

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया प.डन-रू.उ. दिनांक 27.10.2022

PROCEEDINGS OF THE DAY		25
Day and Date	Thursday and 27.10.2022	
Complaint No.	CR/1232/2021 Case titled as KRISHAN KUMAR RADHU AND ANURADHA BATLA Vs EMAAR MGF LAND LIMITED	
Complainant	KRISHAN KUMAR RADHU AND ANURADHA BATLA	
Represented through	Shri Alok Kumar, Senior Advocate with Shri Amit Kumar, Advocate	
Respondent	EMAAR MGF LAND LIMITED	
Respondent Represented	Shri J.K.Dang, Advocate	
Last date of hearing	30.8.2022	
Proceeding Recorded by	H.R.MEHTA	
Proceedings The present complaint was filed in 'Form CAO' on 16.03.2021 and the reply has been filed by the respondent on 01.06.2021. Thereafter, the complaint has been filed in 'Form CRA' on 20.04.2022. File has been received on transfer from Adjudicating Officer in view of the judgment dated 11.11.2021 passed by the Apex Court in the case bearing no. SLP(Civil) No(s). 3711-3715 OF 2021 titled as M/s Newtech Promoters and Developers Pvt Ltd Versus State of U.P. and Ors., and wherein it was held that as matters regarding refund and interest under section 18(1) are to be decided by the authority and matters regarding adjudging compensation to be decided by the Adjudicating officer. Succinct facts of the case as per complaint and reply are as under:		
Sr. No.	Particulars	Details



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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

1.	Name of the project	Gurgaon Greens, Sector-102, Gurugram.
2.	Total area of the project	13.531 acres
3.	Nature of the project	Group Housing Colony
4.	DTCP license no.	75 of 2012 dated 31.07.2012
	Validity of license	30.07.2020
	Licensee	Kamdhenu Projects Pvt. Ltd. & Anr.
5	HRERA registered/ not registered	Registered vide no. 36(a) of 2017 dated 05.12.2017 for 95829.92 sq. mtrs.
	HRERA registration valid up to	31.12.2018
	HRERA extension of registration vide	01 of 2019 dated 02.08.2019
	Extension valid up to	31.12.2019
6.	Occupation certificate granted on	05.12.2018 [annexure R17, page 135 of reply]
7.	Provisional allotment letter	29.01.2013 [annexure R4, page 34 of reply]
8.	Unit no.	GGN-15-0301, 3 rd floor, tower no. 15 [annexure R5, page 47 of reply]
9.	Area of the unit	1650 sq. ft. (super area)
10.	Date of execution of buyer's agreement	10.05.2013 [annexure R5, page 44 of reply]
11.	Possession clause	14. POSSESSION (a) Time of handing over the possession <i>Subject to terms of this clause and barring force majeure conditions, subject to the Allottee having complied with all the terms and conditions of this Agreement, and not being in default under any of the provisions</i>

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 अंतर्गत गठित प्राधिकरण
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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		<i>of this Agreement and compliance with all provisions, formalities, documentation etc., as prescribed by the Company, the Company proposes to hand over the possession of the Unit within 36 (Thirty Six) months from the date of start of construction, subject to timely compliance of the provisions of the Agreement by the Allottee. The Allottee agrees and understands that the Company shall be entitled to a grace period of 5 (five) months, for applying and obtaining the completion certificate/ occupation certificate in respect of the Unit and/or the Project.</i> (Emphasis supplied) [page 60 of reply]
12.	Date of start of construction as per statement of account dated 13.04.2021 at page 99 of reply	14.06.2013
13.	Due date of possession	14.06.2016 [Note: Grace period is not included]
14.	Consideration as per payment plan annexed with the buyer's agreement at page 75 of reply	Rs.1,23,90,790/-
15.	Total consideration as per statement of account dated 13.04.2021 at page 99 of reply	Rs.1,27,75,359/-
16.	Total amount paid by the complainant as per the statement of account 13.04.2021 at page 99 of reply	Rs.1,27,41,722/-
17.	Offer of possession	12.12.2018 [annexure R8, page 102 of reply]
18.	Delay compensation already paid by the respondent in terms of the buyer's agreement as per	Rs.3,08,799/-

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	statement of account dated 13.04.2021 at page 100 of reply	
19.	Delay in handing over possession w.e.f. due date of handing over possession i.e., 14.06.2016 till date of offer of possession plus 2 months i.e., 12.02.2019	2 years 7 months 29 days

The complainant is seeking refund of the deposited amount of Rs. 1,22,99,375/- alongwith interest as per section 19(4) of the Act read with rule 15 of the rules.

Arguments heard.

Orders reserved.

Both the parties are directed to submit written submissions in the registry of the authority within a period of 15 days with an advance copy to each other.

Matter to come up on 21.12.2022 for pronouncement of orders.


Sanjeev Kumar Arora
Member


Vijay Kumar Goyal
Member
27.10.2022

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