PROCEEDINGS OF THE DAY	34
Day and Date	Wednesday and 22.11.2023
Complaint No.	CR/1698/2023 Case titled as Prerna Ramawat and Devender Saini and Kanta Sini VS NEO Developers Private Limited
Complainant	Prerna Ramawat and Devender Saini and Kanta Sini
Represented through	Shri Rajinder Singh Advocate
Respondent	NEO Developers Private Limited
Respondent Represented through	Shri Venket Rao, Ms. Ankita Saikia and Shri Gunjan Kumar Advocate
Last date of hearing	20.09.2023
Proceeding Recorded by	Naresh Kumari

Proceedings

The present complaint was filed on 27.04.2023 and the reply received on 04.10.2023.

The complaint has been filed for seeking payment of balance assured return, quashing of subsequent VAT demand, penalty charges with interest as per RERA Act and handing over of possession after completing the project in which the unit of the allottee is situated.

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

S. N.	Particulars	Details
1.	Name and location of the project	"Neo Square", Sector 109, Gurugram

2.	Nature of the project	Commercial
3.	Project area	3.06 acres
4.	DTCP License and validity	102 of 2008 dated 15.05.2008
5.	RERA Registered/ not registered	Registered vide 109 of 2017 dated 24.08.2017 valid upto 23.08.2021
6.	Unit no. (Restaurant)	08, 3rd floor (As per BBA on page 45 of complaint)
7.	Unit area admeasuring (super area)	250 sq. ft. (As per BBA on page 45 of complaint)
8.	Date of buyer's agreement	07.01.2015 (page 40 of complaint)
9.	Date of MoU	25.12.2014 (page 19 of complaint)
10.	Possession clause	***Clause 3 of MoU:*** "The company shall complete the construction of the said building/complex, within the said space is located within **36 months from date of execution of this agreement or from the start of construction, whichever is later** and apply for grant of completion/occupancy certificate.
11.	Due date of possession	25.12.2017 (Calculated as 36 months from date of execution of MoU)

12.	Basic sale consideration	Rs. 12,75,000/- (As per MoU on page 23 of complaint)
13.	Amount paid by the complainant	Rs. 15,10,452/- (As per SOA on page 92 of reply)
14	Assured return paid	Rs.6,34,500/- (As per SOA on page 92 of reply)
15.	First lease deed and addendum	24.07.2020 (page 93 of complaint)
16.	Lease assignment request	01.10.2020 (page 110 of reply)
17.	Reminder letter for signing the lease assignment form	10.12.2020 (page 111 of reply)
18.	Occupation Certificate	Not obtained
19.	Offer of possession	Not offered

The counsel for the complainant states that the complainant had made payment of full amount of consideration on the date of signing of the MoU with the assurance that the assured return amount will be paid to the complainant regularly on monthly basis till the first lease of property after completion of the project. However, a communication dated 18.12.2019 was received from the respondent in which it was stated that they are in the process of applying for occupation certificate and further that in view of RERA guidelines, 70% of the amount received from the sale of real estate project is required to be deposited in a separate account to cover the cost of construction and land cost only. Owing to the restriction being imposed upon the respondent, it would become illegal for them to withdraw the funds from the bank account towards the monthly assured return and the respondent is left with no other option but to adjust the payments towards monthly interest at the time of possession. The counsel for the complainant further states that vide letter dated 30.03.2017, a subsequent demand for payment of VAT amounting to Rs.69,675/- was made and also paid by the complainant. The due date for handing over of possession was within 36 months from the date of commencement of construction. The commencement of construction to the knowledge of the complainant was 2015 and the due date of possession was 2018. The project is yet not complete.

The counsel for the respondent states that the matter regarding jurisdiction of this authority w.r.t payment of assured return has been challenged before the Hon'ble High Court of Punjab and Haryana in CWP No.16896-2023 which is listed for hearing today and is clubbed with CWP No.26740-2022 titled as *Vatika versus Union of India* and the matter may not be decided till the issue is finally adjudicated by the Hon'ble High Court. The counsel for the respondent states that his right for arguments on merits may be reserved.

Part arguments heard.

Matter to come up on **28.02.2024** for further arguments.

Ashok Sangwan
Member
22.11.2023