



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

PROCEEDINGS OF THE DAY

8

Day and Date	Monday and 04.07.2022
Complaint No.	CR/3934/2020 Imperia Wishfield Gurugram Allottees Association V/S Imperia Wishfield Pvt. Ltd.
Complainant	Imperia Wishfield Gurugram Allottees Association
Represented through	Ms. Malvi proxy counsel for Shri Akshita Advocate
Respondent	Imperia Wishfield Pvt. Ltd.
Respondent Represented through	Shri Himanshu Singh Advocate
Last date of hearing	01.06.2022
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been filed on **03.11.2020** and the reply has not been received till now.

File has been received on transfer from Adjudicating Officer in view of the judgment dated 11.11.2021 passed by the Apex Court in the case bearing no. **SLP(Civil) No(s). 3711-3715 OF 2021** titled as **M/s Newtech Promoters and Developers Pvt Ltd Versus State of U.P. and Ors.,** and wherein it was held that as matters regarding refund and interest under section 18(1) are to be decided by the authority and matters regarding adjudging compensation to be decided by the Adjudicating officer.

Succinct facts of the case as per complaint and annexures are as under:

S.N.	Particulars	Details
1.	Project name and location	"Esfera Elvedor", Sector 37-C, Gurugram



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CA 3434/2020

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2.	Project area	2 acres
3.	Nature of project	Commercial Project
4.	RERA registered/not registered	Not registered
5.	DTPC License no.	47 of 2012 dated 12.05.2012
	Validity status	11.05.2016
	Name of licensee	M/s Prime IT Solutions Pvt. Ltd.
6.	Occupation Certificate details	Not obtained
7.	Certificate of registration	Registered vide no. HR-018-2019-03779 dated 25.06.2019 under Haryana Registration and Regulation of Societies Act, 2012
8.	Total number of members in the complainant association	67 members [page 45 of complaint]

Imperia Wishfield Gurugram Allottees Association, is a registered body in the above-mentioned project and has filed the present complaint against the respondent/builder seeking the following relief: -

- 1. Direct the respondent to refund the entire amounts deposited by the allottees/ members of the complainant association together with the prescribed rate of interest.**

The association of allottees filed the present complaint under section 31 of the Real Estate (Regulation and Development) Act, 2016 read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 for adjudication of the dispute and seeking the refund of the entire amount deposited by the allottees/ members of the association along with the interest at prescribed rate as the respondent has failed to deliver the possession of the



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allotted units on time as agreed in the buyers agreement separately between the parties.

But the case of the respondent is that the complaint has been filed by 67 members of the association out of them the respondent/builder has already settled several matters and is in progress to settle other matters also. Some of the allottees have also registered criminal case against the respondent in EOW cell and that case is still pending. Even some of the members of the complainant association filed individual complaints seeking almost the same relief before the authority and which was disposed off vide various orders dated 01.02.2019, 06.02.2019.

The authority is of the view that the complainant is an association of allottees and have filed the present complaint against the respondent/builder for seeking refund of the entire amount deposited by the allottees. Moreover, the authority is of the view that the cause of action to each member of complaint is individual one and for which separate complaint may be filed in the authority.

The complaint stands disposed of File be consigned to registry.


Vijay Kumar Goyal
Member


Dr. KK Khandelwal
Chairman
04.07.2022