

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

Complaint no. : 819 of 2020

Date of decision : 31.08.2021

R.P. SINGH AND KRISHNA SINGH
R/O : V29/25 DLF Phase-3,
Village Nathupur, Gurugram
Haryana-122002

Complainants

Versus

M/S SUPERTECH LIMITED
ADDRESS: 1114, 11th Floor,
Hemkunt Chamber, 89,
Nehru Place, New Delhi-110019

Respondent

APPEARANCE:

For Complainant:

K K Kohli (Adv)

For Respondents:

None

ORDER

1. This is a complaint filed by Sh. R.P. Singh and Smt. Krishna Singh (also called as buyers) under section 31 of The Real

Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 29 of The Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) against respondent/promoter.

2. As per complainants, on 12.10.2013 they jointly booked a flat in respondent's project **Supertech Hues**, situated at sector-68, Gurugram. They made payment of Rs 11,52,360 as booking amount. The respondent allotted an apartment admeasuring 1180 sq. ft. for a total consideration of Rs 87,82,360 including BSP, EDC, IDC etc. A buyers agreement was executed on 04.07.2014
3. As per the Clause E. 25 of buyer's agreement (terms and conditions), the possession of the said premisses was to be delivered by the developer to the allottee within 42 months i.e. by April 2017, with grace period of 6 months. In this way the possession ought to have been delivered by October 2017 but respondent failed to complete the construction work and consequently failed to deliver the same till date.
4. As per the payment plan opted by the complainants, they made timely payment of Rs 76,15,947.37/-i.e. 90 % of entire agreed consideration along with miscellaneous and additional charges etc, but to their utter dismay, the possession of the apartment has not been offered as agreed in buyer's agreement.

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5. As there was no progress of construction at the site of the project, the complainants vide their letter dated 04.10.2019 and 04.11.2019 requested the respondent to refund the amount of Rs 76,15,947.37 along with interest. The respondent vide its reply (letter) dated 11.11.2019 admitted that it would take another 12 to 15 months to deliver the project.
6. Contending that the respondent has breached the fundamental term of the contract by inordinately delaying the delivery of the possession, the booking of the unit was made in the year 2013 and even in 2020 the project was nowhere near completion, the respondent has thus committed gross violation of the provisions of section 18(1) of the Act, the complainants have sought refund of entire amount of Rs 76,15,947.37/-along with prescribed interest, further interest at the rate of 24 %, compensation for the loss or injury due to deficiency in service to the tune of Rs 15,00,000 , for the loss of benefit of escalation price of that flat to the tune of Rs 35,00,000, compensation of Rs 15,00,000 on account harassment and mental agony and Rs 1,00,000 as litigation charges.
7. The particulars of the project, in tabular form are reproduced as under:

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S.No.	Heads	Information
PROJECT DETAILS		
1.	Project name and location	" Supertech Hues ", Sector 68, Gurugram,
2.	Project area	30.83 acres (as per RERA registration)
3.	Nature of the project	Residential Group Housing Colony
4.	DTCP license no. and validity status	106 & 107 of 2013 dated 26.12.2013 valid up to 25.12.2017
5.	Name of licensee	Sarv Realtors Pvt. Ltd.
6.	RERA Registered/ not registered	Registered vide no. 182 of 2017 dated 04.09.2017
UNIT DETAILS		
1.	Unit no.	B/1404 (Pg. No 58 of complaint)
2.	Unit measuring	1180 sq. ft. (Page No.58)
3.	Date of Booking	12.10.2013
4.	Date of Buyer's Agreement	04.07.2014 (Annexure-4, Pg. No 56 of complaint)
5.	Due Date of Delivery of Possession As per Clause No. E. 25 : The possession of said premises is	April 2017 + 6 months grace period

	proposed to be delivered within 42 months i.e. by April 2017 with 6 months grace period (Page No. 65 of the complaint)	
6.	Delay in handing over of possession till date	3 years 11 months
PAYMENT DETAILS		
7.	Total sale consideration	Rs 87,82,360 /-
8.	Amount paid by the complainants	Rs 76,15,947.37/-
9.	Payment Plan	Construction Linked Plan

10. The authority issued a notice dated 03.03.2020 of the complaint to the respondent by speed post and also on the email address. The delivery reports have been placed in the file. On 09.02.2021, Ms Bhawana Dhama advocate appeared on behalf of respondent but she had no authority letter/power of attorney/ vakalatnama for respondent. She did not file even memo of appearance. As she was not possessing the requisite authority, her request for adjournment was not allowed on that day.

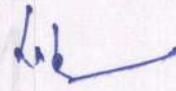
11. Despite service of notice, the respondents did not file reply to the complaint, accordingly, vide order dated 09.02.2021 the respondent was ordered to be proceeded ex-parte.

12. In the absence of any reply by the respondent contradicting plea taken by the complainants, claim of latters is presumed to be true. As per complainants, the respondent was bound by agreement to handover possession of the unit at the most by October 2017, but the project is nowhere near completion. The respondent has thus failed to deliver possession ^{in time} without any explanation. The complainants want refund of amount pais by them to respondent, along with interest etc.
13. Considering aove discussed facts, he complaint in hands is ^{is} ~~thus~~ allowed and respondent is directed to refund amount received from complainant ^R i.e. Rs 76,15,947.37 within 90 days from the date of this order along with interest @ 9.3 % p.a. from the date of payment till realisation of same. The respondent is burdened with a cost of Rs 1,00,000 /- to be paid to the complainants.

File be consigned to the registry.

31.08.2021

HARERA
GURUGRAM


(RAJENDER KUMAR)

Adjudicating Officer

Haryana Real Estate Regulatory Authority

Gurugram

Judgement uploaded on 07.09.2021