



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

67

Day and Date	Thursday and 20.04.2023
Complaint No.	CR/1524/2022 Case titled as Sikha Hora Kamdar Vs IREO GRACE REALTECH PVT LTD
Complainant	Sikha Hora Kamdar
Represented through	Ms Aakash Lodha, Advocate
Respondent	IREO GRACE REALTECH PVT LTD
Respondent Represented through	Shri M.K.Dang, Advocate
Last date of hearing	25.01.2023
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been filed on 06.04.2022 and the reply on behalf of respondent was filed on 30.08.2022.

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

S. N.	Particulars	Details
1.	Name and location of the project	"The Corridors" at sector 67A, Gurgaon, Haryana
2.	Nature of the project	Group Housing Colony
3.	Project area	37.5125 acres
4.	DTCP license no.	05 of 2013 dated 21.02.2013 valid upto 20.02.2021
5.	Name of licensee	M/s Precision Realtors Pvt. Ltd. and 5 others



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6.	RERA Registered/ not registered	Registered Registered in 3 phases Vide 378 of 2017 dated 07.12.2017(Phase 1) Vide 377 of 2017 dated 07.12.2017 (Phase 2) Vide 379 of 2017 dated 07.12.2017 (Phase 3)
	Validity Status	30.06.2020 (for phase 1 and 2) 31.12.2023 (for phase 3)
7.	Unit no.	804,8 th Floor, C-11 Tower (page no. 51 of complaint)
8.	Unit area admeasuring	1295.78 sq. ft. (page no. 51 of complaint)
9.	Date of approval of building plan	23.07.2013 (annexure R5 on page no. 56 of reply)
10.	Date of allotment	12.08.2013 (annexure R-2 on page no. 50 of reply)
11.	Date of environment clearance	12.12.2013 (annexure R-6 on page no. 64 of reply)
12.	Date of buyer's agreement	10.07.2014 (page no. 48 of complaint)
13.	Date of fire scheme approval	27.11.2014 (annexure R-8 on page no. 76 of reply)
14.	Due date of possession	23.01.2017 (calculated from the date of approval of building plans) Note: Grace Period is not allowed.



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15. Termination notice	03.10.2018 (page no. 107 of complaint)
16. Possession clause	13. Possession and Holding Charges Subject to force majeure, as defined herein and further subject to the Allottee having complied with all its obligations under the terms and conditions of this Agreement and not having default under any provisions of this Agreement but not limited to the timely payment of all dues and charges including the total sale consideration, registration charges, stamp duty and other charges and also subject to the allottee having complied with all the formalities or documentation as prescribed by the company, the company proposes to offer the possession of the said apartment to the allottee within a period of 42 months from the date of approval of building plans and/or fulfillment of the preconditions imposed thereunder (Commitment Period). The Allottee further agrees and understands that the company shall additionally be entitled to a period of 180 days (Grace Period), after the expiry of the said commitment period to allow for unforeseen delays beyond the reasonable control of the Company. (Emphasis supplied)
17. Total sale consideration	Rs. 1,36,32,699/- [as per payment plan on page no. 43 of complaint] Rs. 1,48,72,213/- [as per statement of account on page no. 169 of complaint]
18. Amount paid by the complainants	Rs. 1,34,30,236/- [as per statement of account on page no. 169 of complaint]



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19.	Occupation certificate	27.01.2022 (annexure R-11 on page no. 81 of reply)
20.	Offer of possession	16.02.2022 (annexure R-12 on page no. 84 of reply)

The complainant has sought following relief:

1. **Refund the entire amount of Rs. 1,34,20,791/- paid by the complainant to the respondent since 25.03.2013.**
2. **Interest at the rate of MCLR +2% from the date of each payment till the date of refund.**

The complainant has booked the residential apartment in the project named as 'The Corridors' situated at sector 67 A for a total sale consideration of Rs. 1,36,32,699/- out of which it has made payment of Rs. 1,34,30,236/-. The complainant was allotted the above-mentioned unit vide allotment letter dated 12.08.2013. The apartment buyer agreement was executed between the parties on 10.07.2014.

As per possession clause 13 of the builder buyer agreement the possession of the unit was to be handed over within 42 months from the date of approval of building plans or fulfillment of preconditions imposed thereunder. The due date for handing over of possession comes out to be 23.01.2017 calculated from the date of approval of building plans.

The complainant on **03.10.2018** sent an email to respondent and stated that *"I would like to exit the investment. Kindly confirm the total amount payable back to me along with interest on the same and timeline by when you can issue the refund."* Further the complainant sent various emails on 22.11.2018, 04.02.2019, 25.04.2021, 09.05.2021, 20.06.2021, 08.10.2021, 26.07.2021 seeking refund of his paid-up amount.

The counsel for the complainant has placed on record a copy of the order passed by the authority in CR No.3876 of 2021 wherein full refund has been allowed with interest and requests for a similar relief for the above complaint as well since after the due date, the complainant-allottee has been requesting for refund vide various e-mails since 3.10.2018 followed by several reminders.



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However, the counsel for the respondent states that the above complaint in CR No.3876 of 2021 was filed before obtaining occupation certificate of the above project which has been received on 27.1.2022 while the instant complaint has been filed on 6.4.2022 after receipt of occupation certificate. The counsel for the respondent draws attention of the authority towards orders passed by DTCP as issued vide Memo No.17537 dated 7.10.2020 (annexure R-13) where it has been held that the delay is due to various litigations and hence requests that the complainant be directed to take the possession which has already been offered after obtaining occupation certificate. However, the counsel for the complainant starts that the Hon'ble Supreme Court in case of above respondent and in the same project, has already held the right of the complainant to seek refund with interest and he is seeking the same relief. (As per Para 31 of the orders).

Arguments heard.

Order reserved.

Matter to come up on 18.5.2023 for pronouncement of orders.

V.1 - 3
Vijay Kumar Goyal
Member
20.04.2023