



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/2602/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

7.	Allotment letter in favor of original allottee i.e. Leela Bansal	10.01.2013 (page 37 of complaint)
8.	Endorsement in favor of complainants	22.02.2013 (page 38 of complaint)
9.	Date of execution of buyer's agreement	10.05.2013 (page 48 of complaint)
10.	Tripartite Agreement b/w complainant and HDFC	05.06.2013 Page 78 of complaint)
11.	Possession clause	3. Possession 3.1 Subject to Clause 10 herein or any other circumstances not anticipated and beyond the reasonable control of the Seller and any restraints restrictions from any courts/ authorities and subject to the Purchaser(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 having complied with all provisions. formalities, documentation, etc. as prescribed by the Seller, whether under this Agreement or otherwise, from time to time, the Seller proposes to hand over the possession of the Apartment to the Purchaser(s) within a period of 42 (Forty-Two) months with an additional grace period of 6 (six) Months from the date of execution of this Agreement or date of obtaining all licenses or approvals The commencement of construction, whichever is later, subject to Force Majeure. The Purchaser(s) agrees and understands that the Seller shall be entitled to a grace period of 90 (ninety) business days, after the expiry of grace period, for offer to hand over the possession of the Apartment to the Purchaser. Any application for the occupation certificate in respect of the Project shall be filed in the due course. The Seller shall give Notice of Offer of Possession in writing to the Purchaser(s) with regard to the handing over of possession, where after, within 30 (thirty) days, the Purchaser(s) shall clear his outstanding dues and complete documentary formalities and take physical possession of the Apartment. In case, the Purchaser(s) raises any issue with respect to any demand, the same would not entitle the Purchaser(s) for an extension of the time for taking over possession of the Apartment In the event the Purchaser(s) fails to make all payments



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		<i>and accept and take the possession of the Apartment within 30 (thirty) days of the Notice of Offer of Possession, the Purchaser(s) shall be deemed to be custodian of the Apartment from such due date indicated in the Notice of Offer of Possession and the Apartment shall be held by the Seller solely at the risks and costs of the Purchaser(s), including but not limited to applicability of the appropriate Holding Charges as defined in Clause 3,3 below and interest. The obligation of the Seller to offer possession to the Purchaser under this Clause shall be subject to Force Majeure.</i>
12.	Environment clearance	06.09.2013 (taken from CR/931/2023)
13.	Due date of possession	06.09.2017 (Calculated from the date of environment clearance i.e. 06.09.2013) (Grace period is allowed being unqualified)
14.	Total sale consideration	Rs.95,57,900/- (as per payment plan page no.77 of complaint)
15.	Total amount paid by the complainant	Rs.73,60,611/- (as per SOA dated 28.04.2023 page 99 of complaint)
16.	Occupation certificate dated	26.04.2023 (page 21 of reply)
17.	Offer of possession	28.04.2023 (page 97 of complaint)

The counsel for the complainant states that due date of possession was 10.05.2017 i.e. 42 months plus 6 months grace period to be calculated from the date of execution of BBA which was executed on 10.05.2013. However, it is noted that as per possession clause, the due date is to be taken from the date of BBA or date of obtaining all licences or approvals, whichever is later. Since the EC is obtained on 06.09.2013 and hence the above period has been calculated from said date in view of the same, the due date of possession comes out to be 06.09.2017. The offer of possession was not valid as the same was accompanied with undue demands and waiver of the interest on delayed



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payment on account of assurance by the respondent vide email dated 18.01.2017 at page 92.

Arguments heard.

Order reserved.

Both the counsels for the parties may file brief written submissions within a period of 15 days with an advance copy to each other.

Matter to come up on **09.01.2025** for pronouncement of order.

V.I.-5
Vijay Kumar Goyal
Member
14.11.2024