

PROCEEDINGS OF THE DAY		34
Day and Date	Tuesday and 10.10.2023	
Complaint No.	CR/2079/2022 Case titled as Anuj Kumar Vs REALIABLE REALTECH PRIVATE LIMITED	
Complainant	Anuj Kumar	
Represented through	Shri Raghavendra Singh Advocate	
Respondent	REALIABLE REALTECH PRIVATE LIMITED	
Respondent Represented	Shri Shankar Wig, Advocate	
Last date of hearing	30.7.2023	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings		
The present complaint was filed on 25.05.2022 and registered as complaint no. 2079 of 2022. On 25.1.2023, Ms. Neha Sharma Advocate, appeared on behalf of the respondent and filed power of attorney and requested for a short adjournment for filing of reply. The said request was allowed, and the respondent was directed to file the reply within two weeks i.e., 08.02.2023, in the registry of the authority. The counsel for the respondent has filed an application dated 26.06.2023, for dismissal of complaint with regard to the claim against the respondent in connection with date of deemed occupation certificate, the respondent has filed a CWP no. 16873-2020 and the same is pending before the Hon'ble Punjab and High Court for 10.10.2023. On the last date of hearing, 20.07.2023, the counsel for the respondent stated that there is stay order by the Hon'ble Punjab and Haryana High Court in above CWP vide order dated 30.09.2022 and further the offer of possession has already been made to the complainant and OC in respect of the unit is also received from the competent authority.		



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HARYANA REAL ESTATE REGULATORY AUTHORITY
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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/2019/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

Succinct facts of the complaint are as under:

S.N.	Particulars	Details
1.	Project name and location	"Antriksh Heights", Sector 84, Gurugram
2.	Project area	23.10 acres
3.	Nature of project	Residential group housing colony
4.	RERA registered/not registered	Not registered
5.	DTPC License no.	123 of 2008 dated 14.06.2008
	Validity status	13.06.2018
	Name of licensee	Reliable Realtech Pvt. Ltd.
6.	Occupation Certificate details	OC received dated 19.05.2016 for tower/block- ➤ AF (ground floor to 17th floor) ➤ AG (ground floor to 9th floor) ➤ AH (ground floor to 7th floor) ➤ AI (ground floor to 9th floor) ➤ AJ (ground floor to 9th floor) ➤ AL (ground floor to 18th floor) ➤ EWS (ground floor to 10th floor) OC received dated 14.10.2016 for tower/block- ➤ AE (ground + 1st floor to 19th floor) ➤ AG (10th floor to 19th floor) ➤ AH (8th floor to 19th floor) ➤ AI (10th floor to 19th floor) ➤ AJ (10th floor to 19th floor) OC received dated 07.02.2020 for - Primary School (Ground floor to 3rd floor)

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 अंतर्गत गठित प्राधिकरण



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7.	Respondent claiming deemed occupation certificate in respect of following towers	➤ Tower AA - 80 Units, ➤ Tower AB - 80 Units, ➤ Tower AC - 74 Units, ➤ Tower AD - 80 Units, ➤ Tower AE - 40 Units Balance, ➤ Tower AK - 71 Units ➤ Tower AM - 160 Units ➤ EWS - 107 Units ➤ Convenient shopping, Community center, balance part of the basement
8.	Occupation Certificate details	OC received dated 21.09.2020 for tower/block- ➤ AA (ground floor to 19th floor) ➤ AB (ground floor to 19th floor) ➤ AC (ground floor to 18th floor) ➤ AD (ground floor to 19th floor) ➤ AE (ground floor to 19th floor) ➤ AK (ground floor to 18th floor) ➤ AM (ground floor to 19th floor) ➤ EWS block (ground floor to 10th floor) ➤ 2 no's Convenient Shopping Type-1 (ground only) ➤ Community Building (ground floor to 1st floor)
9.	Unit no.	1202, 14th floor, Tower/block- AM measuring 1350 sq. ft. (Page 23 of the complaint)
10.	Date of allotment letter	13.04.2012 (Page 40 of the complaint)
11.	Date of execution of agreement	09.08.2012 (Page 21 of the complaint)

12.	Possession clause	12. POSSESSION, RIGHTS AND INTERESTS <i>The Owner and Allottee(s) shall be bound by the rules and regulations of Haryana Apartments Ownership Act 1983.</i> <i>The Owner shall construct the Apartment as early as possible and within 3 years, from the start of construction work unless due to unavoidable circumstances, it is not possible to do so, however, time is not the essence of this Agreement to Sell in this regard. If the construction is completed earlier, the possession thereof can be delivered even earlier. The objections of the Allottee(s) in this regard are not tenable/entertain able.</i> (Page 28 of the complaint).
13.	Due date of possession	09.08.2015 Note: Date of commencement of construction is not given by either of the parties. Thus, the due date of handing over the possession is calculated from the date of execution of the said agreement i.e., 09.08.2012
14.	Total sale consideration	Rs.56,84,000/- (As alleged by the complainant, page 18 of complaint)
15.	Total amount paid by the complainant	Rs.54,46,569/- (As alleged by the complainant, page 18 of complaint)



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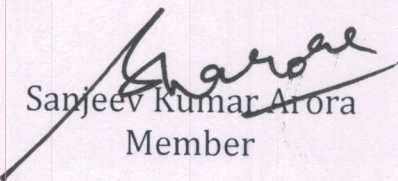
Case has been called out but no one has appeared on behalf of the complainant. During last proceedings also, none was present on behalf of the complainant.

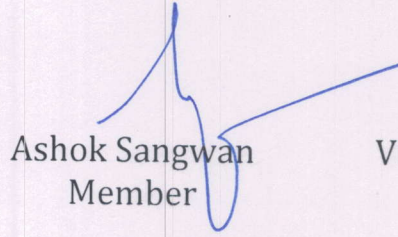
The counsel for the respondent states at bar that part occupation certificate in respect of the above project was initially received on 19.05.2016, next OC on 14.10.2016 and for remaining towers, the OC was applied but has been granted by the authority only on 21.09.2020, although the application for OC was made on 18.10.2016 and no order in respect of said application was passed by DTCP within the limitation period and hence, it is considered as deemed OC w.e.f. 19.12.2016 in terms of Section 23 (5) of Haryana Building Code, 2016. A CWP No.16873 of 2020 is also preferred before the Hon'ble HC for declaring the above deemed OC w.e.f. 19.12.2016. But without prejudice to the same, the Department has finally granted OC only on 21.09.2020 wherein the unit of the complainant allottee is situated. The complaint for seeking refund has been filed only on 25.05.2022 after grant of OC and offer of possession and hence, if refund is to be allowed, the same may be granted only after deduction of 10% earnest money alongwith other statutory taxes as already decided in CR No.5031/2019 in case titled as Parveen Khurana versus SS Group.

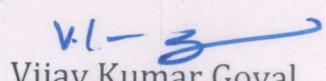
None is present on behalf of the complainant. One more and last opportunity is being given to the complainant to file written submissions, if any, within 10 days with an advance copy to the respondent.

Order reserved.

Matter to come up on 28.11.2023 for pronouncement of order.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
10.10.2023