

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

GC No.1387 of 2019
Date of Institution 26.09.2019
Date of Decision 22.09.2019

Bikramjit Singh s/o Shri Kulwant Singh, House No.3545, Sector 35-D,
Chandigarh - 160022

....Complainant

Vs

1. Vera Developers Ltd. through Shri Rakesh Kakkar, Gold Mark Old Kalka Road, Part Street, Near Patiala Chowk, Zirakpur - 140603
2. Bajwa Developers Ltd through Shri J.S. Bajwa, Managing Director, Sunny Business Centre, New Sunny Enclave, Sector 125, Kharar, Mohali - 140301.

....Respondents

Present: 1. Complainant in person
2. Ms. Meenu Goel, Advocate for respondent no.1
3. Respondent no.2 is already exparte.

ORDER

This is a complaint against the respondents alleging fraud and wrongdoing in relation to the unit booked by the complainant in the project 'Prestige Tower' developed by the respondents.

2. The allegations of the complaint are somewhat unique and may be noted in some detail. It is alleged that the complainant had booked a unit with respondent no.2 in the year 2011 for a total consideration of Rs.25.00 lakhs, and an amount of Rs.6.25 lakhs being 25% of the total consideration had been paid. The possession of the unit was to be given in three years i.e by the end of 2014. However till the year 2018 no response had been received from respondent no.2. Thereafter the complainant was approached by a representative of respondent no.1 pointing out that the project had

since been purchased by them and a unit was now offered for Rs.44.00 lakhs. The complainant paid another sum of Rs.4.40 lakhs to respondent no.1, being 10% of the sale consideration. The booking form was also signed for Flat No.104 in Tower 'E'. However respondent no.1 had subsequently reneged on their offer and was pressurizing the complainant to organise the sale of three more units if he wished to get the unit at the rate of Rs.44.00 lakhs; otherwise the price would be Rs.50.00 lakhs. The relief claimed in the complaint is the delivery of the unit by respondent no.1 at the rate of Rs.44.00 lakhs, and refund of the money deposited with respondent no.2 along with payment of interest thereon.

3. It may be noted straightaway that no allotment letter or agreement for sale been executed by, or with, either of the two respondents has been enclosed with the complaint. Apart from some correspondences exchanged by the complainant with respondent no.1, the only other enclosures with the complaint are photocopies of cheques submitted to respondent no.1 and bank statements showing payments to respondent no.2.

4. Notice of the complaint was served on the respondents. Respondent no.1 has appeared and submitted a detailed reply. However respondent no.2 did not appear despite due service of notice and was proceeded against exparte on 07.01.2020. In the reply submitted on behalf of respondent no.1 it has been pointed out that the complainant had shown interest in purchasing a dwelling unit in the project 'Prestige Tower' being developed by answering respondent. The price of the unit had been explained as Rs.50.00 lakhs plus GST. However, the complainant had agreed to motivate the sale of 5 more units and requested that the commission to be paid to him for this may be adjusted in the price of the unit. He however failed to do this and hence was clearly told that the price of the unit would be Rs.50.00 lakhs It is further submitted that the complainant was informed that credit for the amount paid by him to respondent no.2 would be given only if consent for

this cause of action was obtained from the latter. The complainant did not even execute the agreement for sale but instead started making frivolous complaints to various authorities with a view to pressurise the answering respondent to give him some discount in the price of the unit. It is finally submitted that the alleged booking form relied upon by the complainant was a forged document and could not bind the answering respondent to allot the unit at a price of Rs.44.00 lakhs.

5. Arguments were heard through video conferencing on 01.09.2020. The complainant briefly reiterated the contents of the complaint and submitted that he had no further arguments to submit. Similarly, Ms. Meenu Goyal on behalf of respondent no.1 also reiterated the contents of the reply. She highlighted that the price of the unit was Rs.50.00 lakhs and it could not be allotted to the complainant at a lesser price. They were however willing to refund the amount paid by the complainant if this offer was not acceptable to him, she concluded.


6. I have carefully considered the rival contentions and gone through the record of the case. The file relating to registration of the project available with the Authority has also been examined. It is seen that the project 'Prestige Tower' is a joint development, and an agreement to this effect was executed between the respondents on 17.05.2017. As per its terms respondent no.2 is entitled to get 28% of the sale proceeds of the project. In these circumstances there should be no occasion for respondent no.1 to demand that the complainant should obtain consent from respondent no.2 before giving credit for the amount deposited with the latter. Since sale proceeds have to be shared between two respondents, the adjustment of this amount can easily be managed by respondent no.1. Regarding the price of the unit the complainant has not submitted any evidence whatsoever to justify his contention that the same was fixed as Rs.44.00 lakhs. This amount has been mentioned in the booking form – however this form is only

signed by the complainant and not by respondent no.1. This therefore cannot be a deciding factor. Thus so far it can be held that the price of the unit is Rs.50.00 lakhs and that the complainant has paid an amount of Rs.10.65 lakhs on this account to the two respondents. However there is no formal documentation in his favour. It is therefore incumbent upon respondent no.2 to complete the necessary formalities within a short time frame. Finally, in the absence of any such documentation the period for delivery of possession of the unit to the complainant cannot be ascertained. The best that therefore can be allowed is to stipulate that this will be done in the same time frame as the answering respondent has allowed for similarly placed allottees i.e those who have also paid the booking amount at the same time as the complainant. This period should be incorporated in the documents to be finalised between the complainant and respondent no.2.

7. This complaint is accordingly accepted and disposed off with the following directions:

- i. The amount paid by the complainant to respondent no.2 will be treated as having been paid to respondent no.1 towards booking of the flat.
- ii. The price of flat is taken to be Rs.50.00 lakhs.
- iii. Respondent no.1 is directed to complete formalities for finalization of the transaction with the complainant within a period of 3 months.
- iv. The delivery of possession and execution of Conveyance Deed in favour of the complainant shall be finalized within the same time frame as applicable for similarly placed allottees i.e those who have deposited the booking amount with respondent no.1 in May 2019.

Announced.


Chairperson
Real Estate Regulatory Authority
Punjab