



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		11
Day and Date	Wednesday and 16.11.2022	
Complaint No.	CR/2628/2021 Case titled as LT COL GIRISH SINHA Vs ANSAL PHALAK INFRASTRUCTURE PVT LTD	
Complainant	LT COL GIRISH SINHA	
Represented through	Ms Shivangi Singh, proxy counsel	
Respondent	ANSAL PHALAK INFRASTRUCTURE PVT LTD	
Respondent Represented	Shri Deeptanshu Jain, Advocate	
Last date of hearing	10.08.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint has been received on 06.07.2021 and reply on behalf of respondent was received on 18.08.2022.

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

S. N.	Particulars	Details
1.	Name and location of the project	"Versalia", Sector 67-A, Gurugram
2.	Nature of the project	Residential Plotted Colony
3.	Project area	38.262 acres
4.	DTCP license no.	81 of 2013 dated 19.09.2013 valid upto 19.09.2019
5.	Name of licensee	Lord Krishna Infra Projects Ltd. and 13 others

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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6.	RERA Registered/ not registered	154 of 2017 dated 28.08.2017 valid upto 31.08.2020
7.	Date of first payment	30.03.2013 paid to respondent no. 2 for project "Palm Villa" (Page 39 of complaint)
8.	Date of first payment to respondent no. 1	26.10.2015 (Page 44 of complaint)
9.	Unit no.	FF3129, First Floor (Page 70 of complaint)
10.	Unit area admeasuring (super area)	Not on record
11.	Date of Floor Buyer Agreement	Not executed
12.	Possession clause	Not on record.
13.	Due date of possession	Cannot be ascertained
14.	Total sale consideration	
15.	Amount paid by the complainant	Rs. 54,12,630.5/- (As mentioned by respondent in page 2 of reply and also confirmed by complainant on page 6 of complaint)
16.	Surrender Letter	13.04.2018 (Page 49 of complaint)
17.	Amount paid by respondent to complainant	Rs. 37,50,000/- (As mentioned by both the parties in their respective submissions)

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18.	Settlement Agreement	11.05.2018 (Page 68-69 of complaint)
19.	Occupation Certificate	Not obtained
20.	Offer of possession	Not offered

The complainant has sought following relief:

To direct the respondent to refund Rs. 16,62,630/- along with interest from the date of respective deposits till actual realisation to the complainants.

In the present case, the complainant initially booked a unit in project Palm Villa being developed by respondent no. 2 in Lucknow in the year 2013. However, the respondent no. 2 was not able complete the construction of the project and hence, the respondent advised the complainant to shift its unit in "Golf Gateway Towers" in Lucknow itself. The complainant believing the respondent agreed to shift the unit in the project. It was also agreed that the amount paid for a unit in first project will be transferred to the new project. However, even this project could not be started and therefore, the complainant requested for refund of his paid-up amount but the respondent requested the complainant to rather take a unit in project named Versalia, Sector 67, Gurugram i.e., the present project in the year 2015. The total amount paid by the complainant for units in Palm Villa and then Golf Gateway Tower was then transferred as payment for the unit in the Versalia. The complainant then vide letter dated 13.04.2018 requested refund of his paid up amount. Both the parties then reached an agreement with respect to the same dated 11.05.2018. The respondent even made payments to the complainant. However, certain amount is still due to be paid to the complainant and the present complaint has been filed for the same.

The respondent has made payment till 18.02.2019 and has submitted that it is willing to make remaining payments (page 9 of reply). The authority hereby directs the promoter to return the amount received by him i.e., Rs. 16,62,630/- with interest at the rate of 10.25% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under

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rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of payment as promised in the settlement agreement till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

2. Direct the respondent to pay compensation.

The complainant in the aforesaid head is seeking relief w.r.t compensation. Hon'ble Supreme Court of India, in case titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors.* (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. Therefore, the complainants are advised to approach the adjudicating officer for seeking the relief of compensation.

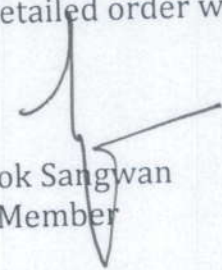
3. To conduct inquiry u/s. 35 of the Act including calling for all the records including calling for the latest financial reports, balance sheet etc. of the respondent and its representatives, directors etc.

4. To freeze the bank account of the respondent and ensure that no money is being misused by it.

The complainant does not press for the said reliefs.

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


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
16.11.2022