



**HARERA**  
**GURUGRAM**

HARYANA REAL ESTATE REGULATORY AUTHORITY  
GURUGRAM

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम

गृह. सिविल लाईंस. गुरुग्राम, हरियाणा

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,  
HARYANA REAL ESTATE REGULATORY AUTHORITY  
GURUGRAM**

**Complaint No. : 1349/2021**  
**Date of Decision : 15.07.2021**

**Geeta Rana**  
**R/o RZ-28, Street No.9, West Sagarpur**  
**New Delhi-110046**

**Complainant**

**V/s**

**M/s Revital Reality Pvt Ltd.**  
**1114, Hemkunt Chambers**  
**89, Nehru Place**  
**New Delhi-110019**

**Respondent**

**Complaint under Section 31  
of the Real Estate(Regulation  
and Development) Act, 2016**

**Present:**

**For Complainant:**  
**For Respondent:**

**Mr. Sandeep Singh, Advocate**  
**Mr. Brighu Dhami, Advocate**

**ORDER**

This is a complaint filed by Ms Geeta Rana( called as complainant or buyer) under Section 31 read with section 71 of The Real Estate(Regulation and Development) Act, 2016 (in brief 'The Act') against M/s Revital Reality Ltd.(also called as promoter) seeking, directions to refund a sum of

Rs.4,79,624/-(Rupee Four lakh seventy nine thousand six hundred and twenty four only) alongwith interest @15%p.a. from the dates of payment, till the date of filing of this complaint and Rs.1,00,000/- as compensation for mental harassment.

2. According to the complainant, the respondent/promoter launched a project in the name and style of "Supertech The Valley" under the Affordable Group Housing Scheme-2013 of Government of Haryana. Being persuaded by some marketing person belonging to the respondent, she booked a residential unit bearing No. K-1392 in said project, having an area measuring 551 sq ft after paying a sum of Rs.94,975/- against total sale consideration of Rs.18,99,500/-.

3. Complainant was required to pay 20% of sale consideration within a period of 10 days from the date of issuance of allotment letter, which was issued on 02.03.2019, 75% of consideration amount was to be paid in six monthly equated instalments. Remaining amount of Rs.3,79,900/- was to be paid by 12.03.2019. The allotment-cum-agreement was to be executed within 30 days from the date of payment of allotment amount being 25% of the basis sale price amounting to Rs.3,79,900/- which was paid by the complainant. Despite payments made as per schedule, respondent failed to execute allotment-cum-agreement, which was ultimately executed on 18.06.2018 after receipt of Rs.4749/-.

4. The complainant was assured the facilities of loan as she had already paid the entire savings of herself as well as of her husband. No loan was sanctioned in her favour by any financial institution/bank as the respondent was blacklisted. She felt having been cheated at the hands of the respondent. Constrained in this way, the complainant has filed the complaint in hands

seeking refund of amount alongwith interest and compensation as described above.

4. Brief facts of the case are reproduced in tabular form as under:

<b>Project related details</b>		
<b>I.</b>	<b>Name of the project</b>	<b>“Supertech The Valley”</b>
<b>II.</b>	<b>Location of the project</b>	<b>Sector 78, Gurugram</b>
<b>III.</b>	<b>Nature of the project</b>	<b>Residential</b>
<b>Unit related details</b>		
<b>IV.</b>	<b>Unit No. / Plot No.</b>	<b>K-1302</b>
<b>V.</b>	<b>Tower No. / Block No.</b>	<b>K</b>
<b>VI</b>	<b>Size of the unit (super area)</b>	<b>Measuring 551 sq ft</b>
<b>VII</b>	<b>Size of the unit (carpet area)</b>	<b>-DO-</b>
<b>VIII</b>	<b>Ratio of carpet area and super area</b>	<b>-DO-</b>
<b>IX</b>	<b>Category of the unit/ plot</b>	<b>Residential</b>
<b>X</b>	<b>Date of booking(original)</b>	
<b>XI</b>	<b>Date of Allotment(original)</b>	<b>02.03.2019</b>
<b>XII</b>	<b>Date of execution of BBA (copy of BBA be enclosed)</b>	<b>06.07.2019</b>
<b>XIII</b>	<b>Due date of possession as per BBA</b>	<b>28.07.2023 four years after receipt of EC on 29.07.2019</b>
<b>XIV</b>	<b>Delay in handing over possession till date</b>	

XV	Penalty to be paid by the respondent in case of delay of handing over possession as per clause 4.2. of BBA	-
<b>Payment details</b>		
XVI	Total sale consideration	Rs. 18,99,500/-
XVII	Total amount paid by the complainants	Rs.4,79,624/-

5. Respondent contested the claim by filing written reply. The fact that the project, "Supertech The Valley" was launched by it, complainant booked a unit/apartment bearing No.K-1302 in Tower K having an area of 551 sq ft for total sale consideration of Rs.18,99,500/- are not disputed by the respondent. As per clause 3.1 of said agreement, the project was to be completed within four years from the date of approval of building plans or grant of environment certificate, whichever is latter. As per respondent, the Environment Clearance Certificate of the project was received on 29.07.2019. Clause 2.2 says that the allottee is liable to make payment in terms of payment plans as per the agreement and further that clause 1.1 of the said agreement provides for possession of the apartment to be given to the allottee, after payment of all dues.

