

**REAL ESTATE REGULATORY AUTHORITY  
HIMACHAL PRADESH**

**Complaint no.HPRERA2023016/C**

**In the matter of:-**

Shivam Yadav Son of Sh. Prabhu Nath Yadav, Resident of P-162,  
Nehru Enclave, Vishwash Khand Gomtinagar, Lucknow, Uttar  
Pradesh,226010

.....Complainant

Versus

1. UMA'S EUPHORIA, Sandwood Infratech Projects Pvt. Ltd.,  
having Registered office 1108, Arunachal Building 10  
Barakhamba Road, New Delhi-110001also resident of Village  
Bhalori, Pargana- Jhangti, Sub Tehsil Kishangarh, Kasauli,  
Solan, Himachal Pradesh,173236
2. Smt. Uma Bagolia, daguther of Mr. Joban Bagolia, SCO 222-  
223. 3<sup>rd</sup> Floor, Sector 34-A, Chandigarh UT Pin-160022.

.....Respondents

**Present: Sh. Shivam Yadav complainant through WebEx  
Sh. Shiv Kumar Bagolia husband of Uma Bagolia  
respondent promoter through WebEx  
None for respondent promoter Sandwood Infratech  
Projects Pvt. Ltd.**

**Date of hearing(through WebEx):10.04.2024  
Date of Pronouncement of Order: 02.05.2024**

**Interim Order**

**Coram: Chairperson and Member**

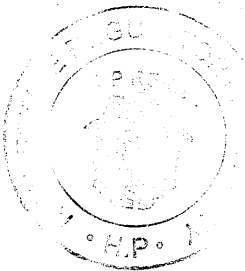
**1. Brief facts of the complaint**

The complainant has booked a flat in Uma's Euphoria,  
Sandwood Infratech Project Pvt Ltd with Project Name  
Sandwood Uma Euphoria bearing registration no.

RERAHPSOP0817000224.06.2019 after paying an amount of Rs 3,80,000/-. The flat no 26 was allotted on his name and the loan also got sanctioned from HDFC Bank. The bank officials also visited the project site. It was alleged that the officials of the bank found that no construction work had taken place in the project. It was further contended that the complainant requested vide mail dated 16<sup>th</sup> October, 2021 to the company to cancel his allotment and refund the amount. The company accepted his request on 19<sup>th</sup> October, 2021 and he received an email that they have cancelled his allotment and his refund will be initiated. However till date he submits that no refund has been initiated. With these averments he requested for refund in the matter.

**2. Reply by Sandwood Infratech Projects Pvt. Ltd-**

It was admitted that the complainant booked a flat no. 26, Uma's Euphoria for basic sale price of Rs 36,63,000/-. Thereafter it was pleaded that allotment letter was issued on 26.09.2019 and on the same date agreement for sale was also executed. It was further pointed out that the complainant paid a sum of Rs 3,76,238/- vide receipt number 361, 362, 365 & 368 issued by the company. It was further stated that the complainant did not pay single penny thereafter. It was thereafter stated that the complainant sent an email dated 16.10.2021 to the respondent company expressing his intention to cancel the allotment and adjust the booking amount of Rs 3,76,238/- by allotting the Flat to Ms. Ishika Malhotra. On his request, the allotment in his favour was cancelled and the respondent no. 1 allotted the Flat to Ms. Ishika Malhotra on 19.10.2021 at basic sale price of Rs 18,25,000/-. It was further stated that on his request the booking amount paid by him was adjusted against the



allotment made in favour of Ms. Ishika Malohtra. Further it was submitted that as per agreement for sale if the allotment is cancelled on the request of the complainant the booking amount was liable to be forfeited. It was further stated that Corporate Insolvency Resolution Process has commenced against the respondent promoter as per orders of the National Company Law Tribunal, New Delhi dated 25.10.2021. As per the order, Sh. Ravinder Kumar Goel has been appointed as IRP for conducting of CIRP. The same is in progress and the resolution plan has already been approved by committee of creditors and is awaiting approval by the NCLT, Delhi. Further it was stated that the project is owned by Smt. Uma Bagolia and Sandwoods Infratech Projects Pvt. Ltd. is working only in the capacity of developer of project and for this a joint development agreement was executed interse the parties.

