



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

## COMPLAINT NO. 292 OF 2021

Sudhir Raghav

....COMPLAINANT

VERSUS

M/s Ashiana Realtech Pvt. Ltd

....RESPONDENT

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

Member  
Member

**Date of Hearing:** 08.09.2021

**Hearing:** 2<sup>nd</sup>

**Appearance:** - Sh. Saurabh Sachdeva, Ld. counsel for the complainant through Video conferencing.  
Sh. Jatinder Nagpal, Ld. counsel for the respondent through video Conferencing.

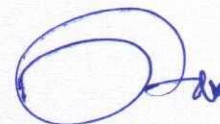
**ORDER: (ANIL KUMAR PANWAR - MEMBER)**

1. The complainant is seeking possession of an apartment which he had booked in respondent's project named as "The Cubix" situated in Sector-23, Dharuhera, District Rewari (Haryana). The respondent as per terms of Builder-Buyer Agreement entered between the parties was obliged to deliver possession within 42 months from the date of agreement and said period has already lapsed on 08.11.2017. The complainant has therefore prayed for awarding him delay interest as well.

2. The respondent's plea is that due to force majeure conditions caused by a ban imposed by the Hon'ble Punjab and Haryana High Court, Chandigarh against mining of sand and another ban created by Hon'ble National Green Tribunal against carrying out the construction works to avoid increasing pollution. So, the delay in completion of project had occurred. However, the development works have since been completed and occupation certificate has been applied on 07.12.2020. So, the complaint is liable to be dismissed.

3. Learned counsels for the parties have been heard and record of the case has been perused.

4. The respondent has not disclosed in his pleadings, the period during which bans were imposed by the Hon'ble High Court and the National Green Tribunal. Also, the order imposing the alleged bans are not produced on record.





It is, therefore, not possible to adjudge whether the alleged force majeure conditions were in forced during the period in which the respondent as per terms of BBA was required to complete the project. The period allowed to the respondent for completion of the project and for obtaining occupation certificate for the purpose of delivering the valid possession to the complainant had ended on 08.11.2017, so the respondent's plea that he is not liable to pay delay interest is not acceptable.

5. The fact remains that the complainant despite having already to deposit a sum of Rs. 33,86,799/- against the basic sale price of the apartment has not received the possession of booked apartment. Section 18 of the RERA Act entitles the allottee for payment of upfront delay interest, if the promoter/builder fails to deliver the possession on the agreed date.

6. In view of above circumstances, the Authority directs the respondent to pay 50% of the upfront delay interest to be calculated on the already paid amount minus the payment of EDC and taxes, if included therein @ prescribed in Rule-15 of the HRERA Rules, 2017 as per the principle laid down in the complaint **case No. 113 of 2018** titled as "**Madhu Sareen Versus M/s BPTP Limited**" from the deemed date of possession i.e. 08.11.2017 to the date uploading of this order. The respondent shall also continue to pay monthly interest calculated at the aforesaid amount as per prescribed rate mentioned in Rule-15 till valid offer of possession is made to the complainant after obtaining



occupation certificate. The balance 50% amount of delay interest will be adjusted in the statement of account of payable and receivable amounts on the date of offer of possession. The respondent is allowed 90 days' time from the date of uploading of the order for payment of 50% upfront delay interest in terms of this order.

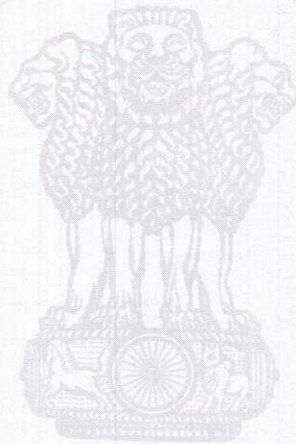
7. In the above terms, case is disposed of and the file be consigned to the record room after uploading of this order on the website of the Authority.



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**ANIL KUMAR PANWAR**  
[MEMBER]



.....  
**DILBAG SINGH SIHAG**  
[MEMBER]



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