

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 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 | "Versalia", Sector 67-A, Gurugram |
| 2. | Nature of the project | Residential Plotted Colony |
| 3. | Project area | 38.262 acres |
| 4. | DTCP license no. | 81 of 2013 dated 19.09.2013 valid upto 19.09.2019 |
| 5. | Name of licensee | Lord Krishna Infra Projects Ltd. and 13 others |



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

| | | |
|-----|------------------------------------|--|
| 6. | RERA Registered/ not registered | 154 of 2017 dated 28.08.2017 valid upto 31.08.2020 |
| 7. | Allotment Letter | 26.10.2013 (Annexure 5 at page 36 of complaint) |
| 8. | Unit no. | 4162, Ground Floor (Page 41 of the complaint) |
| 9. | Unit area admeasuring (super area) | 3333 sq. ft. (Page 41 of the complaint) |
| 10. | Date of Floor Buyer Agreement | 20.10.2014 (Page 40 of complaint) |
| 11. | Possession clause | 5. Possession of Floor <i>5.1. Subject to Clause 5.2 infra and further subject to all the buyers of the Floors in the Residential Colony naking timely payment, the Company shall endeavor to complete the development of Residential Colony and the Floor as far as possible within 36 months with an extended period of (6) six months from the date of execution of this Floor buyer agreement subject to the receipt of requisite building /revised building plans/ other approvals & permissions from the concerned authorities, as well as Force Majeure Conditions as defined in the agreement and subject to fulfillment of the Terms and Conditions of the Allotment, Certificate & Agreement including but not limited to timely payments by the Buyer(s), in terms hereof. The Company shall be entitled to extension of time for completion of construction of the Unit equivalent to the period of delay caused on account of the reasons stated above. No claim by way of damages/compensation shall lie</i> |

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

CR 158/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

| | | |
|-----|--------------------------------|---|
| | | <p>against the Company in case of delay in handing over possession of the Unit on account of the aforesaid reasons. However, if the Buyer(s) opts to pay in advance of schedule, a suitable discount may be allowed but the completion schedule shall remain unaffected. The Buyer(s) agrees and understands that the construction will commence only after all necessary approvals are received from the concerned authorities and competent authorities including but not limited to Environment & Forest</p> <p>(Emphasis supplied)</p> |
| 12. | Due date of possession | <p>20.04.2018</p> <p>(calculated as 36 months from the date of execution of Floor Buyer's Agreement plus 6 months of grace period as the same is unqualified)</p> <p>Note: Grace Period is allowed.</p> |
| 13. | Total sale consideration | <p>Rs. 1,92,32,400/-</p> <p>(As per payment plan at annexure 2 of BBA on page 71 of complaint)</p> |
| 14. | Amount paid by the complainant | <p>Rs. 67,45,105/-</p> <p>(As mentioned by complainant in CAO on page 19 and also confirmed by respondent on page 1 of written submissions)</p> |
| 15. | Surrender Letter | <p>15.02.2018</p> <p>(Page 82 of complaint)</p> |
| 16. | Occupation certificate | Not obtained |

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

CR 28/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

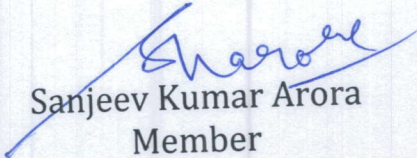
नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

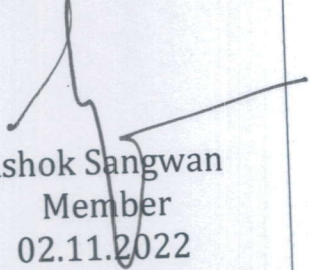
The counsels for the complainant as well as respondents admit that MoU was signed between the parties on 03.04.2019 for refund of an amount of Rs.97,46,016/- as full and final settlement towards the cost of surrender unit No.GF-4162 in lieu of all claims of the second party including allotment, refund, interest etc. However, the counsel for the complainant states that no amount has been paid in furtherance to the MoU. The counsel for the respondent agrees to refund the amount as per MoU minus any amount that has already been paid to the complainant in furtherance to the MoU. The counsel for the respondent further states that in case any interest is awarded to the complainant, the same may be exempted for the Covid period (as per the Hon'ble Supreme Court Moratorium).

Arguments heard.

Order reserved.

Matter to come up on 22.12.2022 for pronouncement of order.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member
02.11.2022