



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 780 OF 2020

V.P. Batra -

....COMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(S)

CORAM:

Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag

Chairman
Member
Member

Date of Hearing: 03.12.2020

Hearing: 3rd

Present: -

Mr. Shubhnit Hans, Ld. counsel for the complainant through video conference

Ms. Rupali S. Verma, Ld. counsel for the respondent through video conference

ORDER (DILBAG SINGH SIHAG - MEMBER)

1. While perusing office record, it is revealed that respondent vide email dated 03.12.2020 has informed the Authority that for payment of cost imposed vide dated 17.11.2020, demand drafts dated 01.12.2020 for a sum of ₹10,000/- and ₹5,000/- bearing nos. 034868 and 034867 payable to the

(Handwritten signature)

Authority and complainant respectively have been prepared and same will be deposited during the course of the day.

2. Present complaint has been filed for execution of orders dated 17.12.2019 passed in favour of the complainant. Vide said orders, respondent was directed to execute the builder buyer agreement with the complainant of the unit booked by the complainant in respondent's project named 'Parsvnath City Centre, Sonipat' within a week. Learned counsel for complainant states that respondent has failed to comply with said order till date.

3. On the other hand, today, learned counsel for the respondent states that respondent will not be able to execute the builder buyer agreement for the reason that building plans of the project named 'Parsvnath City Centre, Sonipat' in which complainant had booked a commercial unit had been revised and are yet to be approved by the competent authority. Besides, registration of said project expired in July 2020 and respondent is under process for getting its extension. She further argued that after coming into force of RERA Act, all the builder buyer agreements are to be executed as per the format given in Schedule III of The Haryana Real Estate (Regulation and Development) Rules, 2017 and it is not possible for the respondent to execute the same because as on date, respondent won't be able to satisfy 'clause C' of specimen provided in said schedule. Therefore, she expressed respondent's inability to comply with the order under execution.

4. After hearing the contentions of both the parties and going through the record, Authority observes that complainant had booked the unit in the year 2007 and respondent was under an obligation to execute the builder buyer agreement within 30 days of booking. Respondent had deliberately with a motive of bad business practice failed to discharge his responsibilities and he had been utilizing the money paid by the complainant for a long time of thirteen years. For this reason, Authority in its order dated 07.11.2019 in main complaint no. 2215 of 2019 had observed that respondent is liable to pay reasonable interest to the complainant which was fixed at 9% and respondent was directed to pay the same to the complainant. On 17.12.2019, learned counsel for the respondent made a statement that respondent is ready to execute the builder buyer agreement and therefore complaint no. 2215 of 2019 was disposed of giving direction to the respondent to execute builder buyer agreement within a week and interest payable to the complainant was directed to be adjusted at the time of settlement of accounts as and when possession is offered to him.

5. Unfortunately, it is observed that respondent has neither paid interest at the rate nine percent on the amount deposited by the complainant nor has executed the builder buyer agreement whereas he himself had committed to execute the same. Today, learned counsel for the respondent has averred that agreement cannot be executed due to pending approvals. In other words, it means that respondent promoter has misled the Authority and he

tried hard not to co-operate with the complainant and Authority as well. In this background, Authority observes that non extension of registration does not bar the respondent to execute the builder buyer agreement. Since, it is not a fresh sale, agreement has to be executed as per terms and conditions prevalent in 2007 when the booking was made. Moreover, all the terms and conditions of this agreement shall come into force from three months of getting booking amount from the complainant.

6. Since, respondent expressed his inability to execute the builder buyer agreement, ld. counsel for the complainant insisted that upfront payment of interest be made to the complainant as already decided by the Authority and builder buyer agreement may be executed when respondent is fully competent to do so and all the legal formalities have been complied with.

7. Facing above dilemma, Authority observes that execution of builder buyer agreement is basically required to ascertain 'Deemed date of possession' for the purpose of calculating interest in case there is delay in handing over the possession of booked property. In the present case, Authority has already fixed interest to be paid to the complainant at the rate nine percent per annum from the date of deposit of his amount; therefore, execution of builder buyer agreement at this stage, will not serve the purpose as intended. Therefore, respondent is directed to execute the builder buyer agreement as soon as he gets all the necessary approvals. Meanwhile, it will be appropriate at this stage to award payment of delay interest to the complainant at the rate

already decided by the Authority. Said interest amount works out to be ₹12,29,855/- calculated at the rate nine percent per annum from date of deposit till 31.12.2020. Accordingly, respondent is directed to pay to the complainant a sum of ₹12,29,855/- as interest for delay handing over the possession. Complainant will be entitled to further interest till offer of possession of the unit is made to him.

Respondent is further directed that fifty percent of the total sum payable to the complainant shall be paid within 45 days from the date of uploading of this order and the remaining in next 45 days, failing which will attract further penal interest to be decided by the Authority.

8. Complaint is, accordingly, **disposed of**. File be consigned to the record room and order be uploaded on the website of the Authority.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]