



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2693 OF 2019

Sushil Kumar

....COMPLAINANT(S)

VERSUS

Rangoli Buildtech Pvt Ltd.

....RESPONDENT(S)

CORAM:

Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag

Chairman
Member
Member

Date of Hearing: 05.01.2021

Hearing: 5th

Present: -

Mr. Sushil Kumar, Complainant along with
Advocate Sushil Jain, Counsel for complainant

Ms. Rupali Verma, Counsel for Respondent
(through video conference)

ORDER (RAJAN GUPTA-CHAIRMAN)

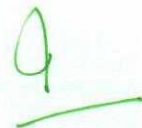
1. The respondent allotted a residential plot bearing No. A-A7/29 measuring 350 sq. yards to T.R. Wadhwa in TDI Greens/ Rangoli Greens,

Sector-16, Sonapat in October 2005. The complainant's case is that he had purchased the allotment rights from T.R. Wadhwa and such transfer was duly acknowledged by the respondent on 01.06.2010. It has been further averred that the respondent had received a sum of ₹22,48,850/- from the complainant and his predecessor-in-interest till 2018 against total consideration of ₹21,87,000/-. The grievance of the complainant is that the respondent was obliged to handover possession to him by the year 2007 but he has not offered the possession till date. So, he has prayed for directing the respondent to deliver him possession of the purchased unit and to pay him interest for the period by which delivery of possession has been delayed.

2. The respondent has not disputed that he has already received a sum of ₹ 22,48,850/-. His plea is that possession could not be offered due to reasons beyond his control. The precise explanation furnished is that Director, Town and Country Planning Haryana (hereinafter referred to as DTCP), on receiving a report from the District Town Planner, Sonipat revealing that a part of project land measuring 5.14 acres was falling in public/semi-public zone and another part of project land measuring 2.5 acres was falling in sector road, had asked the respondent vide letter dated 07.08.2008 to submit a revised layout plan for the remaining licensed area measuring 105.666 acres in substitution of the original licensed area of 113.363 acres. The respondent abided by the said directions and the DTCP later granted statutory approval to



the revised layout plan on 24.07.2009. The respondent thereafter submitted a revised demarcation plan on 05.09.2009 but the DTCP took no action on the papers submitted for approval of the revised demarcation plan. The respondent had also sent a reminder on 17.06.2010 for approval of demarcation plan but all in vain. The DTCP after about two years vide letter dated 09.07.2012 had rather cancelled his license for development of the project. Aggrieved by such cancellation of the license, the respondent filed an appeal and the Hon'ble Appellate Authority had thereupon remanded back the matter to the DTCP for fresh decision. Thereafter, the DTCP had approved the demarcation plan on 02.06.2017. It was then that the respondent attained the ability to execute Builder Buyer Agreement (BBA). It was pleaded by the respondent that he gave an option to the allottees to exit from the project by taking refund with interest or to stay in the project by executing a BBA. The complainant on 15.09.2017 had chosen to execute the BBA. In term of the said agreement, pleaded the respondent, the possession was required to be delivered within 36 months extendable by another 9 months from the date of execution of the agreement. The deemed date of possession on such calculation comes to 14.09.2020 plus 9 months i.e. 14.06.2021. The respondent has further pleaded that it has written to the complainant on 02.07.2019 to furnish certain details so that formality of handing over possession and registration of conveyance deed was carried out. It has later transpired on scrutiny of transfer papers submitted by the complainant that documents were missing to reveal as to



from whom the complainant had purchased the plot. So, the respondent sent a letter on 02.07.2019 to the complainant and another letter dated 17.07.2019 to original allottee T.R. Wadhwa, asking them to furnish necessary documents in that regard. Thereupon, T.R. Wadhwa informed the respondent that he had sold the plot on 20.01.2007 but he could not provide the details of the buyer. The complainant on the other hand submitted that he had purchased the plot from T.R. Wadhwa in the year 2010. The record maintained by the respondent reveals that a payment of ₹4,37,500/- for the plot was made by Mr. Sudarshan Garg vide cheque No. 593184 drawn on ICICI Bank, Sonipat. In view of such revelations, averred by the respondent, the status of complainant as the purchaser of the plot becomes doubtful and he has therefore, no right to invoke the jurisdiction of this Authority or to seek any of the relief prayed in the complaint.

