



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 808 OF 2019

Rohit Kumar Kaushik

....COMPLAINANT(S)

VERSUS

Pivotal Infrastructure Pvt. Ltd.

....RESPONDENT(S)

CORAM: **Rajan Gupta**
 Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 23.12.2020

Hearing: 10th

Present: - Mr. Rohit Kumar Kaushik, complainant along with
 Advocate R.S. Sethi, Ld counsel for the complainant

Mr. Rohan Gupta, Ld. Counsel for the respondent
(through video conference)

ORDER (DILBAG SINGH SIHAG-MEMBER)

1. While perusing the case file, it is revealed that complainant has disputed following charges levied by the respondent:

- (a) legal and administrative charges;
- (b) electricity meter charges;
- (c) VAT and other Taxes;
- (d) enhanced EDC;
- (e) holding charges.

2. Accordingly, Authority had passed a detailed order on 19.11.2020 whereby above disputed amounts were discussed in length. The same is reproduced here:

(i) As far as an amount of ₹15000/- to be charged as legal and administrative charges is concerned, if the complainant wishes to complete all legal and other administrative activities at his own level then the said demand of ₹15000/- is not chargeable and is hereby quashed.

(ii) Respondent has charged ₹63752/- as taxes; VAT (₹72,934/-) and other taxes (₹10,818/-). Authority is of the view that VAT and other taxes are payable as per policy of the Government. Complainant has no objection, so, these charges shall be payable by him to the respondent. But the respondent has to disclose the rate of such charges especially of VAT Charges for the satisfaction of the complainant.

(iii) So long as an amount of ₹2,16,810/- paid by the complainant as enhanced EDC is concerned, complainant prayed that this amount should be refunded to him. As matter of enhanced EDC charges, is sub-judice before the Hon'ble Punjab

and Haryana High Court, Chandigarh on the point of adjudicating as to whether the State is justified in levying enhanced EDC charges or not. So, this Authority will observe that if any amount towards enhanced EDC has already been collected from the complainant by the respondent promoter and he has not yet deposited it with the Government, the same along with 9% interest calculated from the date of its collection shall be refunded to the complainant; if the complainant desires so, otherwise this amount should be deposited in a bank in the shape of fixed deposit (FD) and copy of FD shall be supplied to the complainant for his record. In case, the Hon'ble Punjab and Haryana High Court ultimately decides that impugned enhanced charges are not payable to the Government, then maturity amount of FD shall be paid to the complainant in full without any deduction and if the court decides that enhanced EDC is payable to the State Government, then respondent shall deposit the collected amount of FD with the State Government in case money is put in fixed deposit. If the money collected on account of enhanced EDC has already been deposited with State Government by the respondent, its details shall be supplied to the Authority as well as to the complainant on next date of hearing so that he is able to claim its refund if the Hon'ble Court declares that it was not payable to the Government. Complainant shall also furnish an undertaking to this effect in the form of an affidavit to the respondent-promoter on or before next date of hearing.

(iv) Respondent shall provide detailed justification for a demand of ₹17500/- on account of electricity meter charges.

(vi) Respondent is also demanding ₹2,89,575/- towards holding charges since year 2018 when the possession was offered to the complainant. In this regard, complainant stated that he had not taken possession on account of certain deficiencies and unjustified demands from the respondent promoter. For this reason, the demand of the holding charges



is also not justified and hereby set aside. Respondent shall provide detailed justification if any for arriving at this amount.

2. In the last, Authority hereby also gives a direction to the respondent promoter to offer fresh possession of booked apartment by revising the statement of accounts incorporating therein the interest payable to the complainant for the delay caused in offering possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 %.

3. Adjourned to 23.12.2020.

3. Today, complainant stated that some of the charges depicted in the revised statement of accounts are acceptable to him which are as follows:

- (i) An amount of ₹83,752/- on account of VAT charges and other taxes payable by the complainant.
- (ii) An amount of ₹17,500/- on account of electricity meter charges payable by the complainant.
- (iii) Respondent has shown an amount of ₹7,24,636/- receivable by him from the complainant and an amount of ₹5,71,890/- payable to the complainant. The difference of this amount is ₹1,52,746/- which is the amount payable by the complainant to the respondent. Complainant has agreed to this amount.

4. In view of above facts, present complaint is disposed of with a direction to the respondent to hand over possession of the apartment to the



complainant and the complainant is directed to pay the outstanding amount of ₹1,52,746/- as shown in the statement of account to the respondent.

5. **Disposed of.** File be consigned to record room after uploading of the order on the website of the Authority.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]

