



Complaint No. 451of 2019

## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

### 1. COMPLAINT NO. 451 OF 2019

Parvinder Singh Chahal

....COMPLAINANT(S)

VERSUS

M/s Parsavnath Developers Limited.

....RESPONDENT(S)

**CORAM:** Rajan Gupta  
Anil Kumar Panwar

**Chairman**  
**Member**

**Date of Hearing:** 10.04.2019

**Hearing:** 2<sup>nd</sup>

**Present:** - Mr. J.C. Manju, Counsel for complainant

Ms. Rupali Verma, counsel for respondent

**ORDER (RAJAN GUPTA- CHAIRMAN)**

1. A complaint dated 05.02.2019 was filed under section 31 of RERA Act 2016 read with rule 28 of HRERA Rules, 2017 by the complainant on account of violation of clause 10 of Flat Buyer Agreement executed on 06.01.2011, in respect of flat described below for not handing over the possession on due date which is an obligation under section 11(4) (a) of the Act *ibid*.
2. The complainant booked a unit in the project named “ Parsvnath Preston”, situated at Sonipat, by paying an advance amount of Rs. 1,00,000/- to the respondent. Accordingly, the complainant was allotted a flat bearing No. 404 on 4<sup>th</sup> Floor in Tno.11.
3. On 06.01.2011, a Flat Buyer Agreement was entered between the parties wherein as per clause 10(a), the construction should have been completed within a period of 36 months with further grace period of 6 months from receipt of sanction of Building Plans/ revised Building Plans and approval of all concerned Authorities. However, till date the possession of the said flat has not been handed over to the complainants despite making all requisite payments of Rs 16, 34,468/- which is as per the demand raised by the respondent. Therefore, present complaint is filed seeking refund of total amount paid along with interest.

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4. while submitting written reply the respondent has raise following objections:

- I. Respondent counsel submitted that the project of the respondent is duly registered with HRERA, Panchkula vide Registration No. 132 of 2017 dated 20.08.2017. he also submitted that the complainant had booked the Flat No. T-11-404 with area of 1705 Sq.ft. in respondent's project on 08.12.2010 after satisfying the terms and conditions of the booking form and observing the progress of the project Voluntarily. Basic Sale Price was agreed at Rs. 30,59,000/- as per chosen Construction Link Plan for further payments by the complainant.
- II. The respondent Submitted that due to certain modification in plans, the unit T-11-404 had been relocated to the Unit No. T2 404, the same was communicated to the complainant vide letter dated 29.04.2017 and all the conditions of New Flat Buyer Agreement signed on 29.04.2017 remains unchanged. On request of the complainant, T2 404, was again relocated to T-6-401 with lesser area admeasuring 1265 Sq.ft. Accordingly, revised Basic Sale Price of shifted unit was agreed at Rs. 21,89,750/-
- III. The respondent admitted that the complainant had paid Rs. 16,34,468/-, till date against the unit. Further, respondent submitted that the complainant was a defaulter in paying the overdue payment/

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instalment, in this regard various reminder letter was sent dated 26.07.2017 to the complainant.

IV. Respondent denied the delay of the project as there is no intentional delay on the part of the respondent and if any delay has been caused that is due to reasons beyond the control of the respondent.

V. The respondent is not liable to pay any interest on the refund being claimed by the complainant. As per the clause 10 of the agreement, the respondent is not liable to pay any interest to the complainants as time is not the essence of the agreement.

5. Today, learned counsel for the complainant stated that there is no work going on the project site, therefore, he seeks refund along with interest as there is already a delay of more than 8 years, whereas counsel for the respondent stated that the project is nearly 40% complete but work is going on at slow pace. He further stated that shifting of the unit from T-404 to T401 was with mutual consent.


6. After hearing both the parties and perusing written submissions, the Authority observes that the construction work of the project is at stand still as the factual position reveals that only 30-40% progress has only been achieved from the date of booking in year 2011 up to now. Since, 8 years has already been lapsed from the date of booking and project is not even 50% complete. So, the complainant cannot be made to wait endlessly for getting



the possession of the Unit. In the circumstances, when extraordinary delay has been caused and where indefinite for completing the project time is likely to be taken the Authority cannot force the complainant to continue to be a part of the project. The past conduct of changing the location of the apartment also exhibit lack of sincerity on the part of the respondent developer. In such circumstance, the Authority will grant relief of refund of the money paid along with interest @ Rule 15 of the HRERA Rules.

7. Accordingly, the complaint is allowed and respondent is directed to refund the paid amount of Rs.16,34,460/- lacs along with interest in terms of rule 15 of HRERA Rules,2017 i.e. SBI MCLR + 2% from the date of payment made to the actual date of refund within a period of 90 days. The amount shall be paid in two instalments meaning thereby first instalment of 50% shall be paid within 45 days of uploading of this order and remaining amount to be paid as second instalment within next 45 days.

Disposed of. File to be consigned to record room



RAJAN GUPTA  
[CHAIRMAN]



ANIL KUMAR PANWAR  
[MEMBER]