

**NATIONAL CONSUMER DISPUTES REDRESSAL
COMMISSION
NEW DELHI**

CONSUMER CASE NO. 2 OF 2016

1. NITIN CHAWLA & ANR.

B2-8, TATA STEEL OFFICERS
ENCLAVE, SECTOR BETA 1,
GAUTAM BUDH NAGAR,U.P.

.....Complainant(s)

Versus

1. M/S. UNITECH LIMITED

SIGNATURE TOWERS, GROUND
FLOOR, NH-8,
SOUTH CITY-1,GURGAON

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. PREM NARAIN,PRESIDING
MEMBER**

For the Mr. Sushil Kaushik & Mr. Himanshi Singh,
Complainant : Advocates

For the Mr. Somesh Tiwari, Advocate
Opp.Party : Mr. Prabhat Kumar Rai, Advocate

Dated : 17 Oct 2017

ORDER

1. This complaint has been filed by Nitin Chawla & Tina Chawla, complainants, against the opposite party, M/s. Unitech Limited.

2. The brief facts of the case are that the complainants, namely, Nitin Chawla & Tina Chawla booked a residential villa with the opposite party in a project, namely, Alder Grove,

Nirvana Country II which the opposite party was to develop in Sector 71 & 72 of Gurgaon. The sale consideration for the aforesaid villa was agreed at Rs.2,21,50,717/- and the possession was to be delivered within 24 months from the date of the buyers agreement, which came to be executed on 05.05.2012. Thus the possession of the villa ought to have been offered by 05.05.2014. The grievance of the complainants is that despite having paid a total sum of Rs.1,19,92,830/-, the opposite party has failed to offer possession of the villa allotted to them. The complainants are therefore, before this Commission with the following prayer:-

“a). Direct the O.P. to handover the possession of the aforesaid apartment complete in all respects to the complainants immediately as per the Buyer’s Agreement and execute all the necessary and required documents in respect of the said apartment in favour of the complainants or in alternative provide a ready to move in apartment to the complainants which is of identical size and in similarly locality or in alternative pay a sum calculated as per sq. area multiplied by Rs.25,000/- per Sq. Ft. being the available market rate of the similar house to enable the complainants to purchase another house on their own.

b) Direct the O.P. to pay a sum in form of interest @12% PA as compensation from the committed date of possession till the actual possession of the villa.

c) Grant immunity from escalation from any cost including service tax incurred after the proposed date of possession as per the builder buyers agreement.

d) Direct the O.P. to pay a sum of Rs.30,000/- to each of the complainants towards the cost of litigation.

e) Any other order (s) as may be deemed fit and appropriate may also kindly be passed.”

3. Heard the learned counsel for the parties and perused the record. The learned counsel for the complainants stated that now the work in the project has been started and for the

same project in a similar case coordinate Bench of this Commission has passed the following order in **Luv Bhasin Vs. M/s. Unitech Limited, CC No.799 of 2016, decided on 30.01.2017, (NC):-**

“5. The learned counsel for the complainant states on instructions that in order to avoid further litigation in the matter, the complainant is restricting his claim of monetary compensation in the form of simple interest @ 8% p.a. from the committed date of possession till the date on which the possession is actually delivered to him after completing the construction in all respects and obtaining the requisite completion certificate. The complaint is, therefore, disposed with the following directions:-

(1) Unless already resumed, the opposite party shall resume construction of the villas sold to the complainant on or before 31.03.2017. The construction shall be completed in all respects on or before 31.12.2017. The opposite party shall apply for and obtain the completion certificate in respect of the villas at its own responsibility and then offer possession to the complainant on or before 31.03.2018.

(2) The opposite party shall pay compensation in the form of simple interest @ 8% per annum from the committed date of possession, i.e., 2.4.2012 till the date on which the possession is actually offered to the complainant after completing the construction in all respects and obtaining the requisite completion certificate.

(3) No separate compensation would be payable to the complainant either towards the rent if any paid by him or for the mental agony and harassment which he has suffered on account of the failure of the opposite party to perform its contractual obligation.

(4) The opposite party shall also pay Rs.10,000/- in the complaint as the cost of litigation.

(5) The compensation in terms of this order shall be paid to the complainant by 31.3.2018 unless the possession in terms of this order is delivered earlier in which case it shall be paid at the time of offering the possession

(6) If the order passed by this Commission in Aditya Mishra & Anr. (supra) and/or Ved Prakash Saini (supra) is varied or modified by the Hon'ble Supreme Court before the order passed in this complaint is implemented, the said order of the Hon'ble Supreme Court will also apply to this complaint."

4. The learned counsel for the complainants requested that similar order may be passed in the present complaint also.

5. The learned counsel for the opposite party stated that the work is in full swing and the internal as well as outside plastering and the finishing work is also under progress. In these circumstances, he hopes that the work would be completed in the said premises as per the order dated 30.01.2017 passed by this Commission in **Luv Bhasin Vs. M/s. Unitech Limited** (supra).

6. Learned counsel stated that he has no objection if a similar order is passed in this complaint case also as both the parties have agreed that the work in the project has already commenced and they are hopeful for its completion and possession by end of December, 2017.

7. Based on the above discussion, it is clear that the complainant is ready to take possession and the opposite party is ready to hand over possession after completion which is expected by December, 2017. The opposite party is also ready to compensate the complainant for delay in possession by way

of interest on the deposited amount. The interest has been ordered @8% in the referred judgment of this Commission in **Luv Bhasin Vs. M/s. Unitech Limited** (supra). As the opposite party has agreed to pay 8% interest as given in the order of this Commission in **Luv Bhasin Vs. M/s. Unitech Limited** (supra), I deem it appropriate to allow 8% interest in the instant case also. Therefore, following order is passed:

Order

The opposite party is directed to handover the possession after completing all the construction work of the flat in all respects within the period ending 31.3.2018. Opposite party shall also pay interest @8% p.a. on the paid consideration amount from due date of possession as per the agreement till the date of actual possession. This compensation as interest shall be payable at the time of possession, but before 31.03.2018 to the complainant or will be adjusted against any receivables by the opposite party from the complainant as per the agreement.

- 8.** The complaint is disposed of in terms of the above order. Both parties shall bear their own costs.

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PREM NARAIN
PRESIDING MEMBER