

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

Complaint. No. 797/2018- Meenakshi Gupta

.....Complainant

Versus

M/S Ansal Properties & Infrastructure Ltd.

.....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 Complainant
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 complainant's case is that she had applied for a unit bearing no. 03, 3BHK in block 20 of 1717 sq. ft. in a project named "Green Escape Apartments", Sector 35, Sonapat vide an application form dated 10.02.12 by making a payment of Rs. 1,84,155/-. However, the complainant was



allotted a different flat no. 0102-20-0103, measuring 1694 sq. ft. in the same project. The complainant entered into an apartment buyer's agreement with respondent on 15.02.12. Against the total sale consideration of Rs. 44,28,880/-, the complainant has already paid an amount of Rs. 21,23,305/- till date. The respondent had committed to deliver the possession of flat within 42 months with an extended period of six months which comes to 15.08.15 but the respondent has not offered possession to complainant till date. There has been a delay of more than three years and the project is far from complete. Therefore, the complainant prays for refund of the entire amount paid by her 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 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 complainant.
4. After going through submissions made by both the parties, the Authority observes that the complainant was allotted a flat in a project named "Green Escape Apartments", Sector 35, Sonapat, Haryana but the respondent is unable to complete the said project till date. The respondent has even failed to file his 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 complainant. The Authority is of view that the complainant cannot be forced to accept an offer to which she is not ready to agree. The complainant 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 in case the project is unlikely to be completed in foreseeable future. The offer being made by the respondent is in another project which is not acceptable to the complainant. Therefore, the order of refund of amount is fully justified in this case. Accordingly, the Authority orders that the entire amount paid by the complainant 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. 29,000 for not filing reply within one week from the date of uploading of this order.

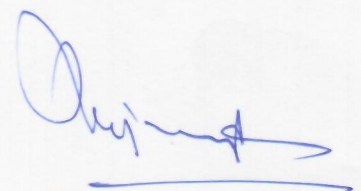
Disposed of. Order be uploaded on the website of the Authority and files be consigned to the record room.



Dilbag Singh Sihag
Member



Anil Kumar Panwar
Member



Rajan Gupta
Chairman