

1. Jasvinder Singh
DelhiComplainant(s)

1. Sree Vardhman Developers
DelhiOpp.Party(s)

BEFORE:
Monika Aggarwal Srivastava PRESIDENT
Dr. Rajender Dhar MEMBER
Ritu Garodia MEMBER

PRESENT:

Dated : 18 Oct 2024

Final Order / Judgement
CONSUMER DISPUTES REDRESSAL COMMISSION – X
GOVERNMENT OF N.C.T. OF DELHI
Udyog Sadan, C – 22 & 23, Institutional Area
(Behind Qutub Hotel)
New Delhi – 110016

Case No.:280/21

Sh. Jasvinder Singh
S/o Sh. Ajmer Singh
R/o House No. D-2-27
Hari Nagar Extension
Badarpur, New Delhi-110044.COMPLAINANT

Vs.

Shree Vardhman Developers Pvt. Ltd
Through its Directors
Office at:
301-311, 3rd Floor
Indraprakash Building 21
Barakhamba Road,
New Delhi-110001.RESPONDENTS

Date of Institution-22.11.2021

Date of Order-18.10.2024

ORDER

RITU GARODIA-MEMBER

- The complaint pertains to deficiency in service on the part of OP in non-refund of the amount received from the complainant.
 - The facts as stated in the complaint are that the complainant booked a residential unit in project 'Shree Vardhman Gardania', Sonapat, Haryana, by making payment of Rs.1,00,000/-. The complainant was allotted a Flat No.C2/1104 admeasuring 1495 Sq.ft. vide allotment letter dated 09.11.2019.The complainant imputes that this project was supposed to have badminton court, basketball court, jogging track, swimming pool and services like grocery shop etc.OP executed a Flat Buyer's Agreement dated 15.11.2019.
 - The complainant, prior to the allotment of unit, had approached ICICI Bank Limited seeking a loan facility of INR41,48,001/- to finance the purchase of the unit. The said loan was approved vide sanction letter dated 15.10.2019. The booked unit was also mortgaged as security against the loan availed and it was also agreed that OP would make the EMI payment to ICICI Bank Limited till possession is handed over. A copy of the sanctioned letter dated 15.10.2019 is placed on record.
 - Subsequently, an amount of INR 38,68,001/- was disbursed to OP by ICICI Bank Limited through a disbursement letter dated 02.12.2019. The total amount deposited with OP as on 09.07.2020 amounts to INR 46,38,001/-. It is alleged that OP violated the agreed terms and stopped making EMI payments to ICICI Bank. The complainant visited the project site and saw substantial delay in the progress of construction. He sent multiple requests to the OP and ICICI Bank to resolve the EMI non-payment but to no avail as all requests were ignored.
 - Due to this arbitrary conduct of the OP and ICICI Bank, the complainant sent a surrender-cum-cancellation letter dated 14.07.2020 to the OP as well as ICICI Bank. It is alleged that apart from the financial loss caused, OP is enjoying the complainant's money as interest free loan.
 - Complainant prays for refund of Rs.46,38,001/- with interest @18%, Rs.5,00,000/- towards compensation of unfair tradepractice, Rs.5,00,000/- towards mental agony and harassment and Rs.1,00,000/- towards litigation.
 - OP was proceeded exparte vide Order dated 17.11.2023.
 - The complainant has filed its evidence by way of affidavit and exhibited the following documents:
 - Copy of allotment letter is exhibited as Ex.CW-1/1.
 - Copy of details available on website of Ministry of Corporate Affairs about OP is exhibited as Ex.CW-1/2.
 - Copy of Flat Buyer's Agreement is exhibited as Ex.CW-1/3.
 - Copy of sanction letter is exhibited as Ex.CW-1/4.
 - Copy of disbursement letter is exhibited as Ex.CW-1/5.
 - Copy of loan account statement is exhibited as Ex.CW-1/6.
 - Copy of surrender-cum cancellation letter is exhibited as Ex.CW1/7.
 - The Commission has considered the documents on record. OP vide letter dated 09.11.2019 allotted flat No.C2/1104 in Shree Vardhaman Gardania. The Flat Buyer's Agreement was executed between the complainant and OP on 15.11.2019. The Agreement shows the basic sales price of the flat as Rs.50,83,000/-. The following receipts have been filed by the complainant:
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- | ° | • | Receipt No. | Amount (Rs.) |
|----|----|-------------|--------------|
| 1. | 1. | 13621. | 1. |
| 2. | 1. | 13624. | 1. |
| 3. | 1. | 13630. | 1. |
| 4. | 1. | 13606. | 1. |
| 5. | 1. | 13607. | 1. |
| 6. | 1. | 13608. | 1. |
| 7. | 1. | 13609. | 1. |
| 8. | 1. | 13610. | 1. |
| 9. | 1. | 13616. | 1. |
- The complainant has taken a home loan from ICICI bank. The sanction letter shows that a loan of amount Rs.41,48,001/- was sanctioned in the name of complainant and the date of disbursement was 28.11.2019. The disbursement amount was Rs.38,58,001/-.
 - OP vide an undated letter to the ICICI bank confirmed that flat no.C2/1104 have been sold to the complainant in an upcoming project Shree Vardhaman Gardania. In the said letter OP also agreed to refund the amount paid to them by the bank if the flat/premises was cancelled.
 - Thus it is evident that complainant had paid Rs.8,30,000/- to OP directly and Rs.38,58,001/- was paid to OP through a loan taken from the bank.
 - The complainant visited the site and saw delay in construction. He sought refund vide letter dated 14.07.2020. OP neither completed the construction nor cancelled the allotment. OP has not controverted the fact that the complainant has not received possession even after paying more than 95% of the total sale price.
 - The Apex Court in **Fortune Infrastructure Vs TevorD'lima (2001) 5 SCC 442** has held a person cannot be made to wait indefinitely for possession of the flat allotted to him and is entitled to seeks refund of the amount paid by him along with compensation.
 - The complainant has categorically stated that he has not received the possession of the plot. In the absence of any denial or rebuttal by OP, the complainant's stands regarding deficiency in service stands proved. Hence, we direct OP to pay Rs.46,88,001/- along with 9% interest from the date of last deposit till realization. We also direct OP to pay Rs.10,000/- as compensation for mental agony, physical inconvenience inclusive of litigation expense.
 - Order be uploaded and to be complied with within 30 days from the date of the order. File be consigned to record room.

[Monika Aggarwal Srivastava]
PRESIDENT

[Dr. Rajender Dhar]
MEMBER

[Ritu Garodia]
MEMBER

