

**BEFORE THE HARYANA REAL ESTATE REGULATORY  
AUTHORITY, GURUGRAM**

**Complaint no. : 3405 of 2020**  
**First date of hearing: 12.12.2020**  
**Date of decision : 08.09.2021**

Anubhav Bansal  
**Both RR/o:** House no. 563, Sector 16 D, Chandigarh-  
160015

**Complainant**

Versus

Sunray Heights Private Limited  
**Regd. office:** 211 Ansal Bhawan, 16 K.G. Marg, New  
Delhi- 110001

**Respondent**

**CORAM:**

Shri Samir Kumar  
Shri Vijay Kumar Goyal

**Member  
Member**

**APPEARANCE:**

Complainant-in-person  
Smt. Srishti

Advocate for the complainant  
Advocate for the respondent

**ORDER**

1. The present complaint dated 13.10.2020 has been filed by the complainants/allottees in Form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions to the allottee as per the agreement for sale executed inter-se them.



**A. Unit and Project related details:**

2. The particulars of the project, the details of sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. No.	Heads	Information
1.	Name and location of the project	"63 Golf Drive", Sector 63A, Gurugram
2.	Nature of the project	Affordable Group Housing
3.	Project area	5.9 acres
4.	DTCP License	82 of 2014 dated 08.08.2014 valid till 07.08.2019
	Name of the licensee	M/s Sunray Heights Private Limited and Kiran
5.	HRERA registered/ not registered	<b>Registered vide registration no. 249 of 2017 dated 26.09.2017.</b> <b>Valid up to 25.09.2022</b>
6.	Application form	<b>01.06.2015</b> (As per page no. 17 of the complaint)
7.	Allotment letter	<b>11.01.2016</b> (As per page no. 28 of the complaint)
8.	Date of Builder buyer's agreement	Not executed
9.	Unit no.	G118 (As per page no. 28 of the complaint)
10.	Carpet Area	613.31 sq. ft.
11.	Payment plan	Time linked payment plan (As per page no. 30 of the complaint)
12.	Total consideration	Rs. 16,03,199/- (As per page no. 31 of complaint)
13.	Total amount paid by the complainants	Rs. 15,94,720/- (As per page no. 31 of complaint)
14.	Environment Clearance	16.09.2016 (As per page no. 06 of the reply)



15.	Due date of delivery of possession <b>Clause 7(a)</b> <i>(The company shall offer to handover the possession of the Apartment within a period of 4(four) years from the date of grant of sanction of Building plans for the project or the date of receipt of all the Environmental clearances necessary for the completion of the construction and development of the Project, whichever is later.)</i>	16.03.2021  (Calculated from date of environmental clearances i.e.; <b>16.09.2016</b> which comes out to be <b>16.09.2020 + 6 months</b> as per HARERA notification no. 9/3-2020 dated 26.05.2020 for projects having completion date on or after 25.03.2020)
16.	Offer of possession	Not offered
17.	Occupation Certificate	Not obtained

### B. Jurisdiction of the authority

3. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

#### B. I Territorial jurisdiction

As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

#### B. II Subject matter jurisdiction

The Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

**Section 11(4)(a)**



*Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*

*The provision of assured returns is part of the builder buyer's agreement, as per clause 15 of the BBA dated..... Accordingly, the promoter is responsible for all obligations/responsibilities and functions including payment of assured returns as provided in Builder Buyer's Agreement.*

**Section 34-Functions of the Authority:**

*34(f) of the Act provides to ensure compliance of the obligations cast upon the promoter, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.*


So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

**C. Maintainability of Complaint.**

4. As per clause 7(a) of the application form dated 01.06.2015, the possession of the subject unit was to be handed over by of 16.03.2021. Clause 7(a) of the application form provides for handover of possession and is reproduced below:

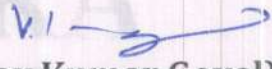
*"As per clause 7(a) : Subject to grant of Occupation certificate by the competent government authority and other situation beyond the control of the Company and subject to the Applicant performing all of his/her obligations under the terms of this Application form or the Apartment allottee's / Buyer's Agreement, the Company shall offer to handover the possession of the Apartment within a period of 4(four) years from the date of grant of sanction of Building plans for the project or the date of receipt of all the Environmental clearances necessary for the completion of the construction and development of the Project, whichever is later."*

5. The authority has gone through the possession clause of the agreement. As per clause 7(a) of the application form, respondent-builder proposed to handover the possession of the subject unit within 4 years from date of building plan approvals or environment clearance, whichever is later. Since no building plan approvals have been placed on record, so the due date of possession is to be calculated from date of environmental clearances i.e.; 16.09.2016, which comes out to be 16.09.2020. There is notification no. 9/3-2020 dated 26.05.2020 issued by HARERA, Gurugram for projects having completion date on or after 25.03.2020, providing grace period of 6 months on account of force majeure due to COVID-19 outbreak. Therefore, the due date of possession comes out to be 16.03.2021.
6. The present complaint was filed on 13.10.2020 i.e. before the due date of possession i.e.; 16.03.2021 as per application form dated 01.06.2015. No cause of action arises in favour of complainant before 16.09.2021, so the complaint being pre mature is dismissed.
7. Complaint stands dismissed.
8. File be consigned to registry.

  
**(Samir Kumar)**

Member

Haryana Real Estate Regulatory Authority, Gurugram

  
**(Vijay Kumar Goyal)**

Member

Dated:08.09.2021

JUDGEMENT UPLOADED ON 14.12.2021