



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		10
Day and Date	Tuesday and 19.09.2023	
Complaint No.	CR/2836/2020 Case titled as SIMRAT KAUR GADH AND MR RIKHI ROOP SINGH AND MR HARPAL SINGH Vs IREO GRACE REALTECH PVT LTD	
Complainant	SIMRAT KAUR GADH AND MR RIKHI ROOP SINGH AND MR HARPAL SINGH	
Represented through	Shri Sukhbir Yadav, Advocate	
Respondent	IREO GRACE REALTECH PVT LTD	
Respondent Represented	Shri M.K.Dang, Advocate	
Last date of hearing	25.07.2023	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings		
The present complaint has been received on 01.10.2020 and the reply on behalf of respondent was received on 17.03.2021.		
Succinct facts of the case as per complaint and annexures are as under:		
S.N.	Particulars	Details
1.	Name of the project	"The Corridors", Sector- 67A, Gurugram
2.	Nature of project	Group Housing Colony
3.	RERA registered/not registered	Registered Registered in 3 phases Vide 378 of 2017 dated 07.12.2017 (phase I) Vide 377 of 2017 dated 07.12.2017 (phase-II)



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CR/2835/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

		Vide 379 of 2017 dated 07.12.2017 (Phase-III)
4.	DTPC License no.	05 of 2013 dated 21.02.2013
	Validity status	20.02.2021
	Name of licensee	M/s Precision Realtors Pvt. Ltd. And 5 others
	Licensed area	37.5125 acres
5	Date of approval of building plan	23.07.2013 (As per page no. 71 of reply)
6	Date of environment clearance	12.12.2013 (as per page no. 75 of reply)
7	Date of allotment	21.05.2015 (As per page no. 111 of complaint)
8	Unit no.	904, 9 th floor, C-6 Tower [As per page no. 57 of complaint]
9	Unit measuring	1483 sq. ft. [As per page no. 57 of complaint]
10	Date of execution of Floor buyer's agreement	07.11.2014 (Page no. 51 of complaint)
11	Possession clause	13.3. Possession Subject to Force Majeure, as defined herein and further subject to the Allottee having complied with all its obligations under the terms and conditions of this Agreement and n having defaulted under any provision(s) of this Agreement

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 अर्तगत गठित प्राधिकरण



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		including but not limited to the timely payment of all dues and charges including the total Sale Consideration, registration charges, stamp duty and other charges and also subject to the Allottee having complied w all formalities or documentation as prescribed by the Company, the Company proposes offer the possession of the <i>said Apartment to the Allottee within a period of 42 (Forty Tw months from the date of approval of the Building Plans and/or fulfillment of the precondition imposed thereunder ("Commitment Period")</i> . The Allottee further agrees and understand that the Company shall additionally be entitled to a period of 180 days ("Grace Period"), aft the expiry of the said Commitment Period to allow for unforeseen delays beyond the reasonable control of the Company
12.	Due date of possession	23.01.2017 (Calculated from the date of approval of building plan) Grace period is not allowed
13.	Total sale consideration	Rs. 1,63,14,979/- [As per page no. 129 of complaint]
14.	Total amount paid by the complainant	Rs. 1,52,27,987/- (as per SOA on page no. 129 of complaint)
15.	Occupation certificate dated	31.05.2019 (as per page no. 88 of reply)



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CA 283/2020

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16. Offer of possession

11.06.2019

(As per page no. 114 of complaint)

The counsel for the complainant is seeking refund of the amount deposited by the complainant on the grounds that when the offer of possession was made by the respondent, the unit of the complainant was far from complete and further, the amenities and facilities promised by the respondent in the brochure as well as in the BBA were not provided at the time of offer of possession. The counsel for the complainant invites attention to part occupation certificate dated 31.05.2019 which pertains to only 14 towers and amenities like club house and community center are not part of the occupation certificate.

The counsel for the respondent states that all the amenities were available, and the offer of possession was made after obtaining occupation certificate dated 31.05.2019. So far as completion of the unit is concerned, the unit was complete in all respects and certain time is required to make the unit ready for handing over which was communicated to the complainant vide email dated 06.08.2019 which cannot be construed to be admission of the fact that the unit was incomplete.

The counsel for the complainant is placing on record copy of order passed by Hon'ble NCDRC in case no.1277 of 2017 decided on 1.11.2021 case titled as **Aloke Anand Versus M/s Ireo Pvt. Ltd.** and later upheld by Hon'ble Supreme Court in Civil Appeal NO.180 of 2022 with Civil Appeal NO.268 of 2022 case titled as **M/s Ireo Pvt. Ltd. Versus Aloke Anand and others** wherein refund has been allowed after obtaining OC.

The respondent has placed reliance on the order dated 11.01.2021 passed by Hon'ble Supreme Court of India in civil appeal no. 5785 of 2019 titled as **Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors.** wherein Hon'ble Apex Court has made two categories of allottees: firstly, where the allotment falls in respect of the towers where the developer has been granted occupation certificate and offer of possession has been made (Chart A allottees); and secondly, where the allotment falls in respect of the towers where the developer has not been granted occupation certificate so far (Chart B allottees). In respect of Chart A allottees, the Hon'ble Supreme Court of India while declining the relief of refund along with interest has held that chart A allottees are obligated to take possession, since the construction was completed, and possession was offered to the allottees after issuance of



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occupation certificate. The chart B allottees were held entitled to refund of the entire amount deposited by them along with interest as occupation certificate was not available and it was held that the allottees cannot be made to wait indefinitely for possession of the apartments allotted to them nor can they be bound to take alternate apartment.

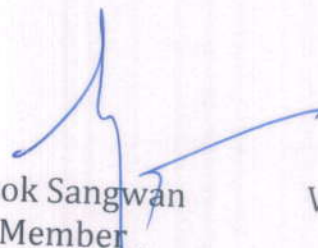
Arguments heard.

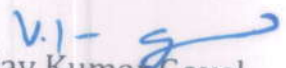
Written submissions have already been filed by both the parties.

Order reserved.

Matter to come up on 14.11.2023 for pronouncement of order.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
19.09.2023