

PROCEEDINGS OF THE DAY

Day and Date	Friday and 02.08.2024
Complaint No.	CR/2144/2022 Case titled as Maya Gupta and Sourav Parkash VS Spaze Towers Private Limited
Complainant	Maya Gupta and Sourav Parkash
Represented through	Shri Gaurav Rawat Advocate
Respondent	Spaze Towers Private Limited
Respondent Represented	Shri Harshit Batra Advocate
Last date of hearing	31.05.2024
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint was filed on 17.05.2022 with the relief of possession and to restrict the respondent for making any other demands.

Vide proceedings dated 12.04.2024 both the parties stated that settlement talks are going on.

The respondent has filed an application for non maintainability of the complaint on 01.08.2023 stating the complainants have submitted an application form dated 17.12.2012 to express their interest in getting an allotment however no allotment letter is issued in favor of the complainants and no particular unit was ever allotted to the complainants. And no bba exist. Therefore the complainants are not allottees. An MOU was executed between the parties and in the MOU no unit was allotted so it cannot be termed as an allotment. The complainant has however enjoyed the sum of Rs. 39,12,096/- as assured return paid by the respondent.

The complainant has filed reply to the same on 05.01.2024 stating that the complaint requested to execute documents. As per the MOU the respondent agreed to pay a return on investment at a sum of Rs. 60/ sq. ft. as per months to the complainant w.e.f 19.12.2012 .The respondent failed to provide the same



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/2146/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

The counsel for the complainants states that on 12.12.2016 an MoU was signed by the respondent with the complainant for allotting 500 sq. ft super area for which a priority number was also given and the project was named as Spaze Delhi and an assurance was given to pay assured return from 01.12.2016 till the leasing out of the unit and further stopped paying assured return after March 2020 by sending a letter dated 17.07.2020 which is Annexure C3 at page 47 of the complaint in which it has been mentioned that the respondent shall pay the assured return from 01.10.2020.

The counsel for the respondent states that the MoU dated 12.12.2016 was signed by the promoters on investment return plan basis and further it was for a future project. Further stated that there is no allotment made by the promoter, no BBA has been executed, hence the complainant does not fall under the definition of allottee as per section 2 of the Act, 2016. Further stated that at the of application the complainant was well aware as per clause 3 page 30 of the reply that the promoter has accepted the amount on investment return plan basis and it was clearly mentioned in clause-3 that if for any reason whatsoever, the company is not in a position to allot the commercial project applied for the company shall be responsible only to refund the amount deposited with interest @ 9% and the applicant shall have no right, claim interest, monitory or otherwise against the company and the company shall not be liable for any compensation on this account. Further stated that project named for which the complaint has been filed, the respondent is not a promoter of that project as is clear from the copy of registration obtained by the promoter from the RERA authority and hence, neither the respondent is promoter nor the complainant is a allottee, it is a sort of commercial contract between the respondent and complainant and as such RERA has no jurisdiction on that.

Arguments heard.

Order reserved.



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Both the parties may file written submissions within 4 days if they wish to do so with an advance copy to each other.

Matter to come up on 09.08.2024 for pronouncement of order.


Sanjeev Kumar Arora
Member
02.08.2024