

‘Homebuyers can seek refund if flat delayed beyond 1 year’

Consumer Forum Sets Time Limit for Wait Period

In a relief to lakhs of aggrieved homebuyers who are forced to wait for possession of their flats for years, the apex consumer commission has quantified a time period of one year for delayed projects beyond which investors can claim refund from builders.

Judicial forums, including Supreme Court and consumer courts, have repeatedly held that homebuyers cannot be made to wait indefinitely, but it was not clarified when refund can be claimed in case of delay.

Now, the National Consumer Disputes Redressal Commission has held that buyers can seek refund if possession is delayed by one year beyond the date promised by the builder. “It is now established that allottees have the right to ask for refund if possession is inordinately delayed, particularly beyond one year,” a bench of Prem Narain said.

The court passed the order on a plea by Delhi resident Shalabh Nigam, who in 2012 bought a flat in the luxury housing project, Greenopolis, in Gurgaon being developed by Orris Infrastructure and 3C company.

Nigam had made a payment of around Rs 90 lakh against the total cost of around Rs 1 crore. As per the agreement, the flat was to be handed over within 36 months, with a grace period of six months, from the date of allotment. When the builders failed to complete the project, Nigam approached the commission through advocate Aditya Parolia, seeking its direction for either refund or timebound possession of the flat.

As the buyer preferred to take possession of the flat, the commission directed the builder to complete the construction and hand over the flat, complete in all respects as per the agreement, by end of September 2019 after obtaining occupancy certificate.

‘Pay compensation at rate of 6% a year for delayed period’

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The commission directed the builder to pay compensation at the rate of 6% per year on the total deposit for the delayed period even after handing over possession. In case of non-delivery of flat within the deadline prescribed by commission, NCDRC said the builder will have to refund the entire amount with 10% interest.

The builder had contended that the buyer had discontinued paying instalments and if refund is ordered, then there will be a forfeit of 10% of the amount as earnest money, as per the agreed clause. But the commission rejected the contention, saying instalments were paid up to the 7th stage and the payment was stopped later as there was no progress in the construction.

Though in cases of delayed projects, builders often pay compensation as per the clause in agreement which ranges from Rs 5-10 per sq feet per month, the sum is meagre in view of the large investments by buyers.