

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

Complaint no. : 1418 of 2021
Date of decision : 27.09.2021

VIKAS RAMPAL AND
POONAL RAMPAL
R/O : C-3/106, PH-2,
Ashok Vihar, New Delhi

Complainant

Versus

M/S IDENTITY BUILDTECH PVT. LTD.
ADDRESS: 110, Indraprakash,
21, Barakhamba Road,
New Delhi-110001

Respondent

APPEARANCE:

For Complainant:

Naveen Kohar (Adv)

For Respondent:

None

ORDER

1. This is a complaint filed by Vikas Rampal and Poonam Rampal (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/developer.

2. As per complainants, on 28.02.2013, they jointly booked a flat in respondent's project **Ansal Highland Park**, situated at sector-103, Gurugram and made payment of Rs 6,00,000 as booking amount. The respondent allotted a unit to the complainants, bearing unit No. STRLG - 1602, admeasuring 1763 sq. ft. for a total consideration of Rs 98,08,203 including BSP, PLC, EDC etc.
3. The respondent assured them (complainant) that the possession of the unit will be delivered within 48 months from the date of allotment i.e. by 01.03.2017. They (complainants) on various occasions requested respondent to execute buyer's agreement but no agreement is executed till now. When they visited the site of project, they found that no construction work has been started. Delivery of possession of unit cannot be expected in near future. As per the payment plan opted by them (complainants), they made timely payment of Rs 88,46,224.
4. As per the payment plan opted by the complainants, they made timely payment 90 % of entire agreed consideration along with miscellaneous and additional charges etc, but to their utter dismay, respondent has not given any information

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regarding completion of construction work and the possession of the unit has not been offered till date.

5. In this way, respondent has committed gross violation of the provisions of section 18(1) of the Act, by inordinately delaying the delivery of the possession, the booking of the unit was made in the year 2013 and even in 2021, the project is nowhere near completion, the complainants have sought refund of entire amount of Rs 88,46,224 paid by them till now, along with interest @ 18 % p.a.
6. The particulars of the project, in tabular form are reproduced as under:

S.No.	Heads	Information
PROJECT DETAILS		
1.	Project name and location	" Ansals Highland Park", Sector 103, Gurugram,
2.	Project area	11.7 acres
3.	Nature of the project	Residential Group Housing Colony
4.	DTCP license no. and validity status	32 of 2012 dated 12.04.2012
5.	Name of licensee	M/s Identity Buildtech Pvt. Ltd, M/s Agro gold Chemicals Pvt. Ltd.
6.	RERA Registered/ not registered	Registered vide no. 16 of 2019



UNIT DETAILS

1.	Unit no.	STRLG - 1602
2.	Unit measuring	1763 sq. ft.
3.	Date of Booking	28.02.2013
4.	Date of Allotment Letter	Not mentioned, not annexed
5.	Date of Buyer's Agreement	Not executed

PAYMENT DETAILS

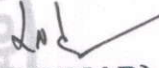
6.	Total sale consideration	Rs 98,08,203
7.	Amount paid by the complainants	Rs 88,46,224
8.	Payment Plan	Construction linked

7. The notice of complaint was duly served upon respondent but despite due service none appeared on behalf of respondent and accordingly respondent was ordered to be proceeded ex-parte vide order dated 05.04.2021.
8. In the absence of any reply by the respondent contradicting plea taken by the complainants, claim of latter is presumed to have been admitted. Although no builder buyer's agreement (BBA) was executed between the parties, as per complainants, the respondent had agreed to handover possession of the unit till 01.03.2017 and project is nowhere near completion. The respondent has thus failed to deliver possession, without any explanation.

9. There is no reply from the respondent as when the delivery of possession will be given to complainants. The complaint in hands is thus, allowed. Respondent is directed to refund the amounts received from complainants till now i.e. Rs 88,46,224/- within 90 days from today , along with interest @ 9.3% p.a. from the dates of receipts of payments till realization of amounts. The respondent is burdened with cost of Rs.50,000/- to be paid to the complainants.

File be consigned to the Registry.

27.09.2021


(RAJENDER KUMAR)
Adjudicating Officer

Haryana Real Estate Regulatory Authority
Gurugram

Judgement uploaded on 06.10.2021.