

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY,
JAIPUR

Complaint No: RAJ/RERA/C-N-2023-6153

Ashish Yadav

...Complainant

VERSUS

Cosmos Infra Engineering India Pvt. Ltd.

...Respondent

Present

Smt. Veenu Gupta, Hon'ble Chairperson

1. Adv Divyansh Jain on behalf of the complainant
2. Adv Unnati Vijay on behalf of the respondent

Date of Order: **27.05.2024**

ORDER

The complainant filed a complaint under section 31 of the Real Estate Regulation and Development Act, 2016 with regard to the project 'Ashoka Cosmos Greens' bearing registration No. RAJ/P/2017/162 alleging that allotment letter for flat No. 303 in Tower-A was issued in favour of the complainant on 11.01.2014 for the total consideration of Rs. 38,68,400/- against which Rs. 40,76,609/- (including tax) has been paid by the complainant. Agreement to sub-lease was executed on 04.10.2014, Article 6(a)(i) of which states that the possession of the unit would be handed over within 42 months from the date of the date of signing of the said agreement or commencement of construction



whichever is later along with 180 days as grace period. The complainant seeks refund of the total amount with interest and litigation cost of Rs. 1.00 lakh.

The respondent in its reply submitted that initially, the complainant booked unit No. A-303 for which allotment letter was issued on 11.01.2014. But, due to some reasons, the respondent has changed his unit from A-303 to B-302 which is of the same size and specifications. Possession as per condition of the agreement was to be handed over by 01.10.2018.

Counsel for the respondent argued that the project is nowhere near to completion and the respondent is constantly raising vague demands to be paid on possession without obtaining completion certificate. There has been no construction on site and the respondent failed to provide valid offer of possession. The project is under lapsed category. The complainant had prayed for refund of the total amount along with interest.

Counsel for the respondent argued that the unit of the complainant was transferred from A-303 to B-302 due to unforeseen circumstances in 2018. Thus, the said transfer of the



unit was not objected by the complainant. Date of possession of the unit was 01.10.2018. The unit of the complainant stood completed in 2019, though, the completion certificate was obtained on 30.06.2021. Offer of possession was made in the years 2019, 2020 and 2022 which has been accepted by the complainant. The respondent prayed that the complainant be directed to take possession of the unit.



The complainant rebutted that no consent was taken with regard to the change/transfer of the unit and the letter and offer of possession has not been received by the complainant. The respondent again countered that the complainant had neither denied the offer of possession nor objected the transfer/change of unit. It was further stated that by the respondent that benefit of interest during the moratorium period may also be given to the respondent.

Arguments were heard and documents examined. It is observed that the completion certificate of the project was obtained from the empanelled architect on 30.06.2021 and thereafter, several offers of possession were made to the complainant. Completion certificate has also been applied on

the web portal of the Authority and is pending due to certain deficiencies. Although the complainant has sought relief with regard to refund but since the project is completed, any order for refund will be having an adverse impact on the overall progress of the project.



Therefore, the complainant is directed to take possession of the unit as offered by the respondent-promoter. However, since the project is delayed, the complainant is entitled to receive delay interest from the expected date of possession, i.e., 01.10.2018 till the offer of possession made on 18.05.2022 after obtaining completion certificate from the empanelled architect at the rate prescribed in the Rajasthan Real Estate (Regulation & Development) Rules, 2017 at SBI highest MCLR + 2%, i.e., 8.85 + 2 = 10.85% excluding the moratorium period notified by the Authority. Compliance be made within 45 days from uploading of this order on official webpage of the Authority.


(Veenu Gupta)
Chairperson