



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

32

Day and Date	Wednesday and 23.08.2023
Complaint No.	CR/2482/2021 Case titled as YAMNISH KAUL Vs SS GROUP PRIVATE LIMITED
Complainant	YAMNISH KAUL
Represented through	Ms. Monica Manchanda Advocate
Respondent	SS GROUP PRIVATE LIMITED
Respondent Represented	Shri Dhruv Dutt Sharma Advocate
Last date of hearing	22.02.2023
Proceeding Recorded by	Naresh Kumari

Proceedings

The present complaint has been filed on 18.06.2021 and the reply was received on 25.05.2022.

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

Sr. No.	Particulars	Details
1	Name of the project	'The Leaf', Sector -84, Gurugram
2	Nature of the project	Group Housing Complex
3	DTCP License No.	81 of 2011 dated 16.09.2011 Valid upto 15.09.2024
4	RERA Registered/ Not Registered	RERA registered 35 of 2021 dated 14.07.2021
5	Unit no.	17C, 17 th floor, Building no. 3 (As per page no. 27 of complaint)



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CR 2182/2021

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6	Unit admeasuring	1575 sq. ft. (As per page no. 27 of complaint)
7	Date of execution of builder buyer agreement	23.09.2013 (Page no. 26 of complaint)
8	Possession clause	8. Possession 8.1: Time of handing over the possession 8.1 (a) subject to terms of this clause and subject to the flat buyer(s) having complied with all the terms and conditions of this agreement and not being in default under any of the provisions of this agreement and complied with all provisions, formalities, documentation etc. as prescribed by the developer, the developer proposes to handover the possession of the flat within a period of thirty six months from the date of signing of this agreement. However, this period will automatically stand extended for the time taken in getting the building plans sanctioned. The flat buyer(s) agrees and understands that the developer shall be entitled to a grace period of 90 days, after the expiry of thirty-six months or such extended period, for applying and obtaining occupation certificate



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		in respect of the Group Housing Complex. (Emphasis supplied).
9	Due date of delivery of possession	23.09.2016 (Calculated from the date of buyer's agreement)
10	Total sale consideration	Rs. 86,24,250/- (As per page no. 28 of complaint)
11	Total amount paid by the complainant	Rs. 64,10,466 /- (As alleged by the complainant)
12	Occupation Certificate	09.05.2022
13	offer of possession	14.05.2022

The complainant is seeking refund of the amount deposited with interest invoking section 18 (1) of the Act, 2016 on the ground of failure of the respondent to deliver the possession of the unit as stipulated in the BBA dated 23.09.2013. As per BBA, the due date for handing over of possession was 23.09.2016 (plus 90 days grace period) i.e. 23.12.2016 while the offer of possession was made by the respondent on 14.05.2022. the present complaint was filed on 18.06.2021 i.e. well before the offer of possession and after the due date of possession.

The counsel for the respondent requests that 10% of the amount may be deducted since the offer of possession has already been made.

Arguments heard.

In view of the provisions of section 18 (1) of the Act, 2016, full refund is allowed alongwith interest at the prescribed rate i.e 10.75% per annum (the



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State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

Matter stands disposed off. Detailed order will follow. File be consigned to the registry.

Ashok Sangwan
Member
23.08.2023