



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		8
Day and Date	Tuesday and 15.03.2022	
Complaint No.	E/1596/2021/2821/2019 Case titled as Rohit Patney VS Supertech Limited	
Complainant	Rohit Patney	
Represented through	Shri Garv Malhotra Advocate	
Respondent	Supertech Limited	
Respondent Represented	Shri Bhrigu Dhami Advocate with Shri Anil Kumar Jain Director of the JD company in person	
Last date of hearing	14.01.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings through VC

As per order dated 26.02.2020 of the authority, the DH was entitled to delayed possession interest @10.15% from the due date of possession i.e., 01.02.2019 till the offer of actual physical possession on the rest of the amount which he had paid from the pocket on account of raising loan as per provision of the Act. As per the said order, the complainant/DH has paid an amount of Rs.1,00,94,260/- is against total consideration of Rs.1,08,01,950/-. Despite lapse of a period of 90 days the JD/respondent has yet not complied with the order of the authority. Therefore, an execution petition was filed by the DH on 25.03.2021 for satisfaction of decretal amount. The authority referred the matter to the CA of the authority with regard to calculation of decretal amount. As per the report of CA dated 26.10.2021, total amount of Rs.18,15,699/- is due against the JD besides accrual of monthly interest of Rs.15,493 /-.

The respondent/JD has filed an objection on 21.01.2022 w.r.t. the calculation sheet as submitted by CA of the authority and the reply of the objection has been received on 09.03.2022 which is taken on record.

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016
Act No. 16 of 2016 Passed by the Parliament

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

भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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E/1596/2021/R821/2019

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As per the orders of the authority dated 16.12.2021, notice under Order XXI Rule 41(1) & 41(2) of CPC, 1908 for the oral examination of the JD and for filing of the list of assets on affidavit of the JD corporation through its managing director/whole time director/director/CFO(KMP)/company secretary was issued against Shri Ram Kishor Arora, managing director, Sh. GL Khera, Sh. Pradeep Kumar Goel, Sh. Anil Kumar Sharma, Shri Anil Kumar Jain, Brijesh Kumar Pandey and Bhawna Sadhwani on 14.01.2022 and the delivery of same was confirmed on 01.01.2022 and 03.01.2022 as per the report of the postal authorities. However, despite due service, none of them has turned upto comply with the direction of the authority.

There was certain clarification in respect of delayed possession charges calculation. The DPC is payable from the due date of possession on the amount that has been paid by the allottee to the promoter. In cases of pre-EMI where bank loan has been availed by the allottee and received by the promoter, promoter makes a commitment to pay pre-EMI on the amount received from the bank till offer of possession. Upto due date of possession, no delayed possession charges are leviable and promoter as per the agreement is obligated to pay pre-EMI upto due date of possession and his obligation continues to pay pre-EMI after due date of possession till handing over of possession. In case this amount which was paid by the bank to the promoter on behalf of the allottee shall be treated as the amount paid to the promoter by the allottee alongwith any other amount which has been paid by him other than through bank loan. The liability of the promoter to pay delayed possession charges accrues on this whole amount at the prescribed rate of interest from the due date of possession till offer of possession. As the pre-EMI is also interest component on the bank loan for which the obligation of payment is with the promoter as per the tripartite agreement. The promoter cannot be asked to pay both pre-EMI as well as DPC on this amount strictly going by the statute the promoter is obligated to pay DPC on the total amount received by him from the allottee against the unit may be from any source arranged by the allottee. Any payments of pre-EMI made by the



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5/15/2022/2821/2019

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promoter shall be deducted and rest of the amount is payable to the allottee. In case allottee has paid the pre-EMI, then he will get DPC on whole amount.

Both the parties are directed to appear before the CA of the authority today itself and the CA will recalculate the total decretal amount including pre-EMIs amount due towards the DH and submit the calculation sheet to both the parties today itself. JD is directed to deposit the post dated cheques as per re-calculation of the decretal amount on 21.03.2022. In case the JD fails to submit the requisite cheques as per the commitment of the director Shri Anil Kumar Jain appeared before the Authority then the DH may bring this fact to the notice of the authority so that for failure to obey the orders issued by the Authority under Order XXI Rule 41 (1) and (2) CPC 1908, the process as provided under Order XXI rule 41 (3) CPC shall be initiated.

Matter stands disposed of. File be consigned to the registry.

V.I - 3
Vijay Kumar Goyal
Member

CEMA
Dr. KK Khandelwal
Chairman
15.03.2022