

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

Complaint no. : 15 of 2020
Date of first hearing : 20.02.2020
Date of decision : 18.11.2020

Smt. Gunjan Kumar Sinha
R/o: H-702, The Villas, Phase II,
DLF City, Gurugram

Complainant

Versus

M/s Krrish Realtech Pvt. Ltd.
Office at: 406, 4th Floor, Elegance Tower 8,
Jasola District centre,
New Delhi 110025

Respondent

CORAM:

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE:

Shri Ashok Kumar Arya
Shri Siddharth Das

Advocate for the complainant
Advocate for the respondent

ORDER

1. The present complaint dated 09.12.2019 has been filed by the complainant/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 allottees as per the agreement for sale 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 | Information |
|--------|--------------------------------------|--|
| 1. | Name and location of the project | "Krrish World", Sector 60, 61, 62, 63 and 65, Gurugram |
| 2. | Project area | 141.669 acres |
| 3. | Nature of the project | Residential Plotted Colony |
| 4. | DTCP license no. and validity status | 64 of 2010 dated 21.08.2010 valid Upto 20.08.2018 |
| 5. | Name of the Licensee | Brahma city and 47 others |
| 6. | RERA Registered/ not registered | 65 of 2019 dated 22.10.2019 for 59.93 acres |
| 7. | RERA registration valid up to | 24.12.2022 |
| 8. | Plot no. | 3D02 (As per page no. 11 of complaint) |



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|-----|--|--|
| | Revised plot no. | G17 (As per page no. 13 of complaint) |
| 9. | Plot admeasuring (As per page no. 11 of complaint) | 268 sq. yds. |
| | Revised Plot admeasuring (As per page no. 13 of complaint) | 267.617 sq. yds. |
| 10. | Date of provisional allotment letter (At page no. 11 of complaint) | 08.01.2013 |
| 11. | Date of plot buyer's agreement | Not executed |
| 12. | Date of cancellation of unit (As per page no. 11 of reply) | 03.04.2019 |
| 13. | Total consideration (As per page no. 14 of complaint) | Rs. 82,36,449/- (Excluding taxes) |
| 14. | Total amount paid by the complainant (As per page no. 14 of complaint) | Rs. 69,78,720/- |
| 15. | Date of transfer of residential plot (As per page no. 13 of complaint) | 20.02.2017 |
| 16. | Due date of delivery of possession (As submitted by the complainant in the court) | 08.01.2015 |
| 17. | Delay in handing over possession till date of decision i.e. 18.11.2020 | 5 years 10 months 10 days |

3. A plot no. 3D02 was allotted vide provisional allotment letter dated 08.01.2013. Later the plot no. was changed to G-17 admeasuring 267.617 sq. yds. Vide letter dated 20.02.2017 issued by the respondent and the same was transferred from shri Rajiv Sarin to Gunjan Sinha. However, no BBA has been executed till date. The Counsel for the complainant during the hearing submitted that the possession of the said plot was to be delivered till 08.01.2015 but the possession has not been handed over till date.
4. The complainant submitted that in-spite of repeated assurances in each and every personal meeting as well as discussion with respondent and its officials over telephone that the possession of the plot would be handed over within a period of 24 months from the date of his purchase i.e.10.12.2012, there were hardly any efforts for development of plot so far to hand over the possession by the respondent. Having already taken more than 80% of Basic Sale Price and 100 % EDC/IDC from the allottee way back in December, 2012 & January, 2013 and even after the lapse of more than six

years, the respondent has not handed over the possession of the said plot in spite of regular follow up.

5. The complainant submitted that respondent persuaded & pressurized him to apply for cancellation of his allotment of the plot on promise to repay Rs. 1.20 crore within 3-4 months. Having no other alternative as he was neither getting the possession of the said plot nor he was getting his money back, he gave the respondent an application on 03.04.2019. Respondent issued him post-dated cheque No. 001123 for Rs. 5,00,000/- and cheque No. 001124 for Rs. 10,00,000/- (Rupee Ten Lakh Only). Both the cheques were drawn on HDFC Bank Ltd., DIF Tower-A, Jasola Vihar, New Delhi-110025. It was made abundantly and explicitly clear to the respondent by him that until and unless he gets the refund of not less than 50% of his payment, he is not going to deposit any of the cheques issued by the respondent. Before the due date of the presentation of the cheque, respondent requested the

complainant not to deposit them and kept on seeking extension of time to deposit the same.

