

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

Complaint AdC No.1048/2018  
Dated of Institution: 10.12.2018  
Date of Order: 30.06.2020

Col. Jagjit Singh Randhawa, House No.818, Phase-7, Sector-61, Sahibzada Ajit Singh Nagar, (Mohali), Punjab.

Complainant

Versus

Parkwood Developers Pvt Limited through its managing Director/Authorized representative, 10<sup>th</sup> floor, Hemkunt Chambers, 89, Nehru Place, New Delhi.

Respondent

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

Present: Shri Rajesh Chopra, Advocate, representative for the complainant.

Shri Suvir Kumar, Advocate, representative for the respondent.

**ORDER**

1. Col Jagjit Singh Randhawa has filed this complaint against M/s Parkwood Developers seeking compensation on the ground that he applied for a flat on 07.01.2012 and was allotted flat NO.D-202 for a total cost of Rs.39,95,500/ out of which the complainant paid an amount of Rs.39,47,721/- by raising home loan of Rs.30,00,000/-. The complainant is paying EMIs to the bank and had paid a sum of Rs.14,12,216/- as interest. The respondent failed to hand over the possession of the flat as agreed by 31.07.2014 and the complainant got issued legal notices on 22.06.2017 and 05.07.2017 demanding

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withdrawal from the project. The complainant also approached the State Consumer Dispute Redressal Commission Punjab, but, withdrew the complaint and then filed two complaints one for refund in Form-M and the other for compensation in Form-N. The complaint in form-M had been decided by the Authority on 16.10.2018 in favour of the complainant, whereas the other complaint filed in Form-N was withdrawn with liberty to file fresh complaint on the same cause of action. Hence, this complaint was filed for grant of compensation on account of failure of the respondent to hand over the possession of the flat in question.

2. The complaint was contested on behalf of the respondent taking preliminary objections that the complaint was not maintainable in the present form; the complaint was bad for non-joinder of Mrs. Vandana Randhawa and that the instant complaint was abuse of process of law. On merits, it was admitted that the unit in question was allotted to the present complainant and Mrs. Vandana Randhawa. The project got delayed due to the reasons beyond the control of the respondent i.e. due to shortage of sand and gravel in the state of Punjab. It was also admitted that the Authority had allowed the complaint, but, the compensation demanded by the complainant alongwith interest was unreasonable and the complainant had already been

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granted interest for delay in handing over the possession vide order dated 16.10.2018. Prayer for dismissal of complaint was made.

3. It will not be out of place to mention here that the complainant alongwith Mrs. Vandana Randhawa had also filed a complaint before the Authority seeking refund and compensation, which was accepted thereby directing the respondent to refund the amount paid by the complainants alongwith interest prescribed in Rule 16 of the Punjab State Real Estate (Regulation and Development) Rules 2017 within a period of two months from the date of receipt of the order. As the Authority could not grant compensation, the complainants can certainly pursue the remedy before the Adjudicating Officer. Now the point for determination before this Bench is only qua grant of compensation alone.
4. Both the respective representatives for parties addressed arguments on the basis of the averments made in their respective pleadings as already summarized above and the elaboration thereof shall be made in the discussion.
5. I have anxiously considered rival contentions of the learned representatives for the parties
6. The point raised on behalf of the complainant was that even the refund which was ordered to be paid to the

*Bench*



complainant within two months from the date of said order of the Authority i.e. 16.10.2018, had not been paid to them so far. On the other hand, the complainant had obtained a loan of Rs.30,00,000/- from the bank for which he was paying interest. In this manner, the complainant was suffering double loss because the possession of the flat was not delivered to him nor any refund had been made and as such the entitlement of the complainant qua compensation was made out. He has filed appeal for modification in the order qua date of grant of interest i.e. from the dates of respective payments and not from the date of order of the Authority.

7. On the other hand, the contention on behalf of the respondent was that the Authority had ordered the refund alongwith interest and appeal had been preferred by the complainant himself and matter was pending adjudication before the Hon'ble Appellate Tribunal and therefore the main order being under challenge in appeal, this complaint was pre-mature and liable to be dismissed.
8. It is clear from the above submissions of both sides that there is no challenge to the refund granted by the Authority which is the main relief and the only point to be taken by the complainant in the appeal is that the interest should have been granted w.e.f. the respective

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dates of payments instead of from the date order of the Authority. As such, it cannot be said that the complaint is pre-mature.

9. Then the point on behalf of the respondent was that the complainant had not joined the co-buyer namely Mrs. Vandana Randhawa and, therefore, the present complaint was not maintainable. The objection, however, does not hold much water because there is nothing on record to suggest that there was any dispute between the complainant and the co-buyer and, therefore, one of the buyer can certainly file the complaint without joining co-buyer as a party. The contention is accordingly repelled.

10. It is admitted fact, rather held in order dated 16.10.2018 by the Authority that there was delay in handing over the possession of the flat by the respondent to the complainant and refund alongwith interest had already been ordered to be paid within two months from the date of that order. It is also not disputed that the complainant obtained home loan of Rs.30,00,000/- from ICICI bank on the basis of a tripartite agreement dated 27.01.2012 and naturally they may be paying the instalments alongwith accrued interest on the loan. In these circumstances, the respondent is certainly liable to pay compensation to



the complainant for delay in delivery of possession and other sufferings relating to the matter.

11. Now, we have to consider that what will be the amount of compensation, to which the complainant is entitled to. In view of above discussions and the documents available on record, it can be safely concluded that the complainant was not delivered possession of the flat allotted to him and he is also paying the instalments of home loan raised by him for purchasing the said flat. Moreover, the complainant had to seek the remedy under the existing law and for that obviously he had to suffer mental agony and had to incur expenses to pursue his claim by attending the proceedings and engaging a representative. The compensation has not been defined under this Act; however, it has been defined under some other statutes such like Workman Compensation Act, Land Acquisition Act etc etc. In my opinion, in the instant case, the compensation can be granted under the heads pecuniary and non-pecuniary and Section 72 of the Act speaks about the factors to be taken into consideration while adjudicating the quantum of compensation. No exact amount can be assessed on this count, but, keeping in view all the factors enunciated under Section 72 of the Act, in the instant case, the extent of mental agony and harassment can also be gauged in view of the fact that

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possession of the flat allotted to the complainant has not been delivered and they are also making the payments of instalments of loan alongwith interest accrued thereon and the fact that the complainant had to knock the door of the Authority for refund of the amount paid by them to the respondent, I am of the considered view that the complainant is held entitled for compensation under all the heads i.e. mental agony, litigation expenses etc to the tune of Rs.1,50,000/-.

12. In view of above discussions and observations, the complaint stands partly accepted and the respondent is directed to pay the amount of Rs.1,50,000/- as compensation to the complainant within sixty days from the date of this order. If any amount has been received by the complainant from the respondent by way of compensation on the amount paid to the respondent by way of sale consideration of the property unit in question, the same shall be adjusted from the total amount awarded to the complainant in this order. File be consigned to record room after due compliance of notifying the parties of this order well in time.

Dated:30.06.2020

  
(Balbir Singh)  
Adjudicating Officer,  
Real Estate Regulatory Authority, Punjab.