

PROCEEDINGS OF THE DAY		06
Day and Date	Thursday and 12.05.2022	
Complaint No.	CR/380/2019 Case titled as Anand Gupta & Sonal Katoch V/s ALM Infotech City private Limited	
Complainants	Anand Gupta & Sonal Katoch	
Represented through	Shri Nitin Advocate	
Respondent	ALM Infotech City private Limited	
Respondent Represented through	Shri Venkat Rao, Advocate	
Last date of hearings	15.03.2022	
Proceeding Recorded by	HR Mehta	

Proceedings

File has been received on transfer from the Adjudicating Officer in view of the judgment dated 11.11.2021 passed by the Apex Court in the case bearing no. **SLP(Civil) No(s). 3711-3715 OF 2021) titled as M/s Newtech Promoters and Developers Pvt Ltd Versus State of U.P. and Ors.** as matters regarding refund and interest under sec 18(1) are to be decided by the authority and matters regarding adjudging compensation to be decided by the Adjudicating officer.

The issue regarding the application filed in the form CAO as per the Haryana Rules 2017, whether the authority should proceed further without seeking fresh application in the form CRA for cases of refund along with prescribed interest in case allottee wishes to withdraw from the project on failure of the promoter to give possession as per agreement for sale, has been deliberated in the proceedings dated 10.5.2022 in **CR No. 3688/2021 titled Harish Goel Versus Adani M2K Projects LLP.**

The present complaint has been filed on 21.02.2019. The said complaint was dismissed by orders dated 19.02.2021, due to non-appearance of the complainants. The complainants filed an application dated 23.02.2021 for restoration of complaint. In view of aforesaid application, the complaint was



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
CR/380/2019

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

restored vide orders dated 01.04.2021. On 10.08.2021, the complainants were directed to file the complaint in proper format within two weeks with an advance copy to the respondent. Vide said orders, the respondent was also directed to file the reply within two weeks.

No written reply has been filed by the respondent till date.

Succinct facts of the case as are as under:

S. N.	Particulars	Details	
1.	Name of the project	"ILD Grand", Sector-37C, Gurgaon	
2.	Nature of project	Group housing project	
3.	RERA registered/not registered	Registered vide registration no. 386 of 2017 dated 18.12.2017	
	Validity status	17.09.2019	
	Licensed area	41223.953 sqm.	
4.	DTPC License no.	96 of 2010 dated 03.11.2010	118 of 2011 dated 26.12.2011
	Validity status	02.11.2025	25.12.2024
	Licensed area	21.1804 acres	
	Name of licensee	M/s Jubilant Malls Pvt. Ltd.	
5.	Unit no.	5C on 5 th floor of tower B [As per page no. 30 of complaint]	
6.	Unit area admeasuring	1789 sq. ft. [As per page no. 24 of complaint]	
7.	Allotment letter	Not provided on record	
8.	Date of apartment buyer agreement	13.02.2014	

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भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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		[As per page no. 23 of complaint] [Executed between original allottee and respondent]
9.	MOU dated	15.01.2015 [As per page no. 30 of complaint] [Acknowledging the transfer of unit in favour of subsequent allottees i.e. the complainants]
10.	Total sale consideration	BSP- Rs. 57,85,656/- TSC- Rs. 69,63,841/- (without tax) [As per page no. 24-25 of complaint]
11.	Amount paid by the complainant	Rs. 72,09,911/- [As alleged by the complainant on page no. 09 of complaint]
12.	Possession clause	Clause 9(i) of similar apartment buyer's agreement (As copy of complete ABA has not been placed on record) Subject to Force Majeure circumstances as defined herein and subject to timely grant of all approvals, permissions, NOCs, etc. and further subject to the Allottee(s) having complied with all his obligations under the terms and conditions of this Agreement and the Allottee(s) not being in default under any part of this Agreement including but not limited to the timely payment of the total Sale Consideration and other charges/fees/taxes/levies and also subject to the Allottee(s) having complied with all formalities or

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CR/382/2019

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		documentation as prescribed by the Developer the Developer proposes to complete the construction <u>within a period of 36 months computed from the date of execution of this agreement with further grace period of 180 days under normal circumstances.</u>
13.	Building plan approved on	21.09.2015 [As per project details]
14.	Environmental clearances	06.09.2013 [As per project details]
15.	Due date of possession	13.08.2017 [Calculated from date of agreement dated 13.02.2014] Grace period of 180 days is allowed.
16.	Occupation certificate	Not obtained
17.	Offer of possession	Not offered

Relief sought by complainant:

- Direct the respondent to refund the aforesaid amount of Rs. 72,09,911/ (Rupees Seventy Two Lakhs Nine Thousand Nine Hundred Eleven Only) to complainants along with an interest as prescribed by the Hon'ble authority since the booking of the apartment till its full and final realization, as the respondent has violated or contravened the provisions of the act, rules or regulations made thereunder or aforesaid application or agreement dated 13.02.2014 and failed to complete the construction of the aforesaid project and to handover the physical possession of the aforesaid apartment / flat to the complainants within three years from the date of aforesaid application as well as aforesaid Apartment Buyer's Agreement dated 13.02.2014..***

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During the course of arguments, both the party request for a short adjournment. Even it has been stated on behalf of the respondent that the project is being financed by the Central Govt. under Swamih Fund and the same is likely to be completed within six months and the project is being monitored by the Swamih Fund Agency as well as the Harera . The complainants wish to visit the site to have the first hand latest information about the progress in the project at site and seeks one week time to do so.

The counsel for the respondent is also directed to file reply within 10 days with an advance copy to the complainant.

Matter to come up on 26.5.2022 for further proceedings.

V.I. - 3
Vijay Kumar Goyal
Member


Dr. KK Khandelwal
Chairman
12.05.2022