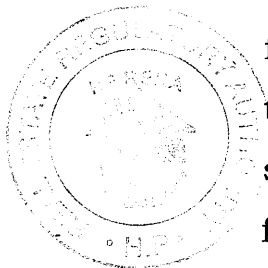
**3. Reply filed by Smt. Uma Bagolia-**

In the reply filed by the Smt. Uma Bagolia it was stated that the complainant has misrepresented all the facts. It was further submitted that the complainant booked a flat no. 26 in the project for the sale price of Rs.36, 63,000/-. Thereafter an allotment letter was issued in his favour on 26.09.2019 and on the same date the agreement for sale was also executed between the parties. The respondent herein admitted the receipt of Rs. 3,76,238/- as booking amount vide receipt no. 361,362,365 and 368. It was further submitted that the complainant accepted the construction linked plan but did not pay even a single instalment despite demand notices and reminders being issued by the respondents. It was further submitted that the construction of project is almost 80 % complete. It was further submitted that the complainant sent an email on 16th October, 2021 wherein he has requested for

cancellation of the allotment and to adjust the booking amount by allotting the same flat to Miss. Ishika Malhotra. On his request the respondent cancelled the allotment of flat no.26 and allotted the same to Miss Ishika Malhotra on 19.10.2021 and the confirmation of cancellation was intimated to the complainant through email on 19th October, 2021. It was further mentioned in the reply that vide the e-mail dated 19.10.2021 it was also intimated that the process of refund will be initiated subject to return of all original record documents by the complainant. It was stated that the original documents have not been returned by the complainant therefore, the process of refund could not be initiated by the respondents.

#### **4. Rejoinder by the complainant-**

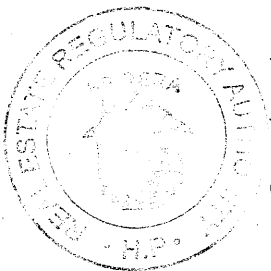
In the rejoinder it was submitted that the loan amount could not be processed as there was no progress of work on the site and therefore the balance payment could not be made. It was further submitted that the flat was booked by paying the 10% payment of total amount Rs.3,76,000/- and therefore the complainant is not defaulter in the present case. It was further submitted that the loan was got sanctioned twice. Initially loan was sanctioned on 29<sup>th</sup> August, 2019 by the HDFC bank but the same was not disbursed as the surveyor of the bank was not satisfied with the development work at the site and the sanction of the loan expired after six months. It was further submitted that on the inquiry of complainant the respondent no.1 company submitted that the phase no. 2 in which the flat of the complainant is situated could not be executed due to delay on account of Covid 19 pandemic. It was further submitted that the complainant again applied for the loan from the HDFC bank for the same property and it was again



sanctioned in July, 2020 but the same could not be disbursed this time also for the reason that there was no progress of construction on the site. In the year 2021, the complainant demanded back the booking amount by calling one Mr. Rohit who was an employee of Sandwood Infratech. It was further submitted that complainant had intimated Sandwood Infratech and also the interim resolution professional Ravinder Kumar Goyal qua his demand for refund of the booking amount. It was further submitted that Sh. Ravinder Kumar Goyal IRP had assured the complainant on email dated 20.11.2021 that the claim has been accepted and will be dealt as per IBC 2016. It was further alleged that on October 16, 2021, Mr. Rohit called the complainant to inform him that his request for refund could not be fulfilled for technical difficulties. He also requested that the complainant sent an email to respondent no. 1's registered email address requesting that the allotment be cancelled and the remaining funds be transferred to Mrs. Ishika Malhotra, Rohit's wife. On his asking the complainant sent an email on 19<sup>th</sup> October, 2021 to cancel the allotment and transfer the amount to Mrs. Ishika Malhotra. With these pleadings it was prayed that the booking amount paid by the complainant shall be refunded.

