



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		51 to 77
Day and Date	Friday and 14.07.2023	
Complaint No.	MA NO. 157/2023 in CR/2064/2023 Case titled as Adar Kumar Jain and Nitin Jain Vs Splendor Buildwell Private Limited	
Complainant	Adar Kumar Jain and Nitin Jain	
Represented through	S/Shri S.K. Goyal and Animesh Goyal Advocates	
Respondent	Splendor Buildwell Private Limited	
Respondent Represented	Ns. Shriya Takkar Advocate	
Last date of hearing	Misc. appl. under section 36 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

As per the registry, complainants have sent copy of complaint along with annexures through speed post as well as through email and the same is shown to be "Delivered" on 09.05.2023 and 11.05.2023 respectively. Notice has been sent by the registry of the authority.

The complainants have made an interim application under section 36 of the Act of 2016, to seek following reliefs:-

that an appropriate ex- parte interim order may kindly be passed in favour of applicants/complainants and against the respondent, restraining the respondent, its officials, associates, maintenance agency, administrators etc. from transferring/alienating/allotting the units, + on Fifth Floor of South Tower-B. in the project Splendor Spectrum One, Sector 58, Gurugram to any third party and/or creating any third party charge upon the same in any manner till decision of the complaint in the interest of justice, equity and fair play..

The complainants and the respondent entered into an MoU dated 14.03.2020 and purchased the entire 5th floor in the subject project total admeasuring



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MA No 157/2023 In CA/2064/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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23,880 sq.ft. consisting of 27 units for a total consideration of Rs. 10,98,48,000/-. The respondent allotted units no. 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 512A, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527 as per the respective area mentioned in the MoU dated 14.03.2020. The respondent builder further assured the complainants that the building shall be leased within 6 months from the date of execution of MoU. In case the building is not leased out within stipulated time then the respondent will pay of Rs. 65/- per sq.ft. per month as assured return to the complainants from 14.09.2020 till the units are leased out to the prospective lessees and the rent commencement date whichever is later. It is pertinent to mention here that till date no buyer's agreement has been executed between the parties.

The respondent instead of coming forward to execute and get registered the agreement of sale regarding all units in question as agreed to be originally offered the same area in 27 units on 6th floor against the same sale consideration. It is pertinent to mention here that the said offer of 6th floor given by the respondent was never acceptable to the complainants and never accepted by complainants as the respondent very cleverly had deleted the clause of assured return of Rs. 65/- per sq. ft.

The complainants recently came to know that the respondent builder is trying to alienate the units and to transfer the possession of the same illegally to someone else.

The counsel for the complainant states that there was a single allotment and single agreement for all the 27 units and a consolidated consideration and payments, as per annexure 3, page 32 of the complaint. Allottee had made a payment of Rs.5,49,24,000/- out of which a cheque of Rs.2 Crores had been encashed and as per the agreement balance amount was payable at the time of execution of lease deed.

The counsel for the respondent states that MoU was executed on 07.03.2020 for 27 units on 5th floor in Tower-B of Splender Spectrum One Sector-58 Gurugram wherein reference of certain cheques was given at page 33 and 34 of the MoU which in total amounts to Rs.5,49,24,000/- and as per the statement of counsel for the respondent, she states that they had got only two cheques of Rs.2 Crores which they got encashed and no BBA was executed to this effect. Whereas complainants state that all cheques were delivered to respondent while signing MoU but respondent is intentionally avoiding to get other cheques encashed.



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MANO 151/2023/CR/2064/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

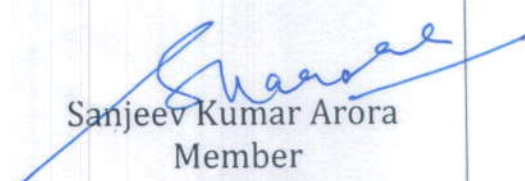
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The authority is of the view as to why the respondent took advance more than 10% of the total sale consideration of the units as per MoU without executing the BBA, which is a clear cut violation of section 13 of the Act, 2016 for which a show cause notice should be issued under section 61 of the Act, 2016 as to why penalty should not be imposed for violation of section 61 of the Act. Further the authority has noticed agreement which has been filed by the complainant alongwith complaint wherein the stamp paper is dated 09.04.2019 and the execution date is shown as 19.08.2020 and this agreement has not been signed by the complainant and neither there is any witness nor there is attestation by the oath commissioner or notary public. The matter needs to be examined. The respondent is directed to file reply in this regard within a period of 2 weeks as to clarify these discrepancies in agreement.

Counsel for the respondent stated that third party rights are already created.

In the light of above said facts, the respondent is hereby directed to maintain status quo of the units in question.

Matter be put up on **29.09.2023** the date already fixed in this case.


Sanjeev Kumar Arora
Member
14.07.2023