6. Hence, this complaint for the reliefs mentioned herein below:
 - i. To award interest on monthly basis for the period of delay in handing over the possession of the plot from the due date of possession i.e. from January 10, 2015 till actual handing over of possession.
 - ii. To direct the respondent to handover the possession of the plot at the earliest.
7. 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.
8. The respondent contested the complaint on the following grounds:
 - (i) That on request of the complainant he agreed to cancel the allotment of the plot no. G-17 and informed the complainant that he will refund the amount of Rs. 69,78,720/- in instalment. Accordingly, in compliance of the request made by the complainant, he duly cancelled the aforesaid allotment and

issued and handed over two cheques of Rs. 5,00,000/- and Rs. 10,00,000/- dated 15.05.2019 and 20.05.2019 respectively, bearing Cheque Nos. " 001123" and "001124" respectively, both drawn on HDFC Bank, Ground Floor, Shop No. 30 & 31, DLF Tower-A, Jasola Vihar, New Delhi-110025 to the complainant.

(ii) That the complainant with a malafide intention did not encashed the two cheques issued by him and sent a legal notice dated 23.09.2019 to the him calling upon to hand over the possession of the plot and also demanded a sum of Rs. 2,00,000/- as compensation. He duly replied to the legal notice vide reply dated 24.10.2019 and refuted all the allegations made against him.

(iii) That in compliance of the request of the complainant, he has already cancelled the booking of the plot of the complainant and also issued and handed over two cheques for a total sum of Rs. 15,00,000/- to the Complainant. The respondent submitted that he will also pay the balance amount of Rs. 54,78,720/- to the complainant within a short period of time as per the agreed terms. Hence, in view of the above, the instant complaint is liable to be dismissed.

9. 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 and submissions made by the parties.
10. The authority, on the basis of information and other submissions made and the documents filed by the complainant and the respondent, is of considered view that there is no need of further hearing in the complaint.
11. Arguments have been heard.
12. The Authority observes that the respondent had issued a provisional allotment letter dated 08.01.2013. However, at a later stage the plot number was changed and despite receipt of 80% of the price of the plot, nothing has been done to deliver the possession of the plot. No BBA was signed however, the complainant submitted during the hearing dated 18.11.2020 that the due date of delivery of possession of the plot was 08.01.2015 to which the respondents have also not raised any dispute. On consideration of the circumstances, the documents and submissions made by the parties and based on the findings of the authority regarding contravention as per

provisions of rule 28(2), the authority is satisfied that the respondent is in contravention of the provisions of the Act.

13. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession charges at the prescribed rate of interest @9.30% p.a. w.e.f. 08.01.2015 till the actual handing over physical possession of the allotted unit as per provisions of section 18(1) of the Act read with rule 15 of the Rules.
14. Hence, the authority hereby passes 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. 9.30 % per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 08.01.2015 till the actual handing over physical possession of the allotted unit.
 - ii. the respondent is directed to deliver the possession of the plot after obtaining completion certificate from the competent authority within 2 months from the receipt thereof.

- iii. The respondent is directed to get conveyance deed executed within 3 months of receipt of completion certificate.
 - iv. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and subsequent interest to be paid on or before the 10th of each succeeding month.
 - v. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - vi. Interest on the due payments from the complainant shall be charged at the prescribed rate i.e. 9.30% by the promoters which is the same as is being granted to the complainant in case of delayed possession charges.
15. Complaint stands disposed of.
16. File be consigned to registry.


(Sanjiv Kumar)
Member


(Subhash Chander Kush)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 18.11.2020

JUDGEMET UPLOADED ON 29.12.2020