

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

I.

Complaint No.1388 of 2019
Date of Institution : 18.09.2019
Date of Decision: 01.09.2020

Bhagwant Kaur, # 1206, Sector 19-B, Chandigarh – 160019

....Complainant

Versus

1. M/s Sukhm Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Aeropolis Infrastructure Pvt. Ltd., through its M.D., Aeropolis City, Sector 66-A, Mohali, Punjab-160062
3. M/s Manohar Singh and Co. through its M.D., SCO No.139-141, Sector 17-C, Chandigarh – 160017

.... Respondents

II.

Complaint No.1392 of 2019
Date of Institution : 16.09.2019
Date of Decision: 01.09.2020

1. Parvinder Singh Sarin
2. Ramanjeet Kaur

Both residents of House No.3331, Sector 19-D, Chandigarh-160019

.... Complainants

Versus

1. M/s Aeropolis Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Sukhm Infrastructure Pvt. Ltd., through its M.D., Aeropolis City, Sector 66-A, Mohali, Punjab-160062

....Respondents

III.

Complaint No.GC 1393 of 2019
Date of Institution :18.09.2019
Date of Decision: 01.09.2020

Jagjit Singh, House No.3331, Sector 19-D, Chandigarh-160019

....Complainant

Versus

1. M/s Sukhm Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062

2. M/s Aeropolis Infrastructure Pvt. Ltd., through its M.D., Aeropolis City, Sector 66-A, Mohali, Punjab-160062
3. M/s Manohar Singh and Co. through its M.D., SCO No.139-141, Sector 17-C, Chandigarh - 160017

.... Respondents

IV.

Complaint No.1395 of 2019
Date of Institution : 18.09.2019
Date of Decision: 01.09.2020

Drish Infotech Limited, through its MD Harshvir Singh Jaspal,
SCO No.104-106, 4th Floor, Sector 34-A, Chandigarh 160022

.... Complainant

Versus

1. M/s Aeropolis Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Sukhm Infrastructure Pvt. Ltd., Aeropolis City, Sector 66-A, Mohali, Punjab-160062

....Respondents

V.

Complaint No.1396 of 2019
Date of Institution : 18.09.2019
Date of Decision: 01.09.2020

Shantanu Jindal, # 206, Sector 44-A, Chandigarh - 160047

....Complainant

Versus

1. M/s Sukhm Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Aeropolis Infrastructure Pvt. Ltd., Aeropolis City, Sector 66-A, Mohali, Punjab-160062
3. M/s ACME Builders Pvt. Ltd., through its Managing Director, GH-10, JLPL, Sector 90-91, Mohali, Punjab-160071

....Respondents

VI.

Complaint No.1397 of 2019
Date of Institution:21.09.2019
Date of Decision:01.09.2020

1. M/s Sark Industries through its partners, # 181, Industrial Area, Phase - 1, Chandigarh 160002
2. Anil Seth, Partner, M/s Sark Industries, # 181, Industrial Area, Phase - 1, Chandigarh 160002

3. Rajesh Khanna, Partner, M/s Sark Industries, # 181, Industrial Area, Phase - 1, Chandigarh 160002

....Complainants

Versus

1. M/s Sukhm Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Aeropolis Infrastructure Pvt. Ltd., through its Managing Director, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
3. M/s Manohar Singh and Co., through its Managing Director, S.C.O. No.139-141, Sector 17-C, Chandigarh - 160017

....Respondents

VII.

Complaint No.1398 of 2019

Date of Institution : 21.09.2019

Date of Decision:01.09.2020

1. Ranjiv Grover, # 605, Phase-2, Mohali, Punjab-160055
2. Deepak Grover, # 1013, Sector 16, Panchkula, Haryana - 134108
3. Rajesh Grover, # 1013, Sector 16, Panchkula, Haryana - 134108

....Complainants

Versus

1. M/s Sukhm Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Aeropolis Infrastructure Pvt. Ltd., through its Managing Director, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
3. M/s ACME Builders Pvt. Ltd., GH-10, JLPL, Sector 90-91, Mohali, Punjab-160071

....Respondents

VIII.

