



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Date of hearing: 02.04.2019
Hearing: 2nd

1. Complaint No.: 92 of 2019

Parties: -

Ram Mehar Singh

.... Complainant

Versus

Housing Board, Haryana

.... Respondent

2. Complaint No.: 93 of 2019

Parties: -

Suresh Tyagi

.... Complainant

Versus

Housing Board, Haryana

.... Respondent

CORAM: -

1. Shri Anil Kumar Panwar

Member

2. Shri Dilbag Singh Sihag

Member

APPEARANCE: -

1. Sh. Rajesh Vashisth, Advocate for the complainant

2. Sh. Parmod Sharma, Advocate for the respondent.

Order:

1. The above titled complaint for the reason that these are raising similar grievances against the same project of respondent are being disposed by this common order. The facts will be elucidated in the order with reference to complaint case no. 92/2019 which is being treated as the lead case.

2. The respondent, Housing Board, Haryana (for short HBH) invited applications in March, 2010 for offering built up multi-storeyed flats in its project situated in the area of village Barhi, District Sonapat. The complainant applied for same after paying Rs 79,000/- and his application was accepted. An

allotment letter was issued in his favour on 19.01.2012 and he was asked to deposit Rs 1,20,000/- on or before 15.02.2012 which he had paid on time. After a lapse of 6 years the respondent through letter dated 19.02.2018 informed the complainant that price of flat had been increased from Rs 7,90,000/- to Rs 15,65,000/- and that the complainant should pay a sum of Rs 5,85,013/- for obtaining possession and it was mentioned in the letter that balance amount will be recoverable from complainant over a span of 10 years. Finding himself unable to pay the increased price the complainant sent a letter to the respondent on 19.03.2018 requesting the respondent to review the price increase but he did not receive any response to his request. So, he filed the present complaint with a prayer to refund him the amount already paid i.e Rs 1,99,000/- alongwith 18% interest.

3. Respondent in his reply has averred that the respondent board is a statutory body, established under Haryana Housing Act,1971, which is not carrying on business for earning profit and is merely providing flats/plots to economically weaker section of society. It was further pleaded that the complainant had never contacted the housing board authorities for redressal of his grievance and therefore, no cause of action has arisen in favour of complainant to file this complaint. The respondent admitted that an application was received from complainant resisting increase in price but the respondent board being bound by the provisions of Housing board (Allotment, Management and Sale of tenements) Regulation,1972 had no power to review the cost of the flat. It was pleaded that the respondent in terms of its bye-laws is entitled to

deduct 50% of registration amount and is liable only to refund the balance amount paid by complainant without any interest.

4. After giving thoughtful consideration to the submissions made by the parties the authority for reasons stated hereinafter finds it to be a fit case for passing an order of refund in request of the amount paid by the complainant.

5. Undesirably, the complainant has applied for allotment of house under a scheme floated by respondent in March 2010. Said scheme was aimed at providing houses to economically weaker section of the society. The price of the house in the advertisement given by the respondent was reflected Rs.7.90 lacs. A person applying under the scheme was required to pay 25% of the total price. The complainant after adjudging his own financial position and capability to purchase house at the quoted price, had applied in response to respondent's advertisement. The respondent within a reasonable time of booking was expected to disclose the exact price of house to the complainant and also to complete all necessary steps for delivering possession of the purchased unit. After collecting money from the complainant, the respondent was not expected to prolong the completion of the project unreasonably or even to demand double the sale price of the house because such conduct on his part was bound to frustrate the very benevolent purpose with which the scheme was formulated for weaker section of society. The government provides land for building of houses under such scheme at subsidized rates and also facilitates arrangement of loan on subsidized rate to allottees of such scheme. The whole idea is to squeeze the sale price of houses to a level within the reach of weaker section



of society. How can the respondent then be allowed to render the allottees of such a scheme to face a situation when it becomes practically impossible for them to purchase the house at the rate double than for which they had agreed to purchase it.

6. The respondent in present case has not completed the project within a reasonable time and has disclosed the exact price of the house to the complainant after 8 years of the launching of the project. The respondent has been utilizing the amount of Rs.1,99,000/- lacs already paid by the complainant for all these years without paying any interest. Such conduct of the respondent being unreasonable and unconscionable cannot be legally sustained. The only submission made by respondent counsel to escape the liability of refunding the amount alongwith interest is that the project for which possession was planned to be delivered by 28.03.2013, could not be completed due to delay caused by contractor who was engaged for carrying out construction work. Undeniably, the contractor was engaged per the choice respondent and the respondent was expected to supervise the work of contractor and in case of necessity was also expected to change the contractor for the purpose of ensuring timely delivery. So, the argument put forth by respondent's learned counsel deserves rejection and the respondent cannot escape his own liability by shifting blame to contractor.

7. No doubt that there are bye laws of the respondent board which provides for deduction of 50% of the amount paid at the time of registration, in case an allottee wants to withdraw from the project/does not take possession within 30

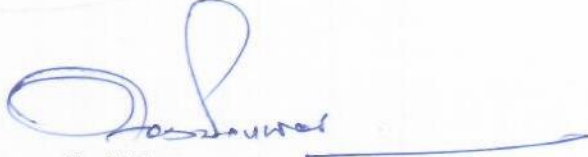


days of offer of possession, but the principle so enshrined in bye laws, in considered opinion of the Authority, will be applicable only in those cases where there is no default on part of respondent board in discharging its obligation towards allottees. The respondent Board cannot be allowed to take shelter of such bye laws for deduction of 50% of said amount in case of an allottee for whom the respondent himself has created circumstances rendering him practically unable to bear the cost of the house. The present case falls in this category because the respondent due to his own negligent act has created such circumstances. So, the Authority finds it a fit case for refund of paid amount without any deduction.

8. Accordingly, the complaint is allowed and respondent is directed to refund the paid amount of Rs.1,99,000/- lacs alongwith 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 60 days. The amount shall be paid in two instalments meaning thereby first instalment of 50% shall be paid within 30 days of uploading of this order and remaining amount to be paid as second instalment within next 30 days.

Disposed of. File to be consigned to record room.


Dilbag Singh Sihag
Member


Anil Kumar Panwar
Member