



**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. विधान गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

<b>PROCEEDINGS OF THE DAY</b>		<b>29</b>
Day and Date	Tuesday and 21.02.2023	
Complaint no.	CR/2847/2021 Case titled as Emaar India Ltd. V/s Surinder Dass Mahant and Ajay Mehra	
Complainants	Emaar India Ltd.	
Represented through	Shri Dhruv Rohatgi Advocate	
Respondent	1. Surinder Dass Mahant. 2. Ajay Mehra	
Respondent represented through	Shri Raj Vardhan Advocate	
Last date of hearing	27.10.2022	
Proceeding recorded by	Naresh Kumari and HR Mehta	
<b>Proceedings</b>		
<p>The present complaint has been received on 22.07.2021.</p> <p>On the last date of hearing i.e., 27.10.2022, the counsel for the respondents were directed to file reply in the registry of the authority. However, the reply has not been filed till date. Though the respondents put in appearance through its counsel on 19.10.2021, 15.12.2021, 18.02.2022, 07.04.2022 and 27.10.2022 but has failed to file written reply despite given several opportunities. Accordingly, the defence of the respondents stand struck off. So, the authority is left with no option but to proceed with the complaint based on averments given during arguments and the documents placed on record.</p> <p>Succinct facts of the case as per complaint and reply are as under:</p>		
<b>Sr. No.</b>	<b>Particulars</b>	<b>Details</b>



**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम, 2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

1.	Name of the project	Gurgaon Greens, Sector 102, Gurugram, Haryana
2.	Project area	13.531 acres
3.	Nature of the project	Group housing colony
4.	DTCP license no.	75 of 2012 dated 31.07.2012
	Valid till	30.07.2020
	Name of licensee	Kamdhenu Projects Pvt. Ltd. and another C/o Emaar MGF Land Ltd.
5.	HRERA registered/ not registered	<b>Registered vide no. 36(a) of 2017 dated 05.12.2017 for 95829.92 sq. mtrs.</b>
	HRERA registration valid up to	<b>31.12.2018</b>
	HRERA extension of registration vide	<b>01 of 2019 dated 02.08.2019</b>
	Extension valid up to	<b>31.12.2019</b>
6.	Unit no.	GGN-07-1002, 10 <sup>th</sup> floor, tower no. 7 [annexure F, page 70 of complaint]
7.	Unit measuring (super area)	1650 sq. ft.
8.	Provisional allotment letter dated	25.01.2013 [annexure C, page 47 of complaint]
9.	Date of execution of buyer's agreement	06.05.2013 [annexure F, page 67 of complaint]
10.	Possession clause	<b>14. POSSESSION</b> <b>(a) Time of handing over the Possession</b> <i>Subject to terms of this clause and barring force majeure conditions, subject to the Allottee having complied with all the terms and conditions of this Agreement, and not being in default</i>

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 अर्हत तहत गठित प्राधिकरण



HARERA  
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY  
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम | 2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

		<p><i>under any of the provisions of this Agreement and compliance with all provisions, formalities, documentation etc., as prescribed by the Company, the Company proposes to hand over the possession of the Unit within <b>36 (Thirty Six) months from the date of start of construction</b>, subject to timely compliance of the provisions of the Agreement by the Allottee. The Allottee agrees and understands that the Company shall be entitled to a <b>grace period of 5 (five) months, for applying and obtaining the completion certificate/occupation certificate in respect of the Unit and/or the Project.</b></i></p> <p>(emphasis supplied) [annexure F, page 83 of complaint]</p>
11.	Date of start of construction as per statement of account dated 13.12.2018 at page 191 of complaint	14.06.2013
12.	Due date of possession	14.06.2016 [Note: Grace period is not included]
13.	Total consideration as per statement of account dated 13.12.2018 at page 191 of complaint	Rs.1,26,33,530/-
14.	Total amount paid by the complainants as per statement of account dated 13.12.2018 at page 192 of complaint	Rs.53,09,887/-
15.	Occupation certificate	05.12.2018 [annexure H, page 172 of complaint]
16.	Offer of possession	13.12.2018 [annexure J, page 185 of complaint]
17.	Delay compensation already paid by the respondent for delay in handing over possession as per statement of	Rs. 3,07,171/-

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

भू-संपदा (विनियामक और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण



HARERA  
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY  
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/2847/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

account dated 13.12.2018 at page 192  
of complaint

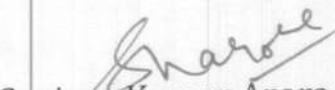
The counsel for the respondent states that the respondent is no longer interested in remaining with the project because of the delay and the complainant promoter may cancel the allotment as per terms and conditions of the BBA subject to Regulation of the authority allowing deduction of 10% earnest money only.

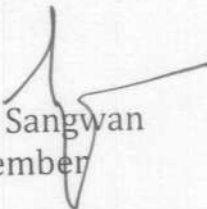
Arguments heard.

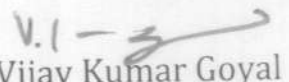
The counsel for the complainant draws attention of the authority towards clause 9.3 (2) of the Modal BBA which provides deduction of interest on the amount due towards the allottee and cancel the unit. But the complainant has not chosen to cancel the unit and has retained whatever money has been deposited by the allottee till date.

The respondent allottee is given one last opportunity to make the payment of outstanding amount alongwith interest at the prescribed rate within 4 weeks failing which the complainant promoter can proceed with the cancellation and to refund the balance amount after deduction of 10% earnest money.

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

  
Sanjeev Kumar Arora  
Member

  
Ashok Sangwan  
Member

  
Vijay Kumar Goyal  
Member  
21.02.2023