

PROCEEDINGS OF THE DAY		3
Day and Date	Wednesday and 22.03.2023	
Complaint No.	CR/5109/2019 Case titled as SUBHASH KUMAR GUPTA AND MAMTA GUPTA Vs MAHINDRA HOMES PVT. LTD	
Complainant	SUBHASH KUMAR GUPTA AND MAMTA GUPTA	
Represented through	Shri Anil Parkash Gupta Advocate	
Respondent	MAHINDRA HOMES PVT. LTD	
Respondent Represented	Shri Rohit Jolley Advocate	
Last date of hearing	09.12.2022	
Proceeding Recorded by	Naresh Kumari	

Proceedings

The counsel for the complainant states that the unit of the allottee was allotted on 10.02.2015 and the complainant has paid an amount of Rs. 1,29,58,865/- against the total sale consideration of Rs. 4,15,70,468/-. The complainant sought to withdraw from the project on 15.04.2019 and the request was accepted on 08.05.2019 and subsequently, the respondent refunded an amount of Rs.83,30,596/- after deducting an amount of Rs.47,51,230/-. The present dispute is that the complainant states that the respondent was entitled to deduct only 10% of the earnest money in view of Haryana RERA Rules 2017 read with the Haryana Real Estate Regulatory Authority Haryana Gurgaon (forfeiture of earnest money by the builder) Regulation, 2018 Clause No.5.

The counsel for the respondent states that the amount to be deducted as per the said Rules, 2017 pertains to 10% of the consideration amount of the Real Estate. So far as definition of earnest money in the application form is concerned, the same is as under:-

"Earnest money shall mean 10% of the amount payable mentioned in the Details of Pricing annexed herewith as Schedule IX hereto, to

ensure the performance, compliance and fulfilment of the obligations and responsibilities of the buyer under this Agreement".

The counsel for the respondent cites a judgment of Hon'ble NCDRC in revision petition No.3860 of 2014 decided on 06.01.2015.

Arguments heard.

Order reserved.

In case the parties wish to file written submissions, they may file the same within a period of one week with an advance copy to each other.

Matter to come up on **31.05.2023** for pronouncement of order.


Ashok Sangwan
Member
22.03.2023