

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

Complaint no. : 02 of 2018
First date of hearing: 10.04.2018
Date of decision : 13.12.2018

Mr. Kulbhushan Gupta,
R/o. H.No.1152, Sector 4, Urban Estate,
Gurugram, Haryana-122001.

Complainant

Versus

1. M/s Aaliyah Real Estate Pvt. Ltd.
2. Mr. Virendra Kumar Bhatia (Director)
3. Mr. Saahil Bhatia (Director)

Respondents

Regd. Office: N-71, Panchsheel Park,
New Delhi-110017.

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE:

Shri Kulbhushan Gupta Complainant in person
Shri Sukhbir Yadav Advocate for the complainant
Shri Arun Kumar Yadav Advocate for the respondent

**Settlement order interse Mr. Kulbhushan Gupta- complainant
and M/s Aaliyah Real Estate Pvt. Ltd. and ors.- respondents**

1. A complaint dated 16.02.2018 was filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 by the complainant Mr. Kulbhushan Gupta, against the promoters M/s Aaliyah Real



Estate Pvt. Ltd. and others on account of violation of the clause 2.1 of the commercial space buyer's agreement executed on 06.06.2014 in respect of shop described below in the project 'Baani City Center' for not handing over possession by the due date which is an obligation of the promoter under section 11(4)(a) of the Act *ibid*.

2. Since, the commercial space buyer's agreement has been executed on 06.06.2014 i.e. prior to the commencement of the Act *ibid*, therefore, the penal proceedings cannot be initiated retrospectively. Hence, the authority has decided to treat the present complaint as an application for non-compliance of contractual obligation on the part of the promoter/respondent in terms of section 34(f) of the Real Estate (Regulation and Development) Act, 2016.
3. The particulars of the complaint case are as under: -
 - Nature of the project- Commercial complex
 - DTCP license no.- 80 of 2010 dated 15.10.2010

1.	Name and location of the project	"Baani City Center", Sector 63, Village Maidawas, Gurugram.
2.	Project area	3.656 acres
3.	RERA registered/ not registered.	Not registered
4.	Applied for part OC on	22.05.2017
5.	Part OC granted on	16.01.2018
6.	Final notice for possession sent to the complainant on	05.02.2018



7.	Shop/unit no.	CG-018, ground floor
8.	Unit measuring	578 sq. ft.
9.	Date of execution of commercial space buyer's agreement	06.06.014
10.	Payment plan	Development link-retail new
11.	Basic sale price as per the said agreement	Rs.37,57,000/-
12.	Total consideration as per payment plan annexed to the said agreement	Rs.48,94,536.05/-
13.	Total amount paid by the complainant till date	Rs.26,75,332.8/-
14.	Percentage of consideration amount	Approx. 54.6 percent
15.	Date of delivery of possession as per clause 2.1 of buyer's agreement (42 Months + 180 days grace period from the date of approval of building plans or the date of execution of this agreement, whichever is later)	06.06.2018
16.	Delay in handing over possession from due date till offer of possession	No delay as final notice of possession was sent on 05.02.2018
17.	Penalty Clause for delay in handing over possession as per commercial space buyer's agreement dated 06.06.2014	Clause 2.6 of the agreement i.e. simple interest @9% per annum on the amounts paid by the intending purchaser for the actual time period of delay beyond the grace period until the date of notice of possession.



4. 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. A buyer's agreement dated 06.06.2014 is available on record for the aforesaid unit according to which the possession of the same was to be delivered by 06.06.2018. The complainant submitted that by 20.04.2016, he has paid total amount of Rs.26,75,332/- to the respondent as and when demanded by the respondent. That during the period 2016-2017, the respondent started demanding exorbitant amounts from the complainant and lastly on 20.09.2017, the respondent has demanded an amount of Rs.20,93,969/- from the complainant. The respondent has sent the final notice of offer of possession on 05.02.2018.

5. Taking cognizance of the complaint, the authority issued notice to the respondent for filing reply and appearance. The respondent appeared on 10.04.2018. The case came up for hearing on 10.04.2018, 24.04.2018, 17.05.2018, 05.07.2018, 10.07.2018, 09.08.2018, 16.08.2018, 12.09.2018, 16.10.2018, 31.10.2018, 27.11.2018 and 13.12.2018. The reply filed on behalf of the respondent has been perused. On 27.11.2018, the learned counsel for the complainant informed the authority that they have arrived at settlement with the respondent and accordingly, the complainant does not intend



to pursue the complaint. The said settlement deed was filed by both the parties on 13.12.2018.

6. The settlement agreement/ compromise dated 13.12.2018 was submitted to the authority during hearing on 13.12.2018 which has been taken on record. It is clarified that the total amount waived/reduced by the respondent in respect to the abovementioned unit is Rs.7,42,737.43/- out of the total due amount Rs.23,92,737.43/-. As such, the complainant has to pay a sum of Rs.16,50,000/- towards the remaining cost of the unit in terms of the said compromise.
7. Since both the parties have expressed their satisfaction over the amicable settlement vide compromise dated 13.12.2018, their contentious issues stand resolved. The complaint dated 16.02.2018 is disposed of accordingly.
8. The order is pronounced.
9. Case file be consigned to the registry.



(Samir Kumar)
Member

(Subhash Chander Kush)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated:

Judgement Uploaded on 05.01.2019

PROCEEDINGS OF THE DAY

Day and Date	Thursday and 13.12.2018
Complaint No.	02/2018 Case titled as Kulbhusan Gupta V/S Aaliyah Real Estate Pvt. Ltd.
Complainant	Kulbhusan Gupta
Represented through	Complainant in person with Shri Sukhbir Yadav, Advocate.
Respondent	Aaliyah Real Estate Pvt. Ltd.
Respondent Represented through	Shri Arun Kumar Yadav Advocate for the respondent.
Last date of hearing	27.11.2018
Proceeding Recorded by	Naresh Kumari

Proceedings

Counsel for the complainant submitted a Compromise deed dated 13.12.2018 arrived at between the parties which has been placed on record. This Compromise Deed has been signed by both the parties. Accordingly, the matter is disposed of in view of the compromise arrived at between the parties. Detailed order will follow. File be consigned to the registry.

Samir Kumar
(Member)
13.12.2018

Subhash Chander Kush
(Member)
13.12.2018