

**PROCEEDINGS OF THE DAY**
**41**

|                        |                                                                                       |
|------------------------|---------------------------------------------------------------------------------------|
| Day and Date           | Tuesday and 28.01.2025                                                                |
| Complaint No.          | CR/5323/2023 Case titled as Kusum Maheshwari VS Ocean Seven Buildtech Private Limited |
| Complainant            | Kusum Maheshwari                                                                      |
| Represented through    | Shri Rajiv Dewan Advocate                                                             |
| Respondent             | Ocean Seven Buildtech Private Limited                                                 |
| Respondent Represented | Shri Arun Yadav Advocate                                                              |
| Last date of hearing   | 22.10.2024                                                                            |
| Proceeding Recorded by | Naresh Kumari and HR Mehta                                                            |

**Proceedings**

The present complaint was filed on 07.12.2023 and the reply was received from respondent on 05.08.2024.

The succinct facts of the case are as under:

| Sr. No. | Particulars                      | Details                                                   |
|---------|----------------------------------|-----------------------------------------------------------|
| 1.      | Name of the project              | Expressway Towers, Sector 109, Gurugram, Haryana.         |
| 2.      | Project area                     | 7.5 Acres                                                 |
| 3.      | Nature of the project            | Affordable housing project                                |
| 4.      | DTCP license no.                 | 06 of 2016 dated 16.06.2016                               |
|         | License valid till               | 15.06.2021                                                |
|         | Licensed area                    | 7.5 acres                                                 |
|         | License holder                   | Sh. Shree Bhagwan C/o M/s Ocean Seven Buildtech Pvt. Ltd. |
| 5.      | HRERA registered/ not registered | <b>Registered vide no. 301 of 2017 dated 13.10.2017</b>   |
|         | HRERA registration valid         | 12.04.2022                                                |



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

|     | up to                                               | (Including 6 months COVID extension)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6.  | Building plan approval dated                        | 26.09.2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 7.  | Environment clearance dated                         | 30.11.2017                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 8.  | Allotment letter issued in favour of complainant on | 20.05.2017<br>(Page 36 of complaint)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 9.  | Unit no.                                            | 1506, 15 <sup>th</sup> floor, Tower 4<br>(Page 45 of complaint)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 10. | Unit admeasuring                                    | 645 sq. ft. of carpet area along with 99 sq. ft. of balcony area<br>[Page 45 of the complaint]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 11. | Builder buyer agreement                             | 06.02.2021<br>(Page 40 of complaint)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 12. | Possession clause as per buyer's agreement          | <b>5.2 Possession Time</b><br><i>The Company shall sincerely endeavor to complete the construction and offer the possession of the said unit within five years from the date of the receiving of license ("Commitment Period"), but subject to force majeure clause of this Agreement and timely payment of installments by the Allottee(s). However in case the Company completes the construction prior to the period of 5 years the Allottee shall not raise any objection in taking the possession after payment of remaining sale price and other charges stipulated in the Agreement to Sell. The Company on obtaining certificate for occupation and use by the Competent Authorities shall hand over the said unit to the Allottee for his/her/their occupation and use, subject to the Allottee having complied with all the terms and conditions of the said Policy and Agreement to Sell and payments made as per Payment Plan."</i> |



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|     |                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 13. | Possession clause as per Affordable Housing Policy, 2013 | <b>1(IV) of the Affordable Housing Policy, 2013</b><br><i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i> |
| 14. | Due date of possession                                   | 30.05.2022<br>(calculated from the date of environment clearance dated 30.11.2017 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)                                                                                                                                                                                                                            |
| 15. | Total consideration                                      | Rs.26,29,500/-<br>[As per clause 4.1 of the buyer's agreement at page no. 45 of complaint]                                                                                                                                                                                                                                                                                                                                                                   |
| 16. | Amount paid by the complainants                          | Rs.27,18,249/-<br>(As per customer ledger at page 74 of complaint)                                                                                                                                                                                                                                                                                                                                                                                           |
| 17. | Occupation certificate                                   | Not obtained                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 18. | Offer of possession                                      | Not offered                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

The counsel for the complainant states that the complainant has booked the unit in the year 2017 in the project of the respondent company. Till date only 60% project has been developed by the respondent/promoter after making the payment of more than 80-90% of the total sale consideration. The counsel for the complainant further states that the complainant has availed the bank loan and pay EMI's per month. Now, the complainant is seeking direction to restrain the respondent from terminating the unit till the final disposal of the present complaint, grant of delayed possession charges along with possession alongwith other reliefs.



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Further states that keeping in mind the current status of the project, it is prayed that this Authority may take steps/action under section 8 of the Act of 2016, for completing the project and if required necessary steps to be taken to seize control the project and finishing the same either directly or through another origination.

The counsel for the respondent states that EC was obtained by the respondent on 30.11.2017 and CT was granted in February, 2018 and a per Consent to Establish, the due date of possession comes out to be in August, 2022 after grant of grace period of 6 months due to COVID-19. Further states that the license of the respondent has been terminated by the DTCP on the request of the RWA in which the complainant was also a party and there is no fault of the respondent to complete the project. Hence the period of termination of license may be treated as Zero period while calculating the delayed possession charges.

Arguments heard.

Order reserved.

Parties may file brief written submissions within a period of 3 weeks with an advance copy to each other.

Matter to come up on 15.04.2025 for pronouncement of order.

  
Ashok Sangwan  
Member

  
Arun Kumar  
Chairman  
28.01.2025

  
Vijay Kumar Goyal  
Member