

PROCEEDINGS OF THE DAY
12

Day and Date	Friday and 06.10.2023
Complaint No.	CR/6578/2022 Case titled as Dr. Dolly Chopra Vs Vatika Limited
Complainant	Dr. Dolly Chopra
Represented through	Shri Rahul Bhardwaj Advocate
Respondent	Vatika Limited
Respondent Represented	Shri Dhruv Dutt Sharma Advocate
Last date of hearing	14.07.2023
Proceeding Recorded by	Naresh Kumari

Proceedings

The present complaint has been received on 04.10.2022 and the reply was received on 23.06.2023.

Succinct facts of the case are as under:

S.N.	Particulars	Details
1.	Name of the project	"Vatika India Next", Sector 82A, Gurugram.
2.	Allotment letter	20.01.2009 [pg. 15 of complaint]
3.	Plot no.	255, block C admeasuring 240 sq. yards [pg. 25 of complaint]
4.	Date of execution of plot buyer's agreement	15.03.2011 [pg. 21 of complaint]
5.	Possession clause	10 Handing over possession of the said plot to the allottee <i>That the Promoter based on its present plans and estimates and subject to all just</i>



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हरियाणा मू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/6518/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विभाग गृह, सिविल लाईन्स, गुरुग्राम, हरियाणा

		<i>exceptions, contemplates to complete construction of the said building/said independent dwelling unit within a period of three years from the date of execution of this Agreement.</i>
6.	Due date of possession	15.03.2014
7.	Total sale consideration as per BBA	₹ 49,20,000/- [pg. 26 of complaint]
8.	Paid up amount	₹ 43,82,400/- [Alleged by the complainant, page 5 of complaint]
9.	Occupation certificate	Not obtained
10.	Offer of possession	Not offered

The counsel for the complainant states that the complainant had booked a residential plot in above project for which BBA was executed on 15.03.2011 and they have already paid a sum of Rs.43,82,400/- against a total sale consideration of Rs.49,20,000/- (BSP) and total sale consideration was Rs.53,64,000/- and till now the OC has not been received and no offer has been made to them and the complainant is seeking DPC and possession. Further the counsel for the complainