

PROCEEDINGS OF THE DAY		17
Day and Date	Friday and 15.09.2023	
Complaint No.	CR/5329/2022 Case titled as Navita Sehgal Vs Emaar MGF Land Ltd	
Complainant	Navita Sehgal	
Represented through	Shri Jagdeep Kumar Advocate	
Respondent	Emaar MGF Land Ltd	
Respondent Represented	Shri Ishaan Dang Advocate	
Last date of hearing	18.08.2023	
Proceeding Recorded by	Naresh Kumari	

Proceedings

The present complaint has been received on 09.08.2022 and the reply was received on 27.10.2022.

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

Sr. No.	Particulars	Details
1.	Name of the project	Gurgaon Greens, Sector 102, Gurugram, Haryana
2.	Project area	13.531 acres
3.	Nature of the project	Group housing colony
4.	DTCP license no.	75 of 2012 dated 31.07.2012
	Valid till	30.07.2020
	Name of licensee	Kamdhenu Projects Pvt. Ltd. and another C/o Emaar MGF Land Ltd.



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HARYANA REAL ESTATE REGULATORY AUTHORITY
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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR 5329/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

5.	HRERA registered/ not registered	Registered vide no. 36(a) of 2017 dated 05.12.2017 for 95829.92 sq. mtrs.
	HRERA registration valid up to	31.12.2018
	HRERA extension of registration vide	01 of 2019 dated 02.08.2019.
	Extension valid up to	31.12.2019
6.	Unit no.	GGN-26-0301, 3 rd floor, tower no. 26. [annexure P2, page 38 of complaint]
7.	Unit measuring (super area)	1650 sq. ft.
8.	Provisional allotment letter dated	25.01.2013 [annexure P1, page 22 of complaint]
9.	Date of execution of buyer's agreement	08.04.2013 [annexure P2, page 35 of complaint]
10.	Possession clause	14. POSSESSION (a) Time of handing over the Possession Subject to terms of this clause and barring force majeure conditions, subject to the Allottee having complied with all the terms and conditions of this Agreement, and not being in default under any of the provisions of this Agreement and compliance with all provisions, formalities, documentation etc., as prescribed by the Company, the Company proposes to hand over the possession of the Unit within <u>36 (Thirty Six) months from the date of start of construction,</u> subject to timely compliance of the provisions of the Agreement by the Allottee. The Allottee agrees and understands that the Company shall be entitled to a <u>grace period of 5 (five) months, for applying and obtaining the</u>

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

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



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		<u>completion certificate/occupation certificate in respect of the Unit and/or the Project.</u> (Emphasis supplied) [annexure P2, page 51 of complaint]
11.	Date of start of construction as per statement of account dated 19.07.2022 at page 88 of complaint	25.06.2013
12.	Due date of possession	25.06.2016 [Note: Grace period is not included]
13.	Total consideration as per statement of account dated 19.07.2022 at page 88 of complain	Rs.1,04,60,360/-
14.	Total amount paid by the complainant as per statement of account dated 19.07.2022 at page 89 of complaint	Rs.1,04,84,738/-
15.	Occupation certificate	16.07.2019 [annexure R7, page 134 of reply]
16.	Offer of possession	19.07.2019 [annexure R9, page 138 of reply]
17.	Unit handover letter dated	11.11.2019 [annexure R10, page 145 of reply]
18.	Conveyance deed executed on	13.01.2020 [annexure R11, page 150 of reply]
19.	Delay compensation already paid by the respondent in terms of the buyer's agreement as per statement of account dated 19.07.2022 at page 89 of complaint	Rs. 4,25,564/-



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The counsel for the complainant has moved an application for appointment of a local commission w.r.t. actual status of the unit of the allottee vis-à-vis its preferential location. Further stated that as per clause E (2) page 41, of the complaint itself clearly states that if due to any change in the layout plan, the unit ceases to be preferentially located then in such event, the company shall be liable to refund only the amount of PLC paid by the allottee without any interest and compensation or damages of any nature, whatsoever and such refund shall be adjusted in the following instalment for the unit. Further stated that as per the building plans dated 14.09.2012, there was a green area called as jogger park in front of/ on the south direction of Tower 23 to 27 which has been now converted into car parking to the extent of around 40% of that green area. Further stated that 6 meter wider fire tender road has been converted into a green area which can be hazardous in case of fire in that society.

The counsel for the respondent states that the demand for appointment of LC as requested for by the counsel for the complainant is not valid as it is the jurisdiction of DTCP to verify the actual status of the amenities and building plans got approved by the respondent, prior to issue of occupation certificate of the project. More-so, the complainant is asking for the PLC of certain particular towers/units which can be very well explained through the building plans and photographs of the site and there is no need for appointment of LC. Further stated that PLC charges were for jogger park facing and central green as per page 66 of the complaint. The counsel for the respondent further submitted a paper book which has certain citations w.r.t justification for appointment/non appointment of L.C. The counsel for the respondent states that as far as fire tender road is concerned, it is common amenities available for the society of that project as a whole and more over, the complainant has not claimed this relief and is only mentioned in the complaint. However, the counsel for the complainant states that he has mentioned about it in para - P at page No.12 of the complaint.

The counsel for the complainant further stated that Hon'ble Supreme Court has decided the issue w.r.t appointment of LC in case of Devashish Sinha and



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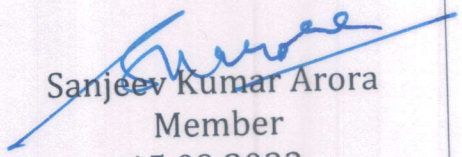
others versus RNR Enterprises. [Copy of the same shall be submitted by the counsel for the complainant today itself]

Arguments heard.

Both the counsels for the parties are directed to file written submissions particularly w.r.t. appointment of LC within a period of 2 weeks with an advance copy to each other.

Order reserved w.r.t appointment of LC. Rest of the case shall be argued after the decision of appointment of LC.

Matter to come up on **06.10.2023** for pronouncement of order w.r.t appointment of LC.


Sanjeev Kumar Arora

Member

15.09.2023