

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

Complaint No.GC 1267 of 2019
Date of Institution :04.04.2019
Date of Decision : 08.10.2020

Akhilesh Khanna s/o Shri D. Khanna House No.3299, Sector 19-D,
Chandigarh 160019

....Complainant

Versus

The Chief Administrator, Greater Mohali Area Development Authority, PUDA
Bhawan, Sector 62, SAS Nagar (Mohali), Punjab – 160062

.... Respondent

Present : Shri D. Khanna, Advocate for the complainant
Shri Bhupinder Singh, Advocate for the respondent

ORDER

This is a complaint under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) against the delay in delivery of possession of booth measuring 20 yards by the respondent.

2. The brief facts as discerned from the complaint are that one Shri Vivek Goyal and his wife Ms.Ekta Goyal were the holders of Letter of Intent No.25201 dated 06.06.2016 for the allotment of a commercial booth under the Land Pooling Policy adopted by the respondent. Under this policy land owners whose property gets to be acquired by the respondent for development of real estate projects have a choice of getting a developed

plot in lieu of the compensation to be given for acquisition of the land. The booth was initially allotted to the original land owner Shri Gurnam Singh, and Shri Vivek Goyal and Ms. Ekta Goyal, predecessors-in-interest of the complainant, had purchased it from him. Ultimately, the letter of intent was transferred in the name of the complainant on 27.03.2017 after paying its market price (Rs.30.00 lakhs) to the earlier holders of the letter of intent, and the transfer fee to the respondent. The contention is that despite the lapse of more than 4 years from the issue of the letter of intent the possession of the booth had not yet been handed over. Accordingly, the relief claimed is payment of interest with effect from 27.03.2017 till the actual possession was handed over to the complainant.

3. Notice of the complaint was issued to the respondent and a reply has been filed. A preliminary objection raised in the reply is about the existence of an arbitration clause in the letter of intent, the argument being that the presence of this clause excludes the jurisdiction of the Authority. This argument however was rejected in a number of cases by this Authority relying upon the decision of the Supreme Court in "*M/s Emaar MGF Land Limited vs Aftab Singh*" (Review Petition (C) Nos.2629-2630 of 2018 in Civil Appeal No.23512-23513 of 2017). On merits, it has been contended that the letter of intent did not specify any time period for handing over possession of the booth - instead it was only said that possession will be handed over after the completion of the development works. It was also pointed out that under the land policy the land owners, including the present complainant, were to get rent at the rate recommended by the Deputy Commissioner for the period from taking over possession of the land to the handing over of possession of the developed booth; and any further relief could not be

granted to the complainant. It is finally pointed out that in the land pooling policy there is no provision for award of interest merely because the respondent had not received any money from the complainant or his predecessors-in-interest.

4. A rejoinder rebutting this argument has been filed by the complainant. Arguments were heard on 15.09.2020 through video conferencing. On behalf of the complainant Shri D. Khanna, Advocate reiterated the contents of the complaint and pointed out that more than 4 years had elapsed since issue of the letter of intent in his favour but possession had still not been handed over. He submitted that the market value of the booth is Rs.36.00 lakhs at present and hence interest at the prescribed rate on this amount should be paid to the complainant. On the other hand, Shri Bhupinder Singh, Advocate for the respondent highlighted that since the complainant had not paid any money to the respondent for the allotment of the booth, which was under the policy of land pooling, there was no question of any interest being paid. He also pointed out that as per his own case the complainant had purchased the property for Rs.30.00 lakhs and it was now worth Rs.36.00 lakhs therefore he had already gained from the transaction and any further relief by way of payment of interest would amount to unjust enrichment.

5. Having considered the rival contentions carefully, I am of the view that the complainant's plea for payment of interest for the period of delay cannot be granted. Under the Act interest is paid on the amount paid in respect of the apartment/plot etc. In this case no such amount has been paid and the developed booth is to be allotted in lieu of the land acquired from the original owner. Thus, the essential ingredients for the payment of interest are not fulfilled in the present case. However, it is true that a letter of intent

for allotment of the booth has been issued by the respondent and it cannot resile from its commitment in this regard. In a related case about a residential plot in the same project the allotment letter had already been issued on 15.06.2020. Therefore, it is clear that development works in the area mostly have been completed. It is accordingly ordered that formalities for allotment and delivery of possession of the booth may be completed in favour of the complainant within a period of 4 months from the date of issue of this order.

Announced


Chairperson
Real Estate Regulatory Authority
Punjab