



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2751 OF 2019

Jacinthia Pinto & Anr.

...COMPLAINANT

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd.

....RESPONDENT

CORAM: Rajan Gupta

Chairman

Anil Kumar Panwar

Member

Dilbag Singh Sihag

Member

Date of Hearing: 16.032021

Hearing: : 8th

Present: - Mr. Rajan Hans, Ld. Counsel for for the Complainants.
Mr. Venkat Rao, Ld. Counsel for Mr. Sanjeev Dhingra, shareholder of Dhingra Jardine Infrastructure Pvt. Ltd. through VC.
Mr. Vivek Sethi, Ld. Counsel for Mr. Sanjeev Dhingra, shareholder of Dhingra Jardine Infrastructure Pvt. Ltd. in person.
Mr. Sanjeev Dhingra, shareholder of Dhingra Jardine Infrastructure Pvt. Ltd. in person.


ORDER (RAJAN GUPTA-CHAIRMAN)

1. Present complaint pertains to the commercial part of the project of the respondent. The case of the complainant is that they had booked a shop no. -01 measuring 400sq. fts. in the project named California Country, sector-

80, Faridabad. Complainants were to pay under Possession Linked Payment Plan. They paid Rs. 1,00,000/- as booking amount on 29.01.2014. Total consideration of the plot was Rs. 40,00,000/-. Respondent promoter had promised to deliver possession the shop by Sep,2017. They kept paying installments towards the cost of the shop as per demands raised by the respondent, and have paid Rs. 20,74,160/- till date which amounts to 50 percent of the total sale consideration. Respondent has neither issued any allotment letter nor executed any agreement with them till date despite their requests to execute the same sent vide their email dated 03.11.2019. The complainants are aggrieved due to non-delivery of the shop, therefore, they have filed this complaint, seeking possession along with compensation for delay in delivery of possession.

2. Today, learned counsel for the complainants stated that complainants are interested to complete construction of the shop in case the Authority hands over possession of the shop to them.

3. Since, project in question is in doldrums, various Associations have been formed by the allottees of different towers of the project seeking handover of construction of the project to respective Associations of the allottees. In the larger interest of allottees of the whole project, Authority on request from various associations of towers of the project, is in the process of handing over completion of project to Associations of allottees in accordance



with the provisions of Section 8 of the RERA Act. Therefore, Authority at this stage cannot handover of any part of the project to an individual allottee.

Authority in its previous orders had advised the allottees pertaining to commercial part of the project including the present complainants to form an association comprising of at least 2/3rd of the total allottees for the purpose of taking over the project. Complainants have not filed any information regarding the steps taken towards forming an association comprising of at least 2/3rd of the total allottees for the purpose of taking over the project.

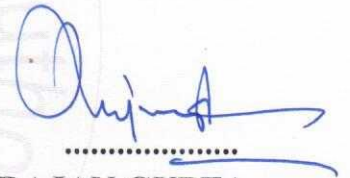
In case, complainants are interested in refund of the amount already paid by them to the respondent promoter, Authority treating their complaint as one seeking refund would adjudicate the same on merits. It is pertinent to mention here that, it has been observed by Hon'ble High Court of Punjab and Haryana, Chandigarh in Civil Writ Petition 38144 of 2018 titled as Experion Developers Pvt. Ltd. vs State of Haryana and others along with other Writ Petitions, date of decision 16.10.2020, that it is the Haryana Real Estate Regulatory Authority which has the power to examine and determine the outcome of complaint when it comes to refund of the amount and interest on the amount or directing payment of interest for delayed delivery of possession or penalty or interest thereon. However, Hon'ble Supreme Court vide its order dated 05.11.2020 in SLP No. 13093 of 2020 titled as M/S. TDI Infrastructure Ltd. Versus Union of India & Ors. along with other SLP's has



stayed the operation of order passed by Hon'ble High Court of Punjab and Haryana. Therefore, in case complainants wish to seek refund of the amount already paid by them, then the present complaint could only be decided after a decision from Hon'ble Supreme Court in the said SLP.

4. Learned counsel for the complainant wishes to ascertain if complainants are interested for taking possession of the shop in aforesaid circumstances or would like to opt for refund of the amount deposited by them till date along with interest. He sought some time to necessary instructions from the complainants.

5. Case is adjourned to 26.05.2021.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]