



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		9
Day and Date	Thursday and 10.03.2022	
Complaint No.	CR/4554/2021 Case titled as Deepak Gupta VS Elan Buildcon Private Limited	
Complainant	Deepak Gupta	
Represented through	Shri Sukhbir Yadav Advocate	
Respondent	Elan Buildcon Private Limited	
Respondent Represented	Shri Ishaan Dang Advocate	
Last date of hearing	06.01.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings through VC

The present complaint was filed on **25.11.2021** and registered as **complaint No. 4554 of 2021**. As per the registry, complainant has sent copy of complaint along with annexures through speed post as well as through email and proof regarding having the delivery of the complaint along with annexures made to the respondent has been submitted by the complainant as available in the file. The registry of the authority sent a notice with a copy of the complaint along with annexures through speed post of which delivery confirmed on **16.12.2021** as per the tracking report of the speed post available in the file. Registry has also sent the notice along with a copy of the complaint through email at following email address:

AKASHKAP1987@gmail.com

The same is shown to have been delivered on the above email address as per the report available in the file. It is proper service of the notice.

The complainant has filed the present complaint intimating that letter of offer of possession dated 7.9.2021 for FIT OUTS and settlement of dues in respect of the unit was issued by the respondent whereby they have informed about the status of the completion of the construction of the unit and about the status of the Occupation certificate being applied for to the concerned



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Department. The respondent has further asked the complainant to pay the outstanding amount of Rs. 78,63,112/- with regard to alleged imaginary increase in area of 288 sq.ft. (from 1104 sq.ft to 1392 sq.ft) The complainant has sought relief to direct the respondent to delete the illegal and unjustified demand of the amount w.r.t. increased area and also to direct the respondent for peacefully delivery of the unit.

The counsel for the complainant further submitted that it is obligatory on the respondent promoter to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be, as provided in section 11(4)(b) of the RERA At, 2016, before raising the demand due at the time of possession after obtaining occupation certificate/completion certificate of the project.

The section 19 (10) of the Act provides that every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be.

In the present case, the respondent has not obtained the occupation certificate from the competent authority but issue letter of offer of possession dated 7.9.2021 for FIT OUTS and settlement of dues in respect of the unit whereby they have informed about the status of the completion of the construction of the unit and about the status of the Occupation certificate being applied for to the concerned Deptt. as the unit is ready for possession for the purpose of FIT OUTS and interior works and asked the complainant to pay the outstanding amount.

This type of conduct of the builder-respondent to issue FIT OUT possession without obtaining occupation certificate and raising demands is contradictory and against the provisions of the Act, 2016 because the builder cannot issue FIT OUT possession without obtaining occupation certificate from the competent authority. As such a show cause notice be issued to the respondent-promoter as to why a penalty of Rs. One Lakh be not imposed upon the respondent-promoter for non-compliance of the provisions of the Act w.r.t. to issue FIT OUT possession without obtaining occupation certificate.

Shri Ishaan Dang, counsel appearing on behalf of the respondent requests for an adjournment for filing of the reply on the plea that he has been



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recently engaged by the respondent promoter. This type of delay tactics are not tenable because there was a sufficient time for the respondent to file reply as the authority has already sent a notice with a copy of the complaint along with annexures through speed post and through E-mail for which delivery confirmed on 16.12.2021 as per the tracking report of the speed post available in the file.

However, considering the request of the counsel of the respondent, one last opportunity is being grant to the respondent to file reply. Accordingly the respondent is directed to file reply within two weeks i.e. by 24.03.2022 in the registry with a copy to the complainant giving justification to increase the super area as well as to issue FIT OUT possession without obtaining occupation certificate from the competent authority. In case reply is not filed within the time allowed, the defense of the respondent may struck off.

Matter to come up on 24.05.2022 for further proceedings.

V.1-3

Vijay Kumar Goyal
Member

Dr. KK Khandelwal

Chairman
10.03.2022