

PROCEEDINGS OF THE DAY		30
Day and Date	Friday and 11.02.2022	
Complaint No.	CR/35/2021 Case titled as Tinky Jain VS Spaze Towers Private Limited	
Complainant	Tinky Jain	
Represented through	Shri Sukhbir Yadav Advocate	
Respondent	Spaze Towers Private Limited	
Respondent Represented through	Shri J.K. Dang Advocate	
Last date of hearing	07.12.2021	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings through V.C

Argument heard.

The counsel for the complainant has stated that as per clause 3(a) of the BBA, the developer proposes to handover the possession of the apartment within a period of 36 months (excluding a grace period of 6 months) from the date of approval of building plans or date of signing of this agreement whichever is later. The BBA was executed on 28.12.2011 and the building plans were approved on 06.06.2012. The building plans being approved later, the due date of possession is calculated from the approvals of building plans and as such due date of delivery of possession comes out to be 06.12.2015. In this case the respondent has offered the possession of the unit after due date of possession, hence the complainant is entitled for delayed possession charges.

Besides above, the complainant has raised the following issues which are as under: -

- Details of super area allotted to the allottee is not provided properly,
- Wherever there is increase in the super area, justification needs to be given

- iii. Basis for charging electrification charges is not given whether it is as per BBA or not?
- iv. There is no justification for levy of labour cess

The counsel for the respondent submitted that in similar nature of complaint bearing no. 1464 of 2019 titled as **Deepak Trikha versus Spaze Tower Pvt. Ltd.**, the authority has already decided this issue and due to force majeure reasons i.e. ban of construction by NGT or Hon'ble Apex Court or High Court, the construction work of the project could not be completed in time, zero period of 139 days was allowed while calculating the delayed possession charges and may be given in the instant cases as well.


During arguments it has been established that there is a delay on the part of the promoter to handover the possession to the complainant and the complainant is entitled for delayed possession charges.

As regards, other issues which will be decided after thorough perusal of documents and written submissions already made by both the complainant and respondent.

Order reserved for pronouncement of judgment.

Matter to come up on 15.03.2022.

V.I-5
Vijay Kumar Goyal
Member


Dr. KK Khandelwal
Chairman
11.02.2022