



**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		48
Day and Date	Tuesday and 04.10.2022	
Complaint No.	CR/613/2018/873/2021 Case titled as MRIDULA PARTI AND PARTHA SARATHI DE Vs MICROTEK INFRASTRUCTURES PVT LTD	
Complainant	MRIDULA PARTI AND PARTHA SARATHI DE	
Represented through	Shri Sukhbir Yadav Advocate	
Respondent	MICROTEK INFRASTRUCTURES PVT LTD	
Respondent Represented	Ms. Shriya Takkar Advocate Shri Parveen Mangla AR of the respondent	
Last date of hearing	25.08.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

### Proceedings

The present complaint has been received on 26.07.2018 and the reply was received on 18.10.2019. CRA has been filed by the complainant on 21.03.2022. 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 are as under:

S.N.	Particulars	Details
1.	Name of the project	Greenburg, Sec- 86, Gurugram

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





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हरियाणा भू-संपदा विनियमक प्राधिकरण, गुरुग्राम

CR/6/3/2018/813/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

2.	Project area	14.64 acres
3.	DTPC License no.	104 of 2010 dated 03.12.2010
		Valid up to:- 02.12.2020
	Name of licensee	Mr. Shiv Rattan & Mr. Mohinder Singh
4.	HARERA Registration no.	Not registered
5.	Unit no.	602, 6 <sup>th</sup> floor, Tower J [Page 19 of the complaint]
6.	Super area	1480 sq. ft. [Page 19 of the complaint]
7.	Date of allotment	20.05.2015 [Page 54 of the complaint]
8.	Date of buyer's agreement	21.05.2015 [Page 12 of the complaint]
9.	Possession clause	<b>11(a) of apartment buyer's agreement</b> The Project Developer based on its present plans and estimates and subject to all just exceptions endeavors to complete construction and offer possession of the Said Building/Said Apartment within <b>a period of Thirty Nine (39) months from the date of construction i.e., 1st October 2013 unless there shall be delay</b> or failure due to Force Majeure conditions including but not limited to reasons mentioned in clause 11(b) and 11(c) or due to failure of the Allottee(s) to pay in time the Total Price and other charges

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हरियाणा भू-संपदा विनियमक प्राधिकरण, गुरुग्राम

CR/613/2018/8-13/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

		and dues/payments mentioned in this Agreement of any failure on the part of the Allottee(s) to abide by all or any of the terms and conditions of this Agreement [Page 53 of complaint]
10.	Due date of possession	<b>01.01.2017</b> [Calculated from the date of construction i.e., 1st October 2013]
11.	Total sale consideration	Rs.1,28,09,000/- [Page 8 of the amended CRA]
12.	Amount paid by the complainant	Rs.40,16,977/- [Page 8 of the amended CRA]
13.	Occupation certificate	27.07.2017 [Page 58 of the reply]
14.	Offer of possession	14.07.2018 [Page 62 of the reply]

Part arguments heard.

The counsel for the complainant states that an arbitration award has been passed in this matter on 21.07.2020 and the same has been challenged in the Civil Court at Gurugram. He further states that as per section 79 of the Act, 2016, jurisdiction of Civil Courts to entertain any proceedings in respect of any matter which the authority or the Adjudicating Officer or the Appellate Tribunal is barred under the Act. He states that the present proceedings in the matter were initiated by filing a complaint on 25.07.2018 and therefore, the matter was pending with the Authority when the arbitration proceedings were initiated by the Arbitrator on 01.05.2019. Therefore, the matter will be decided by the authority as per provisions of the Act, 2016.

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भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण  
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हरियाणा भू-संपदा विनियमक प्राधिकरण, गुरुग्राम

CR/63/2018/873/2021

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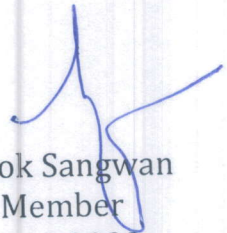
The counsel for the respondent states that notice of the present matter was issued on 23.08.2018. An arbitration award has already been passed in the matter which has been challenged in the Civil Court. Therefore, this authority may not adjudicate in the matter till the Civil Court disposed of the issue. The counsel for the respondent places on record orders of the NCDRC in similarly situated cases as claimed by the counsel for the complainant where the matters have been adjourned sine die on similar grounds.

Part arguments heard.

Reserved for orders on specific issue of parallel proceedings in two forums.

Matter to come up on 07.12.2022 for further proceedings.

  
Sanjeev Kumar Arora  
Member

  
Ashok Sangwan  
Member  
04.10.2022