Complaint No.1401 of 2019

Date of Institution : 23.09.2019

Date of Decision: 01.09.2020

Harjit Singh, Village Shampura, Rupnagar, Punjab - 140001

....Complainant

Versus

1. M/s Sukhm Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Aeropolis Infrastructure Pvt. Ltd., through its Managing Director, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
3. M/s Manohar Singh and Co. through its Managing Director, S.C.O. No.139-141, Sector 17-C, Chandigarh - 160017

....Respondents

IX.

Complaint No.1420 of 2019
Date of Institution: 14.10.2019
Date of Decision: 01.09.2020

1. Dev Raj Sharma
2. Satya Devi Sharma
3. Ranjan Sharma
4. Jyoti Sharma

All residents of House No.306, Sector 35-A, Chandigarh
160022

....Complainants

Versus

1. M/s Sukhm Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Aeropolis Infrastructure Pvt. Ltd., Aeropolis City, Sector 66-A, Mohali, Punjab-160062

....Respondents

X.

Complaint No.1423 of 2019
Date of Institution: 17.10.2019
Date of Decision: 01.09.2020

1. Dev Raj Sharma
2. Satya Devi Sharma
3. Capt.Ranjan Sharma
4. Jyoti Sharma

All residents of House No.306, Sector 35-A, Chandigarh
160022

....Complainants

Versus

1. M/s Sukhm Infrastructure Pvt. Ltd., through its Director Shri Tejinder Singh Bhatia, Aeropolis City, Sector 66-A, Mohali, Punjab-160062
2. M/s Aeropolis Infrastructure Pvt. Ltd., through its M.D., Aeropolis City, Sector 66-A, Mohali, Punjab-160062

....Respondents

Present :

1. Shri Mandeep Singh, Advocate for the complainants
2. Shri PIP Singh, Advocate for respondents
M/s Sukhm Infrastructure Pvt.Ltd. and
M/s Aeropolis Infrastructure Pvt.Ltd.
3. Ms. Nidhi Ayer, Advocate for M/s Acme Builders
4. Shri Manmohan Sharma, Advocate on behalf of
Shri Dinesh Madra, Advocate for M/s Manohar Singh
& Co.

ORDER

These 10 complaints will be decided by a common order since similar points of law and facts are involved in each of these. A copy of the order be placed on each file.

2. The complaints are under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) against the respondents alleging violation of Section 18 of the Act by way of delay in handing over possession of their plots in the Integrated IT Township 'Yellowstone Landmark Infocity' developed by the respondents no.1 and 2.

3. It may be noted that initially the respondent no.1 'Sukhm Infrastructure Pvt. Ltd.' had applied for registration of the project in the name of "Yellowstone Landmark Infocity" However, it had subsequently sought a change in the name of the developer to 'Aeropolis Infrastructure Pvt. Ltd' i.e respondent no.2 in Complaint No.1388 with change of project name also to "Aeropolis City". The change was allowed and the project has since been registered as 'Aeropolis City' in the name of above-mentioned respondent no.2.

4. For facility of reference the facts have been taken from complaint no. 1388. The contents of the complaint in brief are that the complainant applied for allotment of an industrial plot, and a booking amount of Rs.14,87,500/- was paid to the respondent no.3 M/s Manohar Singh & Co. who were functioning as the booking agent of respondents no.1 and 2. The total price of the plot was Rs.33.00 lakhs, and allotment letter was issued on 22.04.2010. After paying some further amount, the Plot Buyer's Agreement was executed on 23.08.2012 and it was mentioned therein that possession of the plot would be handed over within 18 months with an extension of 6 months i.e within 2 years from the signing of the

agreement. The complainant had already paid a total sum of Rs.26.40 lakhs to the respondents over the course of time, but despite the lapse of more than 10 years from the original allotment possession of the plot had not been handed over. The relief sought is a direction to respondents no.1 and 2 to develop the project and hand over possession of the plot to the complainants; and also the payment of interest for the period of delay from the agreed date of possession till the actual handing over of the plot.

5. The broad contours of the other complaints are similar, with differences only in the amounts paid to the respondents and the dates of such payments.

