



Complaint no. 1941 of 2019

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1941 OF 2019

Rahul

....COMPLAINANT(S)

VERSUS

M/s Omaxe Pvt. Ltd

....RESPONDENT(S)

CORAM: Rajan Gupta

Chairman

Anil Kumar Panwar

Member

Dilbag Singh Sihag

Member

Date of Hearing: 21.01.2021

Hearing: 9th

Present through: - Mr. Rahul, Complainant in person

Video conferencing Mr. Sanjeev Sharma & Mr. Vishal Singal, Learned counsel for the respondent.

ORDER (DILBAG SINGH SIHAG- MEMBER)

Present complaint has been filed by the complainant seeking execution of order dated 05.03.2019 passed by this Authority in Complaint no. 1080 of 2018- Rahul vs M/s Omaxe Pvt. Ltd. Vide said order, respondent was directed to handover possession of the booked unit by December, 2019 and to

issue fresh statement of account showing therein amounts receivables from the complainant and amount of delay interest payable to the complainant. Relevant part of the order is reproduced below

“ Admittedly, deemed date of handing over of the possession was 22.8.2017. The respondent states that they will offer the possession by December,2019. The respondents are directed to do the needful accordingly. If the apartment is handed over by December,2019, it will be within a delay of nearly two years and four months. It has been held by me in complaint case No.49/2018.Prakash Chand Arohi versus M/S Pivotal Infrastructures Pvt.Ltd. that for a reasonable delay in completing the project, the compensation as provided for in the agreement shall be paid by the developers. Accordingly, Clause 40 (e) of the agreement provides that Rs 5 per sq. ft on the built-up area of the unit will be paid for the delay caused in handing over of possession. Accordingly, for the delay caused the complainant shall be compensated in accordance with the provisions of the agreement. However, if the respondents do not offer the possession by December,2019 complainant shall be free to approach the Authority again where-after a further appropriate order shall be passed. However, since in a majority judgement in complaint case No.113 of 2018 Madhu Sareen Versus BPTP Ltd. a separate formula for awarding compensation had been ordered, now the ratio of the majority judgement however, shall be applicable in this case till such time the majority judgement holds good.

6. Regarding area of the unit, since agreement has been executed by complainants for an area measuring 930 sq. ft. Therefore, now they cannot go back with their contractual obligations. So, the cost of the apartment shall be calculated on the basis of 930 sq. ft.

Regarding the GST charges, since the deemed date of possession was 22.08.2017 and the GST had already come into force before that, so the liability on account of statutory taxes shall be paid by the complainants.

7. Now the respondents are directed to issue a fresh statement of account showing amounts receivables from the complainant and amount of compensation payable by the respondent within 30 days of uploading of this order. The final receivables shall be

calculated after duly adjusting for the amount of compensation payable by the respondents."

2. In compliance of the said order statement of accounts was filed by respondent as per guidelines given in Complaint no. 113/2018- Madhu Sareen Vs BPTP Pvt. Ltd. and the same was verified by the complainant and found to his satisfaction. According to said statement of accounts, entire amount of delay interest calculated upto 31.12.2019 was Rs. 4,92,799/-. Respondent was directed to pay the same after making adjustment of already paid amount of Rs. 98,910/-, vide cheques dated 21.08.2019, to the complainant. Hence an amount of Rs. 3,93,788/- has been paid by the respondent to the complainant as delay interest and the same has been agreed upon by the complainant. A copy each of two cheques dated 23.11.2020 have been provided in reference to said payment vide email dated 01.12.2020 sent on official email id.


3. With regards to issue relating to handing over of possession, Learned counsel for the respondent stated that date for completion of the project in question in Registration Certificate, issued under Section 3 of RERA Act, 2016 is 31.12.2021. Therefore, he will be able to handover possession by that date. He was directed to calculate delay interest for the period of 31.12.2019 to 31.12.2021 and file his calculation sheet and the same was filed for delay interest payment amounting to Rs. 3,76,842/- by him.

4. However, today while initiating his pleadings he drew attention to the fact that as per order under execution, respondent was to pay complainant delay

interest payment only for the period from deemed date of possession i.e. 22.08.2017 to December, 2019. In case, respondents did not offer possession to complainant by December, 2019 complainant was directed to again approach this Authority. Delay interest payments for the period from 31.12.2019 to 31.12.2021 cannot be granted to him vide order currently under execution. With regards to the same complainant is directed to file a fresh complaint.

5. Execution proceedings of order dated 05.03.2019 passed by this Authority have been complied with.


Disposed of. File 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]