



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		37
Day and Date	Friday and 25.08.2023	
Complaint No.	CR/2357/2022 Case titled as Sheetal Dawer and Neekita Dawer Vs Venetian LDF Projects LLP	
Complainant	Sheetal Dawer and Neekita Dawer	
Represented through	Complainant in person with Shri Gulshan Kumar Advocate	
Respondent	Venetian LDF Projects LLP	
Respondent Represented	Shri Harshit Batra Advocate	
Last date of hearing	18.08.2023	
Proceeding Recorded by	Naresh Kumari	

Proceedings

The present complaint was filed on 19.05.2022 and the reply on behalf of respondent was received on 10.05.2023.

Succinct facts of the case are as under:

S. N.	Particulars	Details
1.	Name of the project	"83 Avenue" Sector 83, Gurugram, Haryana
2.	Nature of the project	Commercial
3.	RERA Registered/ not registered	310/42/2019 Dated 16.01.2019 till 30.09.2020
4.	Application form	14.08.2014 (Page 53 of the complaint)
5.	Allotment letter	14.08.2014



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		(Page 53 of the complaint)
6.	Unit no.	G - 52 (Page 59 of the agreement)
7.	Unit area admeasuring	296 sq. ft. (super area) (Page 59 of the agreement)
8.	MOU	13.08.2014 (Page 22 of the complaint)
9.	Assured return clause	3.1 <i>Till the notice for offer of possession is issued, the developer, shall pay to the allottee an assured return at the rate of Rs. 140.78/- per sq. ft. of super area of premises per month.</i>
10.	Allotment letter	14.08.2014 (Page 53 of the complaint)
11.	Date of execution of Flat Buyer's Agreement	25.08.2014
12.	Possession clause	38. <i>The developer contemplates to offer possession of said unit to allottees within 36 months of signing of this agreement or within 36 months from the date of start of construction of the said building whichever is later with the grace period of 3 months subject to force majeure events</i>
13.	Date of start of construction	Needs to be ascertained
14.	Due Date	Needs to be ascertain

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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15.	Total sale consideration	Rs. 47,74,150/- (Page 58 of the agreement)
16.	Amount paid	Rs. 37,01,832/- (As alleged by the complainant)
17.	Amount of assured return paid	Rs. 11,53,226/- (Page 22 of reply) (From 13.08.2014 to 07.12.2016) *To both the complainants*
18.	Occupation certificate	Not obtained
19.	Offer of possession	Not offered

The counsel for the complainant states that the due date of possession was 25.11.2017 and the respondent has committed as per MoU dated 13.08.2014 clause 3.1, that assured return at the rate of Rs. 140.78/- per sq. ft. which comes to Rs.41,440/- per month shall be paid by the respondent to the complainant till the offer of possession and the respondent continued paying assured return upto January 2017. After that it was stopped because of no reason.

The counsel for the respondent states that MoU was entered into 13.08.2014 whereas BBA was executed on 25.08.2014 and as per clause 83, of BBA page 74, it is mentioned that this agreement which has been titled as space buyer agreement constitute the entire agreement and revokes and supersedes all the previous discussions/correspondence, application and agreement between the parties, if any. Further draws attention of the authority towards section 62 of the Indian Contract Act which talks about novation which states that if the parties substitute a contract and forms a new contract then the original contract need not be performed and the contract of the later date will prevail. The counsel for the respondent further submitted that in case the authority allows DPC then the assured return already paid to the complainant - allottee should be adjusted.



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CA/2357/2022

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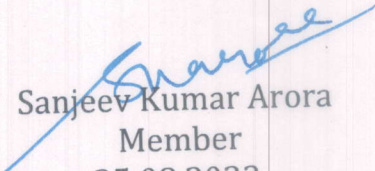
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Arguments heard.

Both the parties are directed to submit written submissions within a period of 15 days with an advance copy to each other.

Order reserved.

Matter to come up on **24.11.2023** for pronouncement of order.


Sanjeev Kumar Arora
Member
25.08.2023