

12.09.2022

Complaint no. – HP/RERA/OFL/2021-29

Suo Moto Petition no. – 13 of 2022

Present: - Sh. Hemant Kumar, complainant through Webex
Sh. Akshat Mittal, Ld. Counsel for respondent promoter M/s Gupta Property Developers Pvt. Ltd., Baddi through Webex
Sh. Abhishek Sood, Assistant District Attorney, RERA Himachal Pradesh in suo moto proceedings no. 13 of 2022 for RERA

HEARING THROUGH WebEx.


In the present matter, both the parties had entered into a compromise/ mutual understanding at the inception of the proceedings wherein respondent had offered to get the sale deed registered in favour of the complainant and complainant also conceded to his offer and submitted that his grievance would be redressed in case respondent executes the sale deed in his favour. This mutual understanding was brought to the notice of the Authority on 02.07.2021 and on the request of the respondent the Authority considering the entire facts thought it proper to grant time to respondent to fulfill his obligations under Section 11 (4)(f) & Section 17 of the Act for getting the sale deed registered as it would be in the interest of both the parties. The matter was listed on many dates and this Authority monitored the action taken for registration of sale deed. For non compliance of the directions passed by this Authority a penalty of Rs 4 lakhs was imposed on dated 29.11.2021. Thereafter a further additional per day penalty of Rs 5,000/- was imposed with effect from 22nd December, 2021 for failing to get sale deed registered and also an additional per day penalty of Rs 4,000/- was also imposed for failing to deposit the penalty of Rs 4 Lakhs already imposed starting from 6th January, 2022. A further penalty of Rs 10,000/- per day was also imposed


starting from 12.7.2022 for failing to apply for permission under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972. These all penalties were ordered to be run concurrently. Further vide order dated 25.04.2022 both the parties had made joint statement before this Authority that the draft sale deed has been prepared and submitted to concerned Sub- Registrar for execution. This Authority as recorded in its order dated 6.8.2022 had mentioned that it has on administrative side taken up the issue of requirement of permission under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 with the Department of revenue to the Government of H.P. and as per letter dated Rev.BA(3)7/2021 dated 3rd August, 2022 it has been clarified by the revenue deptt. that the promoters companies/ firms who have sought permission of Government under Section 118 of the H.P. Tenancy and Land Reforms Act 1972 for purpose of construction of commercial projects of housing/ residential colony and has put the land to use for the purpose for which permission was granted within the stipulated period, need not to seek fresh permission Government for selling out the built up structures/ flats to the Himachali agriculturists. Therefore as per the aforesaid letter in the present facts there was no requirement for the promoter to obtain fresh permission under Section 118 of the Act ibid and the sale deed could be executed directly. The aforesaid development was brought to the notice of both the parties and Sub- registrar concerned was also intimated with respect to the aforesaid development.

Thereafter as stated jointly by both the parties the sale deed in the present case was executed on 8th of August, 2022. In view of the above

the grievance of the allottee/ complainant in the present case has been redressed therefore his complaint is disposed of as fully satisfied.

The only issue now remains to be decided is the issue of payment of penalty for which suo moto proceedings no. 13 of 2022 have already been initiated by this Authority. Taking the holistic view and in the interest of justice, this Authority is of the considered opinion that in addition to the penalty of Rs 4 Lakhs which has till date not been deposited, the aggregate cumulative penalty is restricted to maximum of One Lakh each in case of per day penalties of Rs 4000/- and Rs 5,000/- and the cumulative penalty of Rs 10,000/- is also restricted to maximum of Rs 50,000/-. Therefore the total penalty to be paid by respondent is Rs 6,50,000/- which shall be paid by respondent within 30 days from the date of passing of this order. The suo moto proceedings are also disposed of in aforesaid terms.


B.C. Badalia
MEMBER


Dr. Shrikant Baldi
CHAIRPERSON


Rajeev Verma
MEMBER