



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		8
Day and Date	Tuesday and 25.07.2023	
Complaint No.	CR/1707/2019 Case titled as Vishakha Bist Vs Oasis Landmarks Llp	
Complainant	Vishakha Bist	
Represented through	Shri Ashish Sardana AR in person	
Respondent	Oasis Landmarks Llp	
Respondent Represented through	Shri Kapil Madan and Saurabh Gaba Advocates	
Last date of hearing	23.05.2023	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint was filed on 29.04.2019 and the reply on behalf of respondent has been received on 17.02.2021.

Vide order dated 13.09.2021, the present complaint was disposed of by the adjudicating officer passed the following directions: -

1. As stated earlier, learned counsel for complainant submitted categorically that his client simply wants withdrawal from the project and refund of her amount, in view of said notification. The complaint, in hands, is thus allowed. Respondent is directed to refund amount paid by complainant till now. The same may deduct upto 10% of total sale consideration, according to notification mentioned above. As respondent failed to adhere to the directions of Harera, Gurugram, the same is directed to pay interest on said amount, @ 9.50% p.a. from the date of said notification i.e., 05.12.2018, till its realization of amount. The respondent is also burdened with cost of litigation of Rs.50,000/- to be paid to the complainant.

Thereafter, the complainant/applicant filed an appeal against the order dated 13.09.2021, before the Haryana Real Estate Appellate Tribunal, Chandigarh. The said appeal was disposed of vide order dated 19.09.2022 with a direction



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to the authority for fresh decision of the compliant in accordance with law. The parties are also directed to appear before the authority, Gurugram on 13.10.2022.

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

Sr. No.	Particulars	Details
1.	Name of the project	Godrej Icon (Iconic Tower), Sector 88A and 89A, Gurugram
2.	Total area of the project	9.359 acres
3.	Nature of the project	Group Housing Project
4.	DTCP license no.	85 of 2013 dated 10.10.2013 Valid upto 09.10.2024
	Licensee	Oasis Buildhome Pvt. Ltd.
5.	HRERA registered/ not registered	Registered vide 54 of 2017 dated 17.08.2017
	HRERA registration valid up to	valid upto 30.04.2020
6.	Occupation certificate granted on	29.03.2019 for towers A to E and EWS BLOCK
7.	Provisional allotment letter	28.10.2015
8.	Unit no.	D0503, 5 th floor, tower- D [Page 33 of complaint]
9.	Area of the unit	1779 sq. ft. (Carpet area)

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण



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10.	Date of execution of buyer's agreement	11.12.2015 [Page 38 of complaint]
11.	Possession clause	<i>4.2 The Developer shall endeavour to complete the construction of the Apartment within 48 months (for Iconic tower's apartments) 46 months (for other tower's apartments) from the date of Issuance of Allotment Letter, along with a grace period of 6 months over and above, this: 48 months period ("Tentative* Completion Time"). Upon the Apartment being ready for possession and occupation the Developer shall issue the Possession Notice to the Buyer of the Apartment.</i>
12	Due date of possession	28.04.2020 Grace period is allowed as the same is unqualified.
13	Total consideration as per BBA on page 86 of complaint	Rs.1,37,27,436/-
14	Total amount paid by the complainant as per statement of account dated 01.07.2021 at page 303 of the reply	Rs. 57,71,105/-
15.	Surrender by the allottee through email	04.08.2017 [Page 150 of the complaint]
16.	Legal notice sent by complainant	08.03.2019 (Page no. 151 of the complaint)



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The counsel for the respondent states at bar that the complainant has already moved an application before State Consumer Commission at Delhi in CR No.88 of 2021 and also filed a civil writ petition No.17120 of 2020 before the Hon'ble Punjab and Haryana High Court wherein this authority has also been impleaded as one of the party. In view of the same, it is prudent to wait outcome of the Civil writ petition pending before the Hon'ble High Court and further the complainant may not be allowed to avail this remedy before authority as he has filed the complaint before the State Consumer Commission at Delhi.

Shri Aashish Sardana authorized representative of the complainant clarifies that in Consumer complaint before State Commission, the complainant is seeking compensation and not refund and hence, the complaint before this authority seeking refund is maintainable and Hon'ble NCDRC has also passed directions in this regard advising the respondent to approach the State Commission. Further, the civil petition before Hon'ble High Court pertains to the issue of registration and other violations made by the respondent and the same does not pertain to refund and hence, requests to proceed to above complaint before this authority.

The counsel for the respondent states that Shri Ashish Sardana appearing on behalf of complainant is neither the allottee nor the counsel for the complainant. However, Shri Ashish Sardana clarifies that he is authorized representative of the complainant and an application for change of AR has been filed in the authority on 21.03.2023 duly signed by the complainant and a copy has been supplied to the counsel for the complainant.

Regarding the objection raised by the counsel for the respondent with respect to his appearance, he states that the complainant shall be duly represented by an advocate in case the authority so decide. He has been given special power of attorney dated 23.07.2022 by the complainant. to represent her.

Matter be put up before the full bench on 17.10.2023 for orders on the point of maintainability and for further proceedings.

Sanjeev Kumar Arora
Member

Ashok Sangwan
Member

Vijay Kumar Goyal
Member

25.07.2023