



HARERA
GURUGRAM

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

PROCEEDINGS OF THE DAY		26
Day and Date	Thursday and 19.09.2024	
Complaint No.	CR/5460/2023 Case titled as Santosh Kumar VS Gatevida Developers Private Limited	
Complainant	Santosh Kumar	
Represented through	Shri Ravi Kumar Advocate	
Respondent	Gatevida Developers Private Limited	
Respondent Represented through	S/Shri Sumesh Malhotra and Pawan Bhardwaj Advocates	
Last date of hearing	30.05.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint was filed on 01.12.2023 and the reply on the behalf of the respondent has been received on 13.08.2024.

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

S. N.	Particulars	Details
1.	Name of the project	"Gurgaon Gateway" , Sector 112-113, Village- Bajghera, Gurugram, Haryana
2.	Nature of project	Residential Project
3.	Unit no.	1804, Tower-E, Level-18 [page 17 of complaint]
4.	Date of Booking	19.01.2015 [Page 14 of complaint]
5.	Date of Allotment	19.01.2015 [Page 17 of complaint]



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4.	Area admeasuring	1580 sq. ft. [Page 17 of complaint]
5.	Apartment buyer agreement executed on	19.01.2015 [Page 21 of complaint]
6.	Possession clause as per apartment buyer agreement	4.2 (b) Possession Time and Compensation <i>PROMOTER shall endeavor to give possession OF THE SAID APARTMENT to PURCHASER(S) on or before Nov, 2017 and subject to providing necessary infrastructure in the sector by the Government and also force majeure circumstances and reasons beyond the control of PROMOTER.</i> [Page 34 of complaint]
7.	Due date of possession	November 2017 [As per possession clause of BBA]
8.	Total sale consideration	Rs. 2,02,42,960/- [As per payment plan at page 61 of complaint]
9.	Amount paid by the complainant	Rs.52,44,207/- (As agreed by the respondent in cancellation letter dated 17.04.2018 t at page no. 81 of complaint)
10.	Reminder Letters dated	28.08.2013, 17.09.2013, 20.11.2013, 09.01.2014, 21.09.2014, 28.07.2015, 25.08.2015, 02.02.2018, 17.08.2018, 09.03.2018. [As per page no. 129-136 of the complaint]
11.	Cancellation Letter dated	17.04.2018 [As per page no. 81 of the complaint]

The counsel for the complainant states that unit was booked in 2013 and cancelled on 17.04.2018 and the complainant has paid an amount of Rs.52,44,207/- and is seeking refund of the amount with interest as there was delay of handing over of possession.



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The counsel for the respondent states that a different unit No.E-1504 was initially booked in 2013 and cancellation made in November 2013 itself due to non payment. But on request of the complainant, the amount was adjusted in a different unit No.E-1804 without any deduction and on failure of making payment of due instalment, the unit has been cancelled on 17.04.2018. Further no amount is refundable since forfeiture amount comes to Rs.64 Lakhs against the paid up amount of Rs.52,44,207/- only. The details of forfeiture amount is given in the reply at page 136 which includes earnest money and the taxes paid. The complain has been filed beyond the limitation period.

Arguments heard.

The respondent is directed to refund the amount after deduction of 10% earnest money of the sale price alongwith prescribed rate of interest i.e. 11.10% per annum from the date of cancellation i.e. 17.04.2018 till its realization.

Detailed order will follow. Matter stands disposed off.

V.I - 3

Vijay Kumar Goyal
Member
19.09.2024