

PROCEEDINGS OF THE DAY		24
Day and Date	Tuesday and 19.12.2023	
Complaint No.	CR/3823/2021 Case titled as Virender Singh Raghav and Anjana Raghav VS Emaar MGF Land Limited	
Complainant	Virender Singh Raghav and Anjana Raghav	
Represented through	Shri Jagdeep Kumar Advocate	
Respondent	Emaar MGF Land Limited	
Respondent Represented	Shri Harshit Batra Advocate	
Last date of hearing	26.09.2023	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings		
The present complaint has been received on 24.09.2021 and the reply was received on 25.10.2021.		
Succinct facts of the case as per complaint and reply are as under:		
Sr. No.	Particulars	Details
1.	Name of the project	Gurgaon Greens, Sector 102, Gurugram, Haryana
2.	Unit no.	GGN-12-0601, 6 th floor, building no. 12 measuring 1650 sq. ft. [annexure P2, page 49 of complaint]
3.	Provisional allotment letter issued in favor of Vikrant Rohilla (Original Allottee) on	25.01.2013 [annexure P1, page 32 of complaint]
4.	Date of execution of buyer's	01.04.2013



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ON 3823/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

	agreement between Vikrant Rohilla & respondent	[annexure P2, page 46 of complaint]
5.	Possession clause	14. POSSESSION (a) Time of handing over the Possession 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 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 <u>36 (Thirty Six) months from the date of start of construction</u>, 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 <u>grace period of 5 (five) months, for applying and obtaining the completion certificate/occupation certificate in respect of the Unit and/or the Project.</u> (emphasis supplied) [annexure P2, page 61 of complaint]
6.	Date of start of construction as per statement of account dated 17.10.2021 at page 222 of reply	14.06.2013
7.	Due date of possession	14.06.2016 [Note: Grace period is not included]
8.	Nomination letter issued by the respondent in favour of Mr. Praveen Kumar (1 st subsequent allottee)	25.04.2013 [Page 97 of reply]
9.	Total consideration as per statement of account dated 17.10.2021 at page 222 of reply	Rs. 95,25,541/-



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10.	Total amount paid by the complainants as per statement of account dated 17.10.2021 at page 223 of reply	Rs.1,01,86,322/-
11.	Occupation certificate	30.05.2019 [annexure R5, page 133 of reply]
12.	Offer of possession to the first subsequent allottee (Mr. Praveen Kumar)	01.06.2019 [annexure R4, page 124 of reply]
13.	Complainants are second subsequent allottees	The respondent acknowledged the complainants as allottee vide nomination letter dated 06.08.2019 (annexure R3, page 99 of reply) in pursuance of agreement to sell dated 13.07.2019 (annexure P7, page 111 of complaint) executed between the complainants and the previous allottee (Mr. Praveen Kumar)
14.	Unit handover letter signed by the complainants on	04.09.2019 [annexure R1, page 29 of reply]
15.	Conveyance deed executed by the complainants on	09.09.2019 [annexure R6, page 137 of reply]

Part arguments heard.

The counsel for the complainant has drawn attention of the authority towards clause 28 of the BBA which provides that all obligations and liabilities and are transferred to a subsequent allottee as well when the unit is endorsed in favour of any subsequent buyer. Further the Act of 2016 also does not distinguish between a earlier allottee and a new allottee and the Hon'ble SC has held that Act is retroactive in nature or the rights conferred by the Act under section 18 cannot be denied to a subsequent allottee as well.

However the counsel for the respondent states that the complainant is a second allottee and the unit has been endorsed in his favour after offer of possession was made to earlier allottee and hence there is no delay or loss suffered by the present complainant and hence cannot come before the authority for seeking relief u/s 18. More over while endorsing the unit, the



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complainant of his free will has agreed to a revised timelines for offer of possession i.e. 02.07.2019 (page 108) and the unit was completed before above date and OC obtained. The counsel is further relying upon the orders passed by the Hon'ble SC in Civil Appeal No.4910-4941 of 2019.

Matter to come up on 26.03.2024 for further arguments.


Sanjeev Kumar Arora
Member


Vijay Kumar Goyal
Member
19.12.2023


Arun Kumar
Chairman
19.12.2023