

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

Complaint no. : 4179 of 2019

Date of decision : 29.09.2021

HIMANSHU BHUDHIRAJA AND  
POONAM BHIDHIRAJA  
R/O : 70- A, Shivam Enclave,  
Jhilmil, DDA Flats, Karkardooma  
New Delhi-110032

**Complainants**

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M/S CHD DEVELOPERS LIMITED.  
ADDRESS: SF,-16-17, First Floor,  
Madame Bhikaji Cama Bhawan,  
11 Bhikaji Cama Place  
New Delhi-110066

**Respondent**

**APPEARANCE:**

For Complainants:

Mr Nilotpal Shyam (Adv)

For Respondents:


Mr. Ravi Agarwal (Adv)

**ORDER**

1. This is a compliant filed by Sh. Himanshu Bhudhiraja and Smt. Poonam Bhidhiraja (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/developers.

2. As per complainants they jointly booked a flat in respondent's project CHD VANN, situated at sector-71, Gurugram on 29.04.2014 and made payment of Rs 7,72,540 as booking amount. The respondent allotted an apartment admeasuring 1257 sq. ft. for a total consideration of Rs 86,64,180.75 including BSP, EDC, IDC etc. A buyer's agreement dated 18.10.2014 was executed between them.
3. As per Clause 12 of buyer's agreement, the possession of the said premisses was proposed to be delivered within 42 months, from the date of execution of buyer's agreement, with grace period of 6 months. In this way possession ought to have been delivered at the most up to 18.10.2018 but respondent failed to complete the construction work and consequently to deliver the apartment till date.
4. They (complainants), have made payment of Rs 74,06,126 i.e. 86 % of entire agreed sale consideration along with miscellaneous and additional charges etc, on time, but the respondent has breached fundamental term of the contract by inordinately delaying delivery of possession.
5. The complainants have sought refund of entire amount of Rs 74,06,126/- paid by them alongwith interest @ 18 % p.a compounded quarterly from date of each payment and Rs 15,00,000 for mental agony and harassment, and Rs 1,00,000 towards litigation charges.

  
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6. The particulars of the project, the details of sale consideration, etc are detailed here as under in tabular form:

S.No.	Heads	Information
<b>PROJECT DETAILS</b>		
1.	Project name and location	" CHD VANN", Sector 71, Gurugram, Haryana
2.	Project area	10.54 acres
3.	Nature of the project	Residential Group Housing Colony
4.	DTCP license no. and validity status	52 of 2008 dated 19.03.2008 valid up to 18.03.2018
5.	Name of licensee	Rao Phool Singh and others
6.	RERA Registered/ not registered	Registered
<b>UNIT DETAILS</b>		
1.	Unit no.	CVN-T 01- 04/06
2.	Unit measuring	1257 sq. ft.
3.	Date of Booking	29.04.2014
4.	Date of Buyer's Agreement	18.10.2014
5.	Due Date of Delivery of Possession	18.10.2018
	As per Clause No. 12 : The possession of said premises is proposed to be delivered within 42 months from the date of execution of buyer's agreement	

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	with 6 months grace period (Page No. 30 of the compliant)	
6.	Delay in handing over of possession till date	2 years 11 months
<b>PAYMENT DETAILS</b>		
7.	Total sale consideration	Rs 86,64,180.75 /-
8.	Amount paid by the complainants	Rs 74,06,126/- (Statement of accounts annexed with complaint Page No. 52)
9.	Payment Plan	Construction Linked payment plan

7. The respondent contested the complaint, by filing a reply dated 13.01.2020. It is averred that an amount of Rs 22,870 due on the part of complainant as on 15.11.2019. The complainants have sought refund of the paid amount only due to sudden decline in prices of the properties. The time period stipulated in buyer's agreement was tentative and is subject to force majeure events. Moreover, the National Green Tribunal had imposed restrictions on construction at the site due to which it (respondent) had to stop construction activities between May 2015 to August 2015. On 10.11.2017, the office of District Town Planner had directed stoppage of all activities in Gurugram. The labour and various other factors also contributed of slowdown in construction work.

*[Handwritten Signature]*  
A.O.

29.8.21

8. It is further averred that the project is registered with the RERA authority and as per RERA registration certificate, the respondent is committed to complete the project by 28.07.2021. The complainants cannot claim possession of the unit before said date. The construction is almost complete and only interior and finishing work is required to be done and the same is in progress. This complaint has been filed, on false and frivolous grounds, and is liable to be dismissed.
9. I have heard learned counsels for parties and perused the documents on record.
10. As stated earlier, even after adding six months of grace period, the respondent was obliged to handover the possession of the unit in question to the complainants till 18.10.2018. As per respondent, construction work remained stopped from May 2015 to August 2015 due to an order passed by National Green Tribunal. Even if this period is also added due date of possession comes to 18.01.2019. Although, respondent referred some order of District Town Planner dated 10.11.2017, it is not clarified as till when, construction was hampered due to said order. It is not claim of respondent that project is still complete or unit in question is worth occupying. According to Ld. Counsel for complainants only basic structure is complete.
11. It is not denied that complainants have already paid Rs 74,06,126 out of the total consideration of Rs 86,64,180.75.

It is well settled that a buyer cannot be made to wait for his/her dream unit indefinitely. Respondent has grossly failed in its obligation to complete and handover possession of unit to complainants as per agreement. In view of section 18 of Act, the complainants are entitled to get amount paid by them refunded with interest and compensation.

12. Complaint in hand is thus allowed and respondent is directed to refund entire amount received from complainants i.e. 74,06,126 within 90 days from today, with interest @ 9.3 % p.a. from the dates of payments till its realisation. A cost of Rs 1 lac is also imposed upon respondent, to be paid to complainants.

29.09.2021

  
(RAJENDER KUMAR)

Adjudicating Officer

Haryana Real Estate Regulatory Authority

Gurugram

Judgement uploaded on 08.10.2021.