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HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम

गृह. सिविल लाईंस, गुरुग्राम, हरियाणा

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,
HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM**

Complaint No. : 240/2021
Date of Decision : 05.01.2022

Shri Sushil Kumar Sharma and Smt Meenakshi Sharma
R/o C-84, Oakwood Estate
DLF Phase-2, Gurugram-122002

Complainants

V/s

M/s M3M India Pvt Ltd.
6th Floor, M3M Tee Point
Sector-65, Gurugram-122101

Respondent

**Complaint under Section 31
of the Real Estate(Regulation
and Development) Act, 2016**

Present:

For Complainants:

For Respondent:

In person

Ms Shriya Takkar, Advocate

ORDER

This is a complaint filed by Shri Sushil Kumar Sharma and Smt. Meenakshi Sharma (hereinafter referred as buyers) under Section 31 of the

A.O.
5-1-22

Real Estate(Regulation and Development) Act, 2016 (in brief Act of 2016) read with Rule 29 of The Haryana Real Estate(Regulation and Development) Rules, 2017 (in brief 'Rules') against respondent M/s M3M India Pvt Ltd.(also called as promoter) seeking directions to the respondent/promoter to pay a sum of Rs.18,79,032/- @ Rs.50,000/- per month for rental loss w.e.f. 01.07.2018 till 18.08.2021 towards loss of rent, Rs.2,22,100/- towards additional stamp duty and Rs.37,500/- towards GST charged on maintenance bills from 01.07.2018 to 31.12.2020 (@ Rs.1250/- per month). In addition to this, he further prayed for compensation of Rs.1,00,000/- towards mental agony and Rs.50,000/- towards cost of litigation.

2. According to complainants/buyers, they booked a flat/residential unit bearing No.MW-TW-B08/0704, M3M Woodshire, Sector 107, Gurugram with the respondent-company and the same(respondent) on receipt of occupancy certificate handed over possession of unit in question on 31.03.2018. However, the respondent neither executed a registered conveyance deed nor handed over common areas to the association of allottees and thus violated section 17 of Real Estate (Regulation and Development) Act, 2016 which mandates the respondent to execute a registered conveyance deed in favour of allottee alongwith undivided proportionate title in the common area to the association of allottees within three months from the date of issue of occupancy certificate.

3. It is again case of complainants that they had filed a complaint against the respondent-company on 12.04.2019 and the learned Authority while deciding said complaint passed directions/order dated 09.01.2020, directed the respondent to get the conveyance deed executed in favour of complainant within a period of one month from the date of order i.e. 09.01.2020. Despite sending several e-mails, respondent failed to comply with said orders and only on instructions dated 16.07.2021 given by this

forum, the respondent got executed conveyance deed on 18.08.2021 i.e. after a gap of more than three years and four months from the date of possession i.e. 31.03.2018. In the meanwhile, rates of stamp duty were revised w.e.f. 29.12.2020 and the complainants had to pay additional stamp duty of Rs.2,22,100/-. This inordinate delay in execution of conveyance deed by the respondent, caused them immense financial loss and mental agony in the shape of loss of rental value of said property. Had it been executed in time-bound manner, they could have earned rentals and saving on account of additional burden of stamp duty.

4. Citing all this, the complainants have prayed for compensation -i.e.(i) for loss of Rs.50,000/- per month as unit could not be leased out in absence of conveyance deed(ii) loss of Rs.1250/- per month for GST on maintenance totalling Rs.37,500/- (iii) Rs.1,00,000/- for mental agony and harassment(iv) Rs.50,000/- as litigation charges.

