



Complaint No. 1238-2018

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Comp Nos. : RERA-PKL 1238-2018

Yogesh Pratap Singh Chauhan

...Complainant

Versus

1. M/s TDI Infrastructure Ltd.

...Respondents

2. Sh. D. N. Taneja, Chairman,

M/s TDI Infrastructure Ltd.

3. Sh. Ravinder Taneja, Vice-Chairman

& Managing Director, M/s TDI Infrastructure Ltd.

Date : 19.03.2019

No. of Hearing : 3rd

CORAM :

Sh. Rajan Gupta
Sh. Anil Kumar Panwar
Sh. Dilbag Singh Sihag

**Chairman
Member
Member**

APPEARANCE :

Rakhi Budhiraja
Shobit Phutela

Counsel for Complainant
Counsel for Respondent

Order:

1. This is third hearing of the matter. On the first hearing it was adjourned because respondent had not filed his reply. Now the pleadings are complete, therefore, after hearing both the parties, this matter is finally disposed of.

2. The case of the complainant is that he booked a second floor apartment measuring 1164 sq. ft., in the project "Tuscan City" of the respondents in Kundli, Sonipat, on 25.12.2011. He paid Rs. 4,00,000/- as booking amount on 26.12.2011 and 02.01.2012. Thereafter, he kept paying installments towards the cost of the floor as per demands of the respondents till March, 2012. The complainant has paid Rs.9,69,770/- till date against the sale price of Rs. 31,50,000/-. During a site visit in March, 2012, the complainant was shocked to see that construction work was almost at a standstill, and it further came to his knowledge that the respondents were not having mandatory licenses and sanctions from the govt. authorities, necessary for development of the project and allotment of units. The complainant has been making repeated requests to the respondents to make allotment of apartment in his favour but the respondents have failed to do the needful till date. Due to the non -allotment of unit despite of lapse of about 3 years from the booking, the complainant



wrote a letter dated 15.09.2014 to the respondents for withdrawing the said booking and requested for refund of the amount paid by him along with interest . The respondents have not even replied to the request made by the complainant. He again requested the officials and management of the respondents to refund the amount paid by him along with interest but they failed to act upon it.

The complainant had to file a complaint before the State Consumer Disputes Redressal Commission, New Delhi, which was later withdrawn on 30.03.2016. He again filed a complaint before the District Consumer Disputes Redressal Forum, New Delhi, which was dismissed vide order dated 12.11.2018 on technical grounds.

The complainant is aggrieved due to non-completion of the project where he had originally booked the floor, therefore, he has filed this complaint, seeking refund of Rs.9,69,335/- along with interest @ 18% p.a.

3. The respondents have denied all the allegations and have raised several objections, as follows:

- i. That the complaint is premature because the project of the respondents is registered with HRERA vide registration no. 368 of 2017 in which due date of completion has been stipulated to be 31.07.2022.



- ii. That the Registration Form was filled by the complainant to book the apartment. Thereafter they tentatively allotted him apartment no. T-166/SF.
 - iii. That the complainant has himself breached performance of his part of the agreement as he has stopped making payments after September, 2014. Respondents admit payment of Rs.9,69,335/- by the complainant against total consideration of Rs.37,98,044/- as reflected in the Statement of accounts dated 15.01.2019.
4. The Authority has considered the written as well as oral pleadings of both the parties. Admittedly, the booking was made in Dec,2011 and despite lapse of more than 7 years of booking the respondents have not yet issued any allotment letter nor any Floor Buyer's Agreement has been executed. Admittedly, the project is still incomplete. Failure on the part of respondents to deliver floor within a reasonable time period is not only breach of terms of registration but also amounts to contravention of the provisions of RERA Act 2016 and the principles of natural justice. The plea of the respondents that this complaint is premature because the project has been registered with this Authority vide registration no. 368 of 2017 whereby they have been allowed to complete the construction up to 31.07.2022 is not sustainable



because it implies that the construction work of the project is still at a preliminary stage as proposed date of completion is July, 2022. Hence, the apartment would be delivered to the complainant after an extraordinary delay about 10 years from the date of booking. The Authority is of the considered opinion that the mere fact that the project is registered with this Authority will not affect the commitments made between the parties at the time of booking and the complainant cannot be expected to wait till 2022 to get the booked apartment.

The respondents have also raised the plea that the complainant had stopped making payment after September, 2014. This plea of the respondents is also not sustainable because firstly the respondents have failed to attach any document showing that the complainant had failed to make payment in response to demands raised by them, secondly, the extraordinary delay caused in construction of the project would obviously discourage the complainant to make payments. The complainant is not expected to keep making payments despite no progress of the project at the ground level at all. Admittedly, the construction work did not take place, and seeing the condition of the respondents, the complainant was discouraged from sinking his hard earned money in a failed project. It also implies that the construction work at site was stalled due to which the respondents were not raising



any fresh demands for further payment. Further admittedly, no agreement has been executed between the parties.

In view of above, the Authority is of the considered opinion that the respondents have committed serious delay in issuing allotment letter in the favour of complainant; they have not even executed Floor Buyer Agreement with him; they have not even offered the possession of the floor to the complainant till date; the project has not been developed and will not be developed till 2022; they have been using the amount deposited by the complainant since the last eight years for no evident justification. Thus, now after lapse of about more than eight years from the date of booking it will be unconscionable and unreasonable to force the complainant to continue with the booking of their unit and wait till 2022 to get the delivery of the apartment.

Therefore, the Authority finds it to be a fit case for refund of the money paid and directs the respondents to refund Rs. 9,69,335/- already paid by the complainant along with interest at the rate stipulated under Rule 15 of the HRERA Rules, 2017.

5. The respondent shall pay the entire amount within 60 days in two instalments of which first instalment will be payable within 30 days and the next within 30 days thereafter. The period of paying such



instalments will start from the day the order is uploaded on the website of the Authority.

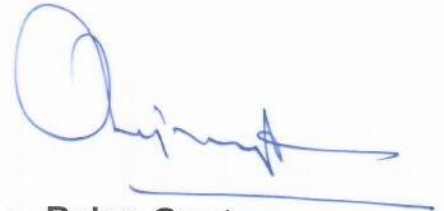
Disposed of accordingly. The file be consigned to the record room and the orders be uploaded on the website of the Authority.



Dilbag Singh Sihag
Member



Anil Kumar Panwar
Member



Rajan Gupta
Chairman

