cancellation and transfer the funds and interest accrued for fresh allotment of unit bearing No.1804 in Tower-E. On his request, it (respondent) made a fresh allotment of the new apartment in favour of the complainant for a total sale consideration of Rs.1,92,94,960/- vide allotment letter dated 19.01.2015 and all amounts paid towards apartment bearing No.1504 were transferred towards the new apartment, wherein the complainant agreed to a construction linked payment plan.

11. That pursuant to the allotment of new apartment, the complainant was required to make payments in instalments, however, after initial payment of Rs.18 lakhs, the complainant once again started to default on payment of the instalments due, for which, it (respondent) had issued demand letters, reminders and notices prior to cancellation on several occasions and thereinafter, in 2017, the complainant was informed to make the payment of due instalments, failing which the allotment of new apartment would be cancelled, however, he paid no heed. It (respondent) issued a cancellation letter dated 17.04.2018. The present complaint has been filed in May 2024 i.e. after passing of 6 years without any sufficient cause or reason.

12. That it (respondent) made several efforts to secure compliance by the complainant, calling upon him repeatedly to clear outstanding dues, but despite receiving notices and reminders, he (complainant) remained willfully in breach and failed to respond or take corrective steps.

13. Contending all this, the respondent has prayed to dismiss the complaint.

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14. Both parties filed affidavits in support of their claims. I have heard learned counsels appearing on behalf of both of parties and perused the record on file.

15. It is submitted by learned counsel for the complainant that despite order of Authority to refund the paid-up payment, the respondent did not repay the amount. There was delay in handing over possession of unit on promised due date and the respondent vide demand letters did not adjust the delay possession interest and subsequently terminated the unit without following any refund. All this caused physical harassment and mental pain to the complainant.

16. As described above, the complainant approached the Authority by filing complaint No.5460 of 2023 seeking refund of entire amount paid by the same along with interest. Said complaint has been decided by the Authority vide order dated 19.09.2024. The respondent has been directed to refund the paid-up amount of Rs.52,44,207/- after deducting the earnest money which shall not exceed 10% of the sale consideration of Rs.1,92,94,960/- along with the interest at the prescribed rate i.e. 11.10% on such balance amount from date of termination i.e. 17.04.2018 till actual date of

realization and further period of 90 days was given to the respondent to comply with the directions given in the order.

17. Finding fault in the complainant himself, the Authority noted that the complainant has paid Rs.52,44,207/- against the total sale consideration of Rs.1,92,94,960/-. The respondent issued multiple reminders and demand letters concerning the payment of the outstanding amounts owed. Following the non-receipt of payment, the respondent sent several notices prior to cancellation, formally notifying the complainant of the impending action. Due to continued inaction on the part of the complainant, the respondent subsequently issued a termination letter dated 17.04.2018. Therefore, the termination issued by the respondent was found valid.

18. From perusal of the aforesaid order of the Authority, it is abundantly clear that due to the continued inaction i.e. default in fulfilling payment obligations on the part of the complainant despite receiving multiple reminders and demand letters, the respondent issued a termination letter dated 17.04.2018. The termination issued by the respondent in relation to the unit was

deemed valid. In this way, the complainant is not entitled to any relief as claimed by him.

19. If the respondent is not ready to refund paid-up amount, despite order of Authority as claimed by the complainant same could approach the Authority by filing an execution petition but complaint before this forum seeking compensation is not maintainable.

20. Complaint in hands is thus dismissed. File be consigned to the record room.

Announced in open court today i.e. on **16.11.2026.**

(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory
Authority, Gurugram.