

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

**Complaint no.** : 2970 of 2020  
**Date of decision** : 21.10.2021

YOGRAJ VERMA  
R/O : L-601,  
Lagoon Apartment,  
NH-8, Ambience  
Islands, Gurugram.

**Complainant**

Versus

RAMPRASTHA SARE REALITY PVT. LTD.  
ADDRESS: E-7/12, LGF,  
Malviya Nagar, New Delhi

**Respondent**

**APPEARANCE:**

For Complainant:

Vikas Khatri- Advocate

For Respondent:

None (ex-parte)

**ORDER**

1. This is a complaint filed by Yograj Verma (also called as buyer) under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in short, the Act of 2016) read with rule 29 of The Haryana Real Estate (Regulation and



- Development) Rules,2017 (in short, the Rules) against respondent/developer.
2. As per complainant, on 01.06.2015, he booked a flat in respondent's project **Green ParC-2 (Petioles Towers in Green ParC-2)**, situated at sector-92, Gurugram and made payment of Rs 22,80,000 as booking amount. The respondent vide allotment letter dated 25.07.2015 allotted a flat to complainant, bearing unit No. P032003 admeasuring 2226 sq. ft. for a total consideration of Rs 1,45,44,930 including BSP, PLC, EDC etc. A buyer's agreement was executed on 27.07.2015 in this regard, followed by MoU dated 07.08.2015.
  3. The booking was made under subvention scheme wherein all the EMIs were to be paid by respondent till possession. A tripartite agreement dated 27.07.2015 was executed among complainant, respondent and ICICI Bank. After necessary approvals, ICICI Bank sanctioned and disbursed a loan of Rs 1,11,02,302 in the account of respondent on 31.07.2015
  4. As per Clause 3.3 of buyer's agreement, possession of said premises was to be delivered within 36 months from the date of commencement of construction, with grace period of 6 months. The respondent failed to complete the construction work and consequently to deliver flat in question in agreed period.

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5. As per para 3 of MoU dated 07.08.2015, in case allottee is not satisfied with quality of construction or overall progress of infrastructure of entire project, then allottee shall have right to terminate the allotment on or after expiry of 15 months from the date of allotment of unit. The respondent agreed to unconditionally refund the booking amount of Rs 22,80,000 without any deduction within 3 months from the date of termination. As per para 6 of MoU, in case allottee exercised the right of termination, then respondent was obliged to make payment of outstanding amount, which was remitted to it (respondent) by the Bank, as on the date of foreclosure. The respondent had also agreed under para 4 of MoU, that till the time booking amount is refunded, it (respondent) shall continue to pay pre-EMI till the booking amount is refunded.
6. When complainant visited the site, he found that no construction was being carried out. As complainant was not satisfied with the quality and pace of construction work of project, he exercised his right of termination as per the terms of MoU, vide letter dated 28.03.2018 and reminder dated 23.08.2018. He (complainant) sought refund of booking amount and payment of outstanding amounts which were remitted by ICICI Bank and proceed towards foreclosure of bank loan.
7. As there was default on the part of respondent towards the payment of EMI, complainant met Vinnet Relia (MD of respondent) who assured that the construction work will be




started again and booking amount of compliannat will also be refunded soon. It was further assured that EMIs will be paid by respondent. The respondent paid EMIs only till 30.09.2019 and again started defaulting towards the payment of EMIs. As there was default in payment of EMIs, the bank misued blank cheques of complainant, which were handed over to it at the time of execution of tripartite-agreement. The Bank has intiated proceedings u/s 138 NI Act.

8. The complainant tried to contact respondent various times but none of his calls was answered. He was not even allowed to enter the office of respondent.
9. In this way, the respondent has committed gross violation of the provisions of section 18(1) of the Act, and he (complainant) is forced to file present complaint, seeking refund of booking amount of Rs 22,80,000, and reimbursement of all outstanding dues/penalty towards loan amount of Rs 1,11,02,302 granted by ICICI bank, directly into the account of respondent, Rs 10,00,000 towards compensation for mental agony, stress, and Rs 1,00,000 as cost of litigation.
10. The particulars of the project, in tabular form are reproduced as under:

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S.No.	Heads	Information
<b>PROJECT DETAILS</b>		
1.	Project name and location	<b>Green ParC-2 (Petioles Towers )</b> Sector 92, Gurugram,
2.	Project area	48.818 acres
3.	Nature of the project	Residential Group Housing Colony
4.	DTCP license no. and validity status	44 of 2009 dated 14.08.2009 and 68 of 2011 dated 21.07.2011
5.	RERA Registered/ not registered	Registered vide registration No. 270 of 2017
<b>UNIT DETAILS</b>		
1.	Unit no.	P032003
2.	Unit measuring	2226 sq. ft.
3.	Date of Booking	01.06.2015
4.	Date of Allotment	25.07.2015
5.	Date of Buyer's Agreement	27.07.2015
6.	Date of MoU	07.08.2015
7.	Due Date of Delivery of Possession	



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	As per Clause 3.3 of buyer's agreement, possession of said premisses was to be delivered within 36 months from the date of commencement of construction with grace period of 6 months	
8.	Delay in handing over of possession till date	
<b>PAYMENT DETAILS</b>		
9.	Total sale consideration	Rs 1,45,44,930 /-
10.	Amount paid by complainant	Rs 1,33,82,302/- (booking amount + loan amount disbursed by ICIC bank)
11.	Payment Plan	Subvention scheme construction linked Payment Plan

11. The notice of complaint was duly served upon respondent. Despite service of notice, respondent failed to put in appearance or to file written reply. Accordingly, respondent was proceeded ex-parte vide order dated 17.02.2021.
12. In the absence of any written reply on behalf of respondent, claim of complainant is presumed to have been admitted. As complainant was not satisfied with the progress of construction

work at site, he exercised his right of termination as per the terms of MoU, vide letters dated 28.03.2018 and 23.08.2018. The photographs annexed with the complaint shows that the project is not complete. The respondent having executed said MoU is bound by its terms and is obliged to refund the booking amount and to foreclose the loan availed under subvention scheme.

13. Complaint in hands is thus allowed and respondent is directed to refund the amount received from the complainant i.e. Rs 22,80,000 to the latter, within 90 days from today, along with interest @ 9.30% p.a. from the date of termination notice dated 28.03.2018 till its realisation. The respondent is also directed to reimburse the loan amount and foreclose the loan availed under subvention scheme after payment of penalty. The respondent is burdened with cost of litigation Rs 1,00,000 to be paid to the complainant.

File be consigned to the Registry.

21.10.2021

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

Judgement uploaded on 26.10.2021.