



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 943 OF 2019

M/s Mapsko Builders Pvt. Ltd.

....COMPLAINANT(S)

VERSUS

Vineet Beniwal

....RESPONDENT(S)

CORAM:

Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag

Chairman
Member
Member

Date of Hearing: 13.07.2021

Hearing: 12th

Present: - Sh. Akshat Mittal, Counsel for the complainant through video Conferencing.
Sh. Himanshu Arora, Counsel for the respondent

ORDER (RAJAN GUPTA - CHAIRMAN)

1. In brief the complainant's case is that he allotted unit no. MG- 53 measuring 1345 sq. Fts. to be built on a plot measuring 269 Sq. Yds. in the real estate project namely 'Mapsko City Homes' situated in Sector-26, 26A & 27, Sonipat to the respondent-allottee for a total sale consideration of Rs 34,79,784/, following which builder buyer agreement was executed between the parties on 16.02.2013. As per the payment plan opted by the respondent-allottee, sale consideration was to be paid in the ratio of 30:70 i.e. 30% of amount to be paid at time of booking which was duly paid by respondent -allottee, and the remaining 70% of amount is to be paid at time of offer of possession. The complainant's grievance is that after completing construction of the unit, he offered possession to respondent-allottee on 13.10.2017. Occupation certificate for the said unit was also received on 25.10.2017. But respondent has neither come forward to take possession of the booked unit nor paid the remaining/balance amount. Moreover, several reminders were sent to respondent on 13.01.2018 and 02.04.2018, but in vain. For this reason, the present complaint is filed seeking direction to the respondent-allottee to take possession of the unit by paying remaining amount.

2. A counter complaint bearing no. 2059/19 titled as *Vineet Beniwal Vs M/s Mapsko Builders Pvt. Ltd.* has also been filed by the respondent-allottee seeking refund of the amount already paid by him. However, the said complaint has been adjourned sine-die awaiting decision of Hon'ble Apex Court in SLP No. 13005 of 2020 titled as Sana Realtors Vs Union of India and Ors.



3. Today, learned counsel for respondent-allottee prayed for disposing of this matter in terms of order dated 26.09.2019 passed in complaint no. 764/2019 titled as *Mapsco Builders Pvt Ltd vs Harsh Rohra* whereby this Authority has allowed verbal submission/plea of complainant-developer that in case the respondent-allottee fails/not ready to pay the outstanding amount, complainant-developer may cancel the allotment as per clause 12A of agreement after providing him a last chance to pay the due amount as per fresh statement of account showing receivables and payables. The said clause-12A is reproduced below: -

12A- That in case the buyer fails to pay due instalments with interest within 60 days from the due date of outstanding amount, or if there is breach of any terms/conditions of this agreement or opted payment plan, the promoter shall in its sole discretion, forfeit the earnest money (i.e. 20% of the basic sale price) out of the amount paid by the buyer and this agreement shall stand cancelled, consequent whereof, the buyer shall be left with no right, claim or lien whatsoever on the said floor. However, the amount, if any paid over and above the earnest money will be refunded to the buyer whose name mentioned first in the application form, without interest after re-allotment of the said floor to a new buyer and after compliance of certain formalities by the buyer.

4. Considering the written and verbal submissions, it has been observed that possession was offered by complainant-developer on 13.10.2017 but



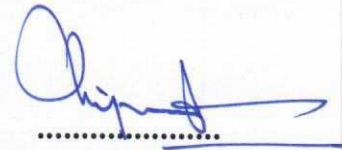
occupation certificate was received on 25.10.2017. Accordingly, offer of possession shall be taken as valid offer of possession. Accordingly, the respondent-allottee shall be entitled to delay interest for the delay caused by complainant in offering possession at the rate prescribed in Rule 15 of HRERA Rules,2017 for the period from the deemed date of possession (as per builder buyer agreement) upto the date of receipt of occupation certificate i.e. 16.02.2015 to 13.10.2017. The complainant-promoter is also entitled to same rate of interest for the period of delay caused by the respondents in payment of the outstanding amounts from the date of offer of possession till now.

5. Further it is observed that in case, the respondent-allottee is not ready to pay outstanding dues, the complainant-promoter may cancel his allotment as per the agreement. However, before doing so, he shall issue a fresh statement of accounts in accordance with principles laid down in above paragraph showing therein all receivables and payables amount and shall provide one more chance to the allottee for making payment of the outstanding amount. Accordingly, the complainant-developer is directed to issue a fresh statement of accounts to the respondent-allottee within 30 days of uploading of this order. It is further made clear that if the allottee fails to make payments to the complainant within a period of 90 days from the date of issuing fresh statement of accounts, the developer will be at liberty to exercise his rights towards cancellation of allotment of unit as per terms of the agreement and this order.

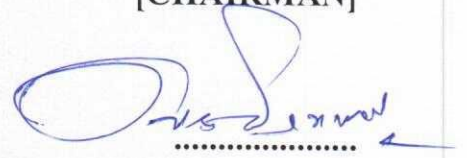
4

6.

Disposed of in above terms. File be consigned to record room.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]

