



Complaint no. 242 of 2021

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 242 OF 2021

Ravinder Singh

....COMPLAINANT

VERSUS

Piyush Buildwell India Ltd.

....RESPONDENT

CORAM: **Rajan Gupta**
 Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 30.11.2021

Hearing: 7th

Present: Mr. Roop Singh, Counsel the for complainant
 through VC

Mr. Gaurav Singla, Counsel for respondent
Through VC

ORDER (RAJAN GUPTA-CHAIRMAN)

1. Case of the complainant is that he purchased an apartment bearing no. E-1114 having an area of approximately 1576 Sq. fts from original allottee Mr. Manish Gupta on 15.09.2015 in the project named as 'Piyush Heights', Sector 89, Faridabad. Complainant stated that he had paid entire sale consideration of ₹36,84,952/-. Receipts of all the payments made have been attached at Annexure P-2 at Page 14 to 21 and the same has been duly acknowledged by the respondent in their statement of account dated 05.10.2015 placed at page no. 24 of complaint book. Builder Buyer Agreement of the said flat allotted to the complainant was executed between the parties on 08.10.2015, copy of which has been annexed at Annexure P-4 at page 25 to 52. Possession of the apartment was handed over to complainant on 01.05.2016. A copy of said possession letter has been annexed at Annexure P-6 at page 59. On the strength of having made the full payment and handing over of possession of the apartment, complainant is praying for execution of conveyance deed of the said apartment in his favour.

2. Respondents have submitted a short reply in which they have no objection for execution of conveyance deed in favour of complainant if the complainant agrees to pay holding charges up to the year 2021 and maintenance charges up to 2018 along with interest. Further it is also admitted that possession letter placed at Annexure P-6 of the complaint, was issued by the respondent in the year 2015. The complainant was requested to get conveyance deed executed

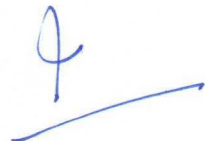


in his favour subject to payment of balance dues. The complainant never approached the respondents for this purpose and therefore, due to fault of complainant in not to approach the respondent, he is liable to pay holding charges.

3. Further, learned counsel for respondent stated that many FIRs were lodged against the respondents. They were arrested in the year 2018. After arrest of directors of respondent company, an RWA was constituted which illegally handed over possession of apartments to the allottees fully knowing the fact that certain payments were still due against the allottees. Respondents have also alleged that documents annexed by complainant with his complaint as proof of payments having been made and possession being handed over are forged documents. Further, one Director of respondent company Shri Puneet Goel has expired. Moreover, entire record of the respondent company is in the custody of Enforcement Directorate and it is not possible for the respondents to produce documentary evidence in support of their allegation that complainant has submitted forged documents with the complaint. Learned counsel for respondents Shri Gaurav Singla further stated that remaining Directors of the respondent's company are also in jail who are likely to get bail soon.

4. The Authority has gone through all the facts and circumstances of the matter and observe as follows: -

- i) This complaint was filed before the Authority on 01.03.2021. Complainant is claiming that he has paid entire consideration



amount, which is verified from the Statement of accounts dated 05.10.2015 supplied by the respondent's company itself. As per said statement of account accompanied with offer of possession, respondents had worked out ₹36,84,952/- as total consideration amount against which by that date, it has been shown that the complainant had made the payment of ₹36,84,951.99/- and balance payable on 05.10.2015 has been shown as zero.

- ii) Complainant has also annexed a copy of the letter dated 08.10.2015 (Annexure P-5) issued by the respondent company vide which an amount of ₹3,80,400/- was demanded for execution of conveyance deed. The entire amount is payable towards stamp duty, registration fee, processing charges, red cross society fee and other incidental charges. None of the amount under said heads is meant to be credited to the account of respondent company. Complainant has given his willingness that he is ready to pay the said amount to the authorities concerned.
- iii) Allegedly possession of the apartment was taken over on 01.05.2016. If the respondent is of the view that allottee has taken possession forcibly or Residents Welfare Association had handed over the possession illegally, they should have taken appropriate legal measures against such illegal and criminal activity of Residents



Welfare Association or against the complainant. Respondents have never taken any such action. Even now they have merely filed a complaint dated 23.10.2020 before the Commissioner of Police, Faridabad and nothing has been stated as to whether any FIR has been lodged against any of person. Respondents have never approached to any court of law for obtaining stay against the alleged illegal activities of the RWA.

- iv) Respondents are also alleging that various documents presented by the complainant are forged documents, but they have neither lodged an FIR against any person for the alleged forgery of documents nor they have presented any proof in support of their contention to show what is true and correct position in the matter. The Authority observes that merely bald statement without any documentary evidence cannot lead to a conclusion that complainant has taken possession forcibly or illegally. Respondents appears to be making such statements only for denying legitimate and lawful rights to the complainant.
- v) Complainant has placed a copy of Builder Buyer Agreement (BBA) on record. He has presented a statement of accounts issued by the respondent company and also proof of having paid entire amount demanded from the complainant. Accordingly, the Authority is of



the considered view that complainant has paid entire consideration amount to the respondents up to the date of offer of possession 05.10.2015 and by that date zero outstanding amount was shown against complainant. The same is admitted by the respondent in Para 5 of their short reply. Thereafter, respondents had not demanded any more money from the complainant. Perusal of offer of possession letter dated 05.10.2015 and possession letter dated 03.11.2015 shows that possession was duly handed over by authorized representative of the respondent company to the complainant on 01.05.2016, copies of which have been annexed at Annexure P-3 at page 22, 23 and Annexure P-6 at page 59.

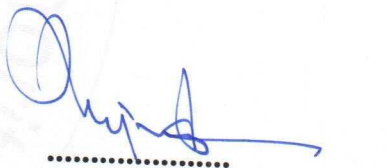
5. In view of above findings, the Authority is of the view that conveyance deed deserves to be executed in favour of complainant. The statement of counsel for respondent that holding charges may be due against the complainant also has no force. Holding charges and maintenance charges is a concept for facilitating the builders for the period during which an allottee had not taken possession of an apartment after lawful offer of possession having been made to him. More importantly once possession has been handed over, it is to be presumed that on that date all the accounts were fully settled. Accordingly, Authority will not take cognizance of such statement of learned counsel of respondent that conveyance deed is not being executed for the want of payment



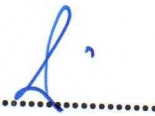
of outstanding dues on account of non-payment of holding charges and maintenance charges.

6. Accordingly, the complainant has a right to get the conveyance deed executed in his favour immediately. The Registrar of relevant jurisdiction of District Faridabad is hereby directed to help complainant in calculating the charges of stamp duty etc. payable. The complainant shall produce requisite stamp papers and submit the same in the office of the Registrar for execution of the conveyance deed. The respondents are hereby directed to participate in getting the conveyance deed executed within 45 days of uploading of this order either by presenting themselves or by authorizing a senior officer of the company to do needful on their behalf.

7. **Disposed of.** File be consigned to record room after uploading of this order on the website of the Authority.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]