



PROCEEDINGS OF THE DAY		33
Day and Date	Tuesday and 23.07.2024	
Complaint No.	MA NO. 65/2024 in CR/5599/2022 Case titled as Arindam Kar VS Chirag Build Tech Private Limited	
Complainant	Arindam Kar	
Represented through	Shri Sunil Kumar Advocate	
Respondent	Chirag Build Tech Private Limited	
Respondent Represented	Shri Garvit Gupta Advocate	
Last date of hearing	29.05.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings-cum-order		
<p>The applicant/respondent filed an application dated 30.01.2024 w.r.t rectification of order dated 29.11.2023 passed by this Authority. The applicant/respondent submits in its application that the Authority has not allowed the grace period of 9 months on account of covid-19 while calculating the due date of possession.</p> <p><i>“That as per Clause 7.1 of the Agreement, the time period to handover the possession of the unit was subject to occurrence of the force majeure conditions. The due date of handover the possession of the unit without taking into consideration the force majeure conditions i.e., the Outbreak of corona virus and effects of COVID-19 pandemic, was 9th October 2021 i.e., 4 years from the date of grant of environmental clearance as per the provisions of Affordable Housing Policy, 2013. The fact that the said event was a force majeure condition and was beyond the reasonable control of the developers including the respondent was acknowledged by this Hon’ble Authority wherein the completion date, revised completion date and extended completion date, revised completion date and extended completion date was automatically extended by 6 months. Thereafter on account of second wave of COVID-19 pandemic Haryana Real Estate Regulatory Authority, Panchkula by way of resolution in its meeting held on 2nd August 2021 ordered for extension of 3 months from 1st April 2021 to 30th June 2021. It was observed that the second wave of COVID 19 pandmeic has adversely</i></p>		



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम/

MA/65/24/CR/5599/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी डब्ल्यू.डी विश्राम गृह सिविल लाईंस गुरुग्राम हरियाणा

hit all sections of the society and it being a case of natural calamity, the authority pursuant to section 37 of the RERA act, 2016 had decided to grant the said extensions. Accordingly, as per the said extension the due date to handover possession of the unit in question stood extended to 09.07.2022 (9 months from the original due date of 09.10.2021). However, despite such unforeseeable events which impacted the implementation of the project, the respondent being a customer oriented developer offered the possession of the unit to the complainant vide its letter dated 23rd february 2022 and the same has been observed by this Hon'ble Authority in Para 2 (16) of the order dated 29.1.2023. thus, it is very safe to say that there is no delay on the part of the respondent in completing the construction of the unit and offering the possession to the complainant much before the lapse of the due date of handing over of the possession. Hence, since there was no delay, the question of payment of any interest due to the same does not even arise. Therefore, the order dated 29.11.2023 is required to be modified to such an extent to hold that the interest as calculated in the order dated 29.11.2023 should be completely set aside/waived as no such unnecessary liability can be casted upon the respondent"

[Emphasis supplied]

The applicant/respondent also submits that the Authority in sub para (c) of para 30 of the said order directed that the respondent would be liable to pay interest @ Rs.10.75% p.a. for every month of delay from the due of possession i.e., 09.10.2021 till 23.04.2022 i.e., expiry of 2 months from the date of offer of possession and the arrears of such interest accrued from 09.10.2021 till date of order has to be paid within 90 days from the date of this order. Thus, on one hand, the Authority has limited the interest to be paid till offer of possession + 2 months and on the other hand, in the very next line, this Authority has stated that the interest is to be calculated till the date of order i.e., 29.11.2023 an additional 19 months mentioned in the order dated 29.11.2023, was recorded inadvertently and was never the intention of this Authority.

The authority observes that the issue regarding the due date of possession and delayed possession charges have already been decided by the authority in the detailed order dated 29.11.2023. Therefore, no further question w.r.t. due date of possession and delayed possession charges arises.

As far as rectification w.r.t para 30 (c) is concerned, the same is allowed being clerical error. The respondent is liable to pay interest @ Rs.10.75% p.a. for every month of delay from the due date of possession i.e., 09.10.2021 till 23.04.2022 i.e., expiry of 2 months from the date of offer of possession and the arrears of such interest accrued shall be paid within 30 days from the date of this order.



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

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Further, six months grace period is allowed in terms of HARERA notification No. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 23.03.2020. The counsel for the respondent assures to hand over the possession of the unit to the complainant within 10 days and the complainant shall take physical possession of the unit within next 10 days. No interest shall be charged from the complainant during the above said Covid period and the rate of interest shall be equitable on the delayed payments.

This order shall be read as part and parcel of the final order dated 29.11.2023. Rectification application stands disposed off. File be consigned to registry.

Ashok Sangwan
Member
23.07.2024