



HARERA
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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

41

Day and Date	Friday and 13.12.2024
Complaint No.	CR/5545/2023 Case titled as Parkash Saha VS Imperia Structure Limited
Complainant	Parkash Saha
Represented through	Shri Sunil Kumar Advocate
Respondent	Imperia Structure Limited
Respondent Represented	Shri Geetansh Nagpal Advocate
Last date of hearing	30.08.2024
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The complaint has been received on 22.12.2023 and the reply was received on 12.04.2024.

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

S. N.	Particulars	Details
1.	Name and location of the project	"The Esfera" Phase II at sector 37-C, Gurgaon, Haryana
2.	Nature of the project	Group Housing Complex
3.	Project area	17 acres
4.	DTCP no. license	64 of 2011 dated 06.07.2011 valid upto 15.07.2017
5.	Name of licensee	M/s Phonix Datatech Services Pvt Ltd and 4 others
6.	RERA Registered/ not registered	Registered vide no. 352 of 2017 issued on 17.11.2017 up to 31.12.2020

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 अंतर्गत गठित प्राधिकरण



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CA 5545/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

7.	Apartment no.	802, 8 th floor, B-B
8.	Unit area admeasuring	1850 sq. ft.
9.	Area increased on offer of possession	2035 sq. ft.
10.	Date of booking	18.04.2012
11.	Date of allotment letter	24.04.2012
12.	Date of builder buyer agreement	04.10.2013
13.	Possession clause	10.1. SCHEDULE FOR POSSESSION "The developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete the construction of the said building/said apartment within a period of three and half years from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in clause 11.1, 11.2, 11.3, and clause 41 or due to failure of allottee(s) to pay in time the price of the said unit along with other charges and dues in accordance with the schedule of payments given in annexure C or as per the demands raised by the developer from time to time or any failure on the part of the allottee to abide by all or any of the terms or conditions of this agreement." (Emphasis supplied)



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14.	Due date of possession	04.04.2017 [calculated as per possession clause]
15.	Total sale consideration	Rs.89,05,938/-
16.	Amount paid by the complainant	Rs. 79,87,275/- [as alleged by the complainant]
19	Occupation certificate	13.03.2024
20	Offer of possession for fit outs	15.03.2024

Heard.

The case of the complainant is fully covered under the provisions of Section 18 (1) of the Act 2016 and delayed possession charges are liable to be paid to the complainant by the respondent from the due date of possession till valid offer of possession + 2 months or actual hand over whichever is earlier.

The counsel for the respondent states that the period from 31.08.2023 to 01.02.2024 may be excluded for the purpose of payment of delayed possession charges as there was a moratorium u/s 14 of the IBC since the company of the respondent was under CIRP in the matter IB-525/PB/2022 titled as Chirag Jain and others versus Imperia Structure Ltd.

The counsel for the complainant states that the facts of the above quoted citation are different from the present case and the contention of the respondent may not be accepted.

Order reserved.

Detailed order will follow. Matter stands disposed off.

Ashok Sangwan
Member
13.12.2024