



**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

<b>PROCEEDINGS OF THE DAY</b>		<b>18</b>
Day and Date	Thursday and 19.05.2022	
Complaint No.	CR/450/2022 Case titled as Surender Kumar Vs Suncity Projects Private Limited	
Complainant	Surender Kumar	
Represented through	Shri Vishesh Garg Advocate	
Respondent	Suncity Projects Private Limited	
Respondent Represented	Shri Rajan Gupta Advocate	
Last date of hearing	10.03.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

**PROCEEDINGS/ORDER**

The present complaint has been filed on 08.02.2022 and the reply was received on 08.03.2022.

Succinct facts of the case are as under: -

Sr. No.	Particulars	Details
1.	Name of the project	Suncity Avenue – 76, Sector – 76, Gurugram, Haryana
2.	Unit No.	B- 2-1108, 635.08 sq.ft., 11 <sup>th</sup> floor
3.	HRERA Registration	78 of 2019 dated 23.12.2019
4.	DTCP License no.	34 of 2018 dated 31.05.2018
5.	Date of Allotment	24.02.2020

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016  
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण  
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16





**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR 450/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

		(As per page 18 of complaint)
6.	Date of BBA	Not executed
7.	Possession clause - 10	The developer proposes to offer possession of the said apartment within a period of <u>4 years from the date of approval of building plans or grant of environment clearance</u> , /consent if establishment from HSPCB, whichever is later
8.	Date of environment clearance	16.07.2019 (As per page 45 of reply)
9.	Date of building plans approval	30.08.2019 (As per page 45 of reply)
10.	Due date of possession	30.08.2023 (4 years from the date of <b>building plans i.e., 30.08.2019 at page no. 45 of reply</b> )
11.	Total Sale Consideration	Rs. 26,16,323/- (As per page 46 of reply)
12.	Amount Paid	As alleged by Complainant - Rs. 1,19,000/- (As per page 14 of complaint) As stated by respondent - Rs. 1,19,000/- (As per page 46 of reply)
13.	Occupation certificate	Not Obtained
14.	Offer of possession	Not offered
15.	Reminder Notices	1 <sup>st</sup> - 12.05.2020 (page 53 of reply)

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016  
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण

भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16





**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CA/450/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

		2 <sup>nd</sup> - 23.07.2020 (page 56 of reply) 3 <sup>rd</sup> - 17.09.2020 (page 59 of reply) Newspaper publication - (page 62&64 of reply dated 28.01.2021 and 02.02.2021 respectively)
16.	Cancellation Notice	03.06.2021 (Page 27 of complaint)

The complainant has sought following relief:

- 1. To withdraw the cancellation letter dated 03.06.2021 and to receive further installments for the unit in question through allotment letter dated 24.02.2020.**

The counsel for the respondent states at bar that after deducting an amount of Rs.1,12,424/- out of the earnest money of Rs.1,19,000/- paid by the allottee, the balance amount of Rs.6576/- has been refunded to the complainant allottee through RTGS on 07.04.2021 through ICICI Bank. Further after cancellation the unit has been allotted to third party after following the procedure prescribed in the Affordable Housing Policy, 2013 including publication in the newspaper. Now the question before the authority is whether the cancellation is valid and the procedure prescribed under the Policy is follow or not?

On consideration of the documents available on record and submissions made by both the parties, the authority observes that the complainant has allotted a unit in the project of the respondent on 24.02.2020. Thereafter, the respondent started raising demand through demand notice vide dated 12.05.2020, 23.07.2020 and 17.09.2020. The complainant as per the payment plan and statement of account has paid an amount of Rs. 1,19,000/- out of the total sale consideration of Rs. 26,16,323/- which constitutes 4.54 % of total consideration. As per the documents placed on record by the parties, the respondent published the defaulters list in two newspapers dated 28.01.2021 and 02.02.2021 but even after that complainant has not paid the amount.





**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/450/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

If the Applicant (successful allottee) fails to deposit the instalments within the time-period in terms of the Payment Plan as prescribed in the Allotment Letter and Apartment Buyer Agreement, a reminder may be issued to him for depositing the due instalments along with applicable interest plus taxes related thereto within a period of 15 days from the date of issue of such notice. If the Applicant still defaults in making the payment, the list of such defaulters may be published in a regional Hindi newspaper having circulation of more than 10,000 in the state for payment of due amount within 15 days from the date of publication of such notice, failing which allotment in relation to the Applicant (successful allottee) may be cancelled. In such case, an amount of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) plus all applicable charges, taxes (as per Policy as mentioned in para 4 above) shall be deducted by the Company. If cancellation of unit takes place after 30th September of the next financial year, GST paid and/or due upto preceding financial year along with cancellation charges and interest due etc. as per Affordable Housing Policy, 2013 and amendments thereto from time to time shall be deducted & the balance amount shall be refunded to the Applicant. Such apartments may be considered by the committee for offer to those applicants falling in the waiting list.

Accordingly the cancellation has been done as per the Affordable Housing Policy. Now the question remains is whether the refund has been made as per Policy or not?

Bare reading of clause 8 of allotment letter and clause 5 (iii)(i) of Affordable Housing policy 2013, provides that respondent has to return the balance amount paid by the complainant, after deducting Rs. 25,000/- but the respondent has transferred a sum of Rs. 6576/- via NEFT with UTR no. 333103881229 dated 07.04.2021 drawn on ICICI Bank towards refund of the deposit after deduction of Rs. 1,12,424/- as earnest money plus taxes in terms of buyer agreement (at page 28 of the complaint). It is clear that the refund of the due amount has not been made as per the Policy, therefore, it is directed to respondent to pay the balance amount which is Rs. 94,000/- and not Rs. 6576/- and also the respondent is also directed to pay interest @ 9.40% p.a. on the refundable amount from the date of cancellation i.e., 03.06.2021 till the date of its payment.





**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/450/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह. सिविल लाईंस. गुरुग्राम. हरियाणा

Matter stands disposed off. This order be uploaded. File be consigned to the registry.

V.I - 3

Vijay Kumar Goyal  
Member

Dr. KK Khandelwal

Dr. KK Khandelwal  
Chairman  
19.05.2022