



Complaint Nos. 479 of 2019

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. Complaint No. RERA-PKL-479 of 2019

Kanta Malhotra.

...Complainant.

Versus

1. Chairman, Haryana Shahari Vikas Pradhikaran. ...Respondent No. 1
2. Principal Secretary to Government of Haryana,
Town and Country Planning Department. ...Respondent No. 2
3. Haryana Shahari Vikas Pradhikaran through its
Chief Administrator. ...Respondent No. 3
4. Estate Officer, Haryana Shahari Vikas Pradhikaran,
Faridabad. ...Respondent No. 4

Date of hearing:- 09.04.2019 (2nd Hearing)

Coram:- Shri Rajan Gupta, Chairman.
Shri Anil Kumar Panwar, Member

Appearance:- Shri Sushil Kumar & Shri Gaurav Gupta, Advocates for
complainant.
Shri Surender Choudhary, Advocate for respondents.

ORDER:-

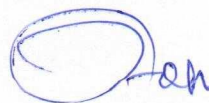
1. Complainant Kanta Malhotra on her application submitted to Haryana Shahari Vikas Pradhikaran (hereinafter referred as HSVP), was allotted a Plot No. 599 in Sector-78, Faridabad. In the allotment letter issued to the complainant, respondent quoted tentative price of said plot as Rs. 52,25,850/- and the complainant had already paid Rs. 14,06,463/- . Respondent sent a letter dated 09.06.2017 to the complainant demanding an additional amount of Rs. 10,67,441/- towards payment of enhanced land compensation to the erstwhile owners of the land over which plots were carved out in Sector-78, Faridabad.
2. The complainant is aggrieved by the said demand and her plea is that she is not liable to pay more than the sale consideration quoted in the allotment letter.
3. The respondents have filed a joint reply, whereby, they have resisted the complaint mainly on the grounds that (i) the present complaint is not maintainable because the complainant has not exhausted a legal remedy available to her under Section 17(v) of the Haryana Urban Development Authority Act, 1977 (In short HUDA Act); and (ii) the price quoted in the allotment letter was tentative and subject to further payment of enhanced land compensation by the allottee/complainant.
4. After hearing the parties and perusing the record, the Authority finds merits in both the grounds pressed by the respondents ~~in~~ defeating the present complaint. The order for recovering the enhanced land compensation from the



complainant was issued by the Estate Officer, HSVP, Faridabad and the Section 17(v) of the HUDA Act, 1977 provides a remedy to the complainant for challenging such order of Estate Officer by filing an appeal before the Chief Administrator, HSVP. It was a statutory remedy available to the complainant and she was therefore expected to file present complaint only after exhausting the said remedy. Since she has not exhausted the efficacious remedy available to her, the present complaint is prima-facie is not maintainable.

5. That apart the allotment letter clearly recites that the price quoted therein was not final and Clause-9 thereof provides that the tentative price so quoted was liable to be revised due to enhanced land compensation. So, the complainant cannot legitimately argue that she is not liable to pay the enhanced land compensation.

6. Relying on the judgment of the National Consumers Dispute Redressal Commission, New Delhi in a case titled as 'Haryana Urban Development Authority and others Versus Ekta Jain and others' decided on 26.11.2008, the complainant's learned counsel has argued that the complainant can only be fastened with a liability to pay post allotment enhancement and not pre-allotment enhancement, which in the present case was ordered by the Hon'ble High Court on 16.09.2015 before the issuance of allotment letter dated 09.08.2016. The Authority on perusal of the cited judgment finds that there was a gap of more than two years between the Court's order affecting enhancement and the letter of allotment issued to the allottee. Said gap was sufficient to



provide adequate time to the respondent to calculate the prorated amount payable by each allottee and thus there was scope to hold in the cited case that the price quoted in the allotment letter was inclusive of the enhancement affected two years ago. However, the present case is distinguished. Herein, the enhancement order was based on order dated 16.09.2015 and allotment letter was issued on 09.08.2016. There were large number of allottees over the area for which enhancement was ordered by the Court in favour of the original landowners. The respondent was required to serve upon each allottee a separate notice disclosing the amount of enhancement falling to his share. Calculations of such amount in respect of large number of allottees was a time consuming exercise. It was probably for this reason that the respondent while issuing allotment letter added a clause making it clear to the allottee that the price quoted in allotment letter is tentative and the allottee will be liable to pay additional cost towards land compensation. So, the respondent cannot be denied his right to recover the enhancement amount from the present complainant.

7. For the reasons recorded above, the complaint is dismissed. Order be uploaded on the website of the Authority and file be consigned to the record room.



Anil Kumar Panwar
Member



Rajan Gupta
Chairman