



Complaint No. 2945 of 2019

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2945 OF 2019

Anita

....COMPLAINANTS(S)

VERSUS

BPTP Ltd.

....RESPONDENT(S)

**CORAM: Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag**

**Chairman
Member
Member**

Date of Hearing: 04.08.2021

Present: Shri Gaurav Gupta, Counsel for the complainant.
Shri Hemant Saini and Shri Himanshu Monga, counsel for the
Respondent.

ORDER: (ANIL KUMAR PANWAR-MEMBER)

1. A flat bearing No. K-501 on 5th Floor of Tower-K of respondents' project named "Discovery Park" situated in Sector-80, Faridabad was initially allotted to Mridu Khanna and Tanuj Khanna vide buyer agreement dated 31.12.2012. Allotment rights had subsequently transferred to different persons and the present complainant in the sequence is 3rd allottee of the flat. Transfer of allotment rights in her favor were duly endorsed on 29.06.2018 by the respondents who had already received a sum of Rs. 68,32,063.41 for the said flat against the basic sale price of Rs.39,00,000/-. Respondents were obligated to handover the possession to the allottee up to 30.10.2015 in terms of the buyer's agreement but they failed to deliver the possession to the complainant. According to the complainant, respondents had raised a demand of Rs. 20,04,934.53/- along with offer of possession sent to her on 16.11.2018 and she out of said demand had paid an amount of Rs. 17,07,710/- on 21.01.2019 and Rs. 1,83,000/- on 02.03.2019.

2. The grievance of the complainant is that (i) respondents had failed to deliver her the possession of the booked flat as per buyer's agreement, (ii) respondents had already collected a sum of Rs. 68,32,063.41 which is more than the basic sale price as mentioned in the buyer's agreement and (iii) various works are still pending for execution in the booked flat. So, the complainant on

the aforesaid premise has prayed for (i) refund of the excess amount charged from her along with interest at the rate of 18% per annum, (ii) for cancellation of the registration which this Authority had granted to the respondents' project vide registration No. 297 of 2017, (iii) for awarding her delay interest and (iv) for payment of compensation of Rs. 2.00 lacs on account of harassment, mental agony and undue hardship caused to her besides the cost and litigation expenses of Rs. 50,000/-.

3. Respondents have contested the complaint and has denied the allegation regarding charging of excess amount. It was pleaded that area of flat had increased from 1625 Sq. fts. to 1848 Sq. fts. and the demand raised was in accordance with the terms of agreement. It was further pleaded that the possession has already been offered to the complainant and complainant's allegation is incorrect on the point that works in the flat are not complete. It was averred that no ground exists for cancellation of the registration granted by this Authority.

4. During the course of arguments, respondents' counsel has today relied upon a judgment of the Hon'ble Supreme Court titled as Wing Commander Arifur Rahman Khan and others Versus DLF Southern Homes Pvt. Ltd. to contend that the complainant is not entitled for delay interest because she

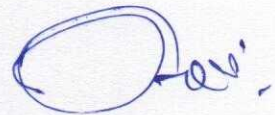


at the time of purchasing allotment rights from secondary market on 29.06.2018 was conscious of the delay occurring in completion of the project.

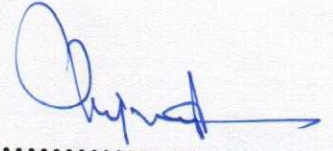
5. The Authority after hearing the parties had reserved the judgment of this case but later in the course of the day, the Authority was apprised that the Hon'ble Supreme Court in a recent judgment rendered in M/s Laureate Buildwell Pvt. Ltd. Versus Charanjeet Singh had declared as bad law the dictum of Wing Commander Arifur Rahman Khan's case.

6. In view of this development, the Authority deems it proper to offer an opportunity to the parties particularly to the respondents' learned counsel for arguing the matter concerning award of delay interest in the perspective of recent ruling of the Hon'ble Supreme Court and the case is being, therefore, adjourned.

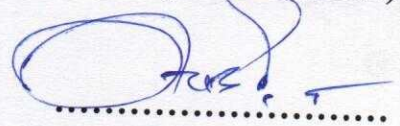
7. Since the case is now being posted for rehearing, the Authority observes that the respondents in their pleadings have not furnished complete information about the reasons leading to increase of flat area from 1625 Sq. fts. to 1848 Sq. fts. and an explanation as to how the original basic sale price mentioned in the buyer's agreement as Rs. 39 lacs had escalated to a sum of Rs. 68,32,063.41. Respondents shall furnish necessary details on these two points with a copy thereof to the complainant's counsel at least seven days prior to the next date of hearing.



8. Case is adjourned to 01.09.2021 for arguments.



RAJAN GUPTA
(CHAIRMAN)



ANIL KUMAR PANWAR
(MEMBER)



DILBAG SINGH SIHAG
(MEMBER)

