



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम

गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

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

**Complaint No. : 208/2020
Date of Decision : 28.09.2021**

**MRJ Real Estates Pvt Ltd.
R/o 252H, Kailash Plaza, Sant Nagar
East of Kailash, New Delhi.**

Complainant

V/s

**M/s Chintels India Limited
A-11, Kailash Colony, New Delhi-110048
Local Office:
Chintel Corporate Park, near Chintel Chowk
Sector 114, Gurugram-122017**

Respondent

**Complaint under Section 31
of the Real Estate(Regulation
and Development) Act, 2016**

Present:

**For Complainant:
For Respondent:**

**Mr. Manoj Yadav, Advocate
Ms Nishi Ranjan Singh, Advocate**

ORDER

This is a complaint filed by MRJ Real Estates Pvt Ltd.(also referred as buyer) under Section 31 of The Real Estate(Regulation and Development)

Handwritten signature and date:
A.O.
28-9-21

Act, 2016 (in brief Act of 2016) read with Rule 29 of The Haryana Real Estate(Regulation and Development) Rules, 2017 (in brief 'Rules') against M/s Chintels India Limited (also called as developer) seeking directions to the respondent/developer for refund a sum of Rs.22,46,150/- alongwith interest @ 18% p.a. etc.

2. According to complainant, the respondent publicised its residential project named "Chintels Serenity" to be developed in Sector 109, Gurugram. Based on publicity gimmicks of respondent, it(complainant) developed interest in said project, paid an amount of Rs.10,00,000/- on 29.10.2012 to book a unit. In addition to this amount, it further paid an amount of Rs.12,46,150/- on 25.11.2012. After lapse of about 9 months, the respondent sent allotment letter offering allotment of unit bearing No. E-802, 8th floor, Tower- E admeasuring 2100 sq ft, for total sale consideration of Rs.1,65,02,500/-. Due to change in original terms of payment, it(complainant) refused to accept offer of allotment. From 2014 to 2016, it kept on requesting the respondent to refund the amount.

3. Almost after a gap of five years from the date of payment, respondent sent Builder Buyer Agreement(BBA) but it (complainant) did not sign the same instead requested the respondent to refund their money. The respondent in its email informed the complainant that in case of cancellation, earnest money will be deducted and interest @18%p.a. will also be charged for delayed payments, in terms of agreement.

3. Moreover, necessary approval including pollution were not obtained by the respondent. All these omissions on the part of respondent forced the complainant to file this complaint seeking refund of their money alongwith interest etc.

Handwritten signature

A.O,

28/8/21

4. Brief facts of complainant's case in tabular form are reproduced as under:

Project related details		
I.	Name of the project	"CHINTEL SERENITY"
II.	Location of the project	Sector 109, Gurugram
III.	Nature of the project	Residential
Unit related details		
IV.	Unit No. / Plot No.	E-802,8 th floor,
V.	Tower No. / Block No.	E
VI.	Size of the unit (super area)	Measuring 2100 sq ft
VII.	Size of the unit (carpet area)	-DO-
VIII.	Ratio of carpet area and super area	-DO-
IX.	Category of the unit/ plot	Residential
X.	Date of booking(original)	29.10.2012
XI.	Date of Allotment(original)	19.08.2013
XII.	Date of execution of BBA	Not executed
XIII.	Due date of possession as per BBA	
XIV.	Delay in handing over possession till date	
XV.	Penalty to be paid by the respondent in case of delay of handing over possession as per the said BBA	
Payment details		
XVI.	Total sale consideration	Rs.1,65,02,500/-

XVII	Total amount paid by the complainants	Rs.22,46,150/-
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4. Respondent contested the claim of the complainant by filing written reply. It is admitted that complainant booked the unit in question in pre-launch project by making initial payment of Rs.22,46,150/- in two instalments. It is stated further that after November 2012, not a single penny was paid to it nor any correspondence was exchanged till March, 2018 was exchanged. Despite writing/sending several reminders, complainant was not forthcoming to pay due instalments leading to issuance of show cause notice dated 12.07.2019 for cancellation of allotted unit. Ultimately the unit in question was cancelled on 09.08.2019. The allegations of complainant that terms of payment were different from those as told to complainant, at the time of application are afterthought and without any basis. The complainant kept ^{itself} ~~themselves~~ silent on BBA sent to ^{it} ~~them~~ for signing for considerable long period. Since the complainant was at default by not making timely payments and moreover said did not sign or return the BBA for furtherance action.

5. Citing all these, respondent urged this forum to reject the complaint, on the grounds of defaults committed by the complainant as enumerated above.

6. Admittedly, no 'agreement to sell' was signed between parties of this case. According to complainant, same refused to sign draft agreement(BBA) as original terms of payments were changed(by respondent). There is nothing on record to infer that parties had reached an oral contract. Merely, the fact that complainant paid some amounts as booking amounts or same were accepted by respondent was not enough to conclude contract. Before

any contract was completed, the complainant asked for refund of money paid by it. In such circumstances, the respondent had no right to retain that amount rather duty bound to refund the same. In the absence of any agreement, respondent had no right to deduct 18% of said amount, claiming it to be earnest money.

7. Complaint in hands is thus allowed.

8. Respondent is directed to refund amount received from complainant i.e. Rs.22,46,150/- within 90 days from date of this order alongwith interest @ 9.30% p.a. from the date of each payment, till realisation. The respondent is burdened with cost of litigation of Rs.1,00,000/- to be paid to the complainant.

9. File be consigned to the Registry.


(RAJENDER KUMAR)
Adjudicating Officer,
Haryana Real Estate Regulatory Authority
Gurugram
28.09.2021

Judgement uploaded on 08.10.2021.