

**BEFORE THE CHAIRPERSON, REAL ESTATE REGULATORY
AUTHORITY, PUNJAB**

Complaint No.GC 1161 of 2019

Date of Institution :15.01.2019

Date of Decision: 11.02.2020

Charanjeet Singh Bagga, r/o Apartment Juniper 403, Ansal
Woodbury Apartments, High Land Marg, Zirakpur, Sahibzada Ajit
Singh Nagar (Mohali) 140603

....Complainant

Versus

M/s Ansal Housing and Construction Limited, 15 UGF Indra Prakash,
21 Barakhamba Road, Central Delhi, Delhi 110001

.... Respondent

Present : Shri Saksham Arora, Advocate for the complainant
Shri Abhinav Kansal, Advocate for the respondent

ORDER

This is a complaint filed by Shri Charanjeet Singh Bagga against the respondent alleging various violations, and deficiencies of service, by the respondent in relation to Flat No.403, in Block Juniper in the real estate project 'Ansal Woodbury Apartments' developed by the respondent. It is alleged in the complaint that the respondent had allotted, and handed over possession of the unit, to the complainant without obtaining the Completion Certificate and had therefore misled

the complainant. It is further submitted that the respondent had made large-scale violations of the approved layout and building plans. The other allegations in the complaint are as under:-

- (i) Delay in handing over of possession of common areas to the Residents Welfare Association;
- (ii) Lack of proper maintenance of the complex; and
- (iii) Wrongful levy of Goods and Sale Tax (GST) by the respondent.

The relief sought is a direction to the respondent to obtain the Completion Certificate for the project, hand over the common areas to the Residents Welfare Association, and upload the details of the project on the Authority's website as mandated by the Section 11(1) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act). It is also contended that the respondent be directed to remove the violations and shortcomings in the project.

2. During the course of hearing Shri Sakshan Arora filed an application for submitting additional evidence. The respondent filed a reply denying the allegations raised in the complaint, and also a response to the application for submitting additional evidence. The complainant thereafter filed a rejoinder in the matter. Though the submission of additional evidence was opposed by the respondent yet it is felt that the original complaint was lacking in some material particulars e.g. allotment letter, buyer's agreement etc. Hence I feel that the additional evidence is necessary for a fair and proper

hearing; and this evidence has been taken into account while deciding the matter.

3. When the case was taken up for consideration Shri Saksham Arora, Counsel for the complainant reiterated the contents of the complaint, specifically highlighting the lack of a Completion Certificate for the project, and also the delay in forming a Residents Welfare Association and handing over possession of the common areas to this body. Apart from this, Counsel pointed out that the respondent had committed grave violations of the sanctioned plans and had encroached on the common areas by constructing a club house under the stilt parking meant for use by the residents. He enumerated the following shortcomings in the project:-

- a. the 'designer gate' and 'designer lighting' promised in the brochure had not been provided;
- b. the location of the shopping area was not convenient for the complainant;
- c. a designated parking area had not been provided for the complainant;
- d. there were no arrangements for power back up;
- e. the allotment letter only mentioned that the complainant would have to pay external electrical charges but he was being charged for the fire fighting arrangement also; and

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- f. maintenance charges were very high as compared to the level of maintenance in the complex.

4. On the other hand, these contentions were rebutted by Shri Abhinav Kansal, Counsel for the respondent. He pointed out that the respondent had made strenuous efforts to obtain the Completion Certificate for the project after they had applied for the same in 2012. It was only after contempt proceedings were initiated in the High Court of Punjab and Haryana that the Municipal Council, Zirakpur had pointed out certain violations that were coming in the way of issuance of Completion Certificate. The respondent was rectifying these and hopeful in obtaining the Completion Certificate in the near future. He submitted that the Residents Welfare Association would be formed after the Completion Certificate was obtained and the common areas would be handed over to the Association, as required by the law. It was further contended that the complainant could not allege defect in the quality or provision of service under these proceedings since this matter came within Section 14(3) of the Act and the remedy was to seek compensation from the Adjudicating Officer. He further submitted that

- a. proper gate and appropriate lighting had been provided in the complex;
- b. the shopping area had been constructed as per the approved plans;

- c. proper parking space had been provided to the complainant and it was not explained by the complainant how the parking provided was in violation of the terms of the allotment;
- d. the provision of power back-up was not a part of the agreement;
- e. the external electrical charges were being charged strictly in terms of the allotment letter; and
- f. the complainant had agreed to pay monthly maintenance charges but now trying to evade this obligation by raising the issue of unsatisfactory maintenance but without any supporting evidence.

5. Counsel concluded by pointing out that actually the complainant had been in default of payment of dues and though possession of apartment was offered in November 2011, he had paid the due amount only in April 2012. Thereafter Conveyance Deed of the apartment had been executed on 16.09.2013 and possession handed over thereafter.

6. I have carefully considered the rival submissions and also gone through the record of the case. Having done so, it is held that the respondent is in violation of the law in not obtaining the Completion Certificate before offering possession and also in not uploading details of the project on this Authority's website. Accordingly, it is directed

that the Completion Certificate may be obtained within 6 months of this order and details of the project be uploaded on the concerned website within 2 months. A copy of the order be sent to the Secretary of this Authority for monitoring compliance of these directions.

7. Coming to the violations and shortcomings qua the complainant I am of the view that these not have been duly proved. The shortcomings pointed in para 3 (a to f) have been effectively rebutted by Counsel for the respondent and there is no further evidence by which it can be held that the allegedly contravention was actually committed. The gate and lighting arrangements admittedly been provided, and it does not seem to be within purview of these proceedings to record a finding about whether they fall into the category of 'designer' or not. The contentions that the shopping facilities are not convenient for the complainant only need to be noticed to be rejected. There is no contention that this facility has not been provided at the approved site; and if the site is not convenient for the complainant so be it! Apart from an oral assertion, the complainant has not been able to demonstrate how the promised parking has not been made available to him. Some photographs have been adduced along with the application for additional evidence but these do not, in my opinion, clearly establish any violation of the respondent's commitment in this behalf. The breakup of the costs of the apartment (Annexure A6/2 of the additional evidence) and the invoices raised by the management agency (pages 6 to 79 of the application for additional evidence) do not support the complainant's

allegation that fire fighting charges have been levied upon the complainant. As far as the maintenance charges are concerned, I am of the firm view that the complainant cannot resile from the agreement to pay all maintenance charges. Any deficiency in provision of facilities can be agitated before the appropriate forum but cannot be used as an excuse to avoid payment of maintenance charges. Finally, as the report of the Municipal Council, Zirakpur makes it clear that there is no encroachment or violation in the construction of the club house at the current location. This report does point out 3-4 contraventions but there is nothing about the club house in this report. Hence, it can unequivocally be held that the complainant has failed to substantiate the allegations made against the respondent.

8. As a result of the above discussion, this complaint is dismissed, subject to the observations contained in para 6 above.

Announced.



Chairperson
Real Estate Regulatory Authority
Punjab