



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		12
Day and Date	Tuesday and 01.08.2023	
Complaint No.	CR/5006/2019 Case titled as Emaar Mgf Land Limited Vs Sanjay Rana	
Complainant	Emaar Mgf Land Limited	
Represented through	Shri Ishaan Dang Advocate	
Respondent	Sanjay Rana	
Respondent Represented	Shri Shubham Chopra proxy counsel	
Last date of hearing	Remand back case	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
<p style="text-align: center;">Proceedings</p> <p>The present complaint was filed in 'Form CRA' on 27.11.2019 and the reply has been filed by the respondent on 21.09.2020.</p> <p>The present complaint was filed by complainant/promoter and the same was disposed of on 12.02.2021 and it was observed as under:</p> <p><i>"Reply has already been filed by the respondent.</i></p> <p><i>Since the matter is pending before the NCLT, the complainant is advised to pursue the matter before the said forum.</i></p> <p><i>In view of the pendency of the matter before the NCLT, the present complaint stands disposed. File be consigned to the Registry."</i></p> <p>Thereafter, the complainant/promoter has approached the Hon'ble HREAT by filing an appeal bearing no. 110 of 2021 and the said appeal was disposed of on 19.01.2023 with following observations:</p> <p><i>"9. Admittedly, vide impugned order dated 12.02.2021 the complaint preferred by the appellant/promoter had been dismissed by the learned Authority simply on account of the fact that the matter was pending before the Hon'ble NCLT and the appellant was advised to pursue the matter before the said forum. Since, that petition filed by the respondents/allottees before the Hon'ble NCLT has been got dismissed as withdrawn, so, in these circumstances, the matter is remitted to the</i></p>		



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learned Authority for adjudication of the present lis between the parties on merits.

10. Consequently, the present appeal is hereby allowed. The impugned order dated 12.02.2021 handed down by the learned Authority is set aside. The complaint is remitted to the learned Haryana Real Estate Regulatory Authority, Gurugram, for fresh trial/decision in accordance with law. The learned Authority is directed to dispose of the complaint preferred by the appellant/promoter expeditiously."

Thus, the present complaint is before the authority.

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

Sr. No.	Particulars	Details	
1.	Name of the project	Marbella, Sector 65 & 66, Gurugram, Haryana	
2.	Total area of the project	107.9 acres	
3.	Nature of the project	Residential plotted colony	
4.	DTCP license no.	97 of 2010 dated 18.11.2010	41 of 2011 dated 03.05.2011
	Validity of license	18.11.2022	03.05.2024
	Licensee	Foyer Propbuild Pvt. Ltd. and ors.	Foyer Propbuild Pvt. Ltd. and anr.
	Area for which license was granted	106.86 acres	1.063 acres
5.	Registered/not registered	Registered in two phases i. 307 of 2017 dated 17.10.2017 for 41.86 acres [Valid up to 16.10.2022] ii. 8 of 2021 dated 01.03.2021 (Phase II) for 66.059 acres [For 12.609 acres- Valid up w.e.f. 01.03.2021 till 31.12.2023 For 53.45 acres- Valid up w.e.f. 01.03.2021 till 31.12.2027]	



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6.	Occupation certificate granted on	03.06.2019 [Page 118 of complaint]
7.	Provisional allotment letter	18.02.2014 [Page 31 of complaint]
8.	Villa/Unit no.	MAR-BE-053 [Page 68 of complaint]
9.	Area of the villa/unit	2872.92 sq. ft. (super built-up area) on 267 sq. yd. plot [Page 35 of complaint]
10.	Date of execution of buyer's agreement	05.03.2014 [Page 33 of complaint]
11.	Possession clause	10. POSSESSION (a) Time of handing over the Possession <i>Subject to terms of this clause and subject to the Allottee(s) having complied with all the terms and conditions of this Agreement, and not being in default under any of the provisions of this Buyer's Agreement and compliance with all provisions, formalities, documentation etc. as prescribed by the Company, the Company proposes to hand over the possession of the Villa within 30 (thirty) months from Start of Villa Construction. The Allottee(s) agrees and understands that the Company shall be entitled to a grace period of 3 (three) months, for applying and obtaining the occupation certificate in respect of the Villa. (Emphasis supplied)</i> [page 45 of complaint]
12.	Date of of start of construction as per statement of account dated 07.06.2019 at page 125 of complaint	31.10.2014



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13.	Due date of possession	31.07.2017
14.	Consideration as per payment plan annexed with the buyer's agreement at page 68 of complaint	Rs.6,66,20,216/-
15.	Total consideration as per statement of account dated 07.06.2019 at page 125 of complaint and 14.08.2019 at page 76 of reply	Rs. 6,71,90,112/-
16.	Total amount paid by the respondents as per statement of account dated 07.06.2019 at page 126 of complaint and dated 14.08.2019 at page 77 of reply	Rs. 4,95,86,083/-
17.	Offer of possession	07.06.2019 [Page 119 of complaint]
18.	Email by the respondents-allottees intimating withdrawal from the project	02.09.2019 [Page 89 of reply]

Arguments heard.

The counsel for the complainant-promoter states that offer of possession already stands made to the respondent allottee in June 2019 after obtaining OC from the competent authority and has filed the above complaint before the authority for issuing directions to the respondent allottee to clear outstanding amount and to take possession. Further, earlier the respondent allottee has filed a case for refund before NCLT which was later-on withdrawn and the Hon'ble Appellate Tribunal has remanded back the case for passing a reasoned order after hearing both the parties.

The counsel for the respondent allottee states that there was delay in offering possession which as per BBA was to be handed over in July 2017 and after delayed offer, the termination notice to the promoter was sent on 02.09.2019 and on failure has moved before the NCLT. The case before Hon'ble NCLT has been withdrawn and now the matter for refund is pending before the Hon'ble



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CR/5008/2019

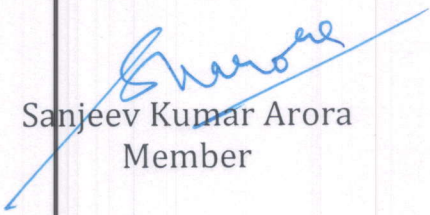
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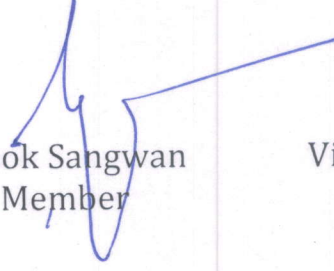
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NCDRC on the complaint of the respondent allottee and is fixed for hearing on 24.08.2023.

Both the counsel for the parties are directed to file written submissions within a period of 2 weeks after supplying a copy to each other.

Matter to come up on **10.10.2023** for final arguments.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
01.08.2023