



**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>6</b>
Day and Date	Thursday and 05.01.2023	
Complaint No.	CR/178/2020 Case titled as VINAY VATS Vs BPTP LIMITED	
Complainant	VINAY VATS	
Represented through	Shri Gaurav Bhardwaj Advocate	
Respondent	BPTP LIMITED	
Respondent Represented	Shri Harshit Batra Advocate	
Last date of hearing	20.10.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

### **Proceedings**

Arguments heard.

The counsel for the respondent states that provision of shops in the stilt portion was approved by DTCP in revised building plans in the year 2008 and subsequently OC has been obtained from DTCP vide memo No.3662 dated 12.07.2010 (page 81). The AR of the respondent states that the above OC granted by DTCP on 12.07.2010 also pertains to the shops allotted to the complainant as the 211 dwelling units includes the above shops as well and not only the flats constructed under the above tower.

However, on perusal of the same, it is noticed that under the heading 'description of the building' for which OC has been granted relates to only 211 dwelling units with basement under tower No.D, E and F and it nowhere specifies if the above OC is also in respect of the shops which are constructed in the stilt. The resident welfare association has moved to Hon'ble Punjab and Haryana, High Court challenging the construction of above shops and hence, the respondent is not able to hand over unconditional possession and execution of conveyance deed, which are being offered by the respondent subject to outcome of the orders of Hon'ble High Court in above CWP.

The counsel for the complainant is not willing to take the possession of the units for which neither any OC is available as on date nor the legal status of



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CR/178/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

their construction is clear and hence, is entitled for refund alongwith interest at prescribed rate of interest in view of the orders of Hon'ble Supreme Court in case of **Newtech Promoters and Developers Pvt. Ltd. versus State of U.P.** wherein under para No.25 it has been held that it is unqualified right of the allottee to seek refund under section 18 (1) (a) and 19 (4) of the Act, 2016 and is not depend on any contingencies or stipulations. The allottee cannot be expected endlessly for making a valid offer of possession and execution of conveyance deed for which substantial consideration amount has already been paid.

In view of above refund is allowed alongwith prescribed rate of interest.

Matter stands disposed off. Detailed order will follow. File be consigned to the registry.

Ashok Sangwan  
Member

V. I. - S  
Vijay Kumar Goyal  
Member  
05.01.2023