

New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी. इन्क्व. डी. विभाग गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

<b>PROCEEDINGS OF THE DAY</b>		<b>1</b>
Day and Date	Friday and 19.01.2024	
Complaint No.	CR/6195/2022 Case titled as Sayd. Masrat Gilani and Peerzada Mushtaq Ahmad Shah VS Chirag Buildtech Private Limited	
Complainant	Sayd. Masrat Gilani and Peerzada Mushtaq Ahmad Shah	
Represented through	Shri Hasnain Khawja, Advocate	
Respondent	Chirag Buildtech Private Limited	
Respondent Represented through	Shri Garvit Gupta, Advocate	
Last date of hearing	11.01.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
<b>Proceedings</b>		
The present complaint was filed on 03.10.2022 and reply on behalf of respondent was received on 31.05.2023.		
Succinct facts of the case as are as under:		
S.no	Particulars	Details
1.	Name of the project	"ROF Ananda" Sector- 95 Gurugram
2.	Nature of project	Affordable Group Housing Complex
3.	DTPC License no.	17 of 2016 dated 25.10.2016
	Validity status	28.02.2022
	Licensed area	5.04 acres
	Name of licensee	Naryan Singh S/o Jhuthar Singh, Rajesh S/o Jhuthar Singh, Smt. Bimla Wd/o Satbir, Kavita, Babita, Pooja Ds/o Satbir and others.



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**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. विधाम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

4.	Date of approval of buildings plan	07.12.2016
5.	Date of approval of environment clearance	09.10.2017 (Page no. 21 of the reply)
6.	Allotment letter	30.03.2019 (Page no. 83 of the complaint)
7.	Unit no.	D-708, 7 <sup>th</sup> floor, Tower- D (As per schedules of payment at page no. 59 of the complaint)
8.	Area admeasuring	644.12 sq. ft.
9.	Date of agreement for sale	22.03.2019 (Page no. 54 of the complaint)
10.	Possession clause	<b>7. Possession of the said unit:</b>  7.1 Within 3-months from the date of issuance of Occupancy Certificate, the Promoter shall offer the possession of the Said Flat to the Allottee. Subject to Force Majeure circumstances, receipt of Occupancy Certificate and Allottee having timely complied with all its obligations, formalities or documentation, as prescribed by the Promoter in terms of this Agreement and not being in default under any part hereof including but not limited to the timely payment of installments as per the Payment Plan, stamp duty and registration charges, the Promoter shall offer possession of the Said Flat to the <i>Allottee within a period of 4 years from the date of approval of building plans or grant of environment clearance, whichever is later</i> ("Commitment Period").



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11.	Due date of possession	09.10.20121	[Note: - Calculated from date of approval of environment clearance being later i.e., 09.10.2017 as per policy, of 2013,]
12.	Total sale consideration	Rs.26,26,480/-	(As per schedules of payment at page no. 59 of the complaint)
13.	Amount paid by the complainant	Rs.28,01,720/-	(As per annexure R-23at page no. 94 of reply)
14.	Occupation certificate	22.02.2022	(Downloaded from the website of the tcpharyana.gov.in)
15.	Offer of possession	23.02.2022	(As per annexure R-22 at page no. 92 of reply)
16.	Legal notice for possession	14.06.2022	(As per annexure p-24 & 25 at page no. 112 to 117 of complaint)
17.	Cancellation letter	10.10.2022	(As per annexure R-24 at page no. 96 of reply)
18.	Termination letter cum full and final SOA	18.01.2023	(As per annexure R-25 at page no. 98 of reply)

**Relief sought by complainant:**

- 1. Direct the respondent to refund the entire amount of Rs.28,01,720/- along with interest of 15% till the realization of the amount.**

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On the last date of hearing i.e., 11.01.2024, the counsel for the complainants requested that they want refund of the entire paid up amount and wish to file an application for amendment of relief sought from delayed possession charges to refund of the entire paid up amount. The complainants was directed to file the same within three days in the registry of the authority after supplying a copy of the respondent.

The counsel for the complainant filed an application on 11.1.2024 for amendment in the relief for seeking refund of the amount of Rs.28,01,719/- paid to the respondent alongwith interest @ 15% per annum till the realization of the amount. The copy of the application has been supplied to the counsel for the respondent. The counsel for the respondent has no objection in this regard. In view of the same, the application for amendment of relief sought by the complainant is allowed.

The counsel for the complainant states that all the dues were paid as per schedule of the instalment but while making offer of possession, the respondent has demanded interest amounting to Rs.3,30,096/- . Further, the respondent has issued a letter dated 7.7.2019 (annexure P-11) assuring to waive off the interest, if all dues are paid by the date of possession irrespective of the dates mentioned in the agreement to sell. Accordingly in pursuance to the same, the amount was paid to the respondent way before the due date. Further stated that during the proceedings before the authority on 27.4.2023, the counsel for the respondent has stated that the outstanding dues on part of the complainant is only about Rs.1 lakh and directions were issued for not creating any third party rights. The counsel for the respondent during above proceedings has not stated that the unit is already cancelled on 18.1.2023. The copy of reply was not supplied till that proceedings and a cost of Rs. 5000/- was also imposed which is not yet paid.

The counsel for the respondent states that the above offer made by the respondent was only in respect of instalments due within 18 months and interest was to be charged if there was delay in respect of instalments above that period. There has been delay on the part of the complainant to make payments even after this period and accordingly interest of that period is being demanded as per annexure R-17 to R-21. Due to non-payment of interest component amounting to Rs.3,30,096/- , the unit was terminated on 18.1.2023

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(annexure R-25) after issuing a pre-cancellation notice on 10.10.2022. Therefore, the interest on the refundable amount cannot allowed from the date of seeking refund of the amount for which application has been made only on 11.1.2024. The deduction of the amount as per Affordable Housing policy, 2013 may be allowed alongwith statutory taxes which has been paid to the Government.

However, the counsel for the complainant clarifies that all the payments have been made as per due date and as per same the last payment was due only on 30.3.2022 and have been paid.

The respondent may file details in tabular form mentioning the amount paid by the complainant with dates, amount due if any, interest paid by the complainant

Arguments heard.

Both the parties may file written submissions within a period of 10 days after supplying a copy to each other.

Matter to come up on 29.02.2024 for pronouncement of orders.

VJ - 3  
Vijay Kumar Goyal  
Member  
19.01.2024