



**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

<b>PROCEEDINGS OF THE DAY</b>		<b>11</b>
Day and Date	Thursday and 23.05.2024	
Complaint No.	CR/1528/2021 Case titled as HEMALI SHARMA VS HOMETOWN PROPERTIES PVT. LTD.	
Complainant	HEMALI SHARMA	
Represented through	Complainant in person with Shri Himanshu Juneja Advocate	
Respondent	HOMETOWN PROPERTIES PVT. LTD.	
Respondent Represented through	Shri Gulshan Sharma Advocate	
Last date of hearing	25.04.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

### **Proceedings**

The present complaint was filed on 31.03.2021 and reply on behalf of respondent was received on 19.10.2022.

On 06.10.2023, the counsel for the complainant was filed an application for amendment of relief sought. The respondent has failed to file response if any of the application for amendment of relief sought.

On 29.02.2024, the respondent was restrained from creating any third-party rights against the unit of the complainant.

On last date of hearing i.e., 25.04.2024 The counsel for the respondent states that occupation certificate in respect of unit has been received and the respondent wishes to explore the possibility of amicable settlement including handing over of possession as offer of possession already stand made and requests for one week time for filing of reply to the amended relief sought by the complainant. It was the last opportunity and no further adjournment shall be allowed as the complaint is pending since 2021 and authority has already



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taken a view in similar case bearing No.7362/2022 and the complainant allottee has already been granted DPC and is requesting for relief in the similar terms. The rate of interest to be paid by the complainant shall be on equitable basis for the delayed payment i.e. rate on which the allottee is to be paid for delayed offer of possession.

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

S. No.	Particulars	Details
1.	Name and location of the project	"Oodles Skywalk", Sector 83, Gurugram
2.	Unit no.	G-116, Ground floor (As per BBA on page 23 of complaint)
3.	Unit area admeasuring (super area)	252.95 sq. ft. (As per BBA on page 23 of complaint)
4.	Allotment Letter	19.03.2014 (Page 39 of reply)
5.	Date of execution of buyer's agreement	01.10.2014 (As per BBA on page 21 of complaint)
6.	Possession Clause	38. The "Company" will, based on its present plans and estimates, contemplates to offer possession of said unit to the Allottee(s) within <b>36 months (refer d. 37 above) of signing of this Agreement or within 36 months from the date of start of construction of the said Building whichever is later</b> with a grace period of 3 months, subject to force majeure events or Governmental action/inaction.
7.	Date of start of construction	26.03.2014 (As per demand letter dated 12.01.2018 on annexure R-4)
8.	Due date of possession	<b>01.10.2017</b> (Calculated as 36 months from date of execution of BBA i.e., 01.10.2014 as the same is later)



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9.	Sale consideration	Rs.32,93,409/- (As per BBA on page 23 of complaint)
10.	Amount paid by the complainant	Rs.17,11,931/- (Page 81 of reply)
11.	Reminder Letters	21.02.2018, 20.03.2018 (Page 71-72 of reply) 05.05.2018, 25.05.2018, 30.06.2018 (Page 74-76 reply) Final Reminder: 31.07.2018 (Page 77 of reply) 22.10.2018 (Page 79 of reply) Final Reminder: 16.01.2019 (Page 80 of reply) Final Opportunity: 30.05.2019 (Page 81 of reply)
12.	Cancellation Letter	05.08.2019 (Page 82 of reply)
13.	Occupation certificate	Not annexed
14.	Offer of possession	Not offered

The complainant contends that he had paid an amount of **Rs.18,34,243/-** vide cheque bearing no. 06772. The complainant also submits that the cheque was also encashed by the respondent, but no receipt was given to the complainant of **Rs.35,46,174/-** as stated by the complainant.

The counsel for the complainant states that earlier the complainant had paid Rs.17,11,931/- only and various reminders were sent to the complainant to make the payment from 21.2.2018 to 30.5.2019 and due to non-payment the unit was cancelled on 05.8.2019.

The counsel for the respondent states that the complainant had paid Rs.17,11,931/- till 2017 in three instalments, thereafter, the complainant stopped the payment deliberately. The respondent had issued various reminders to the complainant for making payment which he was supposed to



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pay by way of construction linked plan. Due to nonpayment the unit was cancelled on 05.8.2019. Thereafter the complainant has made payment of Rs.18,34,243/- on 10.2.2020 along with interest of Rs.7,35,176/- and since then no payment has been made despite the fact that the project stands completed and the respondent has applied for OC.

Argument heard.

Order reserved.

Both the counsels for the parties are directed to file written submissions within a period of 15 days with an advance copy to each other. The respondent shall also file calculation sheet adjusting the delay possession interest as well as the interest due towards the allottee qua the unpaid amount. The rate of interest will be equitable i.e. both the parties are liable to pay interest @ 10.85% per annum.

Matter to come up on **18.07.2024** for final arguments/pronouncement of order.

V.1-3  
Vijay Kumar Goyal  
Member  
23.05.2024