

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.187/21

Mrs. Rakhi Mittal
W/o Shri Gaurav Mittal
R/o Vivek Vihar, Phase-5
Block-9, Flat ID/493/C/A.G.T. Road
S.S.P Shibpur, Howrah
West Bengal-711102 IN

Mr. Gaurav Mittal
S/o Lt. Ram Niwas Mittal
R/o Vivek Vihar, Phase-5
Block-9, Flat ID/493/C/A.G.T Road
S.S.P Shibpur, Howrah
West Bengal-711102 IN.

Vs.

...COMPLAINANT

Imperia Structures Limited
Through its Directors
A-25, Mohan Co-operative Industrial Estate
Mathura Road, New Delhi-110044

.....RESPONDENT

Date of Institution-09.08.2021
Date of Order-17.01.2025

ORDER

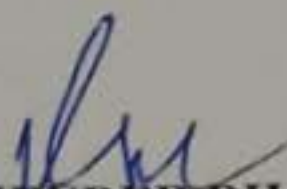
RITU GARODIA-MEMBER

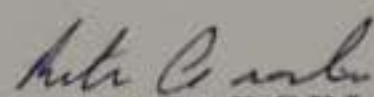
1. The complaint pertains to deficiency in service on the part of OP in non-delivery of a unit booked by the complainant.
2. The facts as stated in complaint are that the complainants booked a unit in the Project, Mirage, developed by OP at GH-F Pocket, Jaypee Greens Sports City, SDZ, Sector-25, Yamuna Expressway Industrial Development Authority Area Distt., Gautam Budh Nagar, UP. The complainants paid Rs.3,10,000/- as booking amount duly acknowledged by OP vide receipt no.0217 dated 22.01.2013.

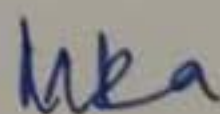
3. OP issued a confirmation letter dated 03.07.2013, allotting the complainant a unit measuring 1350 sq. ft., bearing no. 1503 on the 15th floor of Block-6 in the Mirage project.
4. An Apartment Buyers Agreement was issued by the OP on 07.03.2014. It is alleged that the agreement contained several one-sided and arbitrary clauses. Moreover, the agreement lacked an explicit possession clause. The complainants have relied on the Hon'ble Supreme Court's decisions, which state that in the absence of a stipulated delivery period in an agreement, possession should be considered within a reasonable time, usually three years from the agreement's execution date.
5. The complainants asserts that all payments were made on time as per the payment schedule, totalling Rs. 4,36,946/-. However, possession of the unit has not been handed over till date.
6. It is alleged that the OP has no reasonable justification for the inordinate delay in completing the project. The complainant claims that the delay was not caused by circumstances beyond OP's control and that OP had failed to complete the scheduled construction of the said unit.
7. The complainants prays for refund of Rs.14,36,946/- alongwith delay penalty compensation of 18%, Rs.5,00,000/- towards compensation for unfair trade practices and Rs.5,00,000/- towards compensation for mental agony and harassment and Rs.1,00,000 towards litigation costs.
8. Notice was issued to OP but no reply was filed by OP. The right to file reply was closed vide Order dated 08.08.2022.
9. The complainant has filed evidence by way of affidavit and exhibited the following documents:
 - i) Copy of details available on website of Ministry of Corporate Affairs of OP is exhibited as Ex.CW-1/1.
 - ii) Copy of receipt is exhibited as Ex.CW-1/2.
 - iii) Copy of letter of confirmation of unit allotment is exhibited as Ex.CW-1/3.
 - iv) Copy of Apartment Buyers Agreement is exhibited as Ex.CW-1/4.
 - v) Copy of statement of accounts alongwith receipts are exhibited as Ex.CW-1/5.



10. The Commission has considered the documents placed on record. The receipt dated 22.01.2013 shows that complainant had paid Rs.3,10,000/- towards booking in "Mirage", Jaypee Green Sports City, Gautam Budh Nagar, UP. OP vide confirmation letter dated 03.07.2013 allotted Flat No 1503 on 15th floor in Block-6 in project "Mirage", Jaypee Green Sports City.
11. OP vide demand letter dated 12.05.2016 admits that Rs.10,26,400/- has been received from the complainant till date and the balance amount due is Rs.4,10,546/-. The statement of account of HDFC bank of the complainant shows that the amount of Rs.4,10,546/- was paid to OP vide cheque dated 02.07.2014. Thus, it is clear that the OP has received Rs.14,36,946/- from the complainant.
12. It is categorically stated that the complainants have not received possession of the plot till date. In the absence of any denial or rebuttal by OP, the complainant's stands regarding deficiency in service stands proved. The Apex Court in Fortune Infrastructure v/s Trevon D'lima (2018) 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.
13. Hence, we find OP guilty of deficiency in service in not handing over the possession of the plot in question and direct it to pay an amount of Rs.14,36,946/- with 9% interest p.a. till realization, Rs.50,000/- as compensation for mental harassment and Rs.10,000/- towards litigation charges.
14. Order be complied within 30 days. File to be consigned to record room.


(Dr. RAJENDER DHAR)
MEMBER


(RITU GARODIA)
MEMBER


(MONIKA SRIVASTAVA)
PRESIDENT