

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

Complaint GC No.1694/2020
Dated of Institution: 30.07.2020
Date of Order: 23.04.2021

1. Atul Vij, House No.92, Sector 70, Mohali, District Sahibzada Ajit Singh Nagar (Mohali) Punjab.
2. Anshoo Khanna, House No.92, Sector 70, Mohali, District Sahibzada Ajit Singh Nagar (Mohali) Punjab

....Complainants

Versus

1. Citi Centre Developers, VIP Road, Zirakpur, Tehsil Derabassi, District Sahibzada Ajit Singh Nagar (Mohali), Punjab.
2. Pankaj Gupta, House NO.234, Sector 21, Panchkula, District Panchkula Haryana
3. Vijay Jindal, House No.52, Sector 9, Panchkula.

.....Respondents

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

Present: Shri Ishtneet Bhatia, Advocate, for complainants.
Ms.Deepinderjit Kaur Advocate (for Sh. Mohit Kapoor, Advocate, for respondents No.1 and 2
Respondent No.3 given up on 10.03.2021

ORDER

1. The present complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act 2016, (hereinafter called as the Act), read with Rule 36 of the Punjab State Real Estate (Regulation and Development) Rules 2017, (hereinafter called as the Rules), alleging

that the complainants had entered into an agreement dated 11.12.2016 for purchase of one commercial space in Chandigarh Citi Centre, being promoted by M/s Citi Centre Developers at Zirakpur, Punjab, for a sum of Rs.22,50,000/-, vide buyers' agreement dated 21.12.2016. It was submitted in the complaint that as per the agreement, the possession of the said unit was to be given by 21.6.2018. The complainants deposited the total amount of Rs.19,10,643/-, but possession was not been handed over to them till date. It is further submitted that the respondents issued a letter of possession on 15.07.2019 even though the office was not in a position to be delivered due to non completion. On contacting, the officials of the respondents told the complainant that the office space was under construction and would be ready by 31.03.2020. The respondents also demanded a sum of Rs.3,67,560/- through email dated 18.09.2019, which included Rs.44,122/- as maintenance charges, which were not permissible without delivery of actual possession. It was alleged that the respondents also failed to provide amenities such as AC, microwave, glass panel etc; as mentioned in the agreement and instead demanded a sum of Rs.15,930/- for telecom package; which was also not permissible. As per clause 3(a) of the agreement, the complainants were liable to pay maintenance charges @ Rs.3/- to Rs.5/- per square feet of the super area per

month from the date of possession alongwith Rs.25,000/- as security, instead the respondents were demanding maintenance charges of more than Rs.7/- per square feet and that too for two years in one advance. It was alleged that the possession letter dated 15.07.2019 had been issued merely to evade payment of interest to the complainants. It was also submitted that the promoters were liable to pay 1% monthly assured return on the sum deposited for the said property, as per the terms of the agreement. It was alleged that the promoter/respondents failed to give possession of the property on due date and also stopped paying the assured return w.e.f. 15.07.2019. Accordingly, the complainants have prayed that the respondents may be asked to hand over the possession of the office as soon as possible. It was also prayed that the respondents may be asked to pay interest as well as the assured monthly return on the delayed period, till the actual delivery of possession.

2. The respondents have contested the complaint on the grounds that the complainants have willfully delayed the possession by indulging into unnecessary litigation, even though they were invited by the respondent to take possession of the unit after clearing their dues. It was submitted that the unit of the complainant was ready for possession and any further delay in taking possession would attract holding charges and maintenance charges.

3. In their rejoinder, the complainants have submitted that the unit in question was not ready for possession even today and in a similar case pertaining to same blocks D and E of same project, a local commissioner had been appointed by this Authority, who in his report, dated 03.10.2020, had depicted the true picture of the project. It was contended that the respondents had not obtained the completion certificate and occupation certificate from the competent authority.
4. We have gone through the pleadings of the parties and facts of the matter. The complainants entered into a buyers' agreement on 21.12.2016 for purchase of one commercial space, measuring 410 square feet, on the 6th Floor of the project. As per Clause-2(a) of the agreement, the total consideration has been shown as Rs.22,50,000/-. As per Clause-3(a), the purchaser(s) was required to pay maintenance charges at the rate Rs.3/- to Rs.5/- ,per square feet of the super area, per month in advance and refundable security of Rs.25,000/- at the time of possession. As per Clause-4(a), the promoter was required to hand over possession of the unit within 18 months from the date of signing of agreement i.e. by 21.06.2018. A further grace period of six months was also provided for on account of any default or negligence attributable to the buyer. As per clause 4(b)(i) the promoter/ respondent was to give notice to the

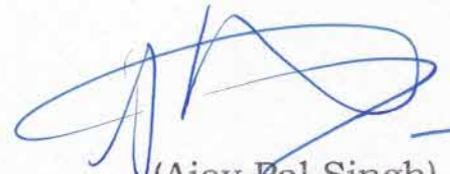
purchasers/ complainants about the date on which the possession was to be offered and the purchasers/ complainants were to take possession of the same within thirty days from the issuance of said notice of possession by the promoter. Perusal of report dated 03.10.2020 of Local Commissioner submitted in complaint No.GC 1433 of 2019 titled as *Anuradha Sipehiya and another Vs. M/s Citi Centre Developers*, also shows that there were several deficiencies in the completion of the project. It is therefore quite clear that the possession letter , dated 15.07.2019, was issued by the promoters without completing the project or obtaining the requisite completion/ occupation certificates. Accordingly, this authority is left with no doubt that the complainants are entitled to the following reliefs:-

- i. The respondents are directed to issue fresh offer of possession after completion of the apartment as per specifications mentioned in the buyers agreement dated 21/12/2016, and after obtaining occupation/ completion certificate from the competent authority and ensuring compliance with its conditions.
- ii. As provided in Section 18(1) of the Act, read with Rule 16 of the Punjab State (Regulation and Development) Rules 2017, the respondents shall pay interest w.e.f. 22.06.2018 (as the stipulated date for delivery of possession was 21.06.2018)

as per State Bank of India's highest marginal cost of lending rate (as of today) plus 2% till the date of this order and this amount shall be paid within sixty days from this order.

- iii. In terms of Section 18(1) of the Act, read with Rule 16 of the Punjab State (Regulation and Development) Rules 2017, the respondents shall pay interest to the complainants from the date of this order till the date of offer of possession of the property unit to the complainants after completion of the apartment as per specifications mentioned in the buyers agreement dated 21/12/2016, and after obtaining occupation/ completion certificate from the competent authority and ensuring compliance with its conditions.
- iv. Maintenance charges will be payable only in terms of article 3(a) of the purchase agreement.
- v. The amount paid by the respondents, if any, as compensation in terms of Article 4(a)(iii) of the buyer's agreement dated 21.12.2016 for delay in delivery of possession shall be set off against the interest to be paid by the respondents under Section 18 of the Act.
- vi. The other reliefs were not pressed, and hence not allowed.

5. The complaint is accordingly disposed of as partly allowed. The complainants would be bound to pay any outstanding amounts, as per the agreement, before taking possession of the unit. It is made clear that the interest to be paid by the complainants for any delay in payment would also be the State Bank of India's highest marginal cost of lending rate (as of today) plus 2%.
6. File be consigned to record room and copy of the order be provided to both the parties free of costs.



(Ajay Pal Singh)
Member



(Navreet Singh Kang)
Chairperson



(Sanjiv Gupta)
Member