

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

**Complaint no.** : 1806 of 2019  
**First date of hearing:** 10.09.2019  
**Date of decision** : 19.02.2020

1. Smt. Monia Sharma  
2. Shri. Himanshu Sharma  
R/o A-803, Sanjivan CGHS,  
Plot No. 1, Sector-12, Dwarka, New Delhi

**Complainants**

Versus

M/s Ramprastha Promoters and Developers  
Pvt. Ltd.  
**Address:** Plot No. 114, Sector 44,  
Gurugram-122002

**Respondent**

**CORAM**

Shri Samir Kumar  
Shri Subhash Chander Kush

**Member**  
**Member**

**APPEARANCE:**

Ms. Vridhi Sharma Advocate for the Complainants  
Shri. Dheeraj Kapoor Advocate for the Respondent  
Shri. Ashish Budhiraja AR of respondent company

**ORDER**

1. The present complaint dated 22.04.2019 has been filed by the complainants/allottees 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 to Sell 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                                    |  |
|------|--|--|
| 1.   | Project Name and location of the project | "THE EDGE TOWERS"<br>Ramprastha City, Sector 37D, Gurugram                     |
| 2.   | Project Area                             | 60.5112 Acres  |
| 3.   | Nature of the project                    | Group Housing Complex  |
| 4.   | DTCP license no. and validity status     | 33 of 2008 Dated 19.02.2008 valid up to 18.02.2020                             |
| 5.   | Name of licensee                         | S.A. Infratech. Pvt. Ltd.  |
| 6.   | RERA Registered/not registered           | <b>Registered vide no. 279 of 2017 dated 09.10.2017(Tower A to G, N and O)</b> |
| 7.   | RERA registration valid Upto             | 31.12.2018 and applied for further extension of one year                       |



|     |   |  |
|-----|---|--|
| 7.  | Unit no.  | B-1401, 14 <sup>th</sup> Floor,<br>Tower B (Page no. 37 of<br>complaint) |
| 9.  | Unit measuring  | 2390 sq. ft.<br>(Page no. 37 of<br>complaint)                            |
| 10. | Date of execution of Agreement to<br>Sell   | 04.07.2010<br>(Page no. 32 of<br>complaint)                              |
| 11. | Payment plan  | Possession Linked<br>Payment Plan  |
| 12. | Total sale consideration  | ₹78,62,150/-<br>(Page no. 35 of Reply)                                   |
| 13. | Amount paid by the Allottee   | ₹70,75,936/-<br>(Page no. 35 of Reply)                                   |
| 14. | Due date of delivery of<br>possession as per clause 15(a)<br>of Apartment Buyer's<br>Agreement -(By 31.08.2012 +<br>Grace Period of 120 Days) | 31.12.2012   |
| 15. | Delay in handling over<br>possession till date  | Possession has not been<br>offered so far                                |
| 16. | Status of project   | Ongoing  |
| 17. | Specific relief sought (in specific<br>terms)   | To direct the<br>respondent to<br>immediately deliver the                |



|  |  |   |
|--|--|---|
|  |  | possession and to pay delayed possession charges at prescribed rate of interest per annum for delayed period in handing over the possession of the subject apartment. |
|--|--|---|

3. As per clause 15(a) of the Apartment Buyer's Agreement the possession was to be handed over by 31.08.2012, plus a grace period of 120 days from the date of Apartment Buyer's Agreement, which comes out to be 31.12.2012. Clause 15(a) of the Apartment Buyer's Agreement is reproduced herein below:

**"15. POSSESSION**

**(a) Time of handing over the Possession**

*Subject to terms of this clause and subject to the Allottee having complied with all the terms and condition of this Agreement and the Application, and not being in default under any of the provisions of this Agreement and compliance with all provisions, formalities, documentation etc., as prescribed by RAMPRASTHA. RAMPRASTHA proposed to hand over the possession of the Apartment by 31/08/2012 the Allottee agrees and understands that RAMPRASTHA shall be entitled to a grace period of hundred and twenty days (120) days, for applying and obtaining the occupation certificate in respect of the Group Housing Complex."*



4. As per the facts mentioned aforesaid it is crystal clear that as per clause 15(a) of the Apartment Buyer's Agreement the unit no. B-1401, 14th Floor, Tower B had to be handed over to the allottee by 31.08.2012 from the date of execution of agreement, plus a grace period of 120 Days for applying and obtaining the occupation certificate which comes out to be 31.12.2012. Whereas the builder has miserably failed in completing the project and handing over the unit to the home buyer for which he has paid an amount of ₹70,75,936/- against the total sale consideration of ₹78,62,150/- Since the builder has failed miserably in completing his obligation as per the provision of section 18(1) of RERA Act the buyer can either seek refund or possession at prescribed rate of interest till the actual handing over of possession. In the present case the buyer is seeking delayed possession charges.
5. The respondent submitted in its reply that the delay in construction was for the reason beyond their control and as stated in the reply.
6. Arguments of both sides were heard. However, the respondent could not submit any cogent reasoning for not handing over the flat or unit within stipulated time as per clause 15(a) of the Apartment Buyer's Agreement.
7. The Authority is of the considered view that there is a delay on the part of the respondent to offer physical possession of the allotted unit to the complainants. As per terms and conditions of Apartment Buyer's Agreement executed between the





parties and as such, the complainants is entitled for delayed possession charges under section 18 (1) of the Real Estate (Regulation & Development) Act, 2016 at the prescribed rate of interest i.e. 10.20% per annum on the amount deposited by the buyer with the respondent from the due date of possession till offer of actual physical possession.

8. By virtue of clause 15(a) of Apartment Buyer's Agreement executed between the parties on 04.07.2010, possession of the booked unit was to be delivered by 31.08.2012 plus a grace period of 120 days from the date of Apartment Buyer's Agreement, which comes out to be 31.12.2012. Accordingly, it is the failure of the respondent to fulfil his obligations, responsibilities as per the Agreement to Sell dated 04.07.2010 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. As such the complainants is entitled to delay possession charges at the prescribed rate of interest i.e. 10.20% p.a. w.e.f. 01.01.2013 till the offer of actual physical possession of the booked unit as per the proviso to section 18(1) of the Act read with rules 15 of the Rules.

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

- i. The respondent is directed to pay interest accrued so far at the prescribed rate of 10.20% p.a. for delay in handing over the possession from the due date of possession i.e. 01.01.2013, till the date of this order to the complainants





within 90 days from the date of decision and subsequent interest to be paid by the 10th of each succeeding month, till the actual physical possession of the unit.

- ii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- iii. The respondent shall not charge anything which is not part of the agreement.
- iv. Complaint stands disposed of.
- v. File be consigned to registry.

*18.3.20*  
**Samir Kumar**  
(Member)

*[Signature]*  
**Subhash Chander Kush**  
(Member)

Haryana Real Estate Regulatory Authority, Gurugram  
Dated: 19.02.2020

Judgement uploaded on 13.05.2020.