



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1307 OF 2019

Mrs. Suman & Anr.

....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: 22.09.2020

Hearing: 8th

Present: - Mr. Vivek Sethi, counsel for the complainant through video conference

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

ORDER (ANIL KUMAR PANWAR - MEMBER)

1. Complainants are deriving their rights through Sh. Deepak Bareja who had booked a plot measuring 502 sq. yards in a township named 'Parsvnath City' under 'Present and Future Scheme' launched by the

respondent company at Sonipat, Haryana. Deepak Bareja had paid advance money of ₹5,18,750/- to respondent on 22.02.2005 and he had sold his booking rights in the plot to Sh. Shekhar Narula. The present complainants had subsequently purchased the booking rights from Shekhar Narula. Respondent had provisionally allotted plot bearing no. B-3315 to Sh. Shekhar Narula vide letter dated 22.09.2009. The respondent had executed plot buyer agreement with the complainants on 18.09.2013. It has been averred that complainants and their predecessor-in-interest had already paid ₹36,20,731/- till 18.09.2013 against the basic sale price of ₹28,86,500/-. According to the complainants, the respondent was obliged to pass on to them the title and possession of the booked plot within reasonable time but he has not offered the same till date. So, the complainants have filed the present complaint seeking relief of possession along with interest for the period of delay in delivery of possession. Further, learned counsel for the complainants states that present case be disposed of in similar terms as complaint case no. 723 of 2019 titled Nishant Bansal versus Parsvnath Developers Ltd.

2. Respondent has not disputed the original booking of plot by Deepak Bareja and subsequent transfer of booking rights firstly, to Shekhar Narula and then to the present complainants. It is pleaded that Deepak Bareja had applied for advance registration in an upcoming project of the respondent for investment purpose and no specific location and project's

name was mentioned in the application form. No allotment was made in his favour. However, a provisional allotment was made in favour of Shekhar Narula from whom the complainants have purchased the plot in September 2009. Respondent has admitted that subsequent buyer along with complainants approached him with relevant documents for transferring the allotment to their names and a plot buyer agreement with the complainants was then executed on 18.09.2013. It was further pleaded that respondent is conscious of its contractual obligations but delay for handing over possession had occurred due to reasons beyond his control.

3. The Authority has heard the parties and has carefully perused the record.

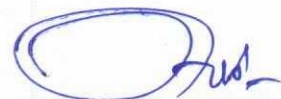
4. Learned counsel for the complainants has submitted that present case deserves to be disposed of in terms of the decision already taken by this Authority in many other cases with lead case bearing complaint case no. 723 of 2019 titled Nishant Bansal versus Parsvnath Developers Ltd. involving similar facts.

5. Learned counsel for the respondent has not disputed that this Authority in similar matters has already granted the relief of possession to the home buyers in bunch of cases which have since been decided with lead case bearing no. 723 of 2019 titled Nishant Bansal versus Parsvnath Developers Ltd. However, she has argued that respondent presently has no available plot for offering to the complainants and therefore, he is ready to

refund the already paid amount to them along with interest. She has argued that complainants for the simple reason that the original booking was not made in respect of any specific plot or project, are even otherwise not entitled to the relief of possession.

6. The Authority has given thoughtful consideration to the submissions made by the parties. It is pertinent to notice that respondent itself has pleaded that an agreement with the complainants was entered on 18.09.2013. Said agreement unequivocally reveals that the complainants were allotted plot no. B-3315 in 'Parsvnath City, Sonipat'. The respondent in terms of the said agreement was under an obligation to hand over possession of the plot within a reasonable time but it has failed to offer the possession till date. Respondent merely on the plea that it has no available plot for offering to the complainants, can't escape its obligation to offer possession to the complainants, more so when the complainants' allegation is that respondent has indulged in unfair trade practices and had used their money for its own benefit.

7. In order to determine whether or not the respondent had indulged in unfair trade practices, the Authority in earlier decided bunch of cases had asked for certain information from the respondent. Despite having availed number of opportunities, the respondent did not disclose to the Authority the precise criteria adopted for allotment of plots to those persons who had booked plots in the project named 'Parsvnath City, Sonipat'. He has



also concealed the names of the persons to whom plots have been allotted in the said project and the dates on which bookings were made by the persons to whom plots have been allotted. The respondent has also failed to disclose the number of unallotted plots available at Parsvnath City, Sonipat. Concealment of information on these material facts was considered deliberate and the Authority, in earlier decided similar matters had thus drawn an inference against the respondent to the effect that plots have been sold at premium by ignoring the legitimate rights of those who had booked the plots earlier in point of time but have not been allotted the plots. That being the situation, the Authority had concluded in the earlier decided cases that the buyers who had not been delivered possession are entitled for possession of the booked plots.

8. The facts and circumstances involving the earlier decided cases are identical and at par with the case of present complainants. So, this Authority in view of the decision already taken in bunch of case with lead case no. 723 of 2019 titled Nishant Bansal versus Pasravnath Developers Ltd. and going by the principle of *stare decisis* has now no option but to allow the present complaint in terms of the above said decision.

9. For the reasons recorded above, the complaint is allowed and respondent in consonance with the decision in complaint case no. 723 of 2019 is directed to deliver the possession of booked plot to the complainants in the project Parsvnath City, Sonipat on payment of balance sale



consideration recoverable from them. The respondent shall comply with these directions within 90 days from the date of uploading of this order. In case the respondent due to non-availability of plots is not able to offer possession to the complainants, he will be liable to make available to them a plot of the size, as booked, by purchasing it from the open market at his own cost. The respondent however will be entitled to recover from the complainants the balance amount payable by them as per the rate agreed by the parties at the time of booking of plot.

10. With these directions, case is **disposed of**. File be consigned to record room after uploading of the order on the website of the Authority.



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RAJAN GUPTA
[CHAIRMAN]



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ANIL KUMAR PANWAR
[MEMBER]



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DILBAG SINGH SIHAG
[MEMBER]