



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 | | 15 |
|--------------------------------|--|-----------|
| Day and Date | Thursday and 10.08.2023 | |
| Complaint No. | CR/5595/2022 Case titled as Manjulika Chaudhry Vs Adani Brahma Synergy Private Limited | |
| Complainant | Manjulika Chaudhry | |
| Represented through | Shri Vijender Parmar Advocate | |
| Respondent | Adani Brahma Synergy Private Limited | |
| Respondent Represented through | Shri Prashant Sheoran Advocate | |
| Last date of hearing | 02.03.2023 | |
| Proceeding Recorded by | Naresh Kumari and HR Mehta | |

Proceedings

The present complaint was filed on 16.08.2022 and reply on behalf of respondent was received on 10.02.2023.

Succinct facts of the case as are as under:

| S.n | Particulars | Details |
|------------|---------------------------------------|--|
| 1. | Name of the project | "Samsara (part- 5)", Sector-63, Gurugram, Haryana |
| 2. | Nature of project | Residential floors |
| 3. | RERA registered/not registered | Registered vide registration no. 13 of 2019 dated 26.03.2019 |
| | Validity status | 30.09.2023 |
| | Licensed area | 144.66875 acres |
| 4. | DTPC License no. | 64 of 2010 dated 21.08.2010 |
| | Validity status | 20.08.2025 |
| | Licensed area | 141.66875 acres |



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

| | | |
|-----|--------------------------------|--|
| | Name of licensee | M/s Brahma City Pvt. Ltd. & others |
| | Name of developer | M/s Achaleshwar Infrastructure Private Limited |
| 5. | Independent floor no. | J110-C (type B1) [As per page no. 25 of complaint] |
| 6. | Area admeasuring | 1812.25 sq. ft. [Carpet area] [As per page no. 25 of complaint] |
| 7. | Application form dated | 30.04.2019 [As per page no. 17 of complaint] |
| 8. | Allotment letter | 08.05.2019 [As per annexure-C1 on page no. 17 of complaint] |
| 9. | Date of agreement for sale | 19.08.2019 [As per page no. 23 of complaint] <i>(As per said agreement the complainant and her husband were co-allottees for the subject unit. The complainant approached the Authority after demise of her husband.)</i> |
| 10. | Total sale consideration | Rs. 1,68,96,739/- (TSC) Rs. 1,56,23,933/- (BSP) [As per page no. 32 of complaint] |
| 11. | Amount paid by the complainant | Rs. 32,48,216/- [As per receipts on page no. 19-21 of complaint] |
| 12. | Possession clause | Clause 7.1 POSSESSION OF THE APARTMENT: <i>Schedule for possession of the Apartment -The Promoter assures to hand over possession of the Apartment for residential usage along with parking and right to use of General Common Areas and Limited Common Areas as per agreed terms and conditions within 27 months from the date of</i> |

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



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

| | | |
|-----|-------------------------------|---|
| | | <p><u>registration of this Agreement unless there is delay due to "force majeure", court orders, government policy/ guidelines, grant of departmental sanctions decisions affecting the regular development of the Plot..... If the completion of the Building is delayed due to the above conditions, then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Apartment.</u></p> <p><i>The Allottee agrees and confirms that, in the event it becomes impossible for the Promoter to implement the Building/ Project due to Force Majeure and above mentioned conditions, then this allotment shall stand terminated.....</i></p> |
| 13. | Due date of possession | 19.11.2021 [Calculated as 27 months from date of agreement i.e. 19.08.2019] |
| 14. | Demand letters dated | 17.13.2021, 10.08.2021, 27.12.2021, 20.01.2022 [As per page no. 27-34 of reply] |
| 15. | Pre-cancellation letter dated | 18.02.2022 [As per page no. 35 of reply] |
| 16. | Cancellation letter dated | 28.09.2022 [As per page no. 36 of reply] |
| 17. | Occupation certificate | Not obtained |
| 18. | Offer of possession | Not offered |

The complainant submitted that due to demise of her husband and COVID-19, wrote an email to the respondent asking for relaxation w.r.t due payments, in response of same, the respondent sent an email dated 27.01.2022 wherein asking for copy of death certificate. The complainant further submitted that thereafter it sent a notice for cancellation dated 18.02.2022 before sending any prior communication. She further submitted that the respondent has not issued any cancellation to the complainant till



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
CRS/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

filing of the present complaint and such cancellation dated 28.09.2022 was made only after filing of the present complaint seeking relief of setting aside of notice of cancellation issued by the respondent. Thus, the act of the respondent is not valid as the principle of "*Lis pendens*" under Section 52 of Transfer of Property Act, 1882 are attracted. Moreover, such notice was cancellation was set aside by the respondent as admitted by it in para 05 of its reply.

The complainant further objected that no 30 days prior notice was given to her before cancellation of the subject unit and referred clause 9.3 of agreement which provides a period of 30 days be given before cancellation of allotment.

The respondent on the other hand submitted that the complainant approached it asking relaxation in making due payments and in its response it asked for the death certificate of her husband vide email dated 27.01.2022. As far as setting aside of notice for cancellation is concerned, the same was "hold" on the request of the complainant and never set aside. The complainant vide email dated 16.03.2022, 21.07.2022 and 03.08.2022 asked for more time to make due payments and thus, after waiting for more than 222 days, it finally cancelled the allotment of the complainant vide letter dated 28.09.2022 and has already refunded an amount of Rs. 8,80,751/- to the complainant.

Arguments heard.

Order reserved.

Detail order will follow. Matter stands disposed off. File be consigned to the registry.

V. I. Goyal
Vijay Kumar Goyal
Member
10.08.2023