



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		15
Day and Date	Thursday and 23.05.2024	
Complaint No.	CR/1844/2022 Case titled as Meenakshi Gupta and Arvind Kumar VS SPAZE TOWER PRIVATE LIMITED	
Complainant	Meenakshi Gupta and Arvind Kumar	
Represented through	Shri Mordhwaj Advocate	
Respondent	SPAZE TOWER PRIVATE LIMITED	
Respondent Represented	Shri Harshit Batra Advocate	
Last date of hearing	29.02.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint has been received on 02.05.2022 and the reply on behalf of respondent was received on 27.01.2023.

The written arguments on behalf of complainants have been filed on 05.07.2023 and counter claim by the respondent have been filed on 31.08.2023.

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

S. No.	Particulars	Details
1.	Name of the project	Spaze Towers, "Tristaar", Sector - 92, Gurugram
2.	Total project area	2.718 acres
3.	Nature of the project	Commercial Complex
4.	DTCP license no. and validity status	72 of 2013 dated 27.07.2013 valid upto 26.07.2017
5.	Name of licensee	M/s Spaze Towers Pvt. Ltd.
6.	RERA Registered/ not registered	Registered vide no. 247 of 2017 dated 26.09.2017 valid up to 30.06.2020
7	Unit no.	1072, 1 st floor (Page 35 of complaint)



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CA/18/4/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

8	Unit area admeasuring	303 sq. ft. (Page 35 of complaint)
9	Date of allotment	31.10.2014 (Page 29 of complaint)
10	Date of execution of BBA	09.12.2014 (Page 31 of complaint)
11	Possession clause	11. (a). Schedule for possession of the Said Unit <i>The Developer based on its present plans and estimates and subject to all just exceptions endeavors to complete construction of the Said Building/Said Unit in terms of the approvals (including the renewal/extended period described therein) and in accordance with the terms of this Agreement unless there shall be delay or failure due to department delay or due to any circumstances beyond the power and control of the Developer or Force Majeure conditions including but not limited to reasons mentioned in clause 11(b) and 11(c) or due to failure of the Allottee(s) to pay in time the Total Consideration or any part thereof and other charges and dues/payments mentioned in this Agreement or any failure on the part of the Allottee(s) to abide by all or any of the terms and conditions of this Agreement. In case there is any delay on the part of the Allottee(s) in making of payments to the Developer then notwithstanding rights available to the Developer elsewhere in this Agreement, the period for implementation of the project shall also be extended by a span of time equivalent to each delay on the part of the Allottee(s) in remitting payment(s) to the Developer.</i> (No time period specified)
12	Due date of possession	09.12.2017 <i>(Calculated as per Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018 from the date of buyer agreement i.e. 09.12.2014)</i>
13	Total sale consideration	Rs.30,04,881/- (as per SOA Page 44 of reply)
14	Amount paid by the complainant	Rs.33,96,655 /- (Page 8 of complaint) Rs. 33,41,305/- (as per SOA dated 27.06.2022 Page 45 and 49 of reply.)



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15	Revised building plan	14.10.2019 (page 10 of counter claim)
16.	Occupation certificate	03.05.2021 (Page 38 of reply)
17.	Offer of possession	05.05.2021 (Page 41 of reply)

The complainant is seeking refund due to delay in possession and change in location of unit from corner to another side.

The respondent to clarify the status of the shop if it continues to remain as corner shop or not and if there is any change /revision in its location, the prior consent of the complainant has been taken or not as the counsel for the complainant is very categorical that the shop allotted as per BBA is a corner shop and while offering the possession the respondent has not specified if there is any change or alteration in its location and as of now it is no more a corner shop and not acceptable to the allottee and hence, seeking the refund of full amount with interest in terms of the order already passed by the Authority in a similar case bearing Sr. No.2591 of 2022 and 2531/2022.

Both the counsels may file written submission within next 3 weeks after supplying a copy to each other.

Arguments heard.

Order reserved.

Matter to come up on 08.08.2024 for pronouncement of order.

V.1 - 3
Vijay Kumar Goyal
Member
23.05.2024