

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

Complaint no. : 6750 of 2019
First date of hearing : 15.01.2020
Date of decision : 03.03.2020

1. Ms. Simmi Suri
2. Mr. Raman Suri
R/o: 945, Vikas Kunj, Vikas Puri, New Delhi-
110018

Complainants

Versus

M/s SS Group Pvt. Ltd.
Office at: 77, SS House, Sector 44,
Gurugram, Haryana-122003.

Respondent

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE:

Shri Rit Arona
Shri C.K. Sharma and
Shri Dhruv Dutt Sharma

Advocate for complainants
Advocates for the respondent

ORDER

1. The present complaint dated 27.12.2019 has been filed by the complainants/allottees in Form CRA 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 for sale executed inter se them.

- 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	Information
1.	Project name and location	"The Coralwood", Sector-84, Gurugram.
2.	Project area	15.275 acres
3.	Nature of the project	Group housing colony
4.	DTCP license no. and validity status	59 of 2008 dated 19.03.2008 valid/renewal upto 18.03.2020
5.	RERA Registered/ not registered	Registered vide no. 381 of 2017 dated 12.12.2017
6.	HRERA registration certificate valid up to	31.12.2019
7.	Occupation certificate granted on	17.10.2018 [Page 42 of reply]
8.	Unit no.	1701, 17 th floor, tower-D, type-B



		[Page 34 of complaint]
9.	Unit measuring (super area)	1890 sq. ft.
10.	Date of execution of flay buyer agreement	27.02.2012 [Page 32 of complaint]
11.	Payment plan	Construction linked payment plan [Page 51 of complaint]
12.	Total consideration as per flat buyer's agreement	Rs. 57,47,840/- [Page 51 of complaint]
13.	Total amount paid by the complainants	Rs.60,31,979/- [Page 41 of reply]
14.	Due date of delivery of possession as per clause 8.1(a) of flat buyer's agreement i.e. within a period of 36 months from the date of execution of this agreement (27.02.2012) plus grace period of 90 days. [Page 38 of complaint]	27.05.2015
15.	Offer of possession to the complainants via email	22.10.2018 [Page 46 of reply]
16.	Delay in handing over possession till date of offer of possession via email dated 22.10.2018	3 years 4 months and 25 days
17.	Specific reliefs sought	i. Direct the respondent to deliver immediate possession of the unit no. 1701, 17 th floor, tower-



		D, type B located at project "the coralwood: at Sector-84, Gurugram, Haryana complete in all manner along with interest at prescribed rate of interest on the paid amount from promised due date of possession.
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3. As per clause 8.1(a) of the flat buyer agreement dated i.e. 27.02.2012, the possession was to be handed over within a period of 36 months from the date of execution of agreement plus 90 days grace period (27.02.2012) which comes out to be 27.05.2015. Clause 8.1(a) of the flat buyer agreement is reproduced below:

"8.1(a) Time of handing over the possession:

(a) Subject to terms of this clause and subject to the Flat Buyer(s) having complied with all the terms and condition of this Agreement and not being in default under any if the provisions of this Agreement and complied with all the provisions, formalities, documentation etc., as prescribed by the Developer, the Developer proposes to handover the possession of the Flat within a period of thirty six (36) months from the date of signing of this Agreement. However, this period will be automatically stand extended for the time taken in getting the building plans sanctioned. The Flat Buyer(s) agrees and understands that the Developer shall be entitled to a grace period of 90 days, after the expiry of thirty six (36)

months or such extended period (for want of building sanctioned plans), for applying and obtaining the Occupation Certificate in respect of the group housing complex.”

4. The possession of the subject apartment has been offered by the respondent to the complainants via email dated 22.10.2018 after receipt of date of occupation certificate i.e. 17.10.2018. The complainants seek delay interest as per section 18 of the Act. The complainants reserve their right to file a separate application for seeking cost of litigation from the Adjudicating Officer. Hence, this complaint for the reliefs as stated above.
5. The complainants submitted that on 22.10.2018 they have received an email from the respondent company informing that developer has received the occupation certificate for tower A,B,C,D,E,H,I and J in “the coralwood” situated in sector-84 Gurugram and the same has been delivered by the respondent vide offer of possession dated and thereafter an email dated 22.10.2018 also sent to complainants w.r.t. the offer of possession after receipt of occupation certificate dated 17.10.2018.
6. On the date of hearing, the Authority explained to the respondent/promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.

7. The respondent contests the complaint and submissions made therein, in brief, as summarized as under:-
 - i. The respondent further submitted that after having applied for grant of occupation certificate in respect of the project, which had thereafter been even issued through memo dated 17.10.2018 had offered possession to the complainants vide letter dated 17.08.2018 and e-mail dated 22.10.2018 and 28.11.2019.
 - ii. The respondent submitted that they have already completed the construction of the tower in which the unit allotted to the complainants is located and the said flat is complete in all regards as agreed. Moreover, large numbers of families have already shifted after having taken possession in the said project.
8. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents.
9. The Authority on the basis of information and explanation and other submissions made and the documents filed by the



complainants and the respondent is of considered view that there is no need of further hearing in the complaint.

10. On consideration of the circumstances, the evidence and other record and submissions made by the complainants and the respondent and based on the findings of the authority regarding contravention as per provisions of rule 28(2)(a), the Authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 8.1(a) of the flat buyer agreement executed between the parties on 27.02.2012, possession of the booked unit was to be delivered within a period of 36 months plus 90 days grace period from the date of execution of allotment letter. As such the due date of delivery of possession comes out to be 27.05.2015. Accordingly, it is the failure of the promoter to fulfil his obligations, responsibilities as per the flat buyer agreement dated 27.02.2012 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 are entitled for delayed possession charges @10.15% p.a. w.e.f.

27.05.2015 till offer of possession i.e. 22.10.2018 as per provisions of section 18(1) of the Act read with rule 15 of the Rules.

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

- i. The respondent is directed to pay the interest at the prescribed rate i.e. 10.15% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e. 27.05.2015 till the offer of possession i.e. 22.10.2018.
- 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 from the complainants which is not part of the flat buyer's agreement.
- iv. Interest on the due payments from the complainants shall be charged at the prescribed rate of interest i.e. 10.15% by the promoter which is the same as is being granted to the complainants in case of delayed possession charges.

12. Complaint stands disposed of.
13. File be consigned to registry.


(Samir Kumar)

Member

Haryana Real Estate Regulatory Authority, Gurugram


(Subhash Chander Kush)

Member

Dated:03.03.2020

Judgment uploaded on 02.06.2020