



HARERA
GURUGRAM

Complaint No. 1047 of 2018

**BEFORE THE HARYANA REAL
ESTATE REGULATORY AUTHORITY, GURUGRAM**

Complaint no. :	1047 of 2018
Date of filing complaint:	18.10.2018
First date of hearing:	22.01.2019
Date of decision :	04.07.2022

Sameer Dave R/o: DLF, Cyber City, Building 10A, DLF Phase II , Gurugram 122001	Complainant
Versus	
M/s Burman Estate Private Limited R/o: 4 th Floor, Punjabi Bhawan, 19 th Rouse Avenue, New Delhi 110002	Respondent

CORAM:	
Dr. KK Khandelwal	Chairman
Shri Vijay Kumar Goyal	Member
APPEARANCE:	
None	Complainant
Sarthak Sharma (advocate)	Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 29 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under

the provision of the Act or the rules and regulations made there under or to the allottees per the agreement for sale executed inter se.

A. Unit and project related details

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession and delay period, if any, have been detailed in the following tabular form:

S.No.	Heads	Information
1.	Project name and location	"Gurgaon Spectrum Centre", Sec-82A, Gurgaon
2.	Nature of the project	Serviced Apartment (Residential)
3.	DTCP License	135 Of 2008 dated 28.06.2008 upto 27.06.2025
4.	Name of the licensee	Dr. Fresh Real Estate Ventures Pvt. Ltd.
5.	RERA Registered/ not registered	Registered No.222 of 2017
	RERA Registration valid up to	Not known
6.	Unit no.	No. 1219, 12 th Floor , [Annexure p/22 at page 83 of the complaint, Allotment letter]
7.	Unit measuring	893 sq. ft. [Annexure p/22 at page 83 of the complaint, Allotment letter]
8.	Date of provisional allotment letter	10.12.2015 [Annexure p/22 at page 83 of the complaint, Allotment letter]
9.	Date of execution of builder buyer agreement	Not executed
10.	Possession clause	Not mentioned anywhere
11.	Due date of possession	Cannot be ascertained as there is no BBA and the allotment letter does not

		contain any information of the possession clause.
12.	Total sale consideration	Rs.90,79,498/- (As per CRA submitted)
13.	Total amount paid by the complainants	Rs.17,00,617/- (As per CRA submitted)
14.	Payment plan	Construction linked payment plan
15.	Occupation Certificate	Not offered
16.	Offer of possession	Not offered

3. The complainant booked a unit in the project of respondent detailed above and he was issued a letter of allotment on 10.05.2015. The total sale consideration of the allotted unit was Rs.90,79,498/- and he paid Rs.17,00,617/- against that unit. No buyer's agreement was executed between parties. The complainant did not deposit any other amount except the above-mentioned amount despite reminders leading to cancellation of unit and sending him, the paid-up amount after making a deduction of Rs.5,00,000/- on 22.01.2019. The complainant challenged that action of the respondent being illegal and against the provisions of letter of allotment and sought refund of the total amount paid by him.
4. But the respondent took a plea that it has already cancelled the unit as per the provisions of the letter of allotment and refunded the paid-up amount after making the statutory deductions.
5. On 22.01.2019, when the matter was fixed for arguments before the authority it observed as under: -

"Arguments heard.

As per facts and circumstances of the matter, the authority is of the consideration view, it stands settled as the builder has already refunded the amount deposited by the complainant by deducting Rs.5,00,000/- which is reasonable and justified. as such, no case is made out.



Complaint stands disposed of. detailed order will follow. file be consigned to the registry.

Please ask for settlement deed inter-se both the parties, failing which the case be listed on 15.02.2019 for detailed order."

6. In view of above mention orders the case remained pending initially before the author then before adjudicating officer and finally was put up before authority on 04.07.2022 and who passed the following order.

"None - turned up on behalf of the complainant for hearing. the respondent placed on the file an application of even date confirming the settlement."

7. So, in view of that order and passing of an order dated 22.01.2019 by the authority and in accordance with above application, the complainant is held to be infructuous, case is disposed of file to be consigned to the registry

V.I - 
(Vijay Kumar Goyal)

Member

Haryana Real Estate Regulatory Authority, Gurugram


(Dr. KK Khandelwal)

Chairman

Dated: 04.07.2022