6. It is not denied by the respondent that completion of the project got delayed to some extent but according to it, it was due to Pandemic Covid-19 which gripped the entire nation since March-2020. The Government of India has categorised this event as Force Majeure. According to the respondent, the construction of project is in full swing now. Delay whatsoever has been caused, the same is due to government imposed lockdown, which stalled the construction activities in India including in Gurugram, where this project

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is situated. The respondent opposed the refund of the amount to the complainant and requested for dismissal of complaint with costs.

7. Learned Counsel for respondent referred following cases decided by Haryana Real Estate Regulatory Authority, Gurugram

Particular	Complaint No.	Date of Decision
Sh. Krishna Wats v. M/s CHD Developers Ltd	578 of 2019	30.05.2019
Sh. Aman Sood v. BPTP Ltd.	1194 of 2018	13.03.2019
Sh. Abhishek Agarwal & Anr. V. M/s Cosmos Infra Engineering India Pvt. Ltd	1834 of 2018	10.04.2019
Sh. Parmod Kumar v. S.S Group Pvt. Ltd	63 of 2018	22.11.2018
Sh. Puneet Dhar v. Supertech	743 of 2018	18.12.2018
Sh. Rajiv Kohli v. Supertech Ltd.	1603 of 2018	13.03.2019
Renuka Sharma v. Supertech Ltd.	732 of 2018	15.03.2019

8. Learned counsel for the complainant simply contended that his client is not able to make further payments and hence wants refund of the amount already paid by her, as no loan was sanctioned by any financial institution/bank due to bad reputation of the respondent, who is known to be sister concern of M/s Supertech Limited.

9. It is not in dispute that the complainant was allotted a unit i.e. an apartment measuring <sup>464</sup>~~357~~ Sq. Ft. (carpet area) in project "The Valley" an Affordable Group Housing Project. The Haryana Government through its Town and Country Planning Department issued Gazette notification on 19<sup>th</sup>

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August 2013 No. PF 27/48921. The Governor of Haryana has been pleased to notify a comprehensive 'Affordable Housing Policy-2013' under the provisions of Section 9 A of The Haryana Development and Regulation of Urban Areas Act, 1975 and any other corresponding statute, governing development of group housing colonies. It is a special policy, for allotment of affordable houses. The object to launch this policy is mentioned as "to encourage the planning and completion of "Group Housing Projects" wherein apartments of 'pre-defined size' were made available at 'pre-defined rates' within a 'Targeted time-frame' as prescribed under the present policy to ensure increased supply of 'Affordable Housing' in the urban housing market, to the deserving beneficiaries".

10. Although the Real Estate (Regulation and Development) Act, 2016 came into force w.e.f 1<sup>st</sup> may, 2016. In this way, this Act came into force after aforesaid notification, even then aforesaid notification, was issued for specific object as described above. While, the Real Estate (Regulation and Development) Act, 2016 is a wider act, governing development and regulation of real estates no provision of affordable housing policy is contrary to the provisions of said act and no provision of it has been repealed by the legislature. Due to all this, in my opinion despite having been launched prior to the Act, being specific policy, it is still enforceable.

11. Clause 5 (iii) (h) of notification No. PF 27/48921 referred above states that in case of surrender of flat by any successful applicant, an amount of Rs. 25,000/- may be deducted by the coloniser. Another notification No. PF-27/15922 was issued by Haryana Govt. on July 5, 2019 Clause no. 4 (a) of this notification provides that in Clause 5 (iii)(h) of policy dated 19.08.2013, the words "*in case of surrender of flat by any successful applicant, an amount of Rs. 25000/- may be deducted by the colonizer*", shall be substituted as under:-

"On surrender of flat by any successful allottee, the amount that can be forfeited by the colonizer in addition to Rs. 25,000/- shall not exceed the following:-

Sr. no.	Particulars	Amount to be forfeited
(aa)	In case of surrender of flat before commencement of project	Nil;
(bb)	Upto 1 year from the date of commencement of the project:	1% of the cost of flat;
(cc)	Upto 2 years from the date of commencement of the project:	3% of the cost of flat;
(dd)	After 2 years from the date of commencement of the project:	5% of the cost of flat;

Note: The cost of the flat shall be the total cost as per the rate fixed by the Department in the policy as amended from time to time."

12. It leaves no option to the colonizer but to refund the amount paid by an allottee, after deducting Rs. 25,000/- and the amount as mentioned Clause no. 4 of notification dated 05.07.2019, if buyer opts to withdraw his/her amount.


13. Although the complainant has blamed the respondent/colonizer for not fulfilling his promise to facilitate the loan for complainant. I do not find much merit in this contention of complainant and also the allegation that the respondent had a bad reputation, due to which financial institutions did not disburse loan to him. Nothing on record to verify that respondent undertook to facilitate any loan to the complainant, rather as per Clause 3.4 (i) of agreement to sell, it was for allottee to arrange/avail loan facility from bank/financial institution/agency on its own and the promoter shall not be responsible for sanctioning of loan.

14. Learned counsel of complainant asserted again and again that his client simply wants to withdraw from the project and does not insist on contentions of default of respondent. In view of provisions of said policy as reproduced above, the colonizer is bound to refund the amount when buyer opts to withdraw from the project, without any condition subject to some deductions as mentioned above. I allow complaint in hands. Respondent/colonizer is directed to refund the amount already paid by the complainant, after deducting forfeitable amount as per said policy, within 90 days from today, failing which same will be liable to pay interest @ 9.30% p.a., till realization of amount.

15. Announced in open Court today i.e. 15.07.2021.

16. File be consigned to the Registry.

15.07.2021

  
**(RAJENDER KUMAR)**  
Adjudicating Officer,  
Haryana Real Estate Regulatory Authority  
Gurugram