3. After hearing the parties and going through the record, particularly the Annexures attached with the respondent's reply, the Authority observes that a necessity cropped up for revision of layout plans of the respondent's project when the District Town Planner, Sonipat had informed the DTCP that the area measuring 5.14 acres of the project was falling in public/semi-public zone and the area measuring 2.56 acres was falling in sector road. The respondent had therefore submitted a revised plan and the DTCP approved the revised layout plan on 24.07.2009. The respondent after



approval of layout plan had submitted a revised demarcation plan on 05.09.2009. The DTCP took no action and kept the matter pending for two years. Later, the DTCP abruptly cancelled the license of the respondent vide letter dated 09.07.2012. This had forced the respondent to file an appeal and the Hon'ble Appellate Authority allowed the same and remanded the matter to DTCP for reconsideration. It was then that the DTCP had approved the demarcation plan on 02.06.2017. So, the plea of the respondent deserves to be accepted on the point that delay had occurred due to the reasons beyond his control.

4. The case of the respondent is that he had given an option to the allottees to exit from the project by taking refund with interest but the complainant had chosen to stay in the project and had executed BBA on 15.09.2017. The complainant's case however is that he was compelled to execute the BBA and had therefore, used words 'wo' at the time of putting his signature on the agreement. The words 'wo', according to the complainant, implies 'with objection'.

5. In view of the above, the crucial question for determination before the Authority was whether the execution of agreement was voluntarily on the part of the complainant or he was compelled to sign the same for the reason that he had already paid a substantial amount to the respondent. The Authority found that the controversy on this point would stand conclusively

settled if the respondent proves his plea that the complainant despite having been given an option to exit from the project had chosen to execute the BBA. So, the respondent was directed to produce on record the proof of giving an option to the complainant to exit from the project.

6. In order to prove the above, the respondent relied on Clause 6(X) of BBA executed on 15.09.2017 whereby it is clearly specified that the allottee has an option to take refund of the amount deposited with the Company along with interest @9% per annum and if the allottee chooses to execute builder buyer agreement, then it will be treated as if he has refused to exit from the project by not exercising the option of refund.

7. The Authority also directed that the complainant in order to establish his entitlement for claiming the reliefs prayed in the complaint has to prove his status as purchaser of the allotment rights. His status as purchaser of the plot had become doubtful in the wake of his plea of having purchased the plot in the year 2010 and original allottee T.R. Wadhwa's letter indicating that he had sold his rights in the year 2007 and not in the year 2010. The payment of ₹4,37,500/- made through cheque by Sudarshan Garg caused a further doubt on complainant's status as the purchaser of the allotment rights from T.R. Wadhwa. So, the complainant was also directed to prove his status as the purchaser of the allotment rights from T.R. Wadhwa.

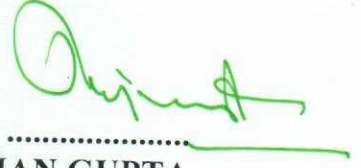
8. In order to prove the above, the complainant has relied on additional documents submitted before the Authority through email dated 04.01.2021 containing copies of (i) Receiving of the Original documents by the Respondent on 29.05.2010 (Annexure 17) (ii) acknowledgment of receipt of amount Rs. 17,88,850/- by the respondent dated 10.05.2012 (Annexure 18) (iii) Confirmation letter by Mr. T.R. Wadhwa dated 11.12.2020 (Annexure 19) and (iv) declaration by Mr. T.R. Wadhwa dated 11.12.2020 (Annexure 20). On perusal to the said documents, it stands conclusively proved that the complainant is one of the allottees of the respondent in the project TDI Greens/ Rangoli Greens, Sector-16, Sonapat. Transactions took place between the complainant and the respondent from 2010 to 2018.

9. It is now settled that the complainant has purchased a residential plot in TDI Greens/ Rangoli Greens, Sector-16, Sonapat by way of endorsement from Mr. T.R. Wadhwa. On 15.09.2017, BBA was executed between the complainant and the respondent. The deemed date of delivery as per BBA is 14.06.2021 (36 months plus 9 months from the date of execution of the agreement). Respondent has agreed to provide possession by this date. The Authority directs the respondent to provide possession to the complainant by 14.06.2021 according to BBA, failing which the respondent is liable to pay interest to the complainant from due date of delivery as per BBA in accordance



with Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017.

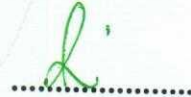
10. Case is **disposed of**. The orders be uploaded on the website of the Authority and files be consigned to record room.



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RAJAN GUPTA
[CHAIRMAN]



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ANIL KUMAR PANWAR
[MEMBER]



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DILBAG SINGH SIHAG
[MEMBER]