

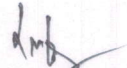
PROCEEDINGS OF THE DAY

Day and Date	Thursday and 17.02.2022
Complaint No.	CR/4997/2019 Case titled S P Gupta VS MVN Infrastructure Private Limited
Complainant	S P Gupta
Represented through	Ms. Priyanka Aggarwal, Adv
Respondent	MVN Infrastructure Private Limited
Respondent Represented through	None
Last date of hearing	
Proceeding Recorded by	S.L. Chanana

Proceedings

Today this matter was listed for consideration on an application filed by respondent seeking rectification/recall/review of order/judgment dated 14.10.2021. Through aforesaid order, complaint filed by Shri S P Gupta and Sunita Gupta was allowed. The respondent has been directed to refund amount paid by the complainants i.e. Rs.18,52,794/- within 90 days from the date of order alongwith interest @ 9.30% from the date of each payment till realization of amount. A costs of Rs.50,000/- was also imposed upon respondent to be paid to the complainants.

None appeared on behalf applicant/respondent today despite waiting till 3.00p.m. I proceed to dispose of said application in the absence of applicant.





HARERA
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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

It is averred in the application that on 07.09.2021, the respondent filed an application seeking permission to put on record additional documents. Said application was not opposed by the complainants and hence was allowed by this forum. Alongwith said application, the respondent filed following documents

- i) copy of order bearing no. 9/3-2020, HARERA/GGM(Admn) dated 26.05.2020 where Hon'ble Authority extended time to complete the project by six months.(Annexure A-1)
- ii) Copy of notification No. Misc-1025/2020/13181 dated 28.07.2020, passed by the Government Haryana through Town and Country Planning Department, providing additional nine months to the respondent for the compliance of various provisions(Annexure A-2)
- iii) Copy of Occupation Certificate dated 02.07.2021(Annexure A-3)

It is further stated that after extensive arguments on 07.09.2021, this forum informed the parties that it has reached to conclusion that project of respondent has been completed within permitted time and therefore, the claim of complainant with respect to delay in completion of the project is not maintainable. Further, that Hon'ble High Court of Punjab and Haryana, Chandigarh, duly considered the issue of time lost of by the respondent, due to removal of high tension wires by DHBVNL from the middle of project or the proposed building which would have caused hazard to the lives and health of the residence of the project. The respondent was legally entitled to the extension of time of licence as well as the advancement of the date of commencement of project by treating the period lost in revision of building plans by the concerned authorities as "zero period."



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The applicant has also grievance^s that presence of arguing counsel was not marked, rather name of some other lawyer is found mentioned in the order.

From the impugned order, it can be deduced that the respondent offered possession of unit in question, about 09 months after due date. The date of sanction of building plans i.e. 05.09.2014 was taken as the date of start of limitation, and the due date of possession came out to be 05.09.2018. The respondent offered of possession of unit in question on 07.06.2019. It was also noted by this forum that the claim of complainants that respondent changed unit and its size, was not disputed by the respondent.

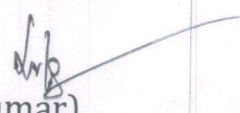
Even, if vide order dated 26.05.2020, (Annexure A), Hon'ble Authority extended time for respondent to complete the project by six months or that Govt of Haryana through Town and Country Planning Department provided additional 09 months for compliance of various provisions by the respondent (Annexure A-2), The complainants were not party to said orders, there is no denial that the respondent had agreed to hand over ~~of~~ unit in question, to the complainants within four years from the date of approval of building plans or grant of environment clearance whichever was later, with grace period of six months, as mentioned in the Clause 3.1 of BBA. When possession was not handed over as per agreed terms. Moreover, the respondent changed unit and its size without consent of complainants, In these circumstances, the complainants were well within their rights to claim compensation in view of section 18 of the Act. May, due to aforesaid orders, i.e. Annexure A-1 and Annexure A-2, the respondent was allowed to complete the project in further six or nine months, even then, the right of complainants

[Handwritten signature]

to seek refund of amount paid by them could not have been closed by said orders. The respondent is still bound by covenants of contract agreed by it. It is well established from the mandate of Apex court given in a recent judgment titled as **M/s Newtech Promoters and Developers Pvt Ltd. Vs State of UP & Ors. Etc.**

Plea of respondent that this forum announced in open court that complainants cannot claim refund of amount, has no basis. About marking of presence of arguing counsel of applicant/respondent, ^{the} applicant/respondent did not clarify as who was learned counsel. ^{he} Appeared to argue the matter. Even otherwise, same is a clerical mistake, it can be corrected if the applicant mentions the name of learned counsel, who had actually appeared on the date of arguments. On the reasons mentioned above, there is no need for modification in the impugned order except name of ld. counsel appeared for applicant/respondent. Applicant is thus disposed off.

File be sent back to the Registry.


(Rajender Kumar)
Adjudicating Officer
17.02.2022