



Complaint no. 1321/2018

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1321 OF 2018

Amit kumar

....COMPLAINANT

VERSUS

Ansal Housing and Construction Ltd.

...RESPONDENT

**CORAM: Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag**

**Chairman
Member
Member**

Date of Hearing: 19.03.2019

Hearing: 2nd hearing

Present: - Smt. Ritu Sharma, Counsel for complainant

Shri Abhinav Kansal, Counsel for respondent

ORDER (RAJAN GUPTA- CHAIRMAN)

This complaint has been filed by the complainant stating that the complainant had purchased a plot no. C-090, Block C, measuring 199.13 sq. yards

in the project named "Ansal Town", Sector 36, Karnal, Haryana from Ch. Ranbir Singh who was original allottee of this plot. The original allottee had informed the complainant that there was no outstanding amount against this plot. This fact was confirmed by a letter issued by the respondent annexed as **Annexure P-1** which establishes that nothing was stated to be outstanding against the said plot.

The respondent vide letter dated 24.11.12 had informed the complainant that the said plot stands transferred in the name of complainant. After transfer of plot, the complainant again received a statement of account on 30.11.12 from the statement again stating that nothing was due against the said plot.

The complainant submits that after transfer of the plot, he has paid Rs. 55,756/- as utility charges to the respondent, and maintenance charges at the rate of Rs. 1,500/- per month till 2017 to the maintenance agency of the respondent. He contends that the maintenance charges were excessive in nature, therefore, he stopped paying the same after 2017. He had also paid another amount of 6,000/- as settlement of interest on utility charges, even though the statement of account showed nil amount payable at the time when plot was transferred in his name.

Complainant states that he has filed the present complaint because after transfer of the plot, respondent has sent numerous letters to complainant directing him to pay following amounts after which possession would be handed over to the complainant: -

- (I) Respondent sent a letter dated 24.01.13 demanding additional EDC Rs. 88,612/-, utility charges Rs. 55,756/-, maintenance



- charges Rs. 23,269/-, stamp duty charges of Rs. 1,19,500/-, registration fee Rs. 10,200/- per unit and miscellaneous expenses and lawyer fee Rs. 23,913/-. Hence, the total amount demanded by the respondent vide letter dated 24.02.13 was Rs. 3,21,250/-.
- (II) Respondent again sent a demand notice on 30.04.14 to complainant and demanded Rs. 55,756/- as utility charges along with interest of Rs. 15,240/-.
- (III) Respondent sent a letter dated 06.09.14 demanding non-refundable membership fees of Rs. 20,000/-, refundable security deposit of Rs. 50,000/- along with service tax of Rs. 2,472/-, hence, a total of Rs. 72,472/-.
- (IV) On 28.10.15, respondent sent a detailed account statement demanding utility charges of Rs. 55,756/-, Ansal Club Security deposit of Rs. 33,333/-, Ansal Club fee of Rs. 20,000/-, additional EDC of Rs. 88,613/-, Ansal Club fee service tax of Rs. 2,472/-, interest of Rs. 13,983/-. Hence, the total amount demanded by the respondent vide letter dated 28.10.15 was Rs. 1,58,399/-.

Thereafter, complainant sent various letters and e-mails to respondent disputing the above said charges and for withdrawal of the same. However, respondent did not withdraw any of the demands. The complainant filed a complaint before District Consumer Redressal Forum, Karnal on the same grounds and same was dismissed for lack of pecuniary jurisdiction.



Hence, he prays for withdrawal of all the illegal demands made by respondent, physical possession of plot, registration of plot in complainant's name and any other relief as the Authority may deem fit.

2. The respondent's case is that present complaint is not maintainable because part of the project received occupancy certificate on 17.05.17, therefore the project is out of ambit of the term "ongoing project". In view of this, this Authority has no jurisdiction to entertain the present complaint.

The grounds on which present complaint has been filed are totally frivolous. As far as EDC and other charges are concerned, it is the duty of complainant to pay all the dues. Since he has stepped into shoes of original allottee, therefore, all the terms and conditions of the agreement are binding upon the complainant. Accordingly, the complainant is bound to pay the enhanced EDC and other charges.


As far as club fee is concerned, there are two phases in the project. The first phase is complete and the second phase, in which amenities including club are being set up will soon be completed. The complainant would be using the club and therefore, is liable to pay club charges.

The respondent, further, submitted that lawyer fee and miscellaneous expenses are reasonable and not on the higher side.

3. The Authority, after going through the afore-said submissions, observes and orders as follows: -



- (i) It has been held by the Authority in **complaint case no. 144 of 2018 titled as Sanju Jain V TDI Infrastructure Ltd.** that the Authority will have jurisdiction to deal with a complaint in which dispute has been raised regarding non-fulfilment of promoter's subsisting obligations qua the allottee. The grievance raised in the present complaint inter-alia includes a grievance that although the respondent-promoter has offered possession of plot to complainant, but the same is subject to payment of excessive demands made by the respondent. Therefore, this Authority has jurisdiction to deal with the present complaint.
- (ii) As far as enhanced EDC demand of Rs. 88,613/- is concerned, the Authority observes that as per the agreement between the parties, the complainant is liable to pay EDC charges. However, as far as payment of enhanced EDC is concerned, the Hon'ble Punjab and Haryana High Court in **CWP No. 5835 of 2013 titled as Balwan Singh V State of Haryana** has stayed the operation of payment of enhanced EDC. In view of this, the respondent is directed to withdraw the demand in respect of enhanced EDC.
- (iii) Regarding registration charges of Rs. 10,200/- and stamp duty charges of Rs. 1,19,500/-, the complainant shall make both these payments directly to the concerned Authorities as and when the situation demands and not to the respondent. Hence, the



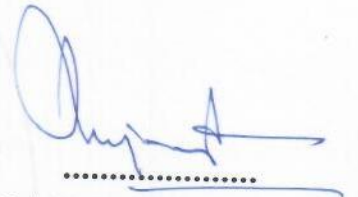
respondent is directed to withdraw the demand of registration charges and stamp duty.

- (iv) Regarding utility and maintenance charges, since both these charges are being paid by all the allottees, therefore, complainant is also liable to pay the same. However, respondent is directed to provide a detailed statement of accounts to the complainant explaining the basis on which these two amounts are charged by the respondent.
- (v) With regard to non-refundable club membership fee of Rs. 20,000/-, refundable club security deposit of Rs. 50,000/- along with service tax of Rs. 2,472/-, the respondent is not disputing that club facilities are not available at present. The Authority in a similar situation in **complaint case no. 113 of 2018 titled as Madhu Sareen V M/s BPTP Ltd.** has held that the allottee is liable to pay club charges if the club has become operational or soon to become operational. Therefore, the Authority directs the respondent to withdraw the demand for club charges of Rs. 20,000/-. Regarding club membership security deposit, the respondent is directed to prepare a plan for completion of the club and demand money from the complainant in instalments up to the date of completion.

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- (vi) The Authority observes that demand of miscellaneous expenses and lawyer fee amounting to Rs. 23,913/- is unjustified. The respondent has not made out any ground or reason for demand of these payments, therefore, the Authority directs the respondent to withdraw these demands.

Complaint is **disposed of** in above terms. Order be uploaded on the website and files be consigned to the record room.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
MEMBER]