



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

23

Day and Date	Tuesday and 28.02.2023
Complaint No.	CR/4984/2021 Case titled as Neha Gupta and Anirudh Sharma Vs Vatika Ltd
Complainant	Neha Gupta and Anirudh Sharma
Represented through	Shri Gaurav Rawat Advocate
Respondent	Vatika Ltd
Respondent Represented	S/Shri Venket Rao, Pankaj Chandola and Mayank Grover Advocates
Last date of hearing	28.10.2022
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 20.12.2021 and the reply was received on 21.07.2022.

Succinct facts of the case are as under:

S.N.	Particulars	Details
1.	Name of the project	"Emilia floor", Sector 83, Gurugram
2.	Project type	Residential plotted colony
	Allotment letter	18.09.2009 (page 48 of complaint)
3.	Unit no.	GF-22, G-10 admeasuring 781.25 sq. ft.
	Area changed at the time of offer of possession	929.02. sq. ft.
4.	Date of execution of buyer's	21.12.2009

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

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



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CR/4984/2021

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	agreement	(As per page 64 of complaint)
5.	Possession clause	<p>10.1 Schedule for Possession of the said independent dwelling unit</p> <p>That the Company based on its present plans and estimates and subject to all just exceptions, contemplates to complete construction of the said Building/ said apartment within a period of three years from the date of execution of this Agreement unless there shall be delay or there shall be failure due to reasons mentioned in Clauses (11.1), (11.2), (11.3) and Clause (38) or due to failure of Allottee(s) to pay in time the price of the said apartment unit along with all other charges and dues in accordance with the schedule of payments given in Annexure III or as per the demands raised by the Company from time to time or any failure on the part of the Allottee(s) to abide by any of the terms or conditions of this Agreement.</p>
6.	Due date of possession	21.12.2012 (Calculated as three years from date of execution of plot buyer's agreement)
7.	Total sale consideration	Rs.23,01, 657/- as alleged to have been accepted by the respondent at page No.3 of the reply
8.	Paid up amount	Rs.28,85,049/-



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CR No. 3965/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

9.	Offer of possession	23.05.2016 *Invalid as the OC of the project has not been received till now.
	Possession handing over	21.07.2016 (page 116-117 of complaint)
10.	Occupancy Certificate	Not obtained

The counsel for the complainant states at bar that possession of the unit was taken by the complainant on 21.07.2016 due to the fact that the respondent had asked to charge holding charges etc. in case the allottee does not take possession. Further draws attention of the authority towards clause 14.1 of BBA at page 81 of the complaint regarding maintenance of the said building/dwelling unit and due date of unit was 21.12.2012 as per BBA whereas the respondent has not yet obtained OC of the said unit. Further stated that on 14.09.2015 the unit of the allottee was changed by the respondent unilaterally which the allottee agreed and finally took possession on 21.07.2016.

The counsel for the respondent states that the possession of the unit was well accepted by the allottee although OC was not obtained but the allottee was enjoying the unit since 21.07.2016 and paying maintenance also. The counsel for the respondent draws attention towards decision of the authority in CR No.3965 of 2020 wherein it is held that complainant shall be entitled for DPC from the due date of possession till actual handing over of possession and further states that allottee took possession on 21.07.2016 as per his own free will and consent and satisfying himself with regard to the measurements, specifications and fitting installed therein and compliance by the developer of all other terms and conditions of BBA and further agreed that he has no complaint/grievance/claim whatsoever in respect thereof and further certify that the delay, if any, in the construction of the said unit had happened due to bonafide/force majeure reasons which allottee has fully understood and condoned and shall make any plan on account thereof in future. Further states that possession was taken by the allottee in somewhere



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CR/14984/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana


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

2016 and the present complaint has been filed on 20.12.2021 which is very much beyond limitation also, hence allottee is not entitled for DPC. However, as regards execution of conveyance deed, respondent agrees that there is a delay in execution of conveyance deed but it is because of delay in obtaining OC and as regards transfer of unit to third party, if any, the desired details/evidence can be put up before the authority in next 3 days as per statement of AR of the respondent company.

Counsel for the complainant confirms that the unit has been sold to a third party, hence wishes not to pursue the matter and wants to withdraw the complaint.

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


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member
28.02.2023