**5. Arguments by the complainant-**

It was argued by the complainant that after paying Rs 3,76,238/- the complainant booked an apartment at Uma's Euphoria, Sandwood Infratech Project Pvt Ltd, with the project named Uma Euphoria on 24.06.2019. In his name, flat number 26 was allotted and HDFC Bank approved the loan as well. Before releasing the funds, the bank representative paid a visit to the location. It was reported that bank officials discovered there had been no construction activity related to

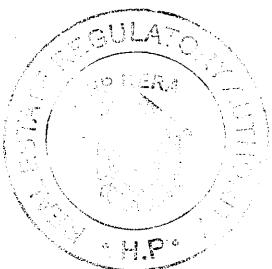


the project. It was further argued that the plaintiff through email on 16<sup>th</sup> October, 2021 asked the company to cancel his booking and return the sum of money. On 19<sup>th</sup> October, 2021, the company acknowledged receipt of his request and he was notified via email that his allotment had been terminated and that a refund would be processed. It was argued that no refund has been issued till date.

**6. None for respondent no. 1 during the course of arguments-**

**7. Arguments by the respondent no. 2-**

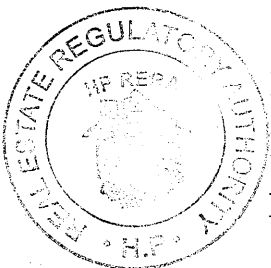
It was argued on behalf of Smt. Uma Bagolia that the complainant distorted all the facts. Further, the plaintiff purchased flat no. 26 in the complex for Rs.36,63,000. This respondent acknowledges the receipt of Rs. 3,76,238/- as booking amount. Despite demand notices and warnings from the respondents, the complainant accepted the construction linked plan but did not pay any instalments. It was also stated that project construction is nearly 80% complete. On October 16, 2021, the complainant emailed to revoke the allotment and transfer the booking amount by assigning the same unit to Miss. Ishika Malhotra. On 19<sup>th</sup> October 2021, the respondent cancelled flat no.26 and assigned it to Miss Ishika Malhotra at his request. The complainant was notified in this regard by email. It was further stated that Corporate Insolvency Resolution Process was initiated against the respondent no. 1 promoter as per orders of the National Company Law Tribunal, New Delhi dated 25.10.2021. As per the order, Sh. Ravinder Kumar Goel was appointed as IRP for conducting of CIRP. The same is in progress and the resolution plan has already been approved by committee of creditors. Thereafter a copy of the order dated 10.8.2023 has



been placed on record whereby resolution plan has been approved.

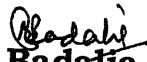
### **8. Findings of the Authority-**

This Authority has gone through the record of the case and heard the parties. From the record it transpires that the agreement for sale was executed by the complainant with M/s Sandwood Infratech Projects Pvt. Ltd. respondent no. 1 being developer of the project but the registered promoter of the project was Mrs. Uma Bagolia who also happened to be the land owner but was not impleaded as party by the complainant. When this Authority issued notice to Smt. Uma Bagolia she appeared through her authorised representative and in her reply reiterated the version of developer Sandwood Infratech Pvt. Ltd. From the documents appended with the reply filed by the respondent Sandwood Infratech Pvt. Ltd. it transpires that the proceedings under IBC 2016 have been initiated against developer respondent no. 1 and IRP Sh. Ravinder Kumar Goel has been appointed for conducting of CIRP. Further the resolution plan has already been approved by committee of creditors and was further also approved by the NCLT, Delhi vide its order dated 10.08.2023 in IA no. 2414/2022 in IB-292(ND)/2021 whereby Sh. D Konda has been appointed as successful resolution applicant. From the order it further transpires that the moratorium period has expired from the date of passing of the order i.e. 10.08.2023 as held by the Ld. NCLT. From the aforesaid order it transpires that Sh. D Konda has undertaken to complete the project in question at Kasauli District Solan. Since the project has been taken over by Sh. D Konda vide the orders of Ld. NCLT and therefore it is mandatory for the complainant to have impleaded him as a party in the case being necessary



party to the lis. It is not possible for this Authority to decide the case without hearing Sh. D Konda Successful Resolution Applicant in the matter. Therefore this Authority hereby grants one opportunity of fifteen days to the complainant to move an appropriate application in this regard stating the particulars along with address of Sh. D. Konda so that this Authority can issue notice to Sh. D Konda to appear in this matter on the next date of hearing.

9. List the matter for further hearing on 06.06.2024 at 12 PM through webex.

  
**B.C. Badalia**  
**MEMBER**

  
**Dr. Shrikant Baldi**  
**CHAIRPERSON**