6. Notice of the complaint was served upon the respondents who appeared and filed their replies.

7. In the reply filed on behalf of respondents no.1 and 2 it has been initially mentioned by way of background information that the respondents had invested in the State of Punjab under the Industrial Policy of 2003 which granted various subsidiaries and concessions to real estate projects. Subsequently however the State Government withdrew these exemptions, thereby adversely affecting the financial viability of the project. The respondents were forced to challenge these actions of the Government in the High Court of Punjab and Haryana vide Civil Writ Petition No.5213 of 2015. The court had noted that the project had been delayed and the Greater Mohali Area Development Authority (GMADA) had acted to stall the project instead of promoting it; and had directed that extension in period of completion of the project should be considered. Accordingly this period was extended by 2 years i.e upto 27.03.2022. It is also submitted that in 5 complaints relating to the same project (bearing nos. CC/279/2017, CC/281/2017,

CC/282/2017, CC/283/2017 and CC/285/2017) filed before the State Consumer Disputes Redressal Commission, Chandigarh the Commission had held that the project had been delayed because of the hurdles created by PUDA/GMADA. The matter had been finalised and interest @ 7% p.a. had been allowed from the date of possession upto the date of sanction of the revised layout plan, the implication being that no further relief should be allowed to the complainants. Apart from the above background the following preliminary issues have also been raised in the reply:-

- i. The date of completion accepted by this Authority at the time of registration of the project was 31.12.2021, and hence the respondents still had time to complete the project - the present complaint was therefore pre-mature.
- ii. The complainants had alleged that payment of Rs.30.52 lakhs have been made to the respondents. However, these had not been proved by any documentary evidence and only photocopies of the receipts issued had been attached. Such photocopies could not automatically be used to contend that the payment had actually been received by the respondents. Thus there was a dispute about the factum of actual payment and same could only be adjudicated in a Civil Court. This was more so since some of the receipts produced by the complainants had been obtained with collusion of, and connivance with, some employees of respondents no.1 and 2.

The reply on merits submitted by respondents no.1 and 2 also is on similar lines and it has been reiterated that the receipts produced by the complainants had been fraudulently obtained by the complainants in connivance with some employees of the respondents. The fraud had come to notice only recently and the

respondents reserved the right to initiate legal proceedings against all culprits responsible for the fraud. It is further contended that the respondents were facing a financial crunch because of the factors mentioned in the preliminary submissions. The contention about the complaint being premature has also been repeated in the reply on merits.

8. It needs to be pointed out while the respondent no.3 in this complaint (No.1388 of 2019) is M/s Manohar Singh & Co. the name mentioned in the relevant reply is that of M/s Gupta Builders and Promoter Pvt. Ltd.

9. In the reply filed on behalf of respondent no.3 M/s Manohar & Co. (in Complaints no.1388, 1392, 1397, and 1401) and also by M/s Acme Builders Pvt.Ltd. (respondent in Complaints no.1396 and 1398 of 2019) it has been mentioned that they were acting only as agents on behalf of respondents no.1 and 2 and had only collected some amounts from the complainants. These amounts had been transferred to respondents no.1 and 2 and they (the answering respondents) were not liable for any default occurring on the part of respondents no.1 and 2.

10. In the rejoinder submitted on behalf of the complainant it has been pointed out that in Civil Writ Petition No.5213 of 2015 the High Court had held the respondents no.1 and 2 to be liable to pay various charges such as External Development Charges as per the agreement to the Government. However, the High Court had only directed that extension in time period for implementation of the project may be considered. Further it was pointed out that orders dated 14.05.2019 of the State Consumer Disputes Redressal Commission, Chandigarh were passed on the basis of a settlement arrived at between the parties and hence could not be said to be

promoter for completing his obligations. It is accordingly held that in the circumstances of the case the date for handing over possession should be treated as 23.08.2016. It is the delay occurring after this date that would have to be compensated by the respondents no.1 and 2. The respondents' primary defence is that they had not received the full amount alleged to have been paid by the complainant. This however, is negated by the reply filed on behalf of respondents M/s Manohar Singh and Co. and M/s Acme Builders in which it has been clearly stated that the money collected by them on behalf of respondents no.1 and 2 was handed over to these respondents. Further, it is the general practice that if an allottee commits default of payment of instalments the promoter actively pursues the payment through issue of reminders etc. No such document or other evidence has been proved in this case. Moreover, in the rejoinders that have been filed in some cases the complainants have attached a copy of their bank statement and these do show that payments have been credited to the account of respondents no.1 and 2. Complete inaction in unearthing the alleged fraud and taking action against any culprits also leads to the conclusion that the defence put up by respondents no.1 and 2 is not believable. The onus on establishing the alleged fraud was on these respondents, and they have failed to discharge it. A bland assertion without any corroborative action/evidence is not enough to dispel the complainant's claim. Thus the default on the part of the respondents no.1 and 2 is clearly established on file.

