



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. क्वार्टर, सी. विभाग गृह, सिविल लाइन्स, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY

5

Day and Date	Tuesday and 03.10.2023
Complaint No.	CR/4997/2019 Case titled as SP Gupta and Sunita Gupta Vs MVN Infrastructures Private Limited
Complainant	SP Gupta and Sunita Gupta
Represented through	Ms Priyanka Aggarwal, Advocate
Respondent	MVN Infrastructures Private Limited
Respondent Represented through	Shri Lokesh Dikshit, Advocate
Last date of hearing	29.8.2023
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint was filed on 07.11.2019 and reply was received on 16.01.2020.

The matter has been remanded back by the Hon'ble appellate tribunal vide order dated 30.11.2022 in appeal no. 322 of 2022.

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

S. N.	Particulars	Details
1.	Name of the project	MVN ATHENS SOHNA, Sector-5, Sohna Gurugram
2.	Nature of the project	Affordable Group Housing
3.	Project area	6.50625 acres



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CR/497/2019

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4.	DTCP license no. and validity status	49 of 2014 dated 18.06.2014 valid upto 17.02.2026
5.	Name of licensee	M/S MVN Infrastructure Pvt. Ltd.
6.	RERA Registered/ not registered	Registration no. 284 of 2017 dated 10.10.2017 valid upto 09.02.2021
7.	Date of allotment	05.10.2014
8.	Date of execution of Apartment Buyer's Agreement	17.02.2015
9.	Date of environment clearance	05.01.2015 (Stated at bar by the counsel of respondent during proceeding)
10.	Addendum buyer agreement	26.11.2016
11.	Unit no. and area	901, 9 th floor, Tower-B4
12.	Changed unit no.	8-1404, 14 th floor (478.212 carpet area)
13.	Possession clause	3.1 <i>Subject to Force Majeure circumstances, intervention of Statutory Authorities, receipt of occupation certificate and Allottee having timely complied with all its obligations, formalities or documentation, as prescribed by Company 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 the</i>

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

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



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		<i>payment plan, Stamp Duty and registration charges, the Company proposes to offer possession of the Said Flat to the Allottee 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, subject to the Allottee has executed the Flat Buyer's Agreement.</i>
14	Date of building plan	05.09.2014
15	Revised building plan on	16.05.2016
16	Due date of possession	05.01.2019 (Calculated from the date of environment clearance being later)
		16.05.2020 (Due date claimed by respondent <i>order dated 13.09.2018 of DTCP, the re16.05.2020spondent has been granted zero period from 05.09.2014 to 16.05.2016 for commencement/construction of project</i> therefore, in the present case the due date of possession comes out to be 16.05.2020 (4 years from the date till zero period has ended i.e., 16.05.2016)
17.	Total sale consideration	Rs. 17,87,236/- As per BBA
18.	Amount paid by the complainant	Rs. 18,52,794/-



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CR 4997/2019

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		As per SOA dated 07.06.2019 page 76 of the complaint
19.	Occupation certificate /Completion certificate	29.05.2019 Page 46-47 of the reply
20	Offer of possession	07.06.2019
21	Legal notice sent by the respondent to the complainant regarding not to spread rumors and false information amongst the other allottees on	07.09.2019
22.	The complainant expressed their intention to leave the project	22.09.2019
23	Cancellation Letter	21.10.2019 Page 105 of the complaint

The counsel for the complainant states that the complainant is seeking refund of the deposited amount i.e. Rs.18,52,794/- against a total sale consideration of Rs. 17,87,236/- on account of failure of the respondent to hand over the possession of the allotted unit despite offer of possession dated 07.06.2019. Repeated requests were made by the complainant but despite that the respondent did not hand over the possession of the allotted unit.

The counsel for the respondent states that the complaint was filed pre-mature as the due date of handing over of possession would also take into account zero period declared by DTCP from September 5, 2014 to 16.05.2016 and would thus come to 15.05.2020. The Environment clearance certificate was obtained on 05.01.2015. Further, the respondent had offered possession of the unit even before the due date on 07.06.2019. The complainant had sought refund and the respondent was ready to refund the amount as per Affordable Housing Policy, 2013. The unit was cancelled by the respondent on 21.10.2019. The



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21/10/2023

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pre-deposit amount while filing the appeal has been transferred to the Authority by the Appellate Tribunal.

Both the counsel for the parties request for filing written submissions/brief synopsis which may be filed within 10 days after supplying a copy to each other.

Arguments heard.

Order reserved.

Matter to come up on 31.10.2023 for pronouncement of order


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
03.10.2023