



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1010 OF 2018

Harjit Singh Sahi

..... COMPLAINANT

Versus

M/s Ansal Properties and Infrastructure Ltd.

.....RESPONDENT

CORAM: Anil Kumar Panwar
Dilbag Singh Sihag

Member
Member

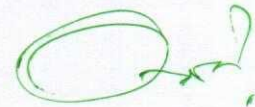
Date of Hearing: 17.03.2021

Hearing: 15th

Present through video call: - Sh. Vikasdeep, counsel for the complainant
Sh. Ajay Ghangas, counsel for the respondent

ORDER (ANIL KUMAR PANWAR- MEMBER)

1. Complainant had booked a commercial space bearing no. 118, on ground floor, admeasuring 607 sq.ft, in respondents project, named "Ansal Highway Plaza", Sushant City, Sonipat on paying to the respondent booking amount of ₹ 1,73,000/-. Basic sale price of the booked space was ₹ 23,06,600/- excluding EDC charges out of which complainant had already paid an amount of ₹ 20,18,275/-. As per terms described in the application form which was got filled from the complainant for booking of the commercial space, the respondent was obliged to deliver possession of the booked unit latest by 08.12.2007.
2. The respondent on 04.12.2009 sent a letter to the complainant demanding amount of ₹4,09,724.50/- and ₹32,750/- on the account of increased area, enhanced EDC, power backup charges, IDC, Interest Free Security Deposit (IFSD). It was mentioned in the said letter that possession will be offered to the complainant subject to clearance of above mentioned dues. The complainant deposited the amount of ₹ 3,93,687/- and ₹ 32,750/- along with covering letters dated 22.05.2010 and requested the respondent to hand over the possession of the booked unit.
3. The complainant has further averred that Respondent no. 2, namely M/s Star Facilities Management Limited raised demands on account of maintenance charges but he resisted to the said demand because he had already made full payment of all dues to the respondent despite the fact that project was not

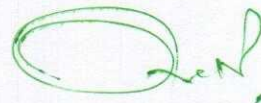


completed on time. It was further averred that more than sixteen years have been gone from date of allotment and possession has not been offered till date.

4. The complainant on the aforesaid premise has prayed for the possession of the unit along with delay interest and for issuing further directions to the respondent to render the complete details of receivable and payable amounts and to refund him the amount, if any, received in excess.

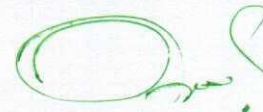
5. The respondent on the other hand has pleaded that possession was offered to the complainant in the year 2009 and project on completion had received Occupation Certificate on 23.03.2010 almost six years before enforcement of the RERA Act 2016. So, the complainant after nine years of offer of possession cannot now challenge the validity of the paid amounts. The respondent has relied on clause 11(a) of the agreement to defend the amount charged on account of increase in area and has pleaded that all amounts were rightly demanded from the complainant.

6. The Authority after hearing parties and going through the record is of the view that possession offered in 2009 cannot be considered a valid offer because the project by that time had not been granted the Occupation Certificate. Such certificate per respondent's own averment was granted in March 2010. Needless to mention that Occupation Certificate issued by the concerned department serves the purpose of ensuring an allottee that the project has been constructed as per approved plans without violating the prescribed norms and unit booked by him in such project is fit for human habitation. So, offer of possession which allegedly

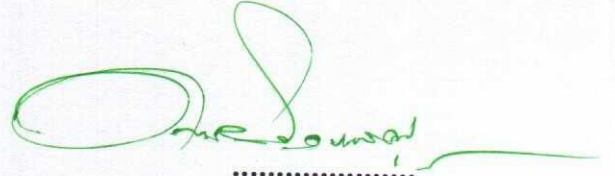


made in the present case before grant of Occupation Certificate serves no purpose and is no offer in the eyes of law. That apart, the letter dated 04.12.2009 by which possession was allegedly offered, on close scrutiny, reveals that respondent through this letter had asked the complainant to pay dues of ₹4,09,724.50/- and ₹32,750/-. It was mentioned in the letter that possession to the complainant will be offered after payment of the demanded amounts. There is no document produced on record to reveal that offer of possession was sent to the complainant after payment of dues. Rather, the complainant's specific plea in this regard is that he deposited the amount of ₹3,93,687/- and ₹32,750/- along with covering letters dated 22.05.2010 and requested the respondent to hand over the possession which is not offered till date. Therefore, plea of the respondent that he had already offered possession in the year 2009 is not acceptable.

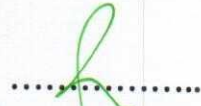
7. The Authority has accordingly decided to dispose of the present complaint with a direction to the respondent to offer a valid possession to the complainant and to pay him interest @ the rate prescribed in Rule 15 of Haryana Real Estate (Regulations and Development) Rules 2017 within a period of 45 days from uploading of this order. The amount of interest so payable was got calculated by Account Branch of the Authority and has been assessed as ₹ 30,33,356/- for the period from deemed date of possession i.e 08.12.2007 till date i.e 10.03.2021. Besides the aforesaid amount of interest, the complainant will be entitled to each month delay interest at the same rate beyond 10.03.2021 till actual handing over of possession.



8. The complainant is accordingly disposed of in above terms. File be consigned to the record room after uploading of the order on the website of the Authority.



.....
ANIL KUMAR PANWAR
[MEMBER]



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DILBAG SINGH SIHAG
[MEMBER]

