



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

### COMPLAINT NO. 603 OF 2021

Dheeraj Singh

....COMPLAINANTS(S)

VERSUS

Jindal Realty Pvt Ltd

....RESPONDENT(S)

**CORAM: Rajan Gupta  
Dilbag Singh Sihag**

**Chairman  
Member**

**Date of Hearing: 14.12.2021**

**Hearing: 4<sup>th</sup>**

**Present:** Sh. Vishal Singhal, Counsel for the Complainant  
Sh. Drupad Sangwan, Counsel for the Respondent.

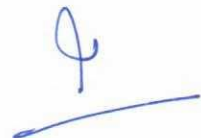
### **ORDER: (RAJAN GUPTA-CHAIRMAN)**

Ld. counsel for complainant has filed rejoinder which is taken on record and copy of same has been supplied to respondent's counsel in the Court itself. On the other hand, Ld. counsel for respondent has filed additional documents in support of his case which is taken on record and copy of same has been supplied to complainant's counsel in the Court itself.

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2. An original allottee Mr. Rajendra Prasad had booked residential villa no. C-69 having area of 1517 sq ft under construction linked plan on 21.08.2012 in respondent's project named as Jindal Global City, Sonipat. Allotment letter for said unit was issued on 28.08.2012. Thereafter, builder buyer agreement was executed between the parties on 06.09.2012 and in terms of it possession was supposed to be delivered upto 06.09.2015. Complainant had purchased allotment rights of unit from original allottee vide sale deed dated 14.11.2012. An amount of Rs 19,47,628/- has been paid against basic sale price of Rs 68,79,582/- and the last payment amounting to Rs 11,68,577/- was made on 05.10.2012. It has been submitted that demand of Rs 10,17,431/- was raised by respondent vide demand letter dated 17.07.2015. Said demand was not honored by complainant. Due to non-payment of installment, builder buyer agreement was terminated on 16.11.2015 by respondent. Thereafter, complainant has approached State Consumer Disputes Redressal Commissioner, Delhi by way of complaint bearing no. 07/2016. Said complaint was dismissed on 12.09.2017 determining complainant to be an investor and not a consumer.

Further, it has been alleged by complainant that demand raised of Rs 10,17,431/- by respondent on 17.07.2015 was not valid as there was no construction activity going on in the project. Moreover, said letter was never received by him and he came to know about it only at the time of pendency of



consumer complaint. Feeling aggrieved present complaint has been filed seeking possession of booked villa alongwith interest of Rs 18,89,250/- after setting aside the impugned cancellation dated 16.11.2015.

3. Respondent in his reply has submitted that allotment of villa in question and endorsement of it in name of present complainant on 17.11.2012 is an admitted fact. Further it has been stated that there was force majeure conditions prevailing for the period 04.11.2011 to 09.02.2015 due to revision of sectoral plan by DTCP. After finalisation of sectoral plan on 09.02.2015, demand of Rs 10,17,431/- was raised at stage of commencement of construction which complainant did not pay. Thereafter, several reminders dated 03.08.2015, 21.09.2015 and 07.10.2015 were issued to him but in vain. Due to repeated defaults on part of complainant, allotment of said unit was terminated on 16.11.2015. Copy of said termination letter is annexed as Annexure-OP/11.

4. Ld. counsel for respondent argued that present complaint is not maintainable as complainant has approached this Authority after 6 years from the cause of action i.e. cancellation of allotment on 16.11.2015. Further, he stated that respondent had got excavation and PCC work done on the plot on which villa was supposed to be constructed. Bill for said work and photographs of plot are placed on record as Annexure A-2 and A-3 but the work was stopped due to defaults made by the complainant. It has further been stated that now


construction team has left after completing the project and now respondent is not in position to construct said villa after taking various approvals from department concerned. Ld. counsel apprised that amount of Rs 11 lakhs has already been returned to the complainant through NEFT on 06.10.2021 after deducting 15% earnest money.

5. Ld. counsel for complainant argued that impugned cancellation cannot be called justified as respondent had never returned the paid amount to allottee after cancellation of unit till filing of this complaint. Moreover, respondent had returned the amount as per his version in October, 2021 that too without any interest. This act of respondent is not justified as the amount paid by complainant was retained by him for 6 years. Further he argued that complainant had also approached State Consumer Redressal Commission, Delhi by filing a consumer complaint which was decided on 12.09.2017. In view of prevailing facts and circumstances cause of action is still continuing as complainant had not received back the amount paid within reasonable time of cancellation. Further, he argued that demand raised of Rs 10,17,431/- by respondent was not justified because even as of today there is no construction at the site. It still is a vacant piece of land. He prayed for issuing directions to respondent to deliver possession of the villa along with delay interest.



6. Rebutting the arguments of complainant, ld. counsel for respondent argued that it is because of fault on the part of complainant – allottee that allotment of booked unit was cancelled vide letter dated 16.11.2015. Said cancellation was done because complainant did not pay legitimate demand of Rs 10,17,431/- raised at the stage of commencement of construction. He referred to payment plan attached with his reply as annexure OP/8, wherein it is clearly depicted that amount of Rs 19,47,628/- deposited by complainant was only on account of booking and Rs 10,17,431/- was asked at the stage of commencement of construction. He also referred to annexure R-A/1 and A/3 to prove that excavation and PCC work was done on the plot on which villa was supposed to be constructed but due to non-payment of demanded amount by complainant it was not continued. Therefore, it is the complainant who did not adhere to payment plan of unit purchased under construction linked plan. Further he argued that this complaint is not maintainable because it has been filed after expiry of limitation period. For these reasons, he prayed for dismissal of this complaint.

7. After hearing submissions of both parties and perusing relevant record, Authority is of view that parties do not dispute the fact that the site at present is a vacant piece of land. Complainant is interested in having possession of booked unit but respondent has expressed its inability to deliver possession of unit

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stating that construction team has already left after completing whole of the township. However, respondent cancelled the unit on 16.11.2015 but did not refunded the amount after forfeiture of earnest money which as per clause 5 of cancellation letter he was supposed to do. However, an amount of Rs 11 lakhs has been refunded to complainant through NEFT on 06.10.2021, but complainant's counsel is denying this fact stating that he does not have any instruction in this regard from his client. On the other hand, complainant has not provided any reasonable justification for not honouring the demand of Rs 10,17,431/- made by respondent at the stage of commencement of construction. Further, it is evident from the payment plan (construction linked plan) annexed as Annexure OP/8 that total amount of Rs 19,47,628/- paid by complainant was only for upto the stage of booking.

8. Considering all these circumstances, Authority decides that there existed a promoter-allottee relation between the parties on the date of filing of this complaint because of subsisting obligations which remained to be discharged thus giving rise to necessary cause of action, thereby making present complaint maintainable before this Authority. However, relief of possession of unit cannot be granted to complainant at this stage as respondent cannot be forced to start whole process of construction once again when construction team has already left. Authority agrees that respondent did not commence construction of the villa



due to defaults in payments to be made by the complainant. Further, for the said reason respondent was justified in cancelling the allotment made in favour of the complainant.

The respondent ,however, alongwith cancellation should have returned balance amount to the complainant within reasonable time, which respondent failed to do .

Now, to balance equities, Authority orders that respondent is not liable to handover possession of villa to the complainant. The respondent, however shall return the entire amount paid by the complainant alongwith reasonable simple interest @9% from date of payment till its actual realization within 45 days of uploading of this order.

9. **Disposed of** in above terms. File be consigned to record room.



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**RAJAN GUPTA**  
[CHAIRMAN]



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**DILBAG SINGH SIHAG**  
[MEMBER]