



**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		16
Day and Date	Friday and 22.11.2024	
Complaint No.	CR/1991/2023 Case titled as Piyush Gupta and Urmil Gupta VS Emaar India Limited	
Complainant	Piyush Gupta and Urmil Gupta	
Represented through	Shri K.K. Kohli Advocate	
Respondent	Emaar India Limited	
Respondent Represented	Shri Dhruv Rohatgi Advocate	
Last date of hearing	30.08.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint was filed on 17.05.2023 and the reply on behalf of the respondent was filed on 03.10.2023.

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

S. No.	Heads	Information
1.	Project name and location	"Emerald floors Premier III" in Sector 65, Gurugram, Haryana.
2.	Project area	25.499 acres
3.	Nature of the project	Group housing colony
4.	DTCP license no.	06 of 2008 dated 17.01.2008
	License valid till	16.01.2025
	Licensee name	Active Promoters Pvt. Ltd. and 2 others C/o Emaar MGF Land Ltd.
	Area for which license was granted	25.499

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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5.	HRERA registered/ not registered	Registered vide no. 104 of 2017 dated 24.08.2017 for 82768 sq. mtrs.
	HRERA registration valid up to	23.08.2022
6.	Applied for occupation certificate on	20.07.2020
7.	Occupation certificate granted on	11.11.2020
8.	Provisional allotment letter.	13.09.2011 [annexure R2, page 48-49 of reply]
9.	Unit no.	EFP-111-42-002, Ground floor, Building no. 42 [page 54 of reply]
10.	Unit measuring	1975 [page 54 of reply]
11.	Date of execution of buyer's agreement	24.02.2012 [Page 51 of the reply]
12.	Agreement to sell executed between Mrs. Gita Badhwar and Anoop Bhat dated	24.10.2012 [page 101 of the reply]
13.	Nomination letter dated	12.12.2012
14.	Agreement to sell executed between Anoop Bhat and Piyush Gupta dated	28.07.2021
15.	Nomination letter dated	14.10.2021
16.	Possession clause	11. Possession (a) Time of handing over the Possession <i>Subject to terms of this clause and subject to the Allottee(s) having complied with all the terms and conditions of this Buyer's</i>



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		<i>Agreement, and not being in default under any of the provisions of this Buyer's Agreement and compliance with all provisions, formalities, documentation etc., as prescribed by the Company, the Company proposes to hand over the possession of the Unit within 24 months from the date of execution of agreement. The Allottee(s) agrees and understands that the Company shall be entitled to a grace period of three months, for applying and obtaining the completion certificate/ occupation certificate in respect of the Unit and/or the Project.</i> [Emphasis supplied] [Page 62 of complaint]
17.	Due date of delivery of possession as per clause 11(a) of the said agreement	24.05.2014 [Grace period included]
18.	Total consideration as per statement of account dated 28.08.2023 at page 225 of reply	Rs. 1,59,46,272/-
19.	Total amount paid by the complainant as per statement of account dated 28.08.2023 at page 225 of reply	Rs. 1,59,48,710/-
20.	Date of offer of possession to the first subsequent allottee	28.07.2021 [page 147 of the reply]
21.	Unit handover letter issued in favour of the complainant on	18.11.2021



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22.	Conveyance deed executed between the complainant and the respondent on	10.12.2021
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The complainant is seeking the following reliefs:

1. Direct the respondent to pay interest for every month of delay at prevailing rate of interest.
2. Direct the respondent to refund the PLC charges of Rs.19,75,000/- along with interest.
3. Direct the respondent to refund the electrification charges of Rs. 1,26,127/- along with interest also refund the GST amount to the complainant.

The counsel for the complainant states that the complainant is a subsequent allottee in whose favour the nomination has been accepted by the respondent on 14.10.2021 (Annexure R12) and while handing over of possession at Annexure R14, the complainant has been accepted as a allottee and hence, is entitled for all the reliefs in term of the Act, 2016. There was delay in handing over of possession from the due date of possession expired on 24.05.2014 while possession is handed over only on 18.11.2021 after a delay of more than 7 years. The GST was not leviable till the due date and hence, cannot be demanded in terms of orders of Authority passed in *Varun Gupta Vs. Emaar*. Further, the PLC is also not applicable as there is no more exclusive right to the rear lawn for which PLC was charged and hence draws attention towards the orders passed by the Authority in CR No.2005/2021. The complainant has stepped into the shoes of allottee after coming into force of Act and registration of the project and hence, as the issue is already dealt in detail in order of *Varun Gupta Vs. Emaar* and accordingly the complainant qualifies as an allottee.

The counsel for the respondent states that the complainant step into the shoe after the offer of possession to the original allottee and hence no right to claim any relief. Further the respondent with utmost sincerity has completed all its obligations as envisaged in the buyer's agreement executed with the original allottees. Further the complainant has executed all documents with open eyes and under no undue influence and have taken the possession without any



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objection. That no liability lies against the respondent and in favour of the complainant.

The counsel for the respondent further relies upon the judgment of Hon'ble Supreme Court has held in **Laureate Buildwell Pvt. Ltd vs. Charanjeet Singh 2021 SCC OnLine SC 479** that:

31...The nature and extent of relief, to which a subsequent purchaser can be entitled to, would be fact dependent. However, it cannot be said that a subsequent purchaser who steps into the shoes of an original allottee of a housing project in which the builder has not honored its commitment to deliver the flat within a stipulated time, cannot expect any - even reasonable time, for the performance of the builder's obligation. Such a conclusion would be arbitrary, given that there may be a large number-possibly thousands of flat buyers, waiting for their promised flats or residences; they surely would be entitled to all reliefs under the Act. In such case, a purchaser who no doubt enters the picture later surely belongs to the same class. Further, the purchaser agrees to buy the flat with a reasonable expectation that delivery of possession would be in accordance within the bounds of the delayed timeline that he has knowledge of, at the time of purchase of the flat.

Therefore, no equity lies in favour of the complainants.

Arguments heard.

Order reserved.

Matter to come up on **28.02.2025** for pronouncement of order.

v.1 
Vijay Kumar Goyal
Member
22.11.2024