



HARERA
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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		41
Day and Date	Thursday and 20.10.2022	
Complaint No.	CR/2318/2021 Case titled as Amardeep Singh and Mrs. Sonali Singh V/S Ireo Private Limited	
Complainants	Amardeep Singh & Mrs. Sonali Singh	
Represented through	None for the complainants	
Respondent	Ireo Private Limited	
Respondent Represented	Shri MK Dang Advocate	
Last date of hearing	26.08.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

Case has been called out but no one has appeared on behalf of the complainants.

The present complaint was filed on **11.06.2021** with the adjudicating officer and the reply on behalf of respondent was received on **31.08.2021**.

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.

The application filed in the form CAO with the adjudicating officer and on being transferred to the authority in view of the judgement quoted above, the issue before authority is whether the authority should proceed further without seeking fresh application in the form CRA for cases of refund along with prescribed interest in case allottee wishes to withdraw from the project on failure of the promoter to give possession as per agreement for sale. It has

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



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम, 23/8/2021

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been deliberated in the proceedings dated 10.5.2022 in CR No. 3688/2021 titled Harish Goel Versus Adani M2K Projects LLP and it is observed that there is no material difference in the contents of the forms and the different headings whether it is filed before the adjudicating officer or the authority.

Keeping in view the judgement of Hon'ble Supreme Court in case titled as M/s Newtech Promoters and Developers Pvt Ltd Versus State of U.P. and Ors. (Supra), the authority is proceeding further in the matter where allottee wishes to withdraw from the project and the promoter has failed to give possession of the unit as per agreement for sale irrespective of the fact whether application has been made in form CAO/ CRA. Both the parties proceeded further in the matter accordingly. The Hon'ble Supreme Court in case of Varun Pahwa v/s Renu Chaudhary, Civil appeal no. 2431 of 2019 decided on 01.03.2019 has ruled that procedures are hand made in the administration of justice and a party should not suffer injustice merely due to some mistake or negligence or technicalities. Accordingly, the authority is proceeding further to decide the matter based on the facts mentioned in the complaint and the reply received from the respondent and submissions made by both the parties during the proceedings.

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

S. N.	Particulars	Details
1.	Name and location of the project	"Ireo City Central", Sector 59, Gurgaon
2.	Nature of the project	Commercial Colony (Managed Serviced Apartments)
3.	Project area	3.9375 acres
4.	DTCP license no.	56 of 2010 dated 31.07.2010 valid upto 30.07.2020
5.	Name of licensee	SU Estates Pvt. Ltd.
6.	RERA Registered/ not registered	102 of 2017 dated 24.08.2017 valid upto 30.06.2020
7.	Unit no.	R1609, 16 th Floor

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		(annexure R 2 on page no. 54 of reply)
8.	Unit area admeasuring	1016.67 sq. ft. (annexure R 2 on page no. 54 of reply)
9.	Date of allotment letter	03.10.2012 (annexure R2 on page no. 54 of reply)
10.	Date of approval of building plan	05.09.2013 (annexure R-28 on page no. 84 of reply)
11.	Date of buyer's agreement	Not executed
12.	Date of environment clearance	12.12.2013 (annexure R-29 on page no. 87 of reply)
13.	Reminder for executing agreement	19.06.2013, 25.09.2013, 07.03.2014 (annexure R-7to R-9 on page no. 62-64)
14.	Reminders for payment	For Third Instalment: 31.03.2014, 21.04.2014 13.05.2014(Final notice) For Fourth Instalment: 13.05.2015, 08.06.2015 03.07.2015(Final notice) For Fifth Instalment: 09.11.2015, 02.12.2015 For Sixth Instalment: 25.01.2016, 18.02.2016 05.07.2016(Final notice)

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15.	Cancellation letter	23.01.2017 (page no. 82 of complaint)
16.	Due date of possession [possession clause taken from ABA annexed in Cr/1395/2021 of the same project] "The company proposes to offer the possession of the said Rental Pool Serviced Apartment to the allottee within a period of 42 months from the date of approval of building plans and/or fulfilment of the preconditions imposed thereunder. The allottee further agrees and understands that company shall additionally be entitled to a period of 180 days after expiry of the said commitment period to allow for unforeseen delays beyond the reasonable control of company."	05.03.2017 (calculated from the date of approval of building plans) Note: Grace Period is not allowed.
17.	Total sale consideration	Rs.1,51,94,757/- [as per payment plan on page no. 57 of reply]

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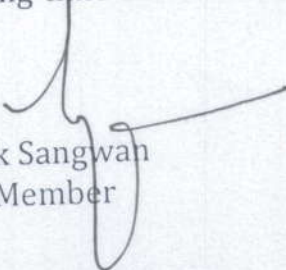
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18.	Amount paid by the complainants	Rs.29,23,772/- [as per receipts annexed on page no. 14-16 of complaint]
19.	Occupation certificate	Not obtained
20.	Offer of possession	Not offered

The counsel for the respondent states that the present complaint is time barred since the unit in question was cancelled on 23.01.2017 (Annexure R27 of the reply) and the limitation expired on 22.01.2020. The absence of the complainants also indicates that they are not keen to further proceed with the matter. The present is dismissed being time barred. File be consigned to the registry.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member

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