

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

Complaint no. : 3263 of 2019
First date of hearing: 22.10.2019
Date of decision : 20.02.2020

M/s Kautilya Venture Capital Company Ltd
Address: 711, Jaina Tower-II, District Centre,
Janakpuri, New Delhi-110058

Complainant


Versus

M/s Ramprastha Promoters and Developers
Private Limited
Address: Plot No. 114, Sector 44,
Gurugram-122002

Respondent

CORAM

Shri Samir Kumar
Shri Subhash Chander Kush

**Member
Member**

APPEARANCE:

Shri. Vinod Kapoor Advocate for the Complainant
Shri. Kishore Pandey AR of Complainant company
Shri. Dheeraj Kapoor Advocate for the Respondent
Ms. Rashmeet Virk AR of respondent company

ORDER

1. The present complaint dated 07.08.2019 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 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 of the project	Ramprastha City, Sector 92, 93 and 95, Gurugram
2.	Project Area	128.594 Acres
3.	Nature of the project	Plotted Colony
4.	DTCP license no. and validity status	44 of 2010 Dated 09.06.2010 valid up to 08.06.2016
5.	Name of licensee	Ramprastha Estate Private Limited and 25 others
6.	RERA Registered/not registered	Unregistered
7.	Unit no.	1. D-413, Tower D (Page no. 26 of complaint) 2. D-414, Tower D

		(Page no. 79 of complaint)
8.	Unit measuring	300 sq. yds. (Page no. 26 & 82 of complaint)
9.	Date of execution of Agreement to Sell	28.12.2013 (Page no. 23 & 79 of complaint)
10.	Payment plan	Possession Linked Plan
11.	Total sale consideration	₹48,15,000/- per plot (Page no. 94 & 38 of Complaint)
12.	Amount paid by the Allottee	₹42,33,000/- per plot
13.	Due date of delivery of possession as per clause 11(a) and 11(d) of Plot Buyer's Agreement -(30 months + Grace Period of 6 months from the date of execution of agreement)	28.12.2016
14.	Delay in handing over possession till date	Possession has not been offered so far
15.	Status of project	Ongoing
16.	Specific relief sought (in specific terms)	To direct the respondent to 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.
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3. As per clause 11(a) and 11(d) of the Plot Buyer's Agreement the possession was to be handed over within 30 months plus a grace period of 6 months from the date of execution of Plot Buyer's Agreement, which comes out to be 28.12.2016. Clause 11(a) and 11(d) of the Plot Buyer's Agreement is reproduced herein below:

"11. Schedule of Possession

- (a) *The Company shall endeavour to offer possession of the said Plot, within thirty (30) months from the date of execution of this Agreement subject to timely payment by the Intending allottee(s) of Total Price, stamp duty, registration charges and any other charges due and payable according to the payment plan.*
- (b) *.....*
- (c) *.....*
- (d) *Failure of company to offer possession and payment of compensation: In the event the Company fails to offer possession of the Said Plot, within thirty(30) months from the date of execution of this agreement then after the expiry of grace period of 6 months from the said 30(thirty)months*



subject to the Intending Allottee(s) having made all payments as per the Payment Plan and subject to the terms,”

4. As per the facts mentioned in the Performa at page no. 2 to 4 it is crystal clear that as per clause 11(a) and 11(d) of the Plot Buyer's Agreement the unit no. D-413, Tower D and D-414, Tower D had to be handed over to allottee by 28.06.2016 from the date of execution of Plot Buyer's Agreement, plus a grace period of 6 months which comes out to be 28.12.2016. 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 ₹42,33,000/- per plot against the total sale consideration of ₹48,15,000/- per plot Since the builder has failed miserably in completing his obligation as per the provision of section 18(1) of RERA Act the buyer is entitled for delay possession charges at prescribed rate of interest till the actual handing over of possession.
5. The respondent submitted in its reply that the delay in construction was for the reason beyond its control and as stated in its 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 11(a) and 11(d) of the Plot 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 complainant as per terms and conditions of Plot Buyer's Agreement executed between the parties and as

such, the complainant 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 i.e. 28.12.2016 till actual offer of physical possession.

8. Hence, the Authority hereby pass this order and issue 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. 28.12.2016. till the date of this order to the complainant within 90 days from the date of decision and subsequent interest to be paid by the 10th of each succeeding month, till the actual offer of physical possession of the unit.
- ii. The complainant is 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.


Samir Kumar
(Member)


Subhash Chander Kush
(Member)

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 20.02.2020

Judgement uploaded on 02.06.2020