

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

Complaint. No. 628/2018- 1. Kamal Bajaj
2. Shammi Bajaj
.....Complainants

Versus

M/S Ansal Properties & Infrastructure Limited
.....Respondent

Date of Hearing: 15.01.2019 (2nd hearing)

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

Appearance:- Sh. Sandeep Singh, Counsel for Complainants
Sh. Kamal Dahiya, Counsel for Respondent

ORDER:

The respondent has not filed his reply in this case, however, Sh. Kamal Dahiya appeared on his behalf and presented his case before the Authority.

2. In brief, the complainants' case is that they were allotted a flat no. 0111-A-0503, Tower A, measuring 2351.29 sq. by the respondent in their Project named "Havana Heights Apartments", Sonapat, Haryana. The



complainants entered into an apartment buyer's agreement with respondent on 20.11.13. Against the total sale consideration of Rs. 1,21,56,450/-, the complainants have already paid an amount of Rs. 89,28,723/- till 29.10.15 i.e. nearly 85% of the total sales consideration. The respondent had committed to deliver the possession of flat by May, 2017 but the respondent has not offered possession to complainants till date. There has been a delay of almost one and a half years and the project is only 40% complete. The complainants sent numerous e-mails to the respondent requesting him to refund the amount paid by them, however, no response was given by the respondent to the complainants. The complainants also sent e-mails to the office of DGTCP, Haryana to intervene in the situation and address the grievances of complainants but all in vain. On 07.12.17, the complainants requested Hon'ble Chief Minister of Haryana to resolve the matter, in furtherance of which an inquiry was conducted by District Town Planner, Sonapat on 09.01.18. During that proceeding, the representative of respondent company assured the complainants that amount would be refunded to them within 10 days. However, till date the money has not been refunded by the respondent company. Now, the complainants pray for refund of the entire amount paid by them along with interest; imposition of suitable penalty on the respondent or any other relief that this Authority deems fit.



3. During verbal arguments, Learned Counsel for respondent stated that the project is not yet complete. However, the respondent is ready to offer another flat in an alternate project. But Learned Counsel for complainant stated in the Court that the same offer is not acceptable to the complainants.
4. After going through submissions made by both the parties, the Authority observes that the complainants were allotted a flat in a project named "Havana Heights Apartments", Sonapat, Haryana but the respondent is unable to complete the said project till date. The respondent has even failed to file this reply and nothing has been stated about the status of the project. To settle the matter, the respondent offered another flat in an alternate project but the said offer is not acceptable to the complainants. The Authority is of view that the complainants cannot be forced to accept an offer to which they are not ready to agree. The complainants cannot be made to suffer for the lacunas on the part of respondent. It is also supported by Section 18 of the RERA Act, 2016, according to which it is the choice of complainant to opt for refund of the amount or wait for possession of the unit in case the project is unlikely to be completed in foreseeable future. Therefore, the order of refund of amount is fully justified in this case. Accordingly, the Authority orders that the entire amount paid by the complainants shall be refunded along with interest calculated at the rate provided in Rule 15, HRERA Rules, 2017. It also orders that the refund



shall be given by the respondent within a period of 90 days, 50% amount in 45 days and 50% in next 45 days from the date of uploading of the order. The respondent shall also pay the cost of Rs. 27,000 for not filing reply within one week from the date of uploading of this order.

Disposed of. Order be uploaded on the website of the Authority and files be consigned to the record room.



Dilbag Singh Sihag
Member



Anil Kumar Panwar
Member



Rajan Gupta
Chairman