



**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. विभाग गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

**PROCEEDINGS OF THE DAY**

**40**

Day and Date	Tuesday and 21.02.2023
Complaint no.	CR/4837/2022 Case titled as Rajan Gupta and Alka Gupta V/s Emaar India Ltd.
Complainants	Rajan Gupta and Alka Gupta
Represented through	Shri Garvit Gupta Advocate
Respondent	3. Emaar India Ltd. 4. Gurgaon Greens Condominium Association
Respondent represented through	Shri J.K. Dang Advocate
Last date of hearing	27.10.2022
Proceeding recorded by	Naresh Kumari and HR Mehta

**Proceedings**

The present complaint has been received on 21.07.2022 and the reply was received on 27.10.2022.

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

Sr. No.	Particulars	Details
1.	Name of the project	Gurgaon Greens, Sector 102, Gurugram, Haryana
2.	Project area	13.531 acres
3.	Nature of the project	Group housing colony
4.	DTCP license no.	75 of 2012 dated 31.07.2012
	Valid till	30.07.2020
	Name of licensee	Kamdhenu Projects Pvt. Ltd. and

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

भू-संपदा (विनियामक और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण



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		another C/o Emaar MGF Land Ltd.
5.	HRERA registered/ not registered	Registered vide no. 36(a) of 2017 dated 05.12.2017 for 95829.92 sq. mtrs.
	HRERA registration valid up to	31.12.2018
	HRERA extension of registration vide	01 of 2019 dated 02.08.2019
	Extension valid up to	31.12.2019
6.	Unit no.	GGN-11-0202, 2 <sup>nd</sup> floor, tower no. 11 [annexure C6, page 53 of complaint]
7.	Unit measuring (super area)	1650 sq. ft.
8.	Provisional allotment letter dated	25.01.2013 [annexure C5, page 45 of complaint]
9.	Date of execution of buyer's agreement	26.03.2013 [annexure C6, page 51 of complaint]
10.	Possession clause	<p><b>14. POSSESSION</b></p> <p><b>(a) Time of handing over the Possession</b></p> <p>Subject to terms of this clause and barring force majeure conditions, subject to the Allottee having complied with all the terms and conditions of this Agreement, and not being in default under any of the provisions of this Agreement and compliance with all provisions, formalities, documentation etc., as prescribed by the Company, the Company proposes to hand over the possession of the Unit within <b><u>36 (Thirty Six) months from the date of start of construction.</u></b> subject to timely compliance of the provisions of the Agreement by the Allottee. The Allottee agrees and understands that the Company shall be entitled to a <b><u>grace</u></b></p>

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CR/483/2022

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नया पी.डब्ल्यू.डी. विभाग गृह, सिविल लाईन्स, गुरुग्राम, हरियाणा

		<u>period of 5 (five) months, for applying and obtaining the completion certificate/occupation certificate in respect of the Unit and/or the Project.</u> (emphasis supplied) [annexure C6, page 60 of complaint]
11.	Date of start of construction as per statement of account dated 29.06.2022 at page 83 of complaint	14.06.2013
12.	Due date of possession	14.06.2016 [Note: Grace period is not included]
13.	Total consideration as per statement of account dated 29.06.2022 at page 83 of complaint	Rs.1,00,47,678/-
14.	Total amount paid by the complainants as per statement of account dated 29.06.2022 at page 85 of complaint	Rs.1,00,47,681/-
15.	Occupation certificate	30.05.2019 [annexure R10, page 151 of reply]
16.	Offer of possession	20.06.2019 [annexure R11, page 154 of reply]
17.	Unit handover letter dated	18.11.2019 [annexure R14A, page 166 of reply]
18.	Conveyance deed executed on	17.12.2019 [annexure R15, page 170 of reply]
19.	Delay compensation already paid by the respondent for delay in handing over possession	Rs. 9,66,183/- [Rs.6,44,122/- (As per settlement agreement dated 25.09.2019) + 3,86,473/- (As per letter of offer of possession)]
20.	Settlement agreement executed between the complainants and the	25.09.2019

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CR/4837/2022

respondent on	
21. The complaint bearing no. 3230 of 2017 was filed by the allottee complainants before Hon'ble NCDRC, New Delhi and the same was disposed of in the terms of settlement agreement dated 25.09.2019 on	[annexure R12, page 159 of reply] 01.11.2019 [annexure R13, page 165 of reply]

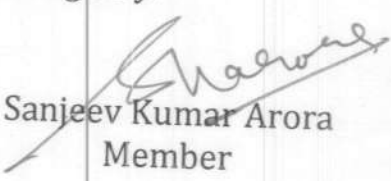
The counsel for the complainant states that settlement agreement was signed between the complainant and the respondent and in pursuance of which an amount of Rs.9,66,183/- was also received and the settlement was taken on record before NCDRC in CR No.3230 of 2017 and the said complaint was disposed off by Hon'ble NCDRC vide order dated 01.11.2019 in terms of settlement agreement dated 25.09.2019. However, the respondent promoter is demanding extra charges at the time of handing over of possession which are not part of BBA and were not part of complaint before NCDRC and is thus, seeking the relief as has been granted by the authority in CR No.4031 of 2019.

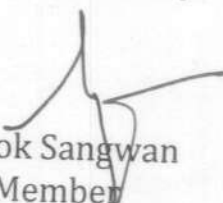
The counsel for the respondent states that all the dues demanded are part of offer of possession which was made on 20.06.19 after obtaining OC from the competent authority and much prior to the above settlement agreement reached between the parties before NCDRC and the order of NCDRC had been passed in terms of above settlement agreement and hence, the above complaint is not maintainable before this authority. More over the complainant has approached this authority by filing above complaint almost 3 years after execution of conveyance deed as well as amicable settlement reached between the parties without any external influence and conditions of above settlement cannot be agitated at this stage as has been held before Hon'ble Supreme Court in SLP No. 9758 of 2022.

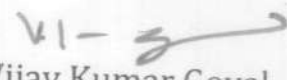
Arguments heard.

The authority of the considered vide that the present complaint is not maintainable.

Detailed order will follow. Matter stands disposed off. File be consigned to the registry.

  
Sanjeev Kumar Arora  
Member

  
Ashok Sangwan  
Member

  
Vijay Kumar Goyal  
Member

21.02.2023