

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

Complaint no. : 6689 Of 2019
First date of hearing: 27.02.2020
Date of decision : 27.02.220

Aruna

Address: R/o. House No. 112, Sarup Garden,
Near Railway Station, Gurgaon

Complainant

Versus

Pioneer Urban Land and Infrastructure Ltd.
Address: Paras Downtown Centre, Floor-7
Golf Course Road Sector-53, Gurgaon

Respondent

CORAM

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE:

Shri Arun Yadav
Shri Venket Rao

Advocate for the complainant
Advocate for the respondent

ORDER

1. The present complaint dated 27.12.2019 has been filed by the complainant/allottee 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	Pioneer Urban , Sector-62-EWS, Gurugram
2.	Project Area	24.606 acres
3.	Nature of the project	Group Housing Colony
4.	DTCP license no. and validity status	268 of 2007 dated 03.12.2007 valid upto 02.12.2019
5.	Name of licensee	Pioneer Urban Land and Infrastructure and 4 others
6.	RERA Registered	Registered vide no. 101 of 2017 dated 24.08.2017
7.	RERA registration valid Upto	31.12.2019
8.	Unit no.	B-303, 3 rd floor (acc. to allotment letter, ann. P2, page no. 16 of the complaint)
9.	Unit measuring	200 sq. feet (page no. 22 of reply)
10.	Date of Allotment letter	03.07.2013 (page no. 16 of complaint)
11.	Payment plan	Time Linked Payment Plan

12.	Total sale consideration	Rs. 1,50,000/- (page no. 22 of reply)
13.	Amount paid by the Allottee	Rs. 1,31,441/- (as per receipt page no. 17 to 20 of complaint)
14.	Due date of delivery of possession	31.01.2017 (as alleged by complainant, page no. 5 of the complaint)
15.	Offer of Possession	04.10.2019 (as alleged by respondent but no document has been produced)
16.	Delay in handling over possession till offer the possession	2 years 8 months 5 days
17.	OC received on	28.07.2017 (ann. R-1, page 16 of the reply)
18.	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.

3. The details provided above have been checked on the basis of record available in the case file which has been provided by the complainant and the respondent. An apartment buyer's agreement not executed between the parties; allotment letter is available on record for the aforesaid apartment according to which the possession of the said unit was to be delivered to the complainant by 04.10.2019. The respondent has failed to fulfil its obligation, which is in violation of section 11(4)(a) of the Act.
4. Possession of the apartment/unit/plot has been offered on 04.10.2019. However, it is allegation of the complainant that the respondent has failed to give physical possession of the unit on time and no interest for the delayed period was offered by the respondent to the complainant till date. Hence, this complaint for the inter alia reliefs detailed above.
5. The complainant further submitted that he approached the respondent on various occasions and requested to hand over the possession of the apartment to the complainant as per promise made at the time of purchase, but the respondent deliberately and intentionally failed to do so.
6. The respondent submitted that the present complaint is not maintainable in law or on facts. The provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the 'Act') are not applicable to the project in question. It is pertinent to mention that the company has


already received the occupancy certificate for the Tower in question and also offered possession to the complainant.

7. The respondent submitted that there was no intentional delay in the construction on the part of the respondent. Delay was due to reasons detailed in the reply which were beyond its control.
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 complainant is of considered view that there is no need of further hearing in the complaint.
10. Arguments heard
11. On consideration of the circumstances, the evidence and other record and submissions made by the complainant and based on the findings of the authority the Authority is satisfied that the respondents are in contravention of the provisions of the Act. By virtue of clause 11(4)(a) of allotment letter issued on 03.07.2013 possession of the booked unit was to be delivered within time i.e. 04.10.2019. Accordingly, it is the failure of the respondent/promoter to fulfil his obligations, responsibilities as per the apartment buyer's agreement. The complainant has paid Rs.1,31,441/- as per receipt against total sale

consideration of Rs. 1,50,000/- as per receipt at page no. 17 to 20 of the complaint. As such the complainant is entitled for delayed possession charges i.e. 10.15% p.a. w.e.f. 31.01.2017 to 04.10.2019 as per provisions of section 18(1) of the real estate (Regulation and Development) Act, 2016.

12. 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 at the prescribed rate of 10.15% p.a. for delay in handing over the possession from the due date of possession i.e. 31.01.2017 till the offer of actual physical possession of the booked unit i.e. 04.10.2019.
 - ii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - iii. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order
13. Complaint stands disposed of.
14. File be consigned to registry.


Samir Kumar
(Member)


Subhash Chander Kush
(Member)

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 18.02.2020

JUDGEMENT UPLOADED ON 04.06.2020