

**Before the Real Estate Regulatory Authority, Punjab, Plot
No.3, Block-B, First Floor, Sector 18A, Madhya Marg, ,
Chandigarh-160018.**

Complaint GC No.1645/2020
Dated of Institution: 08.04 2020
Date of Order: 17.03.2021

Sanjeev Kumar Gupta, s/o Shri Tarsem Lal Gupta, House
No.109, Sector 4, Block D, Mandi Gobindgarh, Fatehgarh
Sahib, Punjab – 147301

Complainant

Versus

1. AIPL Housing and Urban Infrastructure Limited, 232-B,
Okhla Industrial Estate, Phase-III, New South Delhi-
110020
2. Daljeet Singh, The Masterpiece, Golf Course Road,
Sector 54, Gurgaon, Haryana 122002
3. Giriraj Damani, The Masterpiece, Golf Course Road,
Sector 54, Gurgaon, Haryana 122002

Respondents

Complaint under Section 31 of the Real Estate
(Regulation and Development) Act, 2016.

Present: None

ORDER

This complaint alleges delay in delivery of possession of
a plot No.P-161 in the project 'Dream City' developed by the
respondents at Khanna and primarily seeks the relief of

payment of interest for the period of delay in handing over possession.

2. The brief facts mentioned in the complaint are that the above plot was allotted to the complainant vide allotment letter dated 08.02.2011 for a total consideration of Rs.58,52,000/-. He had paid the entire price by March 2012 but delivery of the plot was handed over only in October 2018 and that too without obtaining the Partial Completion Certificate (hereinafter referred to as the PCC). Hence the respondent was liable to pay interest for the period of delay, it is contended.

3. In the reply filed on behalf of the respondents a preliminary objection has been raised that the complaint was liable to be dismissed on account of concealment of facts by the complainant. It has been submitted that the possession of the plot was handed over on 29.03.2012, well within the agreed period of 18 months from the date of allotment; and the Conveyance Deed had also been executed on 30.03.2012. While executing the Conveyance Deed the complainant had clearly stated before the Sub Registrar that he had taken possession of the plot. These facts however were not mentioned in his complaint which was therefore liable to be dismissed on this ground alone. The decision of the Supreme Court of India in the case titled as "**Kishore Samrite Vs.**

State of U.P and ors. (2013) 2 SCC 39" was cited in this context. Apart from this ground of concealment of material facts, it is also submitted that there is no merit in the complaint on merits too since delivery of possession had been effected well within the time period agreed between the parties and hence there was no question of any delay.

4. A rejoinder has been submitted by the complainant in which it was contended that all material facts could not be included in the complaint because of constraint of space and limitation on availability of characters while filing the complaint online. It was also submitted that the complainant was forced to execute the Conveyance Deed on 30.03.2012 under the threat held out by the respondents of penalizing him with a hefty amount in case he did not execute the same. The next contention in the rejoinder is that due amenities had not been provided at the spot till date and hence the complainant could not enjoy the fruit of his investment. It was lastly pointed out that even after execution of a Conveyance Deed an allottee did not forfeit the right to claim interest for the delay in handing over possession. The judgement of the Supreme Court in the case of "**Wg Cdr Arifur Rahman Khan and Aleys Sultana and Others Vs. DLF Southern Homes Pvt. Ltd.**" was cited in this context.

5. After completion of pleadings arguments were heard on 17.02.2021 and 03.03.2021. Shri Narender Yadav, Advocate for the complainant and Shri Sanjeev Sharma, Advocate for the respondents strongly reiterated the submissions already noted above.


6. We have carefully considered the rival contentions and perused the record of the case. It is clearly established on file that the Conveyance Deed of the plot was executed between the parties on 30.03.2012. As per Clause-7 of the general terms and conditions of the allotment the possession was to be handed over within a period of 18 months from the date of the allotment. The allotment was made on 08.02.2011. Hence, the respondents could have delivered the possession by 17.09.2012. The actual possession was delivered well before this date. Further the complainant's contention that amenities had not been provided at the site till date has also not been backed up by any evidence whatsoever. On the other hand, the respondents had obtained a PCC on 04.09.2017 and have thereafter sent references to the Executive Officer, Municipal Council, Khanna on 10.04.2019, 01.07.2019, 08.02.2020 and 27.06.2020 [submitted with the reply as Annexure R-7 (collectively)] that the project had since been completed and therefore the Completion Certificate should be issued. Since we have held that there is no delay in delivery

of possession the judgement of the Supreme Court of India in the case of Wg.Cdr Arifur Rahman is of no significance to the complainant. In that judgement it was held that if there had been delay in delivery of possession an allottee could claim relief for the same even after the execution of the Conveyance Deed. In this case, there is no such delay. Since the matter is being disposed off on merits there is no need to give a finding on the contention that the complaint should be dismissed on account of concealment of material facts.


7. As a result of the above discussion this complaint is held to be without merit and is dismissed.

8. File be consigned to the record room and copy of the order be provided to both the parties free of costs.

Announced.


(Navreet Singh Kang)
Chairperson


(Sanjiv Gupta)
Member


(Ajay Pal Singh)
Member