



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
नया पी डब्ल्यू डी विश्राम गैह सिविल लाईस, गुरुग्राम, हरियाणा

New PWD Rest House, Civil Lines, Gurugram, Haryana

5	Provisional booking dated	31.12.2017
6	Request for transfer of unit in favour of Manju Yadav.	09.06.2020
7	Unit no.	K10SK-01-A, Second floor
8	Unit area admeasuring	300 sq. ft.
9	Date of apartment buyer agreement	09.06.2020 (Page 129 of reply)
10	Possession clause	7. Possession of the premises/unit 7.1 schedule for possession of the said premises/unit The Promoter agrees and understands that timely delivery of possession of the said premises / unit to the allottee(s) and the common areas to the association of allottee(s) or the competent authority, as the case may be, is the essence of the Agreement. The Promoter assures to hand over possession of the said premises / unit along with ready and complete common areas with all specifications, amenities and facilities of the project in place within a period of 48 (forty eight) months from the date of this Agreement with an extension of further twelve months, unless there is delay or failure due to war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure"). If, however, the completion of the Project is delayed due to the Force Majeure conditions then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the said premises/ unit, provided that such Force Majeure conditions are not of a nature which make it impossible for the contract

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नया पी.डब्ल्यू.डी. विश्राम भू-संपदा विनियामक प्राधिकरण, हरियाणा

		to be implemented. The Allottee agrees and confirms that, in the event it becomes impossible for the Promoter to implement the project due to Force Majeure conditions, then this allotment shall stand terminated and the Promoter shall refund to the Allottee the entire amount received by the Promoter from the allottee (s) subject to deduction of non-refundable amounts including but not limited to return on investments paid / payable by the Promoter to the Allottee(s).
11	Due date of possession	09.06.2024
12	Total sale consideration	Rs. 29,83,000/- (As per payment plan on 161 of reply)
13	Amount paid by the complainant	Rs. 24,35,837/- (As per the cancellation letter dated 09.06.2023 at page 197 of reply)
14	The complainant has already conveyed her consent to revision in building plan as well as resultant increase in the area and dimension of the unit on	15.03.2021 (As stated by the respondent on Annexure R9 of the reply)
15	Offer of possession	24.06.2022 (Page 172 of reply)
16	Occupation certificate	15.03.2023 (Page 187 of reply)
17	Intimation regarding grant of OC wr.t the commercial project on	22.03.2023 (Page 190 of reply)

18	Final reminder dated	14.04.2023 (Page 195 of reply)
19	Pre-cancellation dated	16.05.2023 (Page 196 of reply)
20	Cancellation letter dated	09.06.2023 (Page 197 of reply)

Note: The respondent has arbitrarily increased the super area also from 300 sq. ft. to 414 sq. ft. therefore, the total demand raised by the respondent in aforesaid mentioned letter is Rs. 20,58,992/-.

Relief sought by the complainant:

1. Direct the respondent to hand over the possession of the said unit with the all amenities and specification as promised in all completeness without any further delay.
2. Restrain the respondent from raising fresh demand for payment under any head.
3. Quash the illegal demand of respondent raised along with offer of possession for fit out dated 26.06.2022 and increase super area.
4. Direct the respondent to set aside cancellation letter dated 09.06.2023.

The counsel for the respondent states that the complainant is an investor who deposited certain amount with the respondent as an investment for committed return. He invites attention towards clause 4 of the terms and conditions for fixed amount on provisional booking dated 24.04.2018 according to which it is stated as under:-

"The fixed amount shall be paid by the Company to the applicant till the date of issuance of offer of possession by the Company and offer of possession shall be given by the company on applying of occupation certificate. The offer of possession is not dependent upon grant of completion certificate and occupation certificate. After issuance of offer of possession by the Company, the applicant shall

not be entitled for payment of any fixed amount on the provisional booking by the Company".

He states that the complainant has not assailed the above document and has already derived financial benefit under the same.

So far as increase in the super area is concerned, detailed explanation for the same has been provided and is placed on record. A similar matter in CR No.4151/2022 has been decided by this authority on 23.08.2023.

The counsel for the complainant brought attention towards clause 1.15 of BBA dated 09.06.2020 as per which if change in super area of the unit is more/less than 20% alternate unit shall be provided for allotment to the allottee by the developer. Further, no prior consent of the complainant was obtained at the time of increase in area/change in plans.

Argument heard.

Order reserved.

Matter to come up on 15.11.2023 for pronouncement of order.


Ashok Sangwan
Member
04.10.2023