13. Coming to the question of relief to be granted it is noteworthy that the date for completion of the project allowed by this Authority is 31.12.2021. In addition, the Punjab Urban and Planning Development Authority has also extended the

implementation period for this project till 27.03.2022. Hence at this stage it is not possible to give a direction that possession of the plot should be handed over to the allottee forthwith since the respondents still have time to complete the project. The only relief available at this stage therefore is payment of interest for the period of delay. As per the provisions of the Act and Rules it is held that respondents no.1 and 2 are liable to pay interest at the rate prescribed in the Punjab State Real Estate (Regulation and Development) Rules, 2017 as applicable from time to time with effect from 23.08.2016 in Complaint no.1388 and as indicated subsequently in other cases till the time possession is actually handed over to the complainants. The respondents would argue that the due interest would be paid, or adjusted, at the time of handing over of possession. However, it is seen that the complainant made the first payment many years ago (28.10.2009 in Complaint no.1388). They have been waiting for possession of the plot for a long period of time and there is still no commitment on behalf of the respondents as to the time by which the possession would actually be delivered. In this background I am of the view that it would be manifestly unfair to the complainants to make them wait for actual relief for a further period of time, the duration of which is not known at this stage. It is therefore ordered that interest on the amount that was deposited before 01.09.2015 i.e the amount that has already been used by the respondents no. 1 and 2 for at least 5 years should be paid first, and by 30.11.2020 at the latest. I refrain from prescribing a shorter time for such payment keeping in view the fact that these respondents have already pleaded that they are under financial stress. Even otherwise the lack of liquidity in the real estate sector is a hard reality at present. If the respondents were ordered to immediately

pay substantial amounts by way of interest in all these complaints then it would worsen the financial situation of the respondents no.1 and 2 adversely and could even lead to further delays in the completion of the project. The interests of other allottees of the project (other than the complainants) would then be further compromised; and it would not be in the overall interest of the development of the project. Accordingly a time of nearly 3 months is being allowed to the respondents no.1 and 2 to arrange funds for payment of above interest to the complainants. The rest of the accrued interest shall be credited at the time of handing over of possession. The details of the due date of handing over possession i.e. the date from which delay is to be reckoned; and the amount deposited before 01.09.2015 in various complaints are as below:

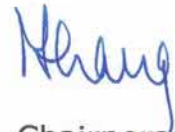
No. of complaint	Name of complainant	Area of plot (in sq. yards)	Due date of handing over possession with grace period of two years	Total payment made so far (in Rs.)	Amount deposited before 01.09.2015 (in Rs.)
1388/2019	Bhagwant Kaur	500	23.08.2016	26,40,000/-	26,40,000/-
1392/2019	Parvinder Singh	400	07.10.2017	23,40,000/-	23,40,000/-
1393/2019	Jagjit Singh	500	26.07.2016	27,25,000/-	27,25,000/-
1395/2019	Drish Infotech Ltd.	600	19.03.2016	26,26,250/-	26,26,250/-
1396/2019	Shantanu Jindal	500	06.05.2014	19,42,500/-	19,42,500/-
1397/2019	Sark Industries	1000	26.12.2015	52,70,000/-	52,70,000/-
1398/2019	Ranjiv Grover	500	26.12.2015	25,57,500/-	25,57,500/-
1401/2019	Harjit Singh	400	23.02.2016	31,76,000/-	31,76,000/-
1420/2019	Dev Raj Sharma	500/400	08.08.2017	37,25,257/-	37,25,257/-
1423/2019	Dev Raj Sharma	500/400	08.08.2017	67,26,144/-	67,26,144/-

Note : In case of Complaint No. 1396, no Buyer's agreement is available, the due date for handing over possession has been fixed keeping the date of first payment as the date of issue of allotment letter, with the buyer's agreement deemed to have been signed two years later.

14. It is finally noted that since there is no cause of action or relief claimed against the other respondents, and the complaint is accordingly dismissed qua these respondents.

15. The net result of the above discussion is that the complaint is accepted qua respondents no.1 and 2 who are directed to pay interest to the complainants as detailed in para 13 above.

Announced.



Chairperson
Real Estate Regulatory Authority
Punjab