

<b>PROCEEDINGS OF THE DAY</b>		<b>94</b>
Day and Date	Tuesday and 06.12.2022	
Complaint No.	CR/4534/2022 Case titled as Navjot Kaur V/s Perfect Buildwell Private Limited.	
Complainant	Navjot Kaur	
Represented through	None for the complainant	
Respondent	Perfect Buildwell Private Limited.	
Respondent Represented	Ms. Ankur Berry Advocate	
Last date of hearing	06.09.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
<b>Proceedings</b>		
The present complaint has been received on 14.07.2022 and the reply was received on 22.11.2022.		
Succinct facts of the case are as under:		
S.N.	Particulars	Details
1.	Name of the project	Zara Aavaas, Sector 104, Dwarka Expressway, Gurugram.
2.	Allotment letter	03.03.2016 (page 44 of complaint)
3.	Apartment no.	04, floor 09, tower 19 admeasuring 635 sq. ft. plus 100 sq. feet (Balcony area) (page 44 of complaint)
4.	Date of builder buyer agreement	01.03.2016 (page 16 of complaint)
5.	Date of building plan approval	08.12.2014 (page 17 of complaint)
6.	Date of environmental clearance	09.03.2015 (page 17 of complaint)



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/4534/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

7.	Possession clause	<b>3. Possession</b> <i>3(1) Unless a longer period is permitted by the DGTCP or in the policy and subject to the force majeure circumstances as stated in clause 16 hereof, intervention of statutory authorities, receipt of occupation certificate and timely compliance by the Apartment Buyer(s) of all his/her/their obligations, formalities and documentation as prescribed by the Developer from time to time and not being in default under any part of this Agreement, including but not limited to timely payment of installments of the total cost and other charges as per the payment plan, stamp duty and registration charges, the Developer proposes to offer possession of the Said Apartment to the Apartment Buyer(s) within 4(four) years from the date of approval of building plans or grant of environment clearance, whichever is later.</i> <i>(Emphasis supplied)</i>
8.	Due date of possession	09.03.2019
9.	Total sale consideration	Rs. 25,90,000/- as per SOA dated 16.12.20219, page 59 of complaint)
10.	Paid up amount	Rs. 26,29,660/- as per SOA dated 16.12.20219, page 59 of complaint)
11.	Occupation certificate	04.12.2019 (page 28 of reply)
12.	Offer of possession	N/A
13.	Possession certificate dated	30.08.2020.(as alleged by the complainant on page 9 of complaint)

The complainant has sought following relief:

**1. Direct the respondent initiate registry of flat with in stipulated time.**

As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.



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The possession of the subject unit has already been offered after obtaining occupation certificate on 04.12.2019 and the same was taken by the complainant. The counsel for the respondent states at bar that conveyance deed of above unit has already been executed. ~~OR~~

2. **Direct the respondent to stop demanding illegal demand of VAT as respondent himself agreed that he registered under composition scheme and therefore issue VAT invoice at the rate of 1% under composition scheme respondent cannot charge VAT from the allottee.**
3. **The respondent not be allowed to deduct any other charges except electricity usage from electricity meter.**

The complainant alleged that the respondent has raised the demand for illegal charges in name of taxes, administrative charges, advance electricity consumption charges, holding charges. As per statement of account dated 16.12.2019 attached with offer of possession, it is evident that the respondent has charged such as administration charges, taxes, etc. (annexure P3, page 47 of complaint), the authority observes as under:

**i. Interest Free Security Deposit**

In response to the specific query the authority is of the view that the interest free security deposit is to be kept in a separate account which would be handed over to the association of allottees after the free maintenance period of the promoter expires. Accordingly, the promoter is directed to give details of the separate account to every allottee, and annual statement of deposit be also sent to them within 3 months of expiry of financial year.

**ii. Administrative charges**

In response to the specific query the authority is of the view that the administrative charges are as per earlier decision of administration on HUDA pattern, and these are to meet misc. expenses for getting the conveyance done in favour of the allottee. Although, the District Town Planner in response to CM Window complaint has disallowed the charges as there was no specific mention that these are for conveyance deed. Now as per clarification given by counsel for the complainant, the administrative charges are being raised for meeting misc. expenses for

getting the conveyance deed in favour of allottee and these are as per the practice allowed by the administration, and these are allowed.

**iii. Meter connection**

The meter connection charges are to be borne by the allottee accordingly, found to be in order

**iv. Advance electric consumption deposit**

This a security deposit and that too a meagre amount of Rs. 3,000/-, the authority finds no discrepancy in this demand.

**v. VAT**

The promoter has opted for composition scheme for the period 2014 to 2017 of scheme notified by Excise and Taxation department, Government of Haryana dated 24.09.2015. Accordingly, VAT is not chargeable from the allottee.

**vi. GST**

As decided in complaint *bearing no. 4031 of 2021 titled AS Varun Gupta Vs Emaar MGF*, it was decided that where due date of handing over of possession comes out to be after 01.07.2017, then the respondent can charge GST. The due date of handing over of possession comes out to be 09.03.2019 and the GST was enforced on 01.07. 2017. However, the demand be raised as per decision of National Anti-profiteering Authority (GST), New Delhi

**vii. Holding charges**

Holding charges would not be charged by the promoter at any point of time as per law settled by Hon'ble Supreme Court in civil appeal no. 3864-3899/2020.

The complainant is hereby directed to make the payments as per the above determination to the promoter.

**4. Direct the respondent to pay the cost of litigation and the cost towards the mental agony faced by the complainant.**

The complainant is claiming compensation in the present relief. The authority is of the view that it is important to understand that the Act has clearly provided interest and compensation as separate entitlement/right which the allottee can claim. For claiming compensation under sections 12,14,18 and section 19 of the Act, the complainant may file a separate



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complaint before Adjudicating Officer under section 31 read with section 71 of the Act and rule 29 of the rules.

Matter stands disposed off. File be consigned to the registry.

  
Sanjeev Kumar Arora  
Member

v.1 - 3  
Vijay Kumar Goyal  
Member  
06.12.2022