

PROCEEDINGS OF THE DAY		18
Day and Date	Friday and 11.08.2023	
Complaint No.	CR/4868/2020 Case titled as MR JAYANT SOOD Vs ANAND DIVINE DEVELOPERS PRIVATE LIMITED	
Complainant	MR JAYANT SOOD	
Represented through	Shri Rajan Gupta Advocate	
Respondent	ANAND DIVINE DEVELOPERS PRIVATE LIMITED	
Respondent Represented	Shri M.K. Dang Advocate	
Last date of hearing	07.07.2023	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint has been received on 22.12.2020 and the reply on behalf of respondent was received on 24.01.2022.

Succinct facts of the case as per complaint and reply are as under:

S. No.	Heads	Information
1.	Name and location of the project	"ATS Triump", Sector 104, Village-Dhanwapur, Gurugram
2.	Nature of the project	Group housing colony
3.	Project area	14.093 acres
4.	DTCP License	63 of 2011 dated 16.07.2011 valid till 15.07.2019 10 of 2012 dated 03.02.2012 valid till 02.02.2020
	Name of the licensee	M/s Great Value HPL Infratech Private Limited M/s Kaanha Infrastructure private



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HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/1868/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. हा. वि. धाम गृह, सिविल लाइन्स, गुरुग्राम, हरियाणा

		Limited
5.	HRERA registered/ not registered	Not registered
6.	Allotment letter dated	30.08.2014 (Aa per page no. 25 of reply)
7.	Date of execution of flat buyer's agreement	30.08.2014 (As per annexure- P1 on page no. 69 of the complaint)
8.	Unit no.	2191 on 19 th floor, tower 2 (Aa per page no. 72 of the complaint)
9.	Super Area	2290 sq. ft. (As per page no. 72 of the complaint)
10.	Possession clause	As per clause 18 of the agreement: Time of handing over possession <i>Barring unforeseen circumstances and force majeure events as stipulated hereunder, possession of the said apartment is proposed to be, offered by the company to the allottee within a period of 36(thirty six) months with a grace period of 6(six) months from the date of actual start of the construction of a particular tower building in which the registration for allotment is made, such date shall hereinafter referred to as "stipulated date", subject always to timely payment of all amounts including the basic sale price, EDC/IDC, IFMS, stamp duty, registration fees and other charges as stipulated herein or as may be demanded by the company from time to time in this regard. The date of actual start of construction shall be the date on which the foundation of the particular building in which the said apartment is allotted shall be laid as per certification by the company's architect/engineer-in-charge of the complex and the said certification shall be final and binding on the allottee.</i>
11.	Date of commencement of construction of the tower	Not provided on record
12.	Due date of delivery of	28.02.2018

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

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

CRP 868/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. हा. सिविल लाईंस, गुरुग्राम, हरियाणा

	possession	[Calculated from the date of agreement i.e. 30.08.2014 as date of commencement of construction tower is not provided on record]
13.	Payment plan	Subvention scheme payment plan
14.	Total consideration	Rs. 2,10,23,750/- (As per payment plan) BSP- Rs. 2,00,65,000/- (As per payment plan)
15.	Total amount paid by the complainant	Rs. 2,08,22,853/- (As alleged by the complainant on page no. 04 of complaint)
16.	MOU dated	30.08.2014 (As per page no. 30 of complaint)
17.	E-mail sent by the complainant exercising buy-back option.	16.01.2017 & 22.03.2017 (As per annexure 5 on page 46 of complaint)
18.	Occupation Certificate	28.05.2019 (As per page no. 99 of reply)
19.	Offer of possession	07.06.2019 (As per page no. 93 of reply)
20.	E-mail sent by complainant after offer of possession wherein requesting buy-back.	05.10.2020 (As per page no. 48 of complaint)
21.	Tri-partite agreement dated	30.08.2014 (As per page no. 49 of reply)

The counsel for the complainant states that BBA in this case was executed on 30.08.2014 and due date comes out to 28.02.2018 whereas the OC has been obtained by the respondent on 28.05.2019. Further stated that there was a MoU for buy back of the unit by the respondent within 33 to 36 months from the date of booking and date of booking in this case is 15.07.2014 and the



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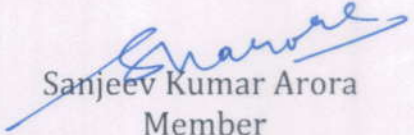
complainant exercised the buy back option on 16.01.2017 through mail. After that a mail was received on 20.06.2019 from the respondent that they had received occupation certificate and the unit is being offered for taking possession by the complainant and that too mail the complainant replied on the same day that they had already exercised buy back option much earlier hence, request for expeditiously refund the cost alongwith promised escalation charges.

The counsel for the respondent states that the complainant- allottee had taken a loan from ICICI bank on the unit in question and while exercising buy back option, they did not get the charge of ICICI vacated on this property, hence, the respondent was not able to consider the same. The counsel for the respondent further states that the delay in completion of the project/handing over of possession was on account of the restrictions imposed by NGT, demonetization and weather conditions. Further stated that the unit ~~was~~ already complete and OC was obtained on 28.05.2019 and offer was made on 07.06.2019, hence, the question of refund does not arise. Further stated that MoU regarding buy back option was not a part of BBA.

Arguments heard.

Order reserved.

Matter to come up on **03.11.2023** for pronouncement of order.


Sanjeev Kumar Arora

Member

11.08.2023