



PROCEEDINGS OF THE DAY

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Day and Date	Thursday and 12.09.2024
Complaint No.	CR/1557/2023 Case titled as Sanjay Kumar Shukla and Sudha Shukla VS Vatika Limited
Complainant	Sanjay Kumar Shukla and Sudha Shukla
Represented through	Shri Kanish Bangia Advocate
Respondent	Vatika Limited
Respondent Represented	Sh. Vankat Rao Advocate and Shubham Mann, Advocate
Last date of hearing	30.05.2024
Proceeding Recorded by	Mahavir Sharma and Manju Bala

Proceedings

The present complaint has been received on 20.04.2023 and the reply was received on 15.12.2023.

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

S. N.	Particulars	Details
1.	Name and location of the project	"EMILIA by Vatika India Next" at Sector-82, 82A, 83, 84 & 85 Gurugram.
2.	Project area	182 Acres
3.	Nature of Project	Residential Complex
4.	DTCP license no. and validity status	113 of 2008 dated 01.06.2008 Valid upto 31.05.2018
5.	Name of Licensee	M/s Buzz Technologies Pvt. Ltd. & Others.
6.	Rera registered/ not registered and validity status	Registered (for Vatika India Next Phase-II) Vide no. 36 of 2022 dated 16.05.2022 Valid upto 31.03.2029



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CR/1557/2023

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

7.	Unit No.	HSG-014A-Floor no.1-Plot no.38-2 nd , St-Scetor-83E-Vatika India Next (page 111 of complaint)
8.	New Unit No.	Plot no.38, Emilla, FF, ST. 83E-2, Sec.83E, VIN. (As per addendum agreement at page 113 of complaint)
9.	Unit area admeasuring	781.25 sq. ft. (page 78 of complaint)
10.	Increase in super area (by 18.43%)	925.23 Sq. ft. (page 111 of complaint)
11.	Allotment letter	22.11.2010 (page 72 of complaint)
12.	Date of buyer agreement	05.01.2011 (page 75 of complaint)
13.	Addendum to the buyer's agreement	24.07.2013 (page 113 of complaint)
14.	Possession clause	10.1 Schedule for Possession of the said independent dwelling unit <i>"That the company based on its present plans and estimates and subject to all just exceptions, contemplated to complete construction of the said building/said independent dwelling unit within a period of three (3) years from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in clause (11.1), (11.2), (11.3) and Clause (38) or due to failure of allottee(s) to pay in time the price of the said independent dwelling unit along with all other charges and dues....."</i> (Empasis Supplied)
15.	Due date of possession	05.01.2014 (Note: Calculated from the date of execution of buyer's agreement)



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16.	Total Sale Consideration	Rs.22,06,521/- for (781.25 sq. ft.) (page 78 of complaint) And Rs.26,38,259/- for (925.23 sq. ft.) (page 114 of complaint)
17.	Amount paid by complainant	Rs.7,72,652/- (As mentioned in para 2 of termination letter for BBA at page 114 of complainant)
18.	Permission to Mortgage (in favor of HDFC Ltd.)	21.02.2011 (page 109 of complaint)
19.	Intimation for area change and numbering system of independent floors	10.07.2013 (page 111 of complaint)
20.	Occupation certificate	Not obtained
21.	Offer for possession	Not offered
22.	Termination Letter (As the company is unable to deliver the unit due to uncertain backdrops)	06.11.2018 (page 114 of complaint)

The complainant has sought following relief:

1. To order the respondent to refund the entire amount of Rs.7,72,652/- along with the prescribes rate of Interest@10% p.a.
2. To order the respondent to pay interest on the entire amount paid by the complainant as per the rate as specified under the act of 2016.
3. Restrain the respondent from raising any fresh demand with respect to the unit allotted to the complainants.
4. Restrain the respondent from creating any third-party rights in the said property till the time the entire amount along with interest is refunded.
5. Restrain the respondent from cancelling the allotment till the time the entire amount paid by the complainant is refunded with interest.

The counsel for the complainant states that despite letter for termination of BBA conveyed by the respondent vide letter dated 06.11.2018(Annexure C-12). The amount has not yet been refunded despite assurance to return the principal amount of Rs.7,72,652/- with interest at the rate of 6% per annum till 05.11.2018 and hence, requests for the refund of the amount along with interest from the date of payment. The multiple emails after termination of BBA by respondent are annexed which were issued to respondent for refund, which is not yet made.



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The counsel for the respondent states that due to non-availability of the unit the termination intimation was sent on 06.11.2018 and refund could not be made till date and interest may be at the most considered from 06.11.2018 only.

The counsel for the complainant draws attention towards Section 18 of the Act. And states that as per section 18 it clearly says that if the promoter fails to complete or is unable to give possession of an apartment, plot or building, he shall be liable to return the amount received by him in respect of the unit along with interest.

Arguments heard.

Order reserved.

Detailed order will follow.

V.1-3

Vijay Kumar Goyal

Member

12.09.2024