



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1142 OF 2020

Kavita Aggarwal

....COMPLAINANT

VERSUS

TDI Infrastructure Pvt. Ltd.

....RESPONDENT

COMPLAINT NO. 1143 OF 2020

Ritu Aggarwal

....COMPLAINANT

VERSUS

TDI Infrastructure Pvt. Ltd.

....RESPONDENT

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 18.05.2022

Hearing: 14th

Present: - Mr. Vikas Deep, Counsel for the complainants through VC.
Mr. Shubhnit Hans, Ld. Counsel for the respondent through VC.
Mr. Hunarveer Singh, Ld. Counsel for the respondent.

ORDER (RAJAN GUPTA-CHAIRMAN)

1. Both the captioned complaints are being disposed of through this common order on the ground that core issue involved in all cases are identical. Moreover, all these cases pertain to the same project of the respondent i.e. 'Rodeo Drive-TDI City' at Sonapat. This order is being passed in view of the facts of lead **Complaint case no. 1142 of 2020 Kavita Aggarwal vs TDI Infrastructure Pvt. Ltd.**
2. Case of the complainant is that original allottee had booked a shop in the project named "Rodeo Drive-TDI City" of the respondent situated at Sonapat on 11.05.2006. Shop No. FF-122, measuring 500 sq. fts. was allotted to complainant on 05.06.2006. No Builder Buyer Agreement (hereinafter referred to as BBA) was executed between parties. In certain similar cases respondent had assured allottees to deliver possession of plots within three years from the date of booking. After taking entire consideration amount,



delivery of possession should have been given within reasonable period of time which in such cases is three years. Thus, learned counsel for the complainant pleaded that even in the present case since no agreement has been executed by the respondent, therefore, the deemed date of delivery of plot should be taken as three years from the date of booking, meaning thereby that complaint's plot should have been delivered to complainant by May, 2009. Plot was transferred in favour of complainant in Dec, 2006. Complainant has paid already Rs. 18,00,000/- against basic sale consideration of Rs. 22,50,000/-.

Learned counsel for the complainant stated that respondent has offered fit out possession of the shop to the complainant on 14.03.2019. Said offer has been made after delay of thirteen years from the date of booking which is highly unreasonable. Therefore, complainant may be allowed refund of Rs. 18,00,000/- along with interest as per Rule 15 of the HRERA, Rules 2017.

3. On the other hand, learned counsel for the respondent has disputed the allegations made by complainants on the ground that project has been developed and Part Completion Certificate was granted by Department of Town & Country Planning, Haryana on 23.01.2008, 18.11.2013 and 22.09.2017. Learned counsel for respondent also stated that respondent Company has already received Occupation certificate from Director, Town &

Country Planning Department, Haryana vide letter dated 12.06.2019. Respondent had offered fit out possession of the said shop to the complainant on 14.03.2019. He stated that the shop of the complainants are complete and ready for usage and complainants are not coming forward to take possession of their shop after payment of outstanding amount.

4. After hearing arguments of both the parties and perusal of record, Authority observes that Part Completion Certificate qua the project was granted to respondent by Department of Town & Country Planning, Haryana on 23.01.2008, 18.11.2013 and 22.09.2017. Respondent has also received Occupation Certificate for the shop on 12.06.2019. He has offered fit out possession of the said shop to the complainants on 14.03.2019. Therefore, request of complainants for refund of amount deposited by them cannot be accepted as same will adversely affect the project. In such scenario, Authority observes that complainants shall be entitled to interest for the delay caused by respondent in offering possession of shops at the rate prescribed in Rule 15 of HRERA Rules, 2017 for the period from the deemed date of possession i.e. 11.05.2009 and 10.05.2009 respectively in Complaint No. 1142-2020 and 1143-2020 upto the date of receipt of occupation certificate i.e. 12.06.2019 (Date of receipt of Occupation Certificate Department of Town & Country Planning, Haryana i.e. 12.06.2019 has to be taken as valid offer of possession) Accordingly, respondent is also entitled to same rate of interest for the period

of delay, if any, caused by the complainants in payment of the outstanding amounts. It is further directed that period between date of receipt of occupation certificate i.e. 12.06.2019 and date of order i.e. 18.05.2022 shall be treated as zero period for both parties for purposes of no charges/interest would be receivable/payable for said period.

5. Respondent shall handover possession of shops to complainants in both cases as well as issue fresh statement of accounts within 30 days of uploading of this order. Respondent is directed to issue said statement of accounts strictly as per provisions of THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 and principles laid down by the Authority in Complaint case No. 113 of 2018 – titled as “Madhu Sareen Versus BPTP Limited”.

6. Complainants have paid total amount of Rs 18,00,000/- and Rs. 22,00,000/- respectively in Complaint No. 1142 and 1143 of 2020. As per calculations made by Accounts Branch, amount payable by the respondent to the complainants on account of interest for delay in handover of possession of the shop from the deemed date of delivery up to date of receipt of Occupation Certificate i.e. 12.06.2019 has been worked out to Rs. 16,07,747/- and Rs. 19,65,025 in Complaint No. 1142 -2020 and Compliant No. 1143-2020 respectively.

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7. The Authority orders that aforesaid payment of interest on account of delay caused in handing over of possession of plots to complainants in each case be made within 90 days of uploading of this order on the web portal of the Authority. **Disposed of** in these terms. Files be consigned to the record room and the orders be uploaded on the website of the Authority.



RAJAN GUPTA
[CHAIRMAN]

DILBAG SINGH SIHAG
[MEMBER]