

**BEFORE THE ADJUDICATING OFFICER
THE RAJASTHAN REAL ESTATE REGULATORY AUTHORITY,
JAIPUR**

1. Complaint No.RAJ-RERA-C-2022-5197

Jagdish Dan Complainant

Versus

Unique Shree Shyam Landhomes LLP Respondent

2. Complaint No.RAJ-RERA-C-2022-5210

Virendra Kumar Complainant

Versus

Unique Shree Shyam Landhomes LLP Respondent

3. Complaint No.RAJ-RERA-C-2022-5215

Gaju Dan Complainant

Versus

Unique Shree Shyam Landhomes LLP Respondent

4. Complaint No.RAJ-RERA-C-2022-5230

Rameshwar Lal Bhaskar & Ors. Complainant

Versus

Unique Shree Shyam Landhomes LLP Respondent



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Adjudicating Officer
Rajasthan Real Estate Regulatory Authority
Jaipur

5. Complaint No.RAJ-RERA-C-2022-5231

Dhruv Pal Charan

Complainant

Versus

Unique Shree Shyam Landhomes LLP

Respondent

6. Complaint No.RAJ-RERA-C-2022-5232

Ram Prakash

Complainant

Versus

Unique Shree Shyam Landhomes LLP

Respondent

7. Complaint No.RAJ-RERA-C-2022-5233

Jagdish Prasad Jat & Ors.

Complainant

Versus

Unique Shree Shyam Landhomes LLP

Respondent

Present



Hon'ble Shri R.S. Kulhari, Adjudicating officer

1. Mr. Karan Palawat, Advocate present for complainants.
2. Mr. Harshal Tholia and Mr. Rubal Thoila, Advocates present for respondent.

Date: 14.03.2024

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ORDER

The facts of all the aforementioned complaints are similar in nature and they belong to the same project therefore, these are being decided by this common order.

2. The complainants have booked their respective flats in the project of the respondent named as **“Unique Anmol”**. They have deposited the total sale considerations as agreed between the parties and sale deeds have been executed in their favour. The possession of the respective flats have already been handed over to the allottees. The relevant details are summarized as under:-



Sr. No.	Complaint No.	Name of complainants	Flat No.	Sale Consideration (Rs.)	Date of execution of sale deed
1.	2022-5197	Jagdish Dan	E-102	13,88,830	31.08.2020
2.	2022-5210	Virendra Kumar	E-302	12,60,000	15.03.2021
3.	2022-5215	Gaju Dan	D-411	12,60,000	24.11.2020
4.	2022-5230	Rameshwar Lal Bhaskar	A-129	12,60,000	24.05.2018
5.	2022-5231	Dhruv Pal Charan	B-128	12,60,000	11.05.2018
6.	2022-5232	Ram Prakash	E-402	12,60,000	27.10.2017
7.	2022-5233	Jagdish Prasad Jat	B-130	12,60,000	31.08.2020

3. The grievances, in nutshell as raised against the promoter by the complainants are that the respondent have mentioned basement and 6 floors in the sale deeds but there is no basement in the building for parking of the vehicles. The promoter was required to install fire safety equipments in the building but that has not been installed. It was also alleged that as per approved plan solid waste management, sewage treatment plant as also roof top solar system had to be installed by the promoter but the same have not been installed.

4. It was also averred that the promoter have obtained payment against the gym, community hall, badminton court and volleyball ground but nothing have been constructed. The quality of construction is also not good. GST has been wrongly calculated and received by the promoter. Thus, a prayer was made to direct the respondent to complete the project as per approved plan and construct the basement parking for residents. Further, directions were also sought to be given to the respondent for providing all the facilities as per approved plan and the brochure and to pay compensation towards mental agony, financial loss and breach of trust.

5. The respondent has not disputed the booking of the flat, execution of the sale deeds and handing over of possession of the flats in its reply. However, it has been categorically stated that the project has been completed as per approved plan issued by the UIT Sikar. After completion, the promoter has



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obtained completion certificate on 15.04.2022 from the empanelled architect. The basement was never a part of the project. However, due to some typographical mistake the basement was mentioned in Form-G. In order to rectify the mistake an application was filed before Hon'ble RERA Authority which was allowed on 15.10.2022 and accordingly Form-G was amended. Similar mistake was committed in execution of sale deeds showing the basement. The competent authority has approved plan of ground floor plus six floors. There was provision for open parking of 1308 two wheelers which were duly provided alongwith 14 car parking. The Gym, community hall, badminton court and volleyball ground etc. have been provided as per approved plan. Solar panels have also been installed and fire NOC has been obtained. The complainants have filed the complaints with ulterior motive which are liable to be dismissed.

