

New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी. डब्ल्यू. हाई. विधान गृह, सिविल लाईन, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY		10
Day and Date	Thursday and 28.03.2024	
Complaint No.	CR/4250/2022 Case titled as Balvinder Kaur VS Raheja Developers Limited	
Complainant	Balvinder Kaur	
Represented through	Shri Rishabh Gupta Advocate	
Respondent	Raheja Developers Limited	
Respondent Represented through	Shri Garvit Gupta Advocate	
Last date of hearing	04.01.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings		
The present complaint was filed on 01.07.2022 and registered as complaint no. 4250 of 2022 and reply received on 14.03.2023.		
The succinct facts of the case are as follows:		
S.No.	Particulars	Details
1.	Name and location of the project	"Raheja Shilas", Sector-109, Gurugram
2.	Nature of the project	Low rise floors
3.	Project area	14.812 acres
4.	DTCP License and validity	257 of 2007 dated 07.11.2007 valid up to 06.11.2024
5.	Name of the licensee	Brisk Construction Pvt. Ltd. and 3 others
6.	RERA Registration	90 of 2017 dated 28.08.2017 valid up to 31.12.2020
7.	Unit no. and floor no.	IF10-01, Ground Floor and Block-IF10 (As per page no. 63 of the complaint)
8.	Unit area admeasuring	2152.64 sq. ft. (Super area) (As per page no. 63 of the complaint)



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CA/42501/22

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9.	Allotment letter	16.02.2010 (As per page no. 30 of the complaint)
10.	Date of execution of agreement to sell	16.02.2010 (As per page no. 31 of the complaint)
11.	Possession clause	4.2 Possession Time and Compensation <i>That the seller shall sincerely endeavor to give possession of the plot to the purchaser within twenty-four (24) months from the date of the execution this Agreement and after providing of necessary infrastructure specially road sewer & water in the sector by the Government, but subject to force majeure conditions or nay Government/Regulatory authority's action, inaction or omission and reasons beyond the control of the seller. However, the seller shall be entitled for compensation free grace period of six (6) months in case the development is not within the time period mentioned above. In the event of his failure to take over possession of the plot provisionally and/or finally allotted within 30 days from the date of intimation in writing by the seller, then the same shall lie at his/her risk and cost and the purchaser shall be liable to pay @ Rs. 5/- per sq. ft of the plot area per month as holding charges for the entire period of such delay...."</i> (As per page no. 44 of the complaint)
12.	Grace Period	Allowed As per clause 4.2 of the agreement to sell, the possession of the allotted unit was supposed to be offered within a stipulated timeframe of 24 months plus 6 months of grace period. It is a matter of fact that the respondent has not completed the project in which the

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		allotted unit is situated and has not obtained the part completion certificate by August 2012. As per agreement to sell, the construction and development work of the project is to be completed by August 2012 which is not completed till date. Accordingly, in the present case the grace period of 6 months is allowed.
13.	Due date of possession	16.08.2012 (Note: 24 months from the date of execution of agreement to sell i.e., 16.02.2010 + 6 months grace period)
14.	Total sale consideration	Rs.88,13,631/- As per customer ledger on page no. 69 of the complaint)
15.	Amount paid by the complainant	Rs.79,08,191/- (As per customer ledger on page no. 70 of the complaint)
16.	Occupation Certificate/ completion certificate	Not received
17.	Offer of possession	Not offered

The counsel for the respondent states that a detailed status report pertaining to the completion of the project has been filed in the authority on 16.10.2023. He further states that the OC in respect of the unit of the complainant has been applied on 27.04.2017 but the OC is not yet granted by the competent authority due to reasons beyond the control of the respondent which mainly pertains to sanctioning of the voltage line etc. The respondent has completed the unit and hence, DPC is to be allowed, the same may be limited to the date of application of OC and may be considered as force majeure on the part of the respondent. However, the counsel for the complainant clarifies that force majeure clause 4.4 at page 11 of the BBA and the above is not part of the same and hence may not be allowed. Further the authority has already allowed DPC from the due date till obtaining of OC and requests for grant of similar relief as allowed in CR No.749/2019.



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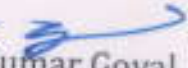
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Arguments heard.

Order reserved.

The counsel for the respondent also requests to explore the possibility of amicable settlement and if not settled, both the counsels for the parties may file written submissions, if any, within 3 weeks with an advance copy to each other.

Matter to come up on 16.05.2024 for final arguments and orders.

V.1- 
Vijay Kumar Goyal
Member
28.03.2024