



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

57

Day and Date	Friday and 18.11.2022
Complaint No.	CR/1607/2022 Case titled as Lalit Kumar Nain Vs Aster Infrahome Private Limited
Complainant	Lalit Kumar Nain
Represented through	Shri Sunil Kumar Nehra Advocate
Respondent	Aster Infrahome Private Limited
Respondent Represented	Shri Shanker Wig Advocate
Last date of hearing	17.08.2022
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 06.05.2022 and the reply on was received on 29.08.2022.

Succinct facts of the case as submitted in the complaint and reply are as under:

S.N.	Particulars	Details
1.	Name of the project	"Green Court", Sector-90, Gurugram
2.	Project type	Affordable group housing project
3.	Unit no.	0903 on 9 th floor, tower J [As per page no. 20 of the complaint]
4.	Unit area admeasuring	Carpet area- 590 sq. ft. Balcony area- 100 sq. ft. [As per page no. 20 of the complaint]
5.	Date of allotment	Not provided on record

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 अर्तगत गठित प्राधिकरण

भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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6.	Date of flat buyer agreement	16.02.2016 [As per page no. 18 of the complaint]
7.	Possession clause	Clause 8(a) <i>Subject to the force major circumstances, intervention of statutory authorities, receipt of occupation certificate and Allottee having timely complied with all its obligations, formalities or documentation, as prescribed by Developer and not being in default under any part hereof, including but not limited to the timely payment of installments of the other charges as per the payment plan, Stamp Duty and registration charges, the Developer proposes to offer possession of the Said Flat to the Allottee within period of 4(four) years from the date of approval of building plans or grant of environment clearance, whichever is later (hereinafter referred to as the "Commencement Date.")</i>
8.	Building plan approvals	22.10.2014 [As per complaint no. 3244 of 2021 titled as Deep Chand Vs Aster Infrahome Private Limited]
9.	Environment clearance dated	22.01.2016 [As per page no. 38 of reply]
10.	Consent to establish	06.05.2016 [As per page no. 49 of the reply]
11.	Due date of possession	22.01.2020

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CR 11/601/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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		[Calculated from date of environment clearance i.e.; 22.01.2016 being later]
12.	Payment plan	Time linked payment plan
13.	Total sale consideration	Rs. 24,10,000/- [As per page no. 20 of the complaint]
14.	Amount paid	Rs. 25,14,944/- [As per customer ledger dated 19.09.2020 on page no. 17 of the complaint]
16.	Occupation certificate	Not obtained [Applied on 04.08.2021]
17.	Offer of possession	Not offered

The counsel for the complainant states that even if four years period is counted from the date of environment clearance, the due date of possession comes out to be 22.01.2020 and the complainant is yet to be handed over or offered the unit despite having paid the total consideration amount alongwith interest and hence is requesting for grant of delay possession charges @ 15% per annum which has been levied by the promoter from the complainant and hence the complainant is also entitled for the same rate of interest, in view of clause 5 (iii) (b) of the Haryana Affordable Housing Policy 2013 of the State Government.

The counsel for the respondent states that the OC for the above project has been obtained by the promoter and that a civil suit is pending before the Hon'ble Civil Judge, Gurugram and is fixed for orders on 05.12.2022 and hence seeks a short adjournment for placing on record the copy of OC as well as the orders of Hon'ble Civil Judge. The counsel for the respondent further states that Hon'ble Civil Judge has considered the due date of possession as November, 2021 as per the interim order passed by the Civil Court, Gurugram.

However, the counsel for the complainant states that the complainant allottee is not a party to the above suit and hence order if any, are not binding on the above complainant who has come before the authority for seeking the

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CR/1687/2022

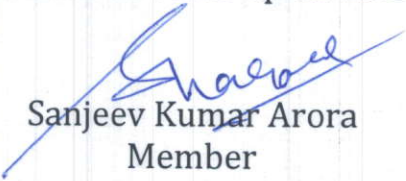
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relief as per statutory entitlement under Act, 2016. Further Section 79 of the Act, 2016 specifically provides that no civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the authority or AO or Appellate Tribunal is empowered by or under this Act to determine.

The counsel for the respondent is directed to file copy of occupation certificate alongwith above said documents at least two weeks before the date of hearing after supplying a copy to the complainant.

Matter to come up on 20.12.2022 for further proceedings.


Sanjeev Kumar Arora
Member


Vijay Kumar Goyal
Member
18.11.2022