

**HARYANA REAL ESTATE REGULATORY AUTHORITY
PANCHKULA**

Date of hearing : 26.02.2019

1. Complaint No. 100/2018 (4th hearing)

Devki Nandan

....Complainant

Versus

M/s BPTP Ltd.

....Respondent

2. Complaint no. 120/2019 (1st hearing)

Anjana Saraf

....Complainant

Versus

M/s BPTP Ltd.

....Respondent

3. Complaint no. 121/2019 (1st hearing)

Anjana Saraf

....Complainant

Versus

M/s BPTP Ltd.

....Respondent

CORAM :

Sh. Rajan Gupta , Chairman

Sh. A.K. Panwar ,Member

Sh. D.S.Sihag , Member

APPEARANCE :

Sh. Devki Nandan Saraf, complainant in person

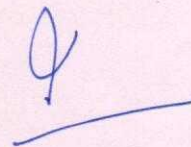
Sh. Hemant Saini, Counsel for Respondent



ORDER:

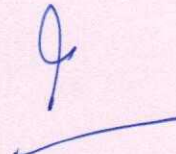
1. The above captioned complainants were heard together as these pertain to the same project and the issues involving in all these matters are similar. Case no. 100 of 2018 shall be the lead case.
2. The complainant in this case had booked a floor in the project named "Park 81, Parklands", Faridabad on 30-09-2009. He was allotted the floor no. CL2-01, first floor measuring 315 sq. yds on 16.03.2010. Flat buyer's agreement (FBA) was executed between the complainant and the respondents on 29.12.2010. Total consideration was agreed as Rs. 39,93,000/-, against which the complainant has already paid Rs. 33,19,597.

As per the clause 5.1 of the agreement, possession was to be handed over within 24 months, with additional 180 days as grace period from the date of execution of the agreement. The deemed date of delivery as per the agreement has already lapsed in June, 2013 meaning thereby there is delay of more than 5 years in handing over the apartment. Possession has not been handed over even till now.



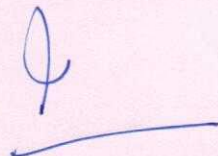
3. This matter has come up for hearing before the Authority on several occasions. On the hearing dated 18.12.2018, a detailed order was passed by this Authority which shall be read as a part of this order. The Authority, vide its order dated 18.12.2018, had expressed its views that complainant deserves an upfront payment of compensation for delay in handing over possession, along with possession of the unit within a specified time. However, the respondent expressed a wish to resolve the matter amicably, and matter remained adjourned since then. Till date the respondent has not settled the matter. Today the Authority heard the arguments for final decision. The complainant while stating his case has prayed for possession of the purchased floor along with interest on the deposited amount for the period of delay in handing over possession. Further he pleads that the respondent had collected an amount of Rs. 4,12,000/- on account of enhanced EDC which is unjustified.

4. The respondent has neither disputed the payment made by the complainant nor disputed the fact of delay on his part in delivering possession. Further he makes a statement before the



Authority that the respondent company shall be in a position to deliver the possession by July, 2019.


5. In view of the submissions made by both the parties, the Authority observes that since the complainants has paid nearly 90% of consideration amount of Rs 33,19,597 and has been paying instalments in time as per the demands raised by respondent and the respondent from time to time, but the respondent has failed to perform its obligation as per the agreement. Therefore the complainant is entitled to be compensated for the delay caused by respondent in handing over possession. Therefore, the respondent is directed to handover possession of the floor by July, 2019 and to calculate the compensation for delay in delivery of possession keeping in mind the principles already laid down by the majority members of this Authority in complainant case no. 113/2018 titled "*Madhu Sareen vs M/s BPTP Pvt Ltd*" and complaint case no. 49/2018 titled "*Prakash Chand Arohi vs Pivotal Infrastructure Pvt. Ltd.*" at the rate prescribed in Rule 15 of HRERA Rules, 2017 i.e. at the rate equivalent to SBI highest marginal cost of lending rate plus 2%.

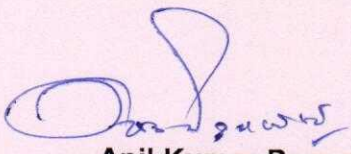



However, the arguments and reasoning tendered by the minority member shall remain applicable.

6. With regard to the grievance relating to enhanced EDC, the Authority is of considered opinion that since the matter pertaining to EEDC has been stayed by the Punjab and Haryana High Court, the respondent cannot demand EEDC from the complainant. However if the amount had already been collected and had been deposited with the department, refund of such amount shall be subject to the decision of High Court. Further, if it has not been deposited with the department, it shall be refunded to the complainant subject to the condition that complainant shall deposit it again if Hon'ble High Court finds this money payable.

Cases are **disposed of** in the abovesaid terms and files be consigned to the record room.


Dilbag Singh Sihag
Member


Anil Kumar Panwar
Member


Rajan Gupta
Chairman