



HARERA
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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	Thursday and 20.03.2025
Complaint No.	CR/3602/2023 Case titled as Sonal Gulati VS Magic Eye Developers Private Limited & Surendra Nath Panda
Complainant	Sonal Gulati
Represented through	Ms. Vandeeta Gupta Advocate
Respondent	Magic Eye Developers Private Limited & Surendra Nath Panda
Respondent Represented	Ms. Meenal proxy counsel
Last date of hearing	09.01.2025
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 17.08.2023 and registered as complaint no. 3602 of 2023 and reply on behalf of respondent was received on 14.12.2023.

On hearing dated 25.07.2024, the counsel for the complainant stated that although a conveyance deed has been executed but the possession of the unit is not yet handed over to the complainant and the unit has been further leased to a third party and no lease rentals are being paid and neither the complainant is a confirming party to the lease.

On hearing dated 26.09.2024, the counsel for the complainant was directed to file an application for amended relief as the relief of physical handover of possession was not sought at the time of filing of complaint.

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

S. No.	Particulars	Details
1.	Name of the project	"Plaza at Sec-106" Sector-106, Gurugram
2.	Project area	3.725 acres
3.	Nature of project	Commercial Project



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CR/362/2023

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4.	RERA registered/not registered	Registered vide no. 72 of 2017 dated 21.08.2017 valid up to 31.12.2021
5.	DTCP License no.	65 of 2012 dated 21.06.2012 valid up to 21.06.2022
	Name of licensee	Magic Eye Developers Private Limited
6.	Unit no.	Unit No.9, Ground Floor, Tower- B (As per page no. 46 of the complaint)
7.	Unit measuring	728 sq. ft. (super area) & 339 sq. ft. (carpet area) (As per page no. 46 of the complaint)
8.	Date of execution of Agreement	02.09.2019 (As per page no. 33 of the complaint)
9.	Possession clause	7. Possession of the unit 7.1 Schedule for possession of the unit- The promoter agrees and understands that timely delivery of possession of the unit to the allottee is the essence of the agreement. The promoter based on the approved plans and specifications assures to handover possession of the unit by the date mentioned at Sr. no. 20 in schedule A unless there is delay due to force majeure conditions. 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 the possession of the unit, provided that such force majeure conditions are not of a nature which make it possible for the contract to be implemented..... (As per page no. 37 of the complaint)
10.	Commitment charges	Clause 9.of schedule C of BBA Commitment Charges: Irrespective of



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anything contrary contained in the body of agreement, Promoter shall (through WTC Noida Development Company Private Limited or otherwise) be entitled to grant long/short term lease/license of unit to appropriate tenant/user for such tenure (which may be even beyond the committed period) and other terms and conditions, which promoter/WTC Noida Development Company Private Limited may deem fit and proper as per prevailing market conditions Non-Lockable Units will be rented out either by promoter or representative body of allottees of non-lockable Unit along with other adjoining units. Promoter has committed that allottee shall get a minimum of following amount from sub-leasing/renting of unit for a period of **Thirty Six Months (i.e., committed period) with effect from date of offer of possession of unit by promoter.**

If Unit is a Retail Unit and is situated on Ground Floor: Rs. 81/- (Rupees Eighty One Only) per month per square feet of super area of Unit (inclusive of all Taxes). In case, during the committed period, rent realized from sub-leasing of unit is less than the aforesaid amount, promoter shall pay the shortfall to allottee as commitment charge. After the end of committed period promoter shall not be liable to pay any money to allottee and allottee shall be entitled to actual proportionate monthly rent paid by tenant.

If Unit is a Retail Unit and is situated on First Floor: Rs. 73/- (Rupees Seventy Three Only) per month per square feet of super area of Unit (inclusive of all Taxes). In case,



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during the committed period, rent realized from sub-leasing of unit is less than the aforesaid amount, promoter shall pay the shortfall to allottee as commitment charge. After the end of committed period promoter shall not be liable to pay any money to allottee and allottee shall be entitled to actual proportionate monthly rent paid by tenant

If Unit is Lockable Studio Unit: Rs. 30/- (Rupees Thirty Only) per month per square feet of super area (inclusive of all Taxes) + 50% of rent/user charges paid by Lessees/Licensees for the unit. Balance 50% of actual rent/user charges paid by Lessee/Licensee during committed period shall belong to Promoter/Managing Entity. After the end of committed period, allottee shall be entitled to its complete rent paid by Lessee/Licensee. Subject to Lease/License already granted by promoter/promoter's nominee, allottee shall have to right to himself use/grant lease/license of Unit to appropriate person.

All payments shall be made on monthly basis after deduction of TDS. Commitment Charges shall be payable only if allottee has made payment of his all dues to Promoter within 30 days from the date of receipt of offer of possession. Promoter shall be entitled to adjust its dues, if any, from the commitment charges.

In case allottees create any hindrance in renting of such units by promoter or decline to avail the renting opportunity available with promoter, promoter shall stand discharged of its obligation of payment of



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		<i>commitment charges to allottee</i>
11.	Due date of possession	(As per page no. 49 of the complaint) 30.06.2022 (As per RERA registration plus 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)
12.	Total sale consideration	Rs.39,70,512/- (As per page no. 46 of the complaint)
13.	Total amount paid by the complainant	Rs.40,11,222/- (As per applicant ledger dated 06.12.2023 on page no. 15 of the reply)
14.	Occupation certificate	28.11.2019 (As per DTCP website)
15.	Offer of possession	30.11.2019 (As per page no. 3 of the reply)
16.	Conveyance deed	31.12.2020 (As per page no. 66 of the complaint)
17.	Lease deed with Instakart for 3 years i.e., 05.07.2021 to 04.07.2024	04.10.2021 (As per page no. 84 of the complaint)
18.	Legal Notice for payment of remaining commitment charges and assured minimal rental charges and interest	17.01.2023 (As per page no. 85 of the complaint)

The counsel for the complainant states that the complainant has filed an application on 22.01.2025 in which the complainant has stated that no relief for physical possession was ever sought and there is no necessity for filing an application for the afore-mentioned relief and requested to adjudicate the matter in accordance with the original relief sought in the complaint i.e., the payment of commitment charges.

The proxy counsel for the complainant requests for a short adjournment as the main arguing counsel is not available today. Request is allowed.



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The counsel for the respondent is directed to submit written submissions within a period of 15 days with an advance copy to the complainant.

Order reserved.

Matter to come up on 01.05.2025 for pronouncement of order.

V.1-3
Vijay Kumar Goyal
Member
20.03.2025