

PROCEEDINGS OF THE DAY
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Day and Date	Tuesday and 08.03.2022
Complaint No.	CR/2124/2021 Case titled as Bina Devi Somani and Jugal Kishore Somani V/S Pareena Infrastructure Pvt. Ltd.
Complainants	Bina Devi Somani and Jugal Kishore Somani
Represented through	Shri Sukhbir Yadav Advocate
Respondent	Pareena Infrastructure Pvt. Ltd.
Respondent Represented	Shri Prashant Sheoran Advocate
Last date of hearing	05.01.2022
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 19.04.2021 and the reply on behalf of respondent was received on 08.09.2021.

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

S. N.	Particulars	Details
1.	Name of the project	Coban Residencies, Sector 99 A
2.	Provisional allotment later	14.03.2014 (Page 44 of the complaint)
2.	Unit no.	602, T2 (Page no. 87 of the complaint)
3.	Unit area admeasuring	1997 sq. ft. (Page no. 87 of the complaint)

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

4.	Date of apartment buyer agreement	11.02.2015 (Page 85 of the complaint)
5.	Date of start of construction	16.10.2014 (As per demand cum tax invoice, page 121 of the complaint)
7.	Possession clause	3.1. "That the developer shall under normal conditions, subject to force majeure, complete construction of tower/building in which the said flat is located with 4 years of the start of construction or execution of this agreement whichever is later , as per said plans and specifications seen and accepted by the flat allottee....." (Emphasis supplied)
8.	Due date of possession	11.02.2019 (Date of execution of buyer agreement is later than the date of start of construction, so the due date calculated from the date of execution of buyer agreement i.e. 11.02.2015)
9.	Total sale consideration	Rs 1,23,53,456/- (As per summary of dues on page 108 of the complaint)
10.	Amount paid by the complainants	Rs. 75,39,866/- (As per demand cum tax invoice and receipt attached with file on page 121-123 of the complaint)
11.	Occupation certificate	Not received

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12.	Offer of possession	Not offered
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The complainants have sought following relief:

- 1. Direct the respondent to handover the physical possession of the apartment along with prescribed rate of interest.**

Considering the above-mentioned facts, the authority calculated due date of possession as per clause 3.1 of the buyer's agreement i.e., the developer proposed to offer the possession of the allotted unit within a period of 4 years of the start of construction or execution of this agreement whichever is later. As such the due date of possession comes out to be 11.02.2019 which is calculated from date of execution of agreement as it is later than the date of start of construction.

Accordingly, the complainants are entitled for delayed possession charges as per the proviso of section 18(1) of the Real Estate (Regulation and Development) Act, 2016 at the prescribed rate of interest i.e., 9.30% p.a. for every month of delay on the amount paid by the complainants to the respondent from the due date of possession i.e., 11.02.2019 till the handing over of possession of the subject flat after obtaining occupation certificate from the competent authority.

- 2. Direct the respondent to get the calculation of flat i.e., carpet area and common loading of flat/apartment.**

The authority is of the view that as per section 19(1) of the Real Estate (Regulation and Development) Act 2016, the allottee shall be entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter.

In view of the same, the respondent promoter is directed to provide the area calculation of the subject unit to the complainant.

As informed by the counsel for the complainant, the project is RERA registration and the Registration period has already been expired. The copy of this order be sent to planning branch for initiating penal proceedings against the promoter and also direct him to apply for



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

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extension giving firm date of occupation and completion of project. The benefit of grace period on account of Covid-19 shall be applicable to both the parties.

The complaint stands disposed of. Detailed order will follow. File be consigned to the registry.

V.I-2

Vijay Kumar Goyal
Member

Dr. KK Khandelwal
Chairman
08.03.2022