

**Navin Dwivedi & Anr.**

**Vs.**

**Ubber Buildcon Pvt. Ltd. & Anr.**

RERA Regn .No. PBRERA-SAS79-PR0205

Present: Complainant in person.  
Ms. Manju Goyal, Advocate for the respondents.

Matter heard through V.C.

The present complaint U/s. 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as the 'Act') was filed on 11<sup>th</sup> Sep, 2019 by .Sh. Navin Dwivedi & Ms. Nirmala Dwivedi (hereinafter referred as "Complainant (s)") against M/s. Ubber Buildcon Pvt. Ltd. and Anr. (hereinafter referred as "Respondent(s)"). The complainant booked an apartment on top floor of plot no. 25 measuring 112.5 sq. yards, to be developed as independent floors. He initially paid an application amount of Rs.25,000/- on 10.09.2017 and additional sum of Rs.1,49,000/- on 24.10.2017 , making a total of Rs.1,74,000/- towards 10% of the BSP. GST, Interest free maintenance security (IFMS) and Club Membership charges (CMC) were to be paid in addition. Subsequent to the payment of initial amount, the complainant did not made any further payment, despite the respondent sending him duly signed buyers agreement on 27.10.2017 and again on 02.04.2018. As per the buyers agreement the payments were to be made as per the construction linked plan while 5% of BSP + IFMS + CMC + GST + Stamp duty + Registration charges + other charges, if any, were to be paid on possession.

The complainant admitted that he has not made any susebquent payments on the grounds that the buyers agreement was in not in conformity with the Act, 2016. He sought interest from the respondent for delay in offering possession for which he referred to the provisions of the buyers agreement (not signed by him) and claimed that the possession was to be handed over within 18 months of the signing of the buyers

agreement. He accordingly, argued for payment of interest on delay calculated from 1<sup>st</sup> April, 2019 till the offer of possession.

From the submissions made by both the respondent and the complainant and the facts on record, the following can be concluded:-

- i. The complainant only paid initial booking amount of 10% of the BSP and did not make any subsequent payment of the instalments, although the payment plan was a construction linked payment plan.
- ii. The respondent did not undertake the construction work, as it was construction of independent floors, on account of non-receipt of any further payments by the complainant.
- iii. The respondent offered to refund the amount paid by the complainant as he suffered financial loss due to non-payment of instalments in time.
- iv. The complainant could not offer any justifiable reasons for non-payment of instalments, as he selectively referred to the date of offer of possession from the buyers agreement sent to him although he refused to sign the same, on the grounds of non conformity with the provisions of the Act.


Based on the above, the following is ordered:-

- i. The complainant shall make a fresh application to the respondent for the purchase of apartment, in the independent floors, as was done by him at the time of initial booking.
- ii. The respondent shall adjust the initial booking amount towards the cost of the apartment, for which the complainant shall be submitting an application.
- iii. The respondent shall submit a new buyers agreement, as per the Act, 2016 and the complainant shall duly sign the same.
- iv. A new timeline for construction and completion of the apartment shall be indicated by the respondent in the buyers agreement, with details of the construction linked plan.
- v. The complainant shall make all payments strictly as per the construction linked plan, as per the timeline.
- vi. The respondent shall immediately take up the construction of the said unit on receipt of 1<sup>st</sup> instalment, within 15 days of the signing of the agreement.
- vii. The complainant shall be liable for payment of interest as per the provisions of the act and rules made thereunder, for delay in making the payments, as per the agreed terms and conditions.

- viii. Similarly, the respondent shall be liable for payment of interest as per the provisions of the act and rules made thereunder, for delay in valid offer of possession, as per the timeline prescribed in the buyers agreement.
- ix. No interest shall be payable on the booking amount paid by the complainant as he has failed to pay the subsequent instalments and the delay in offer of possession is entirely on account of failure to pay any instalment.
- x. No other relief is made out.

The complaint is accordingly disposed off. File be consigned to record room and copy of order be provided, free of cost, to both the complainant and the respondent.

**Chandigarh**  
**Dated: 14.10.2020**

  
**(SANJIV GUPTA)**  
**Member**  
**RERA, Punjab**

14/10/20