

<b>PROCEEDINGS OF THE DAY</b>		<b>45</b>
Day and Date	Wednesday and 08.05.2024	
Complaint No.	CR/3636/2023 Case titled as Bhavkaran Singh VS Vatika One On One Private Limited	
Complainant	Bhavkaran Singh	
Represented through	Ms. Ropali Gupta proxy counsel	
Respondent	Vatika One On One Private Limited	
Respondent Represented	Ms. Ankur Berry Advocate	
Last date of hearing	28.02.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

### Proceedings

The present complaint was filed on 01.09.2023 and reply on behalf of the respondent was received on 28.02.2024.

Succinct facts of the case are as under-

S.no.	Particulars	Details
	Name of the project	"Vatika One on One", Sector 16, Gurugram
1.	Booking/Application form	17.02.2014 (Annexure A1 at page 26 of complaint) *Letter dated 30.12.2014 was sent by respondent to complainant promising a commitment of Rs. 75,825/- per month for above mentioned flat (Annexure A5 at page 34 of complaint)
2.	Allotment letter	03.08.2015

		(Annexure A2 at page 31 of complaint) <b>(Respondent mentioned allotment letter dated 17.11.2014 at page 2 of reply)</b>
3	Date of builder buyer agreement	12.02.2016 (Annexure A6 at page 36 of complaint)
4	Unit no.	608, 6 <sup>th</sup> floor, Block 4, admeasuring 500 sq. ft. (Page 38 of complaint)
5	Provision regarding assured return	<b>Clause 15. Assured Return in full down payment cases</b> <i>The Developer may, where the Buyer has 70% of the total sale consideration and other charges for the Commercial unit, upon signing of this Agreement pay Rs. 151.65/- (one hundred fifty one and sixty five paise only) per sq. ft. super area per month by way of assured return to the Buyer, of certain category(ies) of commercial unit as per its policy, from the date of execution of this agreement till the construction of the said commercial unit is complete. Such policy of the Developer may change from time to time where the Developer may withdraw the assured return scheme.</i> (BBA dated 12.02.2016 at page 47 of complaint)
6	Possession clause	Clause 17 of the BBA <i>"The Developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete construction of the said Building/ said</i>



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CA/36236/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

		<p><i>Commercial Unit within a period of 48 (Forty Eight) months from the date of execution of this Agreement unless there shall be delay or there shall be failure due to reasons mentioned in this agreement or due to failure of Buyer(s) to pay in time the price of the said Commercial Unit along with all other charges and dues in accordance with the Schedule of Payments....."</i></p> <p>(BBA dated 12.02.2016 at page 47 of complaint)</p>
7	Due date of possession	<p>12.02.2020</p> <p>(Calculated to be 48 months from the date of execution of builder buyer agreement, i.e., from 12.02.2016)</p>
8	<b>Addendum agreement dated 18.01.2023</b>	<ol style="list-style-type: none"><li><b>1. Effective from 1<sup>st</sup> July 2019</b></li><li>Total sale consideration revised to Rs. 35,40,000/-</li><li>Clause 15 of BBA regarding Assured return deleted.</li><li>Clause 16 was substituted with a new clause. (Leasing assistance)</li><li>Amount due and payable to allottee by developer including all amounts payable under Clause 15(assured returns) and clause 16(leasing arrangement) shall be settled and payable at the time of handing over of subject unit to prospective tenant.</li></ol> <p><b>NOT EXECUTED- UNSIGNED COPY ATTACHED</b></p> <p>(Annexure 12 at page 200 of complaint)</p>
	Basic sale consideration	<p>Rs.48,79,500/-</p> <p>(BBA at page no. 39 of complaint)</p>



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम  
CR 3630/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

9	Amount paid by the complainant	Rs.53,92,713/- (Fully paid by cheque dated 17.10.2014 and received by respondent on 20.10.2014) (Annexure A3 at page 32 of complaint)
10	Amount of assured returns paid till September, 2018	Rs. 22,74,750/- (Annexure R3 at page 33 of reply)
11	Occupation Certificate	06.09.2021 (Annexure R2 at page 30 of reply)

The proxy counsel for the complainant states that the present complaint is covered under the order already passed by this Authority in CR No. 4371/2020, CR No.617/2020 and CR No.2331/2021 and the relief may be granted in terms of the above quoted orders.

The counsel for the respondent states that OC for the project was received on 06.09.2021 and the assured return was required to be paid from the date of execution of the agreement till the construction of the said commercial unit was complete as per clause 15 of the BBA. The respondent has paid an amount of Rs.22,74,750/- upto September 2018. The complainant is seeking both DPC as well as assured return. The due date for handing over of possession was 12.02.2020 ( without 6 months relaxation on account of Covid-19). In view of the above, firstly, the complainant can not ask for both reliefs simultaneously and secondly, the amount of assured return already paid would exceed the amount of DPC, if DPC is granted by the authority. Therefore, nothing is required to be paid by the respondent to the complainant.

The proxy counsel for the complainant states that the amount of Rs.130/- per month per sq. ft was required to be paid as committed return for upto 3 years from the date of construction of the said building or the said unit is put on lease



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CA 2020/2023

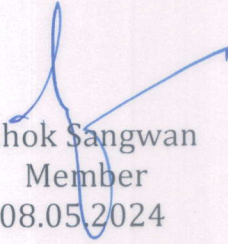
New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी.डब्ल्यू.डी. विभाग गृह. सिविल लाईंस, गुरुग्राम, हरियाणा

as per clause 16.1 of the BBA. However, the assured return was stopped in September, 2018.

Arguments heard.

Order reserved.

Matter to come up on **07.08.2024** for pronouncement of order.

  
Ashok Sangwan  
Member  
08.05.2024