



HARERA
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HARYANA REAL ESTATE REGULATORY AUTHORITY
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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

38

Day and Date	Thursday and 27.03.2025
Complaint No.	CR/1123/2024 Case titled as Sunita Yadav VS Pivotal Infrastructure Private Limited
Complainant	Sunita Yadav
Represented through	Complainant in person with Shri Deepak Kumar Advocate
Respondent	Pivotal Infrastructure Private Limited
Respondent Represented	Shri Siddharth Sejwal AR
Last date of hearing	12.12.2024
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 15.04.2024 and registered as complaint no.1123 of 2024 and reply on behalf of respondent was received on 12.12.2024.

Succinct facts of the case as per complaint and annexures are as under:

S.No.	Particulars	Details
1.	Name and location of the project	"Paradise" at sector 62, Gurgaon, Haryana
2.	Nature of the project	Affordable Group housing
3.	Project area	5.06875 acres
4.	RERA Registered/ not registered	Registered Vide no. 178 of 2017 dated 01.09.2017 Valid up to 29.05.2021
5.	Unit no.	0905, 09 th floor, Tower-T3 (As per page no. 24 of the complaint)
6.	Unit area admeasuring	566 sq. ft. (Carpet area) (As per page no. 24 of the complaint)
7.	Allotment letter	30.11.2016 (As per page no. 15 of the complaint)



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8.	Date of apartment buyer's agreement	22.07.2017 (As per page no. 22 of the complaint)
9.	Date of building plan approval	25.07.2016 (As per page no. 16 of the reply)
10.	Environmental clearance dated	28.07.2017 (As per page no. 20 of the reply)
11.	Possession clause	8.1 EXPECTED TIME FOR HANDING OVER POSSESSION <i>Except where any delay is caused on account of reasons expressly provided for under this Agreement and other situations beyond the reasonable control of the Company and subject to the Company having obtained the occupation/completion certificate from the competent authority(ies), the Company shall endeavor to complete the construction and handover the possession of the said Apartment within a period of 4 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, subject to timely payment by the Allottee of all the amounts payable under this Agreement and performance by the Allottee of all other obligations hereunder.</i> [Emphasis Supplied] (As per page no. 33 of the complaint)
12.	Due date of possession	28.01.2022 (including grace period of 6 months) [Note: Due date of possession calculated 4 years from the date of environmental clearance dated 28.07.2017, being later]



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13.	Total sale consideration	Rs.23,09,500/- (As mentioned in BBA at page no. 26 of the complaint)
14.	Amount paid by the complainant	Rs.24,81,066/- (As mentioned in demand letter dated 09.12.2024 as received installment and tax on page no. 39 of the reply)
15.	Letter/complaint to DTP (for unlawful practice in the project and demanding 20% of sale consideration with obtaining EC)	09.01.2017 (As per page no.54 of complaint)
16.	Reply to letter/complaint	16.02.2017 (As per page no.56 of complaint)
17.	Offer for carrying out the fit-out	09.11.2023 (As per page no.60 of complaint)
18.	Occupation certificate	19.09.2024 (As per page no. 31 of the reply)
19.	Offer of possession	21.09.2024 (As per page no.34 of reply)

The complainant has sought following reliefs:

- Pass an order under the provisions of RERA Act, 2016 and Rules thereunder, thereby directing the respondent to pay the **"delayed possession charges"** to the complainant for the period of delay occurred with effect from 26.07.2021 till actual physical handing over of the possession of the unit in question i.e., after grant of occupation certificate.
- Further **restraining respondent to claim delayed interest of Rs.1,80,870/-, Legal charges of Rs.17,700/- & up-gradation electricity charges of Rs.86,937/- from the complainant**, thereby directing it to withdraw the said unwarranted charges in its demand letter dated 09.11.2023, as the same are not supposed to be payable by the complainant.
- Also direct the respondent **to furnish the relevant records of submitting the VAT & CGST/SGST (as collected from the complainant)** before the concerned authorities.
- Any other relief which the Authority may deems fit in favour of complainant and against the respondent including directing the



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respondent to pay the **litigation cost of Rs.50,000/-** to the complainant.

The counsel for the complainant states that the complainant was allotted a unit bearing no.905, 9th Floor in Tower-T3 vide allotment letter dated 30.11.2016 and thereafter, a buyer's agreement was also executed on 22.07.2017 and as per clause 8.1 of buyer's agreement as well as Affordable Housing Policy, 2013, the possession of the allotted unit was to be delivered within four (4) 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, and therefore, the due date of possession is comes to 28.07.2021. The complainants already paid an amount of Rs.24,81,066/- (i.e., more than sale consideration as mentioned in BBA) and the possession of the unit was offered only on 21.09.2024 and hence the requesting for delayed possession charges till actual handing over of possession.

The counsel for the respondent states that the occupation certificate w.r.t the tower in which the unit of the complainant-allottee is situated was obtained on 19.09.2024 and thereafter, an offer for taking over the possession was issued to her on 21.09.2024. Further states that the Authority has already taken the due date of possession as 28.01.2022 while deciding number of complaint of the said project which includes grace period of six (6) months on account of Covid-19 as per the Notification dated 26.05.2020 issued by this Authority and the same may kindly be considered while deciding the due date of possession in the instant complaint.

The counsel for the complainant further states that vide demand letter dated 09.12.2024, the respondent is charging an interest amount of Rs.3,30,030/- on account of delay payment charges. However, the complainant has never delayed any payment and made all the payment on time as per the agreed payment plan. And requests for restrain the respondent from charging the illegal delayed interest charges from the complainant.

Further states that at the time of issuance of allotment letter complainant paid 5% of sale consideration and 20% of sale consideration was demanded by the respondent before obtaining environmental clearance, upon which the complainant cannot be held liable for any interest, as the said demand is not a valid demand and is in contravention of the provision of para no. 5(iii) of Annexure-A of the Affordable Housing Policy, 2013.

The complainant present in person states that previous costs imposed earlier is not yet paid by the respondent.



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Arguments heard.

As per the submissions and documents available on record. The Authority observes that there is an admitted delay in offering the possession of the allotted unit within stipulated time period. Therefore, The respondent is directed to pay delayed possession charges at the prescribed rate of interest i.e. 11.10% per annum from the due date of possession i.e. 28.01.2022 till offer of possession issued after obtaining of occupation certificate plus two months or actual handing over of possession, whichever is earlier.

Other reliefs shall be part of detailed order.

Detailed order will follow. Matter stands disposed off.

V. I. 3
Vijay Kumar Goyal
Member
27.03.2025