



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1060 OF 2021

Romi Tyagi

....COMPLAINANTS(S)

VERSUS

BPTP Ltd.

....RESPONDENT(S)

**CORAM: Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 23.02.2022

Present: Shri Rakesh Dhiman, Ld. counsel for Complainant through video-Conferencing.
Shri Hemant Saini and Himanshu Monga, Counsel for the Respondent.

ORDER: (RAJAN GUPTA-CHAIRMAN)

1. Notice was issued on 24.09.2021 and same was delivered to the respondent on 27.09.2021. Last date for filing reply was 18.10.2021.
2. Facts of the case are that complainant booked a plot in respondent's project BPTP District 1 Block C situated in Sector-81, Faridabad on 12.11.2020. Complainant was allotted plot measuring 116.64 square mtrs bearing no. A-108

in the said project vide allotment letter dated 27.11.2020. Consideration of the plot was Rs. 72,75,141/- against which complainant has paid Rs. 8,00,000/-. After booking of plot complainant applied to HDFC Bank limited for sanction of loan of Rs. 60 lakhs. Said loan was approved in principle, however certain documents i.e., builder buyer agreement and permission of mortgage were needed for its final sanction and disbursal.

Thereafter, complainant personally visited respondent's office and requested for the documents required by bank for disbursal of sanctioned loan.

3. The respondent however issued a letter dated 19.12.2020 addressed to lending institution M/s HDFC confirming that they have sold plot no. A-108 to the complainant and that respondents have no objection to M/s HDFC giving loan to complainant and mortgaging of allotted plot. Further complainant states that lending institution M/S HDFC Ltd demanded original builder buyer agreement. Since no BBA had been executed respondents did not provide the same to the complainant to enable them to raise loan. Respondent, however, assured the complainant that it will be executed soon.

4. Complainant has averred that respondent instead of supplying requisite documents and executing BBA sent an e-mail dated 6.1.2021 demanding additional amount of Rs.36,16,617.50. Said demand was



accompanied with a threat that if said amount is not paid, complainant will have to pay interest at the rate of 10%. This letter dated 06.01.2021 written by respondent has been annexed by complainant as Annexure P/9 (Page 67-68) of the complaint. The complainant, however, further visited the office of respondent, and also sent an e-mail dated 8.1.2021 stating that he is still waiting for execution of BBA. The complainant alleges that rather than executing BBA, respondents intimated vide their letter dated 16.02.2021 annexed as Annexure P-3. that tentative schedule for execution of BBA will be sent to them soon.

5. Such correspondences took place between both the parties during the months of January and February, 2021 in which complainant kept requesting for signing of Builder-Buyer Agreement, but respondent made no communication in this regard and only stated that tentative schedule will be communicated.

6. Further, complainant states that respondents rather than executing Builder-Buyer Agreement as promised simply issued a termination letter dated 22.2.2021 thereby terminating allotment on account of default in making payments. Complainant vide their email dated 22.2.2021 protested against such illegal termination and again on 23.2.2021 sent an email stating that he is still waiting for execution of BBA where-after the loan will be got sanctioned for making payment to the respondent.

7. Complainant further, states that on 19.7.2021 respondent sent an e-mail to the complainant stating that their refund cheque is ready and same may be collected. Respondent, however, did not disclose the amount. Complainant states that against the paid amount of Rs.8.00 lacs respondent had prepared a check of Rs.26701/- towards refund of their money.

8. The case of the complainant is that it is the respondent which has defaulted in execution of the agreement as a result of which complainant could not get the loan sanctioned and disbursed. The termination notices as well as termination of allotment therefore is totally illegal and unjustified. Further, respondent has violated the provisions of RERA Act and have backed out from their promise made with complainant with pre-meditated mind. The complainant has prayed for quashing of termination of his booking and restoration of his plot at the same price and with a further direction to the respondent to execute Builder-Buyer Agreement expeditiously. Further, respondent should be asked to pay interest for causing delay in execution of the agreement.

