



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1567 OF 2019

Hargian Singh

....COMPLAINANT(S)

VERSUS

Jindal Realty Pvt. Ltd.

....RESPONDENT(S)

**CORAM: Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 14.12.2021

Hearing: 14th

Present: - None for the complainant
Mr. Drupad Sangwan, Counsel for the respondent

ORDER (RAJAN GUPTA-CHAIRMAN)

1. Today is 14th hearing of this case. This case was heard at length on 20.08.2019 and 25.11.2020. Brief facts of the case were recorded in order dated 20.08.2019. Said order is reproduced below for reference:-

1. Complainant's representative stated that complainant was allotted Plot no. F-188 of an area measuring 359 sq yards in respondent's project named as Jindal Global City, Sonapat for total sale consideration of Rs 50,10,303/- against which Rs 54,95,170/- has already been paid, following which an

agreement dated 11.01.2011 was executed between the parties. As per terms of said allotment the possession of said unit was supposed to be delivered by 11.01.2014, but respondent offered the possession on 27.07.2015 i.e after delay of 1.5 years. It is alleged that respondent imposed certain charges on account of Preferential location, electricity connection, water connection and sewer connection which is illegal and unjustified. So, clarification of these charges are sought as already Rs 4 lacs has been paid in addition to the total sale consideration of the unit.

2. Respondent's counsel pleaded that the possession of the villa was offered to complainant on 27.07.2015 alongwith demand letter wherein Rs 4,07,429/- has been charged on account of Basic sale price, EDC & IDC, Preferential location, electricity connection, water connection, sewer connection, Malba charges, interest on delayed instalments and drafting expenses and Rs 1,23,592/- on account of IFMS, common area maintenance charges and service tax.

3. At the outset, it is observed that the complainant is aggrieved of the additional demand raised of Rs 5,31,021/- by the respondent at the time of offer of possession. The respondent is directed to provide a detailed clarification/justification for the charges pointed out by the complainant vis-à-vis charges agreed to be paid in terms of agreement. He is also directed to supply detailed calculations by incorporating the amount for delay compensation and interest on delay payments in accordance with the principles laid down in complaint no. 569/2018, 1048/2018 and 630/2018. the respondent shall submit its specific reply to the status of said issues atleast one week prior to the next date of hearing with an advance copy being supplied to complainant.

4. The matter is adjourned to **25.09.2019** with a direction to the respondent that he shall submit the aforesaid information atleast one week prior to the next date of hearing with an advance copy being supplied to complainant.

2. Thereafter, vide order dated 25.11.2020 issues involved in this case were adjudicated by this Authority and respondent was directed to file statement of



accounts in terms of directions issued vide said order. Order dated 25.11.2020 is reproduced below for reference:-

The dispute in this case is regarding additional demand of Rs 5,31,021/- raised by respondent alongwith offer of possession sent to complainant on 27.07.2015 for plot no. F-171. Justification for such demand has been submitted by respondent in a tabular form. Complainant's counsel was questioned as to which of the components reflected in the said table are not acceptable to him. The learned counsel has submitted that he has no objection with respect to amounts reflected at serial no. 1, 2, 3, 4, 5, 8 and 11 but has objection with respect to the amount reflected in other columns.

1. *The respondent in column no. 6 has shown Rs 1,38,463/- as the amount of interest payable by the complainant due to delayed payment of instalment. The manner in which said interest has been calculated is not indicated. The respondent is therefore directed to file in tabular form disclosing the details as to when a particular instalment was payable, when the same was actually paid, the rate of interest charged and the period for which the interest on each instalment has been calculated. For preparing said statement, the respondent shall charge interest as per the rate prescribed in Rule 15 of HRERA Rules, 2017.*

2. *The respondent in column no. 7 has shown Rs 24,923/- payable by complainant on account of GST charges. The respondent as per terms of agreement entered between the parties was supposed to deliver possession on or before 11.01.2014. The department of Town and Country Planning was carrying out revision of its sectoral plan during the period 04.11.2011 to 09.02.2015. The respondent without finalisation of sectoral plan was not ascertained about the sites at which roads and other infrastructure services were to be laid and the site at which plots were to be carved out. So, the period from 04.11.2011 to 09.02.2015 constituted a force majeure condition for the promoter towards development of his project. Allowing benefit of this period to the respondent the deemed date of possession would work out to 09.02.2018. GST came in force in year 2017.*



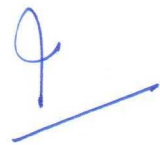
3. This Authority in some other complaints bearing no. 569/2018-Roshan Malwal vs Jindal Realty Pvt Ltd and 1048/2018-Nirmala Devi vs Jindal Realty Pvt Ltd of same project in view of delay caused on account of force majeure conditions, has held in view of earlier discussed scenario tax liability of GST will be shared by complainant and promoter in equal proportion. The same principle will be applicable in present case and the complainant will therefore be liable to pay 50% of GST charges i.e. Rs 12,461/-.

