



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		42
Day and Date	Wednesday and 03.07.2024	
Complaint No.	CR/2069/2023 Case titled as Vinit Goyal VS Spaze Towers Private Limited	
Complainant	Vinit Goyal	
Represented through	Shri Gaurav Rawat Advocate	
Respondent	Spaze Towers Private Limited	
Respondent Represented through	Ms. Tanya Advocate	
Last date of hearing	10.04.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint was filed on 05.05.2023 and reply on behalf of the respondent has been received on 07.02.2024.

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

Sr. No.	Particulars	Details
1.	Name of the project	PRIVY The Address, Sector 93, Gurugram, Haryana.
2.	Nature of the project	Residential Group Housing Complex
3.	RERA Registered/not registered	Not Registered
4.	DTCP License no.	07 of 2011 dated 15.01.2011 valid upto 14.01.2021
5.	Name of licensee	M/s Spaze Towers Pvt. Ltd.
6.	Application Form	17.11.2010 (Page no. 24 of reply)



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7.	Allotment letter (Construction linked payment plan)	15.02.2011 (Page no. 16 of complaint and page no. 33 of reply)
8.	BBA	20.09.2011 (Page no. 22 of complaint and page no. 36 of reply)
9.	Original Allottee	Mr. Kapil Kumar
10.	Subsequent Allottee	Endorsed in favour of the complainant dated 30.05.2012 (Page no. 77 of reply)
11.	Unit no.	I-013, Tower I, 1 st Floor (Page no. 50 of complaint and page no. 38 of reply)
12.	Unit Area	1297 sq. ft. Super Area (Initially) Increased to 1386 sq. ft. (Page no. 25 of complaint and page no. 39 of reply)
13.	Possession clause	"28. Possession (a) Subject to the terms of this clause and subject to FLAT ALLOTTEE(S) having complied with all the terms and conditions of this agreement and not being in default under any of the provisions of this agreement and further subject to compliance with all provisions, formalities registration of sale deed documentation payment of all amount due payable to the DEVELOPER by the FLAT ALLOTTEE(S) under this agreement as prescribed by the DEVELOPER, the DEVELOPER proposes to handover the possession of the FLAT within a period of 42 months from the date of signing of this agreement." (Page no. 35 of complaint and page no. 49 of reply)
14.	Due date of possession	20.03.2015 (Calculated to be 42 months from the date of signing of the agreement i.e., from 20.09.2011)
15.	Total sale consideration	Rs. 43,27,717/- (As alleged by the complainant at page no. 6 and 26 of complaint) Rs. 48,44,128/- (As per SOA dated 05.06.2021 at page no. 156)



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		of reply)
16.	Total amount paid by the complainant	Rs. 43,83,203/- (As alleged by the complainant at page no. 14 of complaint) Rs. 46,85,125/- (As per SOA dated 05.06.2021 at page no. 156 of reply)
17.	Occupation certificate	20.07.2018 (Page no. 78 of reply)
18.	Offer of possession	26.04.2019 (As alleged by complainant and annexed at page no. 85 of complaint) 21.07.2018 (As alleged by respondent and annexed at page no. 80 of reply)
19.	Compensation for delay in possession paid by respondent to complainant	Rs. 2,79,247/- (Page no. 86 of complaint)

The complainant has sought the following relief(s):

1. Restrain the respondent from cancelling the unit and from creating third party rights.
2. Direct the respondent to pay delay possession charges to the complainant at the prevailing rate of interest on the amount paid by the complainant till the date of actual handing over of possession of the unit.
3. Direct the respondent not to charge for increase in area.
4. Direct the respondent to give possession of the unit to the complainant as per the PLC paid by the complainant, i.e., 2BHK PLC along with corner facing as well as park facing on first floor, at the earliest with all amenities and services.
5. Direct the respondent not to charge labour cess, external electrification charges, security deposit for electrical water and sewer as well as façade repair charges and club development charges.
6. Direct the respondent to waive the interest of Rs. 46,162/- unilaterally



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20/09/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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charged by the respondent.

7. Direct the respondent to get the conveyance deed executed.
8. Direct the respondent to refrain from charging any VAT from the complainant as the same is illegal and arbitrary and whatever VAT the complainant has been forced to pay, may be refunded.

The contention of respondent is that the complaint is barred by Res Judicata. The complaints filed earlier bearing complaint no. 279 of 2018 titled as "Privy 93 owners' Association Vs Spaze towers" and complaint no. 6059 of 2019 titled as "Privy 93 owners' Association Vs Spaze towers". In the former complaint, complainant along with other allottees sought reliefs, inter alia, against demand for super area, VAT, labour cess, security deposits, PLC, EDC/IDC, etc. (Decided on 11.04.2019) In the latter complaint, although more reliefs were sought but vide order dated 12.12.2022, only the relief seeking compensation for mental agony, harassment and litigation expenses were retained. The order passed in complaint no. 279 of 2018 was assailed by the Association before the Appellate Tribunal under Appeal no. 458 of 2019. The Appellate Tribunal remanded back the matter to the Authority. The Authority considered both the matters together and appointed an Inquiry Officer, Ms. Suprabha Dahiya IAS (Retd.) to deal with all issues raised by the complainants. However, the Authority vide order dated 31.01.2023, noted that individual complainant can contest the relief of delayed possession charges by filing separate complaints. Complainant however is seeking additional reliefs along with DPC and hence comes under the ambit of Res Judicata as the same issues had already been decided in complaint no. 279 of 2018 and complaint no. 6059 of 2019.

The counsel for the complainant states that the complainant is seeking delayed possession charges on account of delay in handing over the unit in terms of the BBA dated 20.09.2011 alongwith physical possession and does not wish to press the other reliefs as the same have already been adjudicated by this Authority and are pending in Appeal before the Hon'ble Appellate Tribunal.

The counsel for the respondent states that valid offer of possession was made to the complainant on 21.07.2018 (Annexure R7 page 80) and an amount of Rs.2,79,247/- has already been credited to the account of the complainant on account of delayed possession charges.



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The counsel for the complainant states that offer of possession in terms of the order dated 11.04.2019 of this authority was made on 26.04.2019 and DPC is payable in terms of the above document.

Arguments heard.

Order reserved.

Matter to come up on 28.08.2024 for pronouncement of order.

Ashok Sangwan
Member
03.07.2024