

PROCEEDINGS OF THE DAY
19

Day and Date	Friday and 24.05.2024
Complaint No.	CR/2580/2023 Case titled as Shakuntla Devi VS M3M India Private Limited
Complainant	Shakuntla Devi
Represented through	Shri Gaurav Rawat Advocate (POA filed today)
Respondent	M3M India Private Limited
Respondent Represented through	Ms. Shriya Takkar and Ms. Smriti Srivastava Advocates
Last date of hearing	23.02.2024
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 30.06.2023 and an application for dismissal has been filed on 15.11.2023.

The counsel for the complainant has filed the power of attorney today itself. However, the counsel for the respondent objects to the same stating that he should file the NOC of previous lawyer engaged in this matter.

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

S.No.	Heads	Information
1.	Project name and location	M3M Woodshire, Dwarka Expressway Sector 107, Gurugram
2.	Project area	18.88125 acres
3.	Nature of the project	Group housing colony
4.	DTCP license no. and validity status	33 of 2012 dated 12.04.2012 valid upto 11.04.2018
5.	Name of licensee	Cogent Realtors Pvt. Ltd.



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HARYANA REAL ESTATE REGULATORY AUTHORITY
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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/2580/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

6.	HRERA registered/ registered	not Not Registered
7.	Occupation granted on	certificate 20.04.2017 [Page no. 10 of dismissal of complaint]
8.	allotment letter dated	04.11.2017 (Page no. 19 of complaint)
9.	Unit no.	TW-B-01/0202 (Page no. 19 of complaint)
10.	Unit measuring	1366 sq. ft. (Page no. 19 of complaint)
11.	Date of execution of buyer's agreement	Not executed
12.	Possession clause	<i>Subject to Force Majeure conditions and subject to the Applicant having compelled with all obligations under this Application, including but not limited to the timely payment of each and every installment of the Total Consideration, stamp duty and other dues and charges and also subject to the Applicant having complied with all documentation as may be required by the Company including but not limited to execution of the maintenance agreement, possession of the Apartment may be offered within a period of thirty-six (36) months from the date of commencement of construction which shall mean the date of laying of the first plain cement concrete/mudmat slab of the Tower in which the Apartment is located or execution of the Agreement, whichever is later(Commitment Period)". In case the Company is unable to offer possession within such time due to any reason, the Applicant agrees that the Company shall be entitled to an extension of One Hundred and Eighty (180) days ("Grace Period") after the expiry of the Commitment Period. If the Company is still unable to offer possession by the end of such Grace Period, subject to compliance of conditions herein above mentioned, the Company shall be liable to pay</i>



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		<i>compensation at the rate of Rs.10/- (Rupees Ten Only) per sq. ft. of the Super Area ("Delay Compensation") of the Apartment for every month of delay thereafter until the date of notice of possession.</i>
13.	Due date of possession	04.11.2020 (36 months from the date of allotment)
14.	Total consideration	Rs. 80,38,946/- (as per page 39 of complaint)
15.	Total amount paid by the complainants	Rs.52,50,000/- (as per page 40-44 of complaint - payment receipts)
16.	Pre cancellation	04.01.2019 (Page no. 19 of reply)
17.	Cancellation	22.07.2022 (Page no. 28 of reply)

An application for dismissal of compliant has been filed by respondent wherein on the ground that the authority ha already decided the previous complaint filed by the respondent builder titled as "M3M India Pvt. Ltd. Vs. Shakuntala Devi bearing compliant no. 1682 of 2019 wherein Hon'ble Authority vide ex-parte order dated 12.12.2019 issued directions to the allottee to take possession of the unit after clearing her dues.

The counsel for the respondent states that earlier complaint was filed by the respondent company M3M India Pvt Ltd. CR No.1682/2019 which was decided by the Authority on 12.12.2019 where a direction was given to the complainant Shakuntla Devi for paying the dues and to take the possession of the unit which she could not do and now the complainant has filed complaint on 30.06.2023 seeking possession of the unit. However, the unit has already been cancelled and 3rd party rights have already been created. That post cancellation of allotment of the complainant, the apartment in question



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stands re-allotted to one Ms. Sakshi Shourie vide allotment letter dated 22.10.2022. which was well conveyed to the complainant allottee vide cancellation letters 04.01.2019 and final cancellation letter dated 22.07.2022 and there was certain dues against the unit of the financing Bank and the lien was marked in favour of that bank, hence after cancellation of the unit, the respondent paid of the loan to the financier Bank i.e. Rs. 15,68,710/- to State Bank of India and intimation to this effect was sent to the complainant on 12.12.2022 which is Annexure - G page 32 of the reply wherein it has been clearly mentioned that the respondent has disbursed the amount after cancellation of the unit to the financier bank.

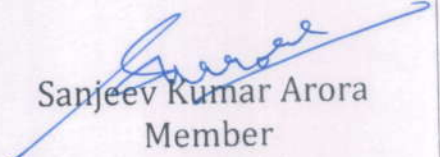
The counsel for the complainant further states that they have not received the balance amount after clearing the bank dues by the respondent and no intimation in this regard has been received till date.

Arguments heard.

Order reserved.

Both the counsels for the parties may file written submissions, if they wish to do so, within a period of 15 days with an advance copy to each other.

Matter to come up on **26.07.2024** for pronouncement of order.


Sanjeev Kumar Arora
Member
24.05.2024