



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		S4
Day and Date	Friday and 11.08.2023	
Complaint No.	CR/4835/2022 Case titled as Nitin Kumar Chopra Vs Revital Reality Private Limited	
Complainant	Nitin Kumar Chopra	
Represented through	Shri B.L.Jangra, Advocate	
Respondent	Revital Reality Private Limited	
Respondent Represented	Shri Ritesh Chopra, Advocate	
Last date of hearing	14.07.2023	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings		
The present complaint was received on 21.02.2022 and the reply on behalf of respondent was received on 26.04.2022.		
Succinct facts of the case as per the pleading and annexures are as under:		
S.N.	Particulars	Details
1.	Name of the project	"Supertech Basera" sector- 79&7 Gurugram
2.	Project area	12.10 area
3.	Nature of project	Affordable Group Housing Project
4.	RERA registered/not registered	Registered vide no. 108 of 2017 dated 24.08.2017
5.	RERA registration valid upto	31.01.2020



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6.	RERA extension no.	14 of 2020 dated 22.06.2020	
7.	RERA extension valid upto	31.01.2021	
8.	DTPC License no.	163 of 2014 dated 12.09.2014	164 of 2014 dated 12.09.2014
	Validity status	11.09.2019	11.09.2019
	Name of licensee	Revital Reality Private Limited and others	
9.	Date of approval of building plans	19.12.2014 [as per information obtained by the planning branch]	
10.	Date of grant of environment clearance	22.01.2016 [as per information obtained by the planning branch]	
11.	Unit no.	0007, Ground floor, tower/block- 12, (Page no. 12 of the complaint)	
12.	Unit measuring	473 sq. ft. (Carpet area) 73 sq. ft. (Balcony area) (Page no. 12 of the complaint)	
13.	Allotment letter	19.09.2015 (Page no. 9 of the complaint)	
14.	Date of execution of flat buyer's agreement	18.12.2015 (Page no. 11 of the complaint)	
15.	Possession clause	3.1 Possession <i>Subject to force majeure circumstances,</i>	

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण



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		<p><i>intervention of Statutory Authorities, receipt of occupation certificate and Allottee/Buyer having timely complied with all its obligations, formalities, or documentation, as prescribed by the Developer and not being in default under any part hereof and Flat Buyer's Agreement, including but not limited to the timely payment of installments of the other charges as per payment plan, Stamp Duty and registration charges, the Developers Proposes to offer possession of the said Flat to the Allottee/Buyer within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date") , whichever is later.</i></p> <p>(Page no. 15 of the complaint).</p>	
16.	Due date of possession	22.01.2020 [Note: - the due date of possession can be calculated by the 4 years from approval of building plans (19.12.2014) or from the date of environment clearance (22.01.2016) whichever is later.]	
17.	Total sale consideration	Rs.19,28,500/- (As per payment plan page no. 24 of the complaint)	
18.	Total amount paid by the complainant	Rs.20,33,985/- (As per prepossession outstanding statement dated 15.04.2022 page no. 31 of the complaint)	
19.	Occupation certificate	Not obtained	
20.	Delay in handing over	3 years 6 months and 20 days	

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22/07/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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possession till the date of
order i.e., 14.07.2023

The counsel for the complainant had moved an application for deletion of name of Respondent no. 2 and the copy of the application was delivered during the last proceedings and since the counsel for the respondent has not submitted any reply to the same, the said application is allowed.

Undoubtedly there is a delay of more than 3 years and the OC has not been applied even (as no proof of having applied OC is submitted by the counsel for the respondent).

The complainant has sought following relief:

1. To pay delay penalty as prescribed under the Act of 2016.

Considering the above-mentioned facts, the authority calculated due date of possession as per clause 3.1 of the flat buyer's agreement i.e., 4 years from the date of approval of building plans (19.12.2014) or grant of environment clearance, (22.01.2016) (hereinafter referred to as the "**Commencement Date**"), whichever is later which comes out to be 22.01.2022. It is pertinent to mention over here that even after a passage of more than 3.6 years neither the construction is complete nor an offer of possession of the allotted unit has been made to the allottee by the builder. Further, the authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate/part occupation certificate or what is the status of construction of the project.

The authority allows DPC at the prescribed rate of interest and it has been prescribed under rule 15 of the rules. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 11.08.2023 is 8.75%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.75%.

Accordingly, the complainant is entitled for delayed possession charges as per the proviso of section 18(1) of the Real Estate (Regulation and Development) Act, 2016 at the prescribed rate of interest i.e., 10.75% p.a. for every month of delay on the amount paid by the complainant to the respondent from the due



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CA 1839/22

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date of possession i.e., 22.01.2020 till actual handing over of possession or offer of possession plus two months, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

Matter stands disposed off. Detailed order will follow. File be consigned to the registry.

Sanjeev Arora
Sanjeev Kumar Arora

Member
11.08.2023