

**HARYANA REAL ESTATE REGULATORY AUTHORITY,  
PANCHKULA.**

1. **Complaint. No. 550 /2018-** Satish Kumar Thareja  
.....Complainant

Versus

Avalon Projects

.....Respondent

2. **Complaint. No. 551 /2018-** Murari Lal  
..... Complainant

Versus

Avalon Projects

.....Respondent

**Date of Hearing: 28.02.2019 (7<sup>th</sup> hearing)**

**Coram: -** Shri Rajan Gupta, Chairman.  
Shri Anil Kumar Panwar, Member.  
Shri Dilbag Singh Sihag, Member.

**Appearance:-** Shri Nitin Grover, Counsel for Complainants  
Shri Hemant Saini, Counsel for respondent

**ORDER:**

1. The facts of **Complaint no. 550 of 2018 titled as Satish Kumar Thareja V Aavalon Projects** are being taken into account for disposal of both the above-mentioned complaints as the issues involved are similar in nature.
2. The complainant's case is that he was allotted a 3BHK flat no. 205, second floor, Tower B-1, measuring 1680 sq. ft. in a project named "Avalon Rangoli",



Dharuhera, Sector 24, Rewari by respondent vide letter dated 14.01.12. The flat buyer agreement was executed between both the parties on 07.09.12.

3. The basic sales price of the flat was Rs. 35,86,250/- and the complainant has already paid 95 percent amount i.e. Rs. 44,16,98/- including EDC, PLC and other charges.
4. He further submitted that he had also paid VAT amount of Rs. 62,090/-, in addition of aforesaid amount.
5. The respondent had committed to deliver possession of the flat within 42 months from the date of agreement which comes to 07.03.16. However, till date no offer of possession has been made by the respondent to the complainant.
6. He visited the office of builder a number of times and requested for possession of the flat, but in vain. The complainant further stated that only bare building of Tower B-1, Phase II has been constructed by the respondent with no internal or external finishing.
7. The respondent informed the complainant that Occupation Certificate of other towers has been received and Occupation Certificate of tower in which complainant has been allotted unit has been applied for vide letters dated 16.05.17, 15.09.17 and 14.03.18 the respondent further stated vide above cited letters that construction activity of tower B will be commenced soon and offer of possession will take four to five months more.
8. He also alleged that till date the respondent has not obtained Occupation Certificate for Tower B-1. The complainant stated that he had opted for

construction linked plan and made a substantial payment to the respondent. The respondent has not offered possession of unit to the complainant even after numerous reminders. The complainant vide letter dated 30.07.18 requested the respondent to refund the entire amount of Rs. 45,06,831/- along with interest, however, respondent had not paid any heed to his demands.

In such circumstances, the complainant was left no option other than prays for refund of the paid amount along with interest, compensation, costs of litigation or any other relief as the Authority may deem fit.

9. Whereas the averments of the respondent is that the complaint is liable to be dismissed as the Authority has no jurisdiction to entertain the present complaint since the complainant has asked for mixed reliefs which do not fall within the jurisdiction of the Authority. Further, the Authority has to consider the interests of the project as well as of the other allottees; relief of refund shall have an adverse impact and will jeopardise the whole project.
10. The respondent further submitted that the company had already applied for occupation certificate for Phase II, where in the complainant has been allotted the unit, on 05.06.17 and the same shall be received within few months, and there after the process of offering of possession to the allottees shall be commenced. He also submitted that all the works in Tower B-1 are complete and only finishing works are pending. Hence, in view of the above-said circumstances, this complaint is liable to be dismissed.



11. Considering the written as well as verbal arguments of both the parties, the Authority observes that the averment of the respondent that the Authority doesn't have jurisdiction in this case is not correct. This issue has already been decided in detail by the Authority in **complaint no. 144 Sanju Jain V M/s TDI Infrastructure Ltd.**

Further, the provisions of the RERA Act, 2016 support the above observation made by the Authority in complaint no 144 which are as follows:

Section 11 (4) provides numerous obligations and functions of promoters towards allottees and the promoter has miserably failed to perform his obligations *in this case also.*

Section 34(f) further provides that the Authority is duty bound to ensure compliance of obligation cast upon the promoter. Hence, the Authority has full jurisdiction in this case also to adjudicate the complaint of the allottee.

Further, as learned counsel for the respondent informed the Authority today that he has already applied for grant of occupation certificate and the project will be completed by August, 2019, therefore, at this stage relief of refund is not justified.


The Authority, also, observes that as the project is at the completion stage, therefore, order of refund will jeopardize the whole project. Hence, the Authority directs the respondent to deliver the possession of the apartment to the complainant latest by 31.09.19.

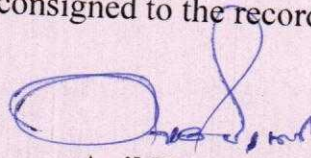
The respondent is further directed to issue a revised statement of accounts to the complainant showing the amount payable by the complainant. While issuing

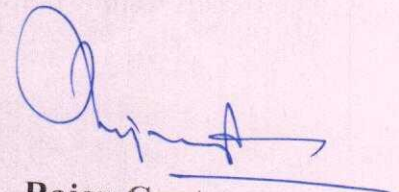
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such statements, the respondent is directed not to charge the interest on delayed payments, if any, more than 9% per annum. The amount of the delay compensation shall also be reflected in the statements of accounts to be issue to the complainant. Further, the respondent is also directed to provide delay compensation to the complainants as per provision of rule 15 refund in orders passed by this Authority in a bunch of petitions with the lead case **Complaint No.113 of 2018 titled Madhu Sareen V/S BPTP Ltd** and in **Complaint case No.49 of 2018- Parkash Chand Arohi V/s Pivotal Infrastructure Pvt. Ltd.** from the date of possession to be given as per agreement dated 07.09.12 till the date of actual taking over of the possession to the complainant.

Both the above-mentioned complaints are **disposed of**. The order be uploaded on the website and files be consigned to the record room.

  
**Dilbag Singh Sihag**  
Member

  
**Anil Kumar Panwar**  
Member

  
**Rajan Gupta**  
Chairman