



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		50
Day and Date	Tuesday and 28.05.2024	
Complaint No.	CR/5605/2022 Case titled as Prakash China Swami Koramangala VS EMAAR India Limited	
Complainant	Prakash China Swami Koramangala	
Represented through	Shri Jagdeep Kumar Advocate	
Respondent	EMAAR India Limited	
Respondent Represented	Shri Ishaan Dang Advocate	
Last date of hearing	12.03.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint has been received on 25.08.2022 and the reply was received on 29.11.2022.

On 03.10.2023, the counsel for the respondent stated that the possession clause allows 5 months grace period and the Hon'ble Appellate Tribunal in appeal bearing no.122/2022 has held that the promoter is entitled to avail grace period and hence request for similar relief in the above case. Further states that the demand of Rs. 1,57,576/- is being raised in pursuance to clause 1.2 (a)(i) as per which the respondent is entitled to levy other charges as reserved in this agreement and allottee is also duty bound to make the payment. For remaining reliefs, the authority has already taken a view in number of cases.

The counsel for the complainant states that the above clause is a one sided clause in the agreement and is liable to be ignored and the authority has also deliberated the orders in detail in the case is "Gurgaon Greens" and the grace period is not admissible as per section 18(1) of the Act.

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

Sr. No.	Particulars	Details
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नया पी. डब्ल्यू. डी. विश्राम गृह, मित्रिल लाईंस, गुरुग्राम, हरियाणा

1.	Name of the project	Gurgaon Greens, Sector 102, Gurugram, Haryana
2.	Nature of Project	Residential
3.	Project area	13.531 acres
4.	RERA Registered	36(A) of 2017
5.	Unit no.	GGN-20-1202, 12 th floor, building no. 20 measuring 1650 sq. ft. [page 30 of complaint]
6.	Unit admeasuring	1650 sq. ft. super area
7.	Provisional allotment letter	27.01.2013 [page 21 of complaint]
8.	Date of execution of buyer's agreement	27.05.2013 [page 27 of complaint]
9.	Possession clause	14. POSSESSION (a) Time of handing over the Possession <i>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 36 (Thirty Six) months from the date of start of construction, 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 grace period of 5 (five) months, for applying</i>



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		<p><u>and obtaining the completion certificate/occupation certificate in respect of the Unit and/or the Project.</u></p> <p>(Emphasis supplied)</p> <p>[page 43 of complaint]</p>
10.	Date of start of construction	16.06.2013 (as per statement of account dated 18.10.2022 at page 140 of reply)
11.	Due date of possession	16.11.2016 [Note: Grace period allowed]
12.	Total consideration	₹ 99,82,767/- (as per statement of account dated 18.10.2022 at page 140 of reply)
13.	Total amount paid by the complainant	₹ 1,01,70,096/- (as per statement of account dated 18.10.2022 at page 140 of reply)
14.	Occupation certificate	30.05.2019 [page 148 of reply]
15.	Offer of possession	31.05.2019 [page 151 of reply]
16.	Unit handover letter	05.10.2020 [page 156 of reply]
17.	Delay compensation paid to the complainant as per statement of account dated 18.10.2022 at page 140 of reply	₹ 1,88,575/-



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The complainant is seeking the following reliefs:

1. DPC @ 18%.
2. Return ₹1,57,576/- unreasonably charged by the respondent by increasing sale price after execution of BBA.
3. Return entire amount paid as GST between 01.07.2017 to 24.07.2019.
4. Direct the complainant's bank removing lien marked over FD of ₹2,52,929/- on pretext of future payment of HVAT for the period of 01.04.2014 to 30.06.2017.
5. Cost of litigation.

Arguments have been heard and pleadings are already on record.

Order reserved.

Matter to come up on 13.08.2024 for pronouncement of order.

Ashok Sangwan
Member

Vijay Kumar Goyal
Member

Arun Kumar
Chairman
28.05.2024