

New FWD Rest House, Civil Lines, Gurugram, Haryana

141 41.04 3.03 1440 30.00 1440 3.20 0.00

PROCEEDINGS OF THE DAY		26															
Day and Date	Tuesday and 19.11.2024																
Complaint No.	CR/3933/2021 Case titled as Yogesh Yadav and Neelam Yadav VS Elan Buildcon Private Limited																
Complainant	Yogesh Yadav and Neelam Yadav																
Represented through	Shri Gaurav Rawat Advocate																
Respondent	Elan Buildcon Private Limited																
Respondent Represented	Shri Ishaan Dang Advocate																
Last date of hearing	08.10.2024																
Proceeding Recorded by	Naresh Kumari and HR Mehta																
Proceedings The present complaint was filed on 27.09.2021 and the reply on behalf of respondent was received on 22.11.2021. Succinct facts of the case as per complaint and reply are as under: <table> <tr> <th>S. No.</th> <th>Particulars</th> <th>Details</th> </tr> <tr> <td>1.</td> <td>Name of the project</td> <td>"Elan Miracle", Sector 84 Village Hayatpur, Gurugram.</td> </tr> <tr> <td>2.</td> <td>Nature of the project</td> <td>Commercial colony</td> </tr> <tr> <td>3.</td> <td>DTCP License</td> <td>34 of 2014 dated 12.06.2014 valid upto 11.06.2019</td> </tr> <tr> <td>4.</td> <td>Name of licensee</td> <td>Bajaj Motors(P) Ltd. and others</td> </tr> </table>			S. No.	Particulars	Details	1.	Name of the project	"Elan Miracle", Sector 84 Village Hayatpur, Gurugram.	2.	Nature of the project	Commercial colony	3.	DTCP License	34 of 2014 dated 12.06.2014 valid upto 11.06.2019	4.	Name of licensee	Bajaj Motors(P) Ltd. and others
S. No.	Particulars	Details															
1.	Name of the project	"Elan Miracle", Sector 84 Village Hayatpur, Gurugram.															
2.	Nature of the project	Commercial colony															
3.	DTCP License	34 of 2014 dated 12.06.2014 valid upto 11.06.2019															
4.	Name of licensee	Bajaj Motors(P) Ltd. and others															



HARERA
GURUGRAM

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

5.	RERA Registered/ not registered	Registered vid no. 190 of 2017 dated 14.09.2017 valid up to 13.09.2023
6.	Allotment Letter in favour of the original allottee i.e., Renu Yadav and Vikram Yadav	12.06.2018 (Annexure C-2 page 85 of complaint)
7.	Unit no.	G-030, Ground Floor (Annexure C-2 page 85 of complaint)
8.	Super Area	925 sq. ft. (Annexure C-2 page 85 of complaint)
9.	Revised area	1181 sq. ft. (Annexure R/6 at page no. 86 of the reply)
10.	Date of execution of builder buyer agreement in favour of the original allottee i.e., Renu Yadav	04.02.2019 (Page no. 27 of the reply)
11.	Date of endorsement	12.03.2021 (Page no. 132 of complaint)
12.	Possession clause	7.1. Possession of the 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 <i>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</i> , 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"). (Emphasis supplied).
13	Due date of delivery of possession	04.02.2024 (Calculated from the date of execution of buyer's agreement i.e., 04.02.2019 + 12 months grace period.)
14.	Total sale consideration	Rs.1,27,811,25/- (Annexure C-2 page 85 of complaint) Rs.1,64,20,512/- (As per Applicant ledger at page no. 85 of the reply)
15	Total amount paid by the complainant	Rs.87,01,498/- (As per receipt information at page 86 of the reply)
16	Offer of possession fit outs	07.09.2021 (Page 145 of the complaint)
17.	Reminder Letter	12.10.2021, 12.11.2021, 28.12.2021, 08.02.2022, 10.03.2022, 05.04.2022, 09.05.2022, 06.06.2022, 04.07.2022, 05.08.2022, 05.09.2022, 10.10.2022, 03.11.2022, 03.12.2022, 03.01.2023
18.	Occupation certificate	15.03.2023 (Page no. 1 of the additional documents filed by the respondent on 12.10.2023)
19.	Intimation regarding grant of OC	22.03.2023 (Page no. 4 of the additional documents filed by the respondent on 12.10.2023)

The complainant is a subsequent allottee. The subject unit was originally allotted to Mrs. Renu Yadav. A buyer's agreement was executed in this regard on 04.02.2019. Vide endorsement sheet dated 12.03.2021, the original allottees transferred all their rights and liabilities in relation to subject unit in the favour of present allottees i.e., Yogesh Yadav and Neelam Yadav.

The counsel for the complainant states that the complainant is seeking direction to hand over the possession of the said unit with the amenities and specifications as promised in all completeness without any further delay and



HARERA
GURUGRAM

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

not to hold delivery of the possession for certain unwanted reasons much outside the scope of BBA and to quash the illegal demands raised by the respondent w.r.t. electricity connection, levy of holding charges and maintenance charges etc.

The counsel for the complainant clarifies that unit has been endorsed in favour of the complainant on 12.03.2021 and no relief of DPC is being sought. Although the offer of possession is not valid as the same was prior to obtaining of OC and undue demands on account of increased area and other charges were raised which was not agreed and were not part of BBA and hence requests for setting aside the offer of possession and to issue directions for handing over of possession as per the area agreed in the BBA and no undue charges are to be demanded. Further states that the area of the unit has been increased by 256 sq. ft. i.e., 27.67% for which an additional demand has been raised for Rs.34,26,560/-. The area has been changed from 925 sq. ft. to 1181 sq. ft.

The counsel for the respondent states that all the clauses of BBA are applicable on the complainant as the endorsement on page 65 of the reply and the complainant has given consent at the time of allotment for revision in the plan including increase in the area at page 84 of the complaint. However, the same is blank and neither dated nor addressed to any person or entity.

Arguments heard.

Order reserved.

Matter to come up on 11.02.2025 for pronouncement of order.

Ashok Sangwan
Member


Arun Kumar
Chairman
19.11.2024


Vijay Kumar Goyal
Member