

**HARYANA REAL ESTATE REGULATORY AUTHORITY
PANCHKULA, HARYANA**

Comp Nos. :

1. RERA-PKL 716/2018
2. RERA-PKL 720/2018
3. RERA-PKL 722/2018

Date : 13.12.2018

No. of Hearing : 1st

1. Darshan Devi Gupta

Versus

TDI Infrastructure Pvt. Ltd.

2. Suresh Arya

Versus

TDI Infrastructure Pvt. Ltd.

3. Suresh Arya

Versus

TDI Infrastructure Pvt. Ltd.

...Complainant

...Respondent

...Complainant

...Respondent

...Complainant

...Respondent

CORAM :

Sh. Rajan Gupta

Sh. Anil Kumar Panwar

Sh. Dilbag Singh Sihag

Chairman

Member

Member



APPEARANCE :

Sh. Vikas Deep

Counsel for Complainants

Sh. Shobit Phutela

Counsel for Respondent

Order:

1. All the above captioned cases have been taken up together as the grievances involved therein are similar and against the same project of the respondent wherein the lead case is Darshan Devi Gupta vs. TDI Infrastructure Pvt. Ltd Complaint No. 716-2018.
2. Ld. Counsel for complainant stated that the complainant booked a plot no. I-469 in the year 2005 in the project of respondent namely "TDI City" situated in Kundli , Sonapat. The complainant is aggrieved by the letter dated 20.04.2018 which refers to a public notice dated 21.12.2017. The respondent, through this notice, has advised his allottees to get the sale deed executed by 31.03.2018. This notice also mentions that the allottees can seek extension of time with maximum of five years for execution and registration of sale deed on payment of annual extension/holding charges. The last date of submission of application was 31.07.2018.

This letter also requires the allottee to start construction of the plot as per the terms of sale deed within a period of three years from the date



of intimation to take possession, failing which the plot holder will have to pay penalty as mentioned in the plot buyers agreement. The respondent further mentions that if the allottee is unable to commence the construction work within the stipulated period, he can apply for extension of time for construction by submitting an application for extension on payment of extension/holding charges. The maximum limit for extension granted would be five years. The last date of application for such extension was 31.07.2018. After that the original penalty as mentioned therein would apply from three years from the date of offer of possession.

Further, the complainant's grievance is that the respondent did not have Occupation Certificate/Part Completion Certificate at the time of offer of possession and was obtained at a later stage on 22.09.2017. Even the respondent has not supplied any information to the complainant regarding sanction plans, layout plans and other approvals. The complainant further challenges the levy of extension/ holding charges as mentioned in the letter. Thus, the complainant has filed the present complaint seeking the quashing of letter dated 20.04.2018.

3. The respondent has vehemently denied the allegation raised by the complainant against him. The respondent submitted that in the present case the sale deed had already been executed between the parties on 14.05.2010. Therefore, the provisions of RERA, Act are



inapplicable to the respondent and the respondent has duly transferred the title of the property to the complainant.

The respondent has admitted that the Part Completion Certificate has been received by the respondent on 22.09.2017. the respondent has stated that the plot of the Complainant is situated in the same area for which the Part Completion Certificate has been granted. Moreover, in case of plot the obtaining of Occupation / Completion Certificate is not a pre requisite for delivery of possession / execution of sale deed.

The respondent further submitted that the letter speaks about the payment of non-construction penalty to be imposed on the complainant only if he fails to start construction after the period of three years from taking possession. Thus, there is no illegality/infirmary with the letter and infact the complainant has herself failed to fulfil her obligations as per the sale deed.

4. While deciding these complaints at the outset, Authority will deal with the question of jurisdiction raised by the respondent's counsel. Question on this point is no more res integra because this Authority in **Complaint Case No. 144 of 2018 titled as "Sanju Jain Versus TDI Infrastructure Ltd."** has already ruled that the jurisdiction of Authority to adjudicate the complaint is not barred in respect of a project which is neither registered nor registerable.



The Authority in all these matters further observes that at this stage no cause of action has arisen for the complainants to file the above mentioned complaints. Since the sale deed has already been executed and the title has been duly transferred to the complainant, it is an obligation on the part of complainant to start the construction on the plot. In the present case, it is an admitted fact that the complainant has failed to start construction and already incurred cost of the extension / holding charges as per terms of notice. Thus, the complainant as per the letter is required to start the construction on the plot within a stipulated period mentioned therein. The respondent can recover the extension / holding charges provided the Department of Town & Country Planning permits the levy of such extension / holding charges. Thus in view of above, the Authority disposes of the abovementioned cases. The complainants are granted liberty to file matters afresh as and when the cause of action arises.



Dilbag Singh Sihag
Member



Anil Kumar Panwar
Member



Rajan Gupta
Chairman