

**PROCEEDINGS OF THE DAY**

Day and Date	Wednesday and 27.03.2019
Complaint No.	1683/2018 Case titled as Nirmal Kishore Jain VS Sweta Estate Private Limited
Complainant	Nirmal Kishore Jain
Represented through	Complainant in person with Shri Mukul Sanwariya proxy counsel for Shri Kanal Dahiya Advocate.
Respondent	M/S Sweta Estate Private Limited
Respondent Represented	None for the respondent
Last date of hearing	First hearing
Proceeding Recorded by	Naresh Kumari & S. L. Chanana

**Proceedings****Project is not registered with the authority.**

Since the project is not registered, notice under section 59 of the Real Estate (Regulation & Development) Act, 2016, for violation of section 3(1) of the Act be issued to the respondent. Registration branch is directed to do the needful.

Complaint was filed on 21.11.2018. Notices w.r.t. reply to the complaint were issued to the respondent on 22.11.2018, 10.12.2018 and 26.12.2018. Besides this, a penalty of Rs.5,000/- and Rs.10,000/- was also imposed on 10.12.2018 and on 26.12.2018 for non-filing of reply even after service of notices. However, despite due and proper service of notices, the respondent neither filed the reply nor come present before the authority.

From the above stated conduct of the respondent, it appears that respondent does not want to pursue the matter before the authority by way of making personal appearance by adducing and producing any material particulars in the matter. As such, the authority has no option but to proceed ex-parte against the respondent and to decide the matter on merits by taking into account legal/factual propositions, as raised, by the complainant in his complaint.

A final notice dated 11.3.2019 by way of email was sent to both the parties to appear before the authority on 27.3.2019.

As per clause 9.1 of the Builder Buyer Agreement dated 4.2.2011 for unit No.3A Belgravia-18 in project "Central Park -II, Sector-48, Gurugram, possession was to be handed over to the complainant within a period of 18 months from the date of execution of BBA + 6 months grace period which comes out to be 4.2.2013. It was a possession linked payment plan. Complainant has already paid Rs.2,62,13,156/- to the respondent against a total sale consideration of Rs.2,36,93,260/-.

However, respondent has offered the possession of the unit to the complainant on 4.10.2014. The complainant did not take possession on account of the fact that the flat/unit has not been made as per specification as per clauses 49 and 50 of the agreement. However, actual delivery of possession is 4.10.2014 and there is delay of one year 8 months. Since it is prior to coming into of RERA, as such it is not covered under the provisions of RERA Act, 2016. The complainant is directed to approach the respondent

and sort out the matter amicably. Despite issuance of notices, the respondent has not come present and this decision is taken ex-parte.

Complaint stands disposed of. File be consigned to the registry.

Samir Kumar  
(Member)  
27.3.2019

Subhash Chander Kush  
(Member)