

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

CONSUMER CASE NO. 780 OF 2018

1. SUMIT MANSINGKA & ANR.

S/O SH. GOPAL MANSINGKA, R/O. 404, PRANGAN
TOWER, RAMPRASTHA GREENS, VAISHALI ,
GHAZIABAD - 201010

U.P.

2. SWETA MANSINGKA

W/O SUMIT MANSINGKA, R/O. 404, PRANGAN
TOWER, RAMPRASTHA GREENS, VAISHALI
GHAZIABAD - 201010

U.P.

.....Complainant(s)

Versus

1. E-HOMES INFRASTRUCTURE PVT. LTD.

THROUGH ITS MANAGING DIRECTOR,
REGISTERED OFFICE: DASNAC ANNEXE I, ECE
HOUSE, 28A, KASTURBA GANDHI MARG
NEW DELHI - 110001

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. JUSTICE RAM SURAT RAM MAURYA, PRESIDING
MEMBER**

HON'BLE DR. INDER JIT SINGH, MEMBER

For the Complainant : Mr. Saurabh Jain, Advocate
Mr. Shajhan Kumar, Advocate

For the Opp.Party : Nemo

Dated : 02 Sep 2022

ORDER

1. Heard Mr. Saurabh Jain, Advocate, for the complainants. Nobody appears for the opposite party.
2. This complaint has been filed for directing the opposite party (i) to refund Rs.269732/- to the complainants i.e. balance principle amount of Rs.200000/- along with interest @18% per annum upto 31.03.2018 and pendent lite and future interest on the aforesaid amount; (ii) to pay interest @ 18% per annum of Rs.2123984/-; (iii) to pay Rs.1018012/- towards EMIs paid by the

complainants on the loan taken from ICICI Bank Ltd along with interest @18% per annum; (iv) to refund Rs.411000/- paid by the complainants to the opposite party as stamp duty towards purchasing stamp paper for registration of sub-Lease Deed along with compensation in the form of interest @ 18% per annum; (v) to grant cost of litigation to the complainants; (vi) any other relief which may be deemed fit and proper in the facts and circumstances of the case.

3. The complainants stated that the opposite party is a company registered under the Companies Act, 1956 and was engaged in the business of development and construction of group housing project. In the year 2015 the opposite party launched a group housing project in the name of "The Jewel of Noida" at Plot No.14, Eco-City, Sector 75, Noida. On coming to know about the project, the complainants booked a flat for self-residence on 24.04.2016 and deposited the booking amount of Rs.200000/-. The opposite party allotted flat No.E-304, super area 1525 sq.ft., carpet area 838 sq.ft. in the said project, for total consideration of Rs.8235000/- on 27.04.2016. Thereafter, the complainants deposited the amount of instalments according to payment plan. The complainants took loan of Rs.6875000/- from ICICI Bank, on 10.05.2016 which was directly paid to the opposite party on 01.07.2016. The complainants paid total Rs.9198984/- to the opposite party as per demand up to 03.01.2018. The opposite party issued a final demand letter on 04.10.2017 in which Rs.1258579/- was demanded in various heads, without obtaining "occupation certificate". The complainants visited the office of the opposite party and deposited that amount, who get signatures of the complainants on possession letter along with declaration, consent letter, undertaking etc. The opposite party executed sub-lease deed on 12.02.2018, for which, the complainants were asked to purchase stamp of Rs.411000/-. The opposite party also got executed an agreement for maintenance on 21.02.2018. The complainants demanded copy of "occupation certificate", on which, the opposite party annoyed and cancelled the allotment of the complainants, vide letter dated 28.02.2018 and refunded Rs.8998984/- to ICICI Bank and loan account of the complainant was closed there. The opposite party forfeited Rs.200000/- of the complainants. The opposite party has not paid any amount towards interest on the deposit of the complainants. From the date of taking loan till the closure of the loan account, the complainants paid Rs.1018012/- towards EMI. The complainants purchased stamp of Rs.411000/- for sub-lease deed. Hence, this complaint has been filed for return of the balance amount as well as other reliefs.

4. The opposite party filed their written reply on 05.10.2018 and contested the matter. In the written reply, the preliminary objection has been raised in respect of pecuniary jurisdiction of this Commission. Other facts relating to the allotment as well as payment for the flat has not been disputed by the opposite party. The opposite party has stated that offer of possession cum demand has been issued to the complainants, but instead of making payment the complainants indulge in ante-social activities against the builder which created a serious problem before the opposite party. Complainant-1 was found indulging in criminal activities including extortion and endangering the property of the opposite party and other allottees of the complex. Therefore, their allotment was cancelled and loan amount was returned to the ICICI Bank Ltd. according its statement of account. The opposite party was entitled to forfeit 10% of the total consideration on cancellation of the allotment as such remaining amount was forfeited.

5. The complainants filed its rejoinder reply on 28.06.2019 in which material facts in the complaint have been reiterated. The complainants filed Affidavit of Evidence of Sumit Mansingka. The opposite party filed Affidavit of Evidence of Mr. Subodh Sharma. The

complainants have filed written synopsis also.

6. We have considered the arguments of the counsel for the complainant and examined the record. Allotment of the complainants has been cancelled on the ground that complainant-1 was involved in criminal activities including extortion and endangering the property of the opposite party and other allottees of the complex and created a law and order problem against the builder, but there is no proof relating to the facts stated in written reply. The opposite party has not filed copy of any FIR registered against complainant-1. The cancellation letter dated 28.02.2018 is not based upon any valid reason and is arbitrary. However, the complainants do not seek relief of the possession as the flat, which has been already sold by the opposite party. Therefore, the complainants are entitled for money deposited by them along with interest.

ORDER

In the result, the complaint is partly allowed. The opposite party is directed to pay entire amount deposited by the complainants including Rs.410000/- incurred for purchasing stamp papers and the amount advanced by ICICI Bank Ltd. along with interest @9% per annum from the date of respective deposit, till the date of payment, adjusting the amount already paid to ICICI Bank Ltd., within a period of two months from today.

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RAM SURAT RAM MAURYA
PRESIDING MEMBER
.....
DR. INDER JIT SINGH
MEMBER