5. Respondent contested the claim of the complainants/buyers by filing written reply. It is not denied by respondent that complainants had paid all dues towards the allotted unit and had taken over possession of unit in question. It is claimed that complying with orders of the Authority, it(respondent) purchased stamp paper on behalf of complainants for registration of conveyance deed on 14.01.2019, but despite having acquired the stamp papers for the amount of stamp duty paid, the complainants failed to get the conveyance deed registered and instead filed complaint hindering the issue of registration of conveyance deed. Respondent had made all efforts to get the conveyance deed registered but due to deficiency of Rs.200/- towards stamp duty, the conveyance deed could not be executed.

6. Respondent explained that earlier, the deficiency was curable by paying deficient amount but the said practice has been discontinued and now to get the conveyance deed executed, fresh stamp papers for the correct

amount of stamp duty are required to be obtained from the competent authority. Accordingly, the complainants by telephonic calls as well as through e-mail dated 19.03.2020 were informed about the said deficiency and were requested to pay the correct amount of stamp duty afresh and get back the amount of stamp duty already paid but the complainants themselves defaulted in tendering due amount of stamp duty. Thereafter, Covid-19 Pandemic forced the authorities to close down registration process from March 2020 to August, 2020. In the meantime, stamp duty charges were enhanced by the concerned department in the month of December, 2020 and now the complainants have to make deficiency of Rs.2,22,774/- and they were intimated in this regard on 18.03.2021.

7. The complainants, instead of fulfilling their obligations to pay the revised amount of stamp duty, approached this forum seeking additional benefits. Respondent requested for dismissal of complaint.

8. I have heard learned counsels of parties and went through the case file. It is not denied that complainants have already taken over possession of allotted unit, by making payments to the respondent in time.

9. A copy of letter dated 12.10.2018 written by the respondent to the complainants has been put on file as Annexure-I. Respondent admitted to have received cheque from the complainants dated 05.10.2018 for a sum of Rs.4,32,200/- towards purchase of stamp duty. Through said letter, the respondent advised the complainants to issue fresh cheque for the aforesaid amount but failed to explain as despite receiving said amount of Rs.4,32,200/- from the complainants to purchase stamp duty, why same were not purchased.

10. There is no denial that the complainants were constrained to file complaint before the Authority, Gurugram seeking direction for it i.e. the

respondent to execute conveyance deed. The Authority allowed said complaint and directed the respondent to execute conveyance deed within one month. All this verifies the case of complainants.


11. It is also not denied that rate of registration of conveyance deed were enhanced in between and the complainants were forced to pay additional stamp duty, amounting to Rs.2,22,100/-. It is also established that it was negligence of respondent due to which the complainants had to suffer an additional stamp duty of Rs.2,22,100/-. As per section 17(1) of the Act, in the absence of any local laws, conveyance deed in favour of allottee was to be carried out by the promoter, within a period of three months from the date of issuance of occupancy certificate. Further as per sub-section 2 of Section 17, after obtaining occupancy certificate, handing over of physical possession of the allotted unit to the allottee, the promoter was bound to handover necessary documents and plans including of common area to the association of allottees or the competent authority, as the case may be. In the absence of local laws, the promoter was to hand over such necessary documents to the association of allottees or the competent authority within 30 days after obtaining occupancy certificate.

12. Thus, the respondent is liable to re-imburse a sum of Rs.2,22,100/- and also compensation for not handing over necessary documents including common area to the association of allottees. Further, despite being legally bound, the respondent did not take any step to facilitate formation of association of allottees. Similarly, the respondent also is liable to pay Rs.1250/- per month for GST on maintenance amount totalling Rs.37,500/-, as claimed.

13. As the respondent failed to fulfil its duty, same is directed to pay Rs.50,000/- towards litigation expenses and a further sum of Rs.50,000/-

for harassment and mental agony. All these amounts are to be paid within 90 days from the date of this order, failing which the respondent will be liable to pay interest @ 9.30% p.a. on this amount till its realisation.

14. File be consigned to Registry.


(RAJENDER KUMAR)
Adjudicating Officer,
Haryana Real Estate Regulatory Authority
Gurugram
05.01.2022

Judgement uploaded on 21.01.2022