

PROCEEDINGS OF THE DAY
17

Day and Date	Wednesday and 05.02.2025
Complaint No.	CR/5083/2023 Case titled as Dinesh Narula VS Vatika Limited
Complainant	Dinesh Narula
Represented through	Ms. Shriya Takkar and Ms. Smriti Srivastava Advocate
Respondent	Vatika Limited
Respondent Represented	Ms. Ankur Berry Advocate
Last date of hearing	18.12.2024
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint was filed on 06.11.2023 and reply on behalf of the respondent was received on 28.02.2024. Further, written submissions dated 20.06.2024 were also filed on behalf of the respondent and a rejoinder to the complaint was filed by the complainant on 15.10.2024.

By way of the present complaint dated 06.11.2023, the complainants sought the following relief(s):

1. Direct the respondent to handover actual, physical, vacant possession of the commercial unit bearing no. 216E, completed in all respects along with the grant of OC/CC.
2. Direct the respondent to execute the sale deed of the above said unit in favour of the complainant.
3. Direct the respondent to pay the delay penalty charges with interest as per the RERA Act, from the due date of possession.
4. Direct the respondent to make payment on account of assured returns calculated @ Rs.65/- per sq. ft. per month on 500 sq. ft. i.e., Rs.32,500/- per month w.e.f. 01.10.2018 till date (59 months) on 500 sq. ft. i.e., Rs.19,17,500/- along with interest @ 18% on delay.
5. Direct the respondent to make payment on account of assured returns calculated @ Rs.65/- per sq. ft. per month on 500 sq. ft. i.e., Rs.32,500/- per month w.e.f. 01.09.2023



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/5082/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

till the completion of the project and receipt of OC/CC and thereafter, for a period of 3 years from then, along with interest @ 18% on delay.

The complainant has also filed an application for amendment of relief dated 15.10.2023 wherein he is praying that the relief sought clause may be read as follows:

1. Direct the respondent to handover actual, physical, vacant possession of the commercial unit bearing no. 216E, completed in all respects along with the grant of OC/CC.
2. Direct the respondent to execute the sale deed of the above said unit in favour of the complainant.
3. Direct the respondent to pay the delay penalty charges with interest as per the RERA Act, from the due date of possession.
4. Direct the respondent to make payment on account of assured returns calculated @ Rs.65/- per sq. ft. per month on 500 sq. ft. i.e., Rs.32,500/- per month w.e.f. 01.10.2018 till date (73 months) along with interest @ 18% on delay and further issue directions to the respondent to keep paying assured returns in terms of clause 12 of buyers agreement till completion of the project/receipt of OC and handing over of possession.
5. Direct the respondent to make payment on account of assured returns calculated @ Rs.65/- per sq. ft. per month on 500 sq. ft. i.e., Rs.32,500/- per month for a further period of three years (as per clause 12 of BBA) from completion of the project/receipt of OC along with interest @ 18% on delay, the exception being leasing it out only with the written consent of the complainants to the terms and conditions of lease transaction with the proposed lessee.
6. Allocate car parking space to the complainant in terms of letter dated 08.05.2012.
7. Award compensation to the extent of Rs.20,00,000/- on account of mental agony, harassment and torture due to illegal acts and conduct of the respondent company.
8. Award litigation costs to the tune of Rs.2,00,000/- to the complainants."

The respondent filed a reply to the said application on 16.12.2024 and submitted that the complainants filed the application but failed to produce the reason or ground for filing the said application for rectification and simpliciter declared that it is necessary to file the amendment application. The reason for an amendment in the relief sought is unjustified and at such later where all pleadings have already been completed, and the matter is at the stage of arguments. Hence, the present application cannot be allowed. Further, the amendment as requested to be allowed in relief for taking physical possession of the subject unit was already part of the original complaint. Therefore, the present application is not only a repetition but rather a time delaying tactic employed by the complainants. Thus, the respondent is requesting for the dismissal of the said application being non maintainable as the complainants have failed to show section of the Act under which amendment application is filed as RERA law does not possess the law related to amendment and the code of CPC apply in limited manner as per the RERA law.



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CA/5083/2023

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Further, the complainants have filed an application dated 27.12.2024 wherein it is stated that the complainants do not want to press the amendment of prayer clause in so far as prayer at above-mentioned serial no. 7 and 8 are concerned since they would not fall within the domain and jurisdiction of this Authority and for the same the complainants have to file a separate complaint before the Adjudicating Officer.

The case is listed today for orders on the application for amendment of relief. The authority is of the view that the complainants are seeking amendment in the relief sought based on documents that are already part of the record, rather than by introducing new documents that were not included in the original complaint. The complainant being the "dominus litis" has the right to amend the prayer clause.

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Thus, in the interest of justice, applying the principles of natural justice under section 38(2) of the Act, the present application seeking amendment in the relief sought dated 15.10.2023 is, therefore, allowed to the extent of relief No.1 to 6 as prayed by the complainant.

Matter to come up on **23.04.2025** for further proceedings.

Ashok Sangwan
Member
05.02.2025