9. Respondent have not filed their reply even after expiry of more than 3 months of receipt of notice. The notice was delivered to the respondent on 27.9.2021 Two opportunities have already been given to the respondent to

submit their reply but they have failed to do so. Accordingly, Authority decides to proceed ex-parte against the respondent.

10. Authority observes and orders as follows:

- (i) The complainant had booked plot in question on 12.11.2020 for which an allotment letter was issued by the respondent on 27.11.2020. The allotment letter has been annexed by complainant as Annexure P-3 page-63 of the complaint. Payment plan annexed with the allotment letter states that 10% of the price shall be paid at the time of booking. Accordingly, complainant paid an amount of Rs.8.00 lacs towards 10% of the price which has been duly acknowledged by the respondents vide their receipt dated 9.11.2020.
- (ii) Immediately thereafter complainant applied for sanction of loan from M/s HDFC Ltd which is evident from the offer letter dated 23.11.2020 issued by M/s HDFC Ltd. in which a loan of Rs. 60,00,000/- had been approved in principle subject to fulfilment of requisite formalities.
- (iii) It is understood that no loan is finally sanctioned and disbursed without execution of Builder-Buyer-Agreement. After getting the loan sanctioned, and before that also, complainant made repeated efforts by way of personal visits and email for getting the Builder-Buyer Agreement executed. Respondents, instead of executing BBA, demanded additional amount of about Rs.36,16,617.50 from the complainant in gross violation of the provisions of

RERA, Section 13 of the RERA stipulates that no money more than 10% of the cost of plot/apartment can be demanded without executing a Builder-Buyer Agreement. The respondent has thus grossly violated the provisions of RERA Act 2016.

Further, because of not executing Builder-Buyer Agreement, complainant could not obtain loan from M/s HDFC even after getting the loan sanctioned in principal. M/s HDFC could not have finally sanctioned and disbursed the loan without submission of Builder-Buyer Agreement. Banks and financial institutions demand submission of original documents especially BBA and other title documents before loan is sanctioned. Accordingly, it is because of default on the part of respondent that complainant could not get the loan sanctioned for payment to the respondent.

(iv) Despite having demanded about Rs.36,16,617.50 illegally and despite not fulfilling their obligation of signing BBA, respondent went on further and illegally terminated the allotment made in favour of complainant by issuing termination letter dated 22.2.2021. Such an act on the part of respondent is not only illegal, violative of the provisions of RERA but is also unethical. Complainant has been pursuing his case repeatedly with the respondents, but respondent made no effort to help the complainant getting their loan sanctioned for making payment to them.

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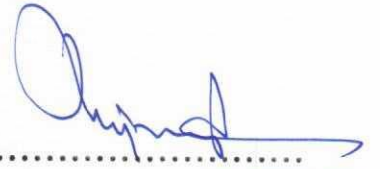
(v) Further illegality has been committed by the respondent by offering to return Rs.26701/- against Rs.8.00 lac paid by complainant. No justification for such an act on part of the respondent could be found. Clearly respondents were using their dominant position and were indulging in wrongful tactics presumably for their own private purposes.

(vi) Despite two opportunities, respondents have failed to even submit their reply. Allegations made by complainant are duly supported by documentary evidence. It leaves no doubt in the mind of the Authority that the act of termination of the allotment made in favour of the complainant is completely illegal. Accordingly, Authority is of the considered view that relief claimed by complainant deserves to be granted. Accordingly, the termination letter dated 22.2.2021 is hereby quashed. Respondents are directed to execute BBA with the complainant within a period of 45 days and provide all requisite documents to enable the complainant to avail of loan from HDFC. Thereafter, relationship of both the parties will be regulated by the provision of law and BBA.

(vii) The complainant would be entitled to interest on the already paid amount of Rs.8,00,000/- from the date of payment up to the date of execution of BBA because the respondent has withheld this amount illegally and have denied the due rights of the complainant.



11. **Disposed of** in above terms. File be consigned to record room after uploading of order on the website of the Authority.



RAJAN GUPTA
(CHAIRMAN)



DILBAG SINGH SIHAG
(MEMBER)