4. Further service tax of Rs 10,045/- shown at serial no. 9 was undeniably payable even prior to year 2011. So, the complainant is liable to pay the same. So far as IFMS charges of Rs 1,07,640/- shown at serial no. 10 is concerned, said amount is in the form of security and it has to be handed over by the respondent to the resident welfare association (RWA) at the time of delivery of common areas. So, the complainant cannot escape liability of paying it.

5. The amount shown at serial no. 12 and 13 are in respect of the interest accrued on the amount of service tax and GST charges. Said amount will be payable by the complainant as per the interest actually calculated by department to which it is payable. The respondent shall supply details of such interest to complainant before demanding the same.

6. With these directions, the case is adjourned to 23.12.2020.

3. Accordingly, respondent had filed his statement of accounts and objections of complainant on said statement of accounts were heard and adjudicated vide order dated 14.07.2021. On that day respondent was directed to file revised statement of accounts in compliance of directions issued in said order. Accordingly, respondent had filed revised statement of accounts and copy of it already stands supplied to complainant for filing of objections. But from last 2



hearings no one has appeared on behalf of complainant. On the last date of hearing following order was passed:-

“On the last date of hearing the case was adjourned granting time to complainant to file objections against the statement of accounts filed by respondent. Today, neither any one is appearing on behalf of complainant nor any objections have been filed. In these circumstances, the case is adjourned to 14.12.2021 granting last opportunity to complainant to file objections failing which the statement of accounts already filed by respondent will be taken as correct.”

4. Today, no one is appearing on behalf of complainant nor any objections have been filed against the statement of accounts already filed by respondent despite last opportunity being provided to complainant. So, the Authority in terms of its order reproduced herein before accepts the statement of accounts filed by the respondent as correct and decide to dispose of the case on the basis of said statement of accounts. In the said statement of accounts, the respondent has mentioned total receivables amount as Rs 3,81,741/- to be paid by complainant.

5. Further, ld. counsel for respondent has submitted that as per builder buyer agreement dated 11.01.2011 , deemed date of possession comes out to 11.01.2014 but in between there were force majeure conditions prevailing for the period ranging from 04.11.2011 to 09.02.2015 due to revision of sectoral plan by DTCP. Said plea of force majeure has already been accepted in complaints earlier decided by this Authority bearing no. 569/2018 and 1048/2018 pertaining to Jindal Realty Pvt Ltd. Accordingly, reckoning 3 years from date of finalisation of



sectoral plan i.e. 09.02.2015 the deemed date of possession works out to 09.02.2018. In this case possession of plot was offered to complainant on 27.07.2015 after completion of development work in the project. So, there is no delay on part of respondent. Moreover, respondent has not collected any amount during force majeure period which is evident from statement of received amount at page 2 of statement of account. So, there is no payable amount from side of respondent.

6. After hearing submissions of respondent, the Authority observes that offer of possession on 27.07.2015 alongwith demand of Rs 5,31,021/- is an admitted fact. Plea of respondent regarding force majeure conditions due to revision of sectoral plan by DTCP in project in question is acceptable on account of principles and reasoning laid down in earlier decided complaint cases of Jindal realty Pvt Ltd bearing no. 569/2018 and 1048/2018. Accordingly, offer of possession was made to complainant within stipulated time period i.e before 09.02.2018 which is deemed date of possession. Therefore, the complainant is not entitled to delay interest as there is no delay in offering possession. Further, the main dispute raised by the complainant is pertaining to demand of Rs 5,31,021/- raised by respondent at the time of offer of possession dated 27.07.2015. The respondent was asked to give justification for it in previous hearings and after adjudication of justification provided by respondent the respondent was directed to file revised statement of accounts and now the total



payable amount comes to Rs 3,81,741/- as per revised statement of account filed by respondent on 07.09.2021. As per office record, complainant has neither filed any objections to said payable amount nor put in his appearance today before the Court. Therefore, Authority accepts the statement of accounts filed by respondent and deems it fit to direct the complainant to take possession of plot after paying amount of Rs 3,81,741/- to the respondent within 45 days of uploading of this order.

7. **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]