



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

PROCEEDINGS OF THE DAY

28

Day and Date	Wednesday and 10.07.2024
Complaint No.	CR/3973/2023 Case titled as Rajiv Kumar Garodia and Annie Garodia VS KS Prompmart Private Limited and VSR Infratech Private Limited
Complainant	Rajiv Kumar Garodia and Annie Garodia
Represented through	Complainant in person
Respondent	KS Prompmart Private Limited and VSR Infratech Private Limited
Respondent Represented through	Shri Jagdeep Yadav Adv. for R1 Ms. Shriya Takkar, Ms. Smriri Srivastava and Shri Kapil Bakshi Adv. for R2
Last date of hearing	20.03.2024
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 15.09.2023 and the reply on behalf of respondent no. 1 was received on 20.03.2024.

However, respondent no.2 has filed an application for dismissal of complaint qua respondent no.2 stating that the respondent no.2 is neither the promoter nor the developer of the project. The respondent no.2 had initially entered into an agreement dated 18.09.2013 with respondent no.1 by virtue of which respondent no.2 had purchased the development rights of the project in question from respondent no.1. Later the Govt. of Haryana vide its notification dated 18.02.2015 mandated that the original license holder only must develop the project. Accordingly, considering the above facts, the agreement dated 18.09.2013 was cancelled vide a deed of cancellation and the project was transferred in the name of respondent no.1. Post cancellation, respondent no.1 is the developer and the same is being developed and managed by respondent no.1 and accordingly post the cancellation all amounts paid by the allottees including the complainants were



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CR/1560/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

transferred to respondent no.1 and the respondent no.2 has no role to play thereafter whatsoever.

The complainants vide reply to application for dismissal of complaint qua respondent no.2 have submitted that the complainants have made payments to respondent no.2 and have received the allotment letter from them. Therefore, it is untenable for respondent no.2 to disclaim their status as promoter or developer during the initial stage of the project. Further, no communications w.r.t to transfer was provided to the complainants before, during or after the transfer. The complainants only acquainted with respondent no.1 during their visit to respondent's office in January 2023, subsequent to receiving mail communication on 18.01.2023. Further, during their recent visit on 10.01.2024 to assess the progress of the project and individuals associated with the development, it was observed that the project is currently marketed under the name of Devyansh Group. Moreover, the promoters of all the involved companies are identical as evidenced by the Ministry of Corporate Affairs website.

The respondent no.2 has further brought on record affidavit of Mr. Devendra Pandey (Director of Respondent no.1 i.e., M/s KS Propmart Private Limited) dated 18.01.2024 submitted by respondent no.1 in complaint bearing no. CR/1560/2023 wherein, he has submitted that the liabilities of all the claims are to be borne by M/s KS Propmart Private Limited and not by M/s VSR Infratech Private Limited. Relevant points of affidavit reproduced here below: -

"7. I say that since the amount received by the M/s VSR Infratech Pvt. Ltd. from the third parties is duly transferred by the VSR to the M/s KS Propmart Pvt. Ltd. in terms of the Deed of Cancellation, therefore the M/s VSR Infratech Pvt. Ltd. has no rights or liabilities whatsoever qua the project that was been developed on the said land.

8. I say that pursuant to the Deed of Cancellation dated 01.04.2015, M/s VSR Infratech Pvt. Ltd. has no right or liability whatsoever qua the project that was been developed on the said land and all the rights and liabilities are solely with the M/s KS Propmart Pvt. Ltd., having to the extent detailed above, stepped into the shoes of M/s VSR Infratech Pvt. Ltd. and M/s VSR Infratech Pvt. Ltd. is left with no interest or control of any kind in the project proposed to be developed on the said land.

9. I say that in view of thereof all the rights, claims, liabilities etc. are solely to be borne and controlled by M/s KS Propmart Pvt. Ltd."

Succinct facts of the case are as under:

S. No.	Heads	Details
1.	Name and location of the project	"Park Street" formerly known as "85 Avenue" Sector -85, Gurugram



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CA/39/3/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

2.	Project area	2.85 acres
3.	Nature of project	Commercial
4.	RERA registered/not registered	Registered Vide no. 41 of 2019 dated 30.07.2017 Valid/renewed up to- 31.12.2021
5.	DTCP license no. & validity status	100 of 2013 dated 02.12.2013 Valid/renewed up to- 01.12.2019 Licensee- M/s K.S Propmart Pvt. Ltd.
6.	Date of Allotment	12.07.2014 (page no. 66 of complaint)
7.	Unit No.	F-51, First Floor (page no. 66 of complaint)
8.	Unit admeasuring area	468.660 sq. ft. (super built up area) (page no. 66 of complaint)
9.	Space buyer's agreement/MoU	Not Executed
10.	Due date of possession	12.07.2017 [Calculated as per Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018]
11.	Total sale consideration	Rs. 46,77,790/- (excluding applicable taxes and charges) (page no. 66 of complaint)
12.	Amount paid by complainants	Rs. 8,35,208/- (as per allotment letter on page 66 of complaint)
13.	Final opportunity letter	06.09.2022 (page 38 of reply of R-1)
14.	Intimation of termination	28.12.2022 (page 74 of complaint)
15.	Surrender Request	19.01.2023 (page 40 of reply of R-1)
16.	Occupation certificate	Not obtained
17.	Date of offer of possession to the complainant	Not offered



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CR/3973/2023

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Arguments heard.

Order reserved.

Parties may file brief written submissions within a period of 2 weeks with an advance copy to each other.

Matter to come up on **04.09.2024** for pronouncement of order.

Ashok Sangwan
Member
10.07.2024