6. Heard the learned counsels for the parties who have reiterated the facts stated in their pleadings and referred the relevant documents submitted by them.
7. Having heard the learned counsels for the parties and considering the material available on record there is no dispute on allotment of flats, execution of sale deeds and handing over of possession of flats to the respective complainants. The grievances of the complainants are about common amenities which are ordinarily required to be raised by the Residents Welfare Association (RWA). However, the



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complainants have raised such issues and of course individual allottee may also agitate such issue for seeking compensation.

8. The first issue is with regard to the basement. The case of complainants is that in sale deeds the term 'basement' has been used whereas there is no basement on the site. The basement was to be constructed for parking purpose. But there appears to be no substance in this allegation. Although, it is true that the word 'basement' has been mentioned in the sale deeds and also in the Form-G while applying for registration before the Real Estate Regulatory Authority (RERA) and under this pretext only the complainants are raising this issue. But the respondent has filed an application before RERA stating that "the basement was wrongly mentioned which was not in approved plan nor was requirement of the same in affordable housing policy." Ultimately, the RERA Authority has approved the modification vide order dated 15.10.2022. Copies of which are placed at page 18-20 of the additional affidavit.

9. Further the project plan was approved by UIT Sikar which discloses that the competent authority has approved the ground floor plus six floors and no mention of any basement is there. In the said approval the parking of 1308 two wheelers and 14 cars have been mentioned. But it does not find any place to figure that such parking would be in any basement. So it presupposes that the parking was given in open area. As such, the contention of the complainants for basement and



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parking in such a basement is not tenable. They cannot take advantage of a mere clerical or typographical error which could be rectified at any stage. The promoter has rectified the same with the permission of the RERA. Such correction may also be made in the sale deeds if the complainants so desire. The promoter shall have no objection in such a modification/correction in the sale deeds. So no prejudice has been caused to the complainants because of this clerical mistake. Hence, they are not entitled to any relief on this count.

10. The second issue is qua sewage treatment plant and roof top solar system as also the construction of community hall, badminton court etc. The promoter has filed the photos of the site as well as copy of the completion certificate obtained from the empanelled architect which go to show that all these facilities have been provided on the site. The complainants have not refuted or disputed these photos and contents of completion report in any manner by filing any rejoinder. Thus, there is no reason to disbelieve or discard these photos and the facts narrated in completion certificate. The complainants have not challenged any aspect of the completion certificate wherein it has been categorically stated that rain water harvesting, waste water treatment, provision for solid waste management and solar panels/ solar water heaters were available at the site. The availability of such facilities is duly supported by the photos submitted by the promoter. Such



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photos are available at pages 31-35 and 84 of the reply. Thus, the objections raised about all these issues are devoid of force.

11. The last contention was with regard to fire safety arrangement. The completion report reveals that fire system has been installed in the project which is supported by the photos filed at page 59-60 of the report. Although, it has been mentioned in the completion certificate at page 29 that the issue of fire NOC was in progress at them time. So the promoter was not in a position to file such proof at the time of reply. However, the said NOC has been produced during the course of argument which has been issued on 05.09.2023 by competent authority i.e. Nagar Parishad, Sikar. Thus, the requirement of fire NOC has also been fulfilled. As such, it cannot be said that there is any deficiency on the part of the promoter with regard to fire safety arrangement.

12. The argument that there is poor quality of construction is also not tenable at this stage. Firstly, the complainants have not raised any pin pointed specific defect in structural design of the building or about any material or articles used therein, so that the promoter could have replied the same. There is no evidence on record much less the convincing or substantial one to infer that the allegations are well founded. Secondly, even otherwise if there is any defect that cannot be considered and ponder over for the purpose of compensation without serving one month notice to the promoter as required to be issued under Section 14(3) of the RERA Act. Therefore,

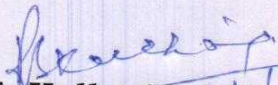




complainants are free to take such recourse after serving due notice to the promoter. Such defects may be pointed out within 5 years after taking over of the possession. So all these issues with regard to inferior quality of construction or any defect or inferior articles are still within the period of limitation and complainants are at liberty to do so, if they so advised.

13. In view of the above the complainants are not entitled to any relief in these complaints. Accordingly, all the complaints are hereby dismissed with no order as to costs.
14. The order be uploaded on the website of RERA and also sent the parties. File be consigned to records.

Date - 14.03.2024


(R.S. Kulhari) 14/3/2024
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