



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2674 OF 2019

Padma Saroha

....COMPLAINANT(S)

VERSUS

Jindal Realty Pvt. Ltd.

....RESPONDENT(S)

**CORAM: Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 28.04.2021

Hearing: 8th

Present through: - Mr. Deepak Dahiya, Ld. Counsel for the complainant
Video Conferencing Mr. Drupad Sangwan, Ld. Counsel for the respondent

ORDER (RAJAN GUPTA-CHAIRMAN)

The complainant had bought unit no. C-210 (ground floor) measuring 1067 sq ft in respondent's project- Jindal Global City, Sonipat. Builder buyer agreement dated 06.07.2011 was executed between the parties for the said unit and in terms of said agreement possession was supposed to be delivered upto 06.07.2014. It has been alleged that respondent failed to deliver possession

within stipulated time even after receiving Rs 18,54,358/- against basic sale price of Rs 25,16,016/-. Another grievance is that respondent had offered possession vide letter dated 16.10.2019 alongwith additional demand of Rs 11,76,094/- and has also reduced the area of the booked unit from 1067 sq ft to 1027.4 sq ft without any intimation. Present complaint has been filed by complainant seeking possession alongwith interest for the period of delay in giving possession.

2. On the other hand, respondent in his written reply has stated that the complaint is drafted on incorrect interpretation of the Buyer's agreement as there is provision for Force Majeure conditions in the agreement itself. The relevant part of the clause of agreement was read out by ld. counsel and the same is reproduced below: -

“Subject to Force Majeure as defined herein and subject to timely grant of all approvals , permissions, NOCs etc. and further subject to the allottee having complied with all his /her /its obligations under the terms and conditions of this agreement, and the allottee not being in default under any part of this agreement including but not limited to timely payment of the total sale consideration , stamp duty and other charges /fees/ taxes/ levies and also subject to the allottee having complied with all the formalities or documentation as prescribed by the developer, the developer proposes to hand over the possession of the unit to the allottees within a period of 30 months from the date of execution of this agreement with further grace period of 180 days. ”


“Clause – 20 Force Majeure - In the event of happening of any unforeseen circumstances such as Act of God, fire, flood, earthquake, explosion, war, riot, terrorist acts, sabotage, inability to procure or general shortage of energy, labour, equipment, facilities, materials or supplies, failure of transportation, strikes, lock outs, action of labour unions, court case/decreed/stay, statutory/government permissions, approvals or any other causes (whether similar or dissimilar to the



foregoing) which are beyond the control of the development, the developer shall not be held responsible or liable for not performing any of their obligations or undertaking in a timely manner as stipulated in this Agreement. In case of happening of any of the circumstances, the Developer shall be entitled to reasonable extension of time for performing their part of obligation as stipulated in this Agreement."

3. It has been argued by the respondent that delay in delivery of possession was not deliberate rather it was due to the amendments carried out by Department of Town and Country Planning in sectoral plan without obtaining any consent of the promoters. Respondent had filed their objections against the amendments in sectoral plan vide representation dated 04.11.2011 before the concerned authority but in vain. The issue of amendment in sectoral plan at last was decided by the DTCP on 09.02.2015, therefore there is no intentional delay on part of the promoters.

4. L.d. counsel for the respondent also pleaded that prior to arbitrary revision of sectoral plan, they had obtained approval of layout plan on 08.04.2010 and zoning plan on 21.09.2011 of their project in question. Besides, respondent had already obtained Part Completion Certificate of the colony on 10.03.2016. As far as unit of the complainant is concerned it has been stated that the unit is complete as possession has already been offered to the complainant on 16.10.2019 after duly receiving occupation certificate on 23.07.2019 from the competent Authority, but the complainant has not come forward to take possession after paying outstanding amount of Rs 12,02,743/-.



5. First, in regard to area of the apartment, the Authority vide its order dated 27.02.2020 and 18.08.2020 had directed the parties to make a joint visit of the flat for ascertaining its actual area. Now, ld. counsel for the complainant has apprised the Authority that his client is satisfied with the area of the flat. no dispute in this regard is being pressed. This case was further heard and discussed at length on hearing dated 08.10.2020 whereby respondent was directed to issue a statement of accounts of receivables and payables amount in accordance with the principles already laid down by this Authority in earlier decided complaints pertaining to same project bearing complaint no. 569/2018- Roshan Malwal vs Jindal Realty Pvt Ltd and 1048/2018- Nirmala Devi vs Jindal Realty Pvt Ltd.

6. in compliance, the respondent has filed the statement of account and copy of same has been supplied to the complainant. Today, ld. counsel for complainant stated that his client is satisfied with the said statement of account except holding charges of Rs 59,809/-. He pleaded that his client was offered possession on 16.10.2019 and he has filed the present complaint raising his grievances before this Authority on 30.10.2019, therefore the respondent is not entitled to charge holding charges for the period when the case was sub-judice before this Authority. Contesting the plea of complainant, Ld. counsel for respondent argued that said holding charges are being levied in terms of builder buyer agreement and as such complainant is liable to pay the same.



7. After perusing relevant record and submissions of both parties it is observed by the Authority that final statement of accounts of receivables and payables is acceptable to complainant except issue of holding charges of Rs 59,809/-. As per office record, present complaint was filed by the complainant in the registry on 30.10.2019 i.e. just 14 days after receiving the offer of possession. The respondent is charging holding charges for the period ranging from 15.11.2019 to 19.11.2020. During said period the issues involved in this case was sub-judice before this Court and as such respondent cannot claim holding charges for said period. Accordingly, the holding charges amounting to Rs 59,809/- stands quashed. Now, respondent is directed to deliver physical possession of the unit complete in all respects within 30 days to the complainant in terms of the aforesaid findings.

8. The complaint is **disposed of**. File be consigned to record room.


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RAJAN GUPTA
[CHAIRMAN]


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DILBAG SINGH SIHAG
[MEMBER]