



HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.

1. Complaint No. RERA-PKL-127 of 2019
Pawan Kumar. ...Complainant.

Versus

M/s TDI Infrastructure Limited. ...Respondent.

2. Complaint No. RERA-PKL-132 of 2019
Sunita Mittal. ...Complainant.

Versus

M/s TDI Infrastructure Limited. ...Respondent.

Date of hearing:- 20.02.2019 (1st Hearing)

Coram:- Shri Anil Kumar Panwar, Member
Shri Dilbag Singh Sihag, Member.

Appearance:- Shri Vikasdeep, Advocate for complainants.
Shri Shobit Phutela, Advocate for respondent.

ORDER:-

Complainants in Complaint No. 127 of 2019 and in Complaint No. 132 of 2019 have booked flats in a project named "TDI City" situated in Kundli,

District Sonapat on paying booking amount of Rs. 4,00,000/- and Rs. 4,50,000/- respectively to the respondent on 20.02.2006. As per the registration form which was got filled by the respondent, provisional allotment was to be made in their favour within 6 months and further amounts were payable only after such allotments. The complainants' grouse is that no allotment has been made till date by the respondent despite lapse of about 13 years. The complainants had earlier filed a complaint before District Consumers Redressal Forum, New Delhi but it was dismissed vide order dated 1.10.2018 on the ground that said forum had no territorial jurisdiction in the matter. So, the complainants have filed the present complaints for seeking refund of the paid amounts alongwith interest @ 12% per annum.

2. The respondent has not disputed the bookings and payment of booking amounts. However, he has resisted the complaint on the ground that this Authority does not have jurisdiction to adjudicate the same because his project for the reason that he had already received an occupation certificate, does not fall in the category of ongoing project and further on the ground that the nature of grievance alleged in the complaints is amenable to the jurisdiction of Adjudicating Officer under Section 71 of the Real Estate Regulatory Authority (RERA) Act, 2016.

3. Learned counsels for the parties have been heard and the record has been perused.



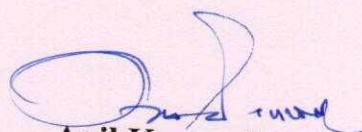
4. This Authority while considering kind of objections raised on the ground of jurisdiction in the present case has already concluded in various complaint cases that it will have jurisdiction to decide a complaint in which the promoter of the real estate project has not discharged his subsisting obligations towards the allottees irrespective of the fact that his project has been granted occupation certificate. Reference in this regard can be made to the complaint case No. 144 of 2018 – titled as “Sanju Jain Versus M/s TDI Infrastructure Limited” decided on 12.06.2018 & complaint case No. 49 of 2018 – titled as “Parkash Chand Arohi Versus M/s Pivotal Infrastructure Limited”.
5. The Authority has also ruled in various complaints that the role of Adjudicating Officer is confined only for adjudging compensations which are determinable after holding an inquiry and that the Authority has jurisdiction to pass an order for refund of the amount alongwith interest in cases where the promoter has failed to complete or is unable to give possession of the purchased unit to the allottee. Reference in this regard can be made to the complaint case No. 144 of 2018 – titled as “Sanju Jain Versus M/s TDI Infrastructure Limited” decided on 12.06.2018 & complaint case No. 49 of 2018 – titled as “Parkash Chand Arohi Versus M/s Pivotal Infrastructure Limited”. The case in hand being the one in which the promoter has not discharged his obligations to deliver the possession of the flats to the complainants for which he had received the booking amount. So, the Authority will now proceed to adjudicate the complaints on merits.



6. There is no dispute between the parties that the respondent had received the booking amount from the complainants in the year 2006 and he has committed default in allotting the flats in terms of the registration form and also in respect of delivery of its possession even after a lapse of about 13 years. Such conduct of the respondent is unconscionable and he having enjoyed the fruits of the amounts deposited by the complainants since the last 13 years without communicating to them about the allotment of flats and delivery of its possession, has rendered himself liable to refund the booking amounts alongwith interest. So, the Authority finds it a fit case for refund of the booking amounts paid by the complainants.
7. Accordingly, the complaints are disposed of with the directions that the respondent shall refund the amounts paid to him by the complainants, along with interest envisaged under Rule 15 of the HRERA, Rules @ State Bank of India highest marginal cost of landing rate plus 2%. The respondent shall pay the amount in two instalments. He shall pay the first instalment comprising of 50% of the total amount within 45 days from the date of uploading of the order and the remaining amount in the next 45 days, failing which he shall be liable to pay the penal interest @ 18% per annum on the unpaid amount.
8. Complaint is disposed of in the aforesaid terms and files be consigned to the record room.



Dilbag Singh Sihag
Member



Anil Kumar Panwar
Member