

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

Complaint No. RERA-PKL-700 of 2018

Satpal Bhanot & Anuradha Bhanot

...Complainants

Versus

BPTP Limited & Country Wide Promoters Pvt. Ltd.

...Respondents

Date of hearing:- 12.12.2018 (2nd Hearing)

Coram:- Shri Rajan Gupta, Chairman.
Shri Anil Kumar Panwar, Member.
Shri Dilbag Singh Sihag, Member.

Appearance:- Shri Sanjeev Sharma for Complainant .
Shri Hemant Saini, Advocate for respondent.

ORDER:-

The matter was first taken up on 20.11.2018, when the respondents sought more time to file reply. The matter was adjourned for today for payment of cost of Rs. 24,000/- already incurred on account of delay in filing reply and arguments. Today, the Authority, after taking into consideration the oral as well as written submissions by both the parties, decided the matter on merits.

1. The facts of the complaint in brief are that the complainants herein are seeking refund of Rs. 34,46,697/- along with interest @12% on the said amount paid against the booked flat in the project named "Park Elite Floors" situated in district Faridabad. The complainants were allotted unit No. M 11-07, GF vide

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allotment letter dated 24.12.2009. The Builder Buyer Agreement (herein after referred to as BBA) was executed between the parties on 18.06.2010. As per clause 4 of BBA, the unit was to be delivered within 24 months from date of sanction of building plan and additional grace period of 6 months.

An addendum to the BBA was executed on 18.06.2010 by the respondents, whereby the respondents taking undue advantage of their dominant position changed the time for handing over of the possession of the unit i.e. within 24 months from date of execution of BBA or on payment of 35% of BSP plus 20% EDC (whichever is later) with additional grace period of 6 months. The complainants had paid all the instalments demanded by the respondents and have paid Rs. 34.46 lakhs approx.. till July, 2017. The complainants are further aggrieved that the respondents have raised an additional demand against unilaterally increased area of the units from 1203 sq. fts. to 1371 sq. fts. vide offer of possession letter dated 21.09.2017.

2. Replying to above averments, respondent challenged the jurisdiction of the Authority to entertain the present complaint by stating that firstly the provisions of RERA Act do not apply to them since the agreement was executed prior to coming in force the RERA Act. He further argued that the complainants had concealed the fact before the Authority that a discount of Rs. 1,00,073/- was given to them by the respondents in good will gesture. The respondents, also submitted that they have already completed construction of the unit in question and had offered possession to the Complainants vide letter dated 21.09.2017 but

21.09.2017 but the Complainants had failed to clear outstanding payments and complete the documentation. In other words, complainants themselves have not come forward to take physical delivery of the floor. The respondents further submitted that they have already handed over the possession of two independent floors in the same building to the allottees.

3. Concluding the arguments, both the Learned Counsels conceded that the issues involved in the present complaint are squarely covered by the decision already taken by this Authority in lead case bearing **Complaint No. 113 of 2018** titled as **“Madhu Sareen Versus M/s BPTP Limited”** decided on 31.08.2018.

So, the Authority passes orders in the present case in terms of the judgment passed in the leading case of “Madhu Sareen Versus M/s BPTP Limited” decided on 31.08.2018. Accordingly, the matter stand disposed of in the same terms with further direction that as and when offer of possession is given by the respondent to the complainants, respondent shall issue statement of accounts which in turn shall be prepared keeping in view the principles laid down by this Authority in Complaint No. 113-2018 titled “Madhu Sareen vs BPTP Pvt. Ltd.

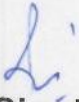
4. While deciding the preliminary issue on maintainability of the complaint on account of lack of jurisdiction, the Authority has already decided the question of jurisdiction raised by the respondent’s counsel. Question on this point is no more res integra because this Authority in **Complaint Case No. 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

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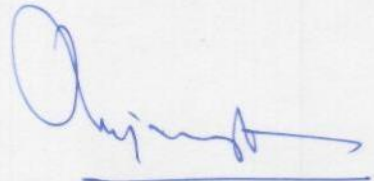
of a project which is neither registered nor registerable as long as his obligations as per Section 11(4) are not fulfilled.

5. Lastly with the payment of compensation for delayed delivery shall be determined in accordance with the principle laid down by the majority members in Complaint No. 113-2018 titled "Madhu Sareen vs BPTP Pvt. Ltd., whereas the views expressed by the Chairman in **Complaint no. 49 of 2018. Parkash Chand Arohi v/s Pivotal Infrastructure Pvt Ltd.** will remain as it is.

Disposed of in above terms. File be consigned to the record room.


Dilbag Singh Sihag
Member


Anil Kumar Panwar
Member


Rajan Gupta
Chairman

Sh. A.K. Panwar, Hon'ble Member vide his email dated 08.01.2019,
has approved and consented to the above orders.

Dated:08.01.2019




Executive Director
HRERA, Panchkula