



Complaint no. 732 of 2020

## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

### COMPLAINT NO. 732 OF 2020

Sat Narain Bansal

....COMPLAINANT(S)

VERSUS

Haryana Shehri Vikas Pradhikaran

....RESPONDENT(S)

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

**Member  
Member**

**Date of Hearing: 30.09.2021**

**Hearing: 7th**

**Present: -** Mr. Sat Narain Bansal, Complainant in person  
Ms. Anju Saini, Counsel for the respondent.  
Mr. Sandip Kumar, Clerk, Office of E.O HSVP, Kaithal

### **ORDER (DILBAG SINGH SIHAG-MEMBER)**

Complainant in present case has sought possession of a plot booked in respondents project situated at Kaithal. He was allotted Plot no. 880P measuring 102 sq. mtr. vide allotment letter dated 01.06.2011. As per allotment letter, possession should have been delivered by June, 2014. However, possession was actually offered to the complainant on 05.01.2019 but the same was not acceptable to him as the said site was encroached upon by jhuggi

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dwellers. He had sent a letter dated 26.03.2019 to Estate Officer, HSVP, Kaithal requesting removal of said encroachments but no action had taken place.

2. Complainant further submitted that in the account statement accompanying the offer of possession, an amount of Rs 78,733/- has been wrongly charged as delay interest on payment dated 01.06.2014. According to clause 7 of the allotment letter, in case, possession of the plot is not offered within prescribed period of 3 years from date of allotment, allottee is not required to pay further instalments till the possession of the plot is offered. In present complaint, plot was allotted to the complainant on 01.06.2011 and three year period after allotment lapsed on 31.05.2014. Since demand raised by the respondent on 01.06.2014 is not applicable in this case as encroachment was at site in 2014 as well as in 2019 when possession was offered to him, So, he has rightfully withheld the subsequent payment. Para 7 of the allotment letter is reproduced below for ready reference:

*“The possession of the plot will be offered within a period of 3 years from the date of allotment after completion of development work in the area. In case possession of the plot is not offered with in the prescribed period of 3 years from the date of allotment, HUDA will pay interest @9% (or as may be fixed by Authority from time to time) on the amount deposited by you after the expiry of 3 years till the date of offer of possession and you will not be required to pay the further installments. The payment of the balance installments will only start after the possession of the plot is offered to you.”*

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3. He further pleaded that the matter was heard at length on hearing dated 02.02.2021 and Authority had made following observations:

*“ After hearing both parties, Authority is of the tentative view that:*

*i) Since the respondent has admitted that, as of today, the plot is encroached, therefore, the offer of possession made in 2019 was not a legal and valid offer. Same is yet to be made in the present complaint.*

*ii) Complainant was right in not paying further instalments and therefore, no delay penal interest is to be charged from him on account of default in payment till a valid offer of possession has been made. ”*

4. Complainant reiterated his plea to issue direction to <sup>the</sup>respondent for fresh offer of possession after removing encroachment upon the plot as evident from the report of the local commissioner alongwith delay interest for delay in handing over of possession. He further prayed the Authority for quashing the interest of Rs 78,733/- charged on account of delay interest on payment dated 01.06.2014 as according to clause 7 of the allotment letter as mentioned above in para 2 of this order, the same is not payable by him.

5. In order to understand and resolve the issue <sup>of</sup> handing over of the possession of the said plot, Authority decided to appoint a Local commissioner to inspect the site and submit a report in this regard on following subject

(i) whether the land and road adjoining the plot of the complainant is encroached ?

(ii) whether in the face of said encroachment, allottee can make use of his plot?



6. Site inspection was done by the appointed Local commissioner on 21.09.2021 and his report of the same was submitted in the registry of the office on 22.09.2021. His report is today placed before the Authority. According to the said report, the site including the plot allotted to the complainant is encroached upon by jhuggis, cattle and carts and it is submitted that under present circumstances it seems that it is not possible to make unhindered use of the plot by the allottee.

However, Mr. Sandip Kumar, an employee of E.O HSVP Kaithal has today made a statement in the Court that encroachment has been removed and possession of the plot in question can be handed over at any time henceforth.

8. In view of the submissions made by both the parties and perusal of documents on record, Authority observes that though the report of the Local commissioner confirms encroachment at the site on 21.09.2021 however, considering the statement of Mr. Sandip Kumar, employee of HSVP that encroachment has been removed and plot is available for handing over of possession. Therefore, Authority gives a direction to the Estate Officer, Kaithal to hand over the possession of the plot allotted to the complainant at site by fixing stone burjis on all four corners of the plot in the presence of complainant by Junior Engineer of the E.O, Kaithal within ten days of uploading of this order. As far as amount of Rs 78,733/- being charged as delay interest by HSVP on payment dated 01.06.2014 is concerned, the same is being quashed by the



Authority since the possession offered by the HSVP in May 2019 was not a valid and legal possession as encroachment existed at site as established by the report of the local commissioner. On account of delay in delivery of possession, complainant is entitled to delay interest from deemed date of possession i.e. on 01.06.2014 till the date a fresh offer of possession is made to the complainant at the rate of SBI MCLR+2% on date of this order. Therefore, E.O is directed to issue fresh statement of payable and receivable amounts keeping in view principles laid in this order

9. As per order dated 10.08.2021, cost of the appointment of local commissioner fixed at Rs 15,000/- plus GST i.e Rs 17,700/- is to be equally borne by both the parties. Complainant has already paid Rs 5,000/- as initial cost, he is directed to pay remaining cost of Rs 3850/- and respondent is directed to pay Rs 8,850/- cost of appointment of local commissioner in the office of the Authority within seven days of uploading of this order

10. With above directions case is disposed of. File be consigned to record room.



ANIL KUMAR PANWAR  
[MEMBER]



DILBAG SINGH SIHAG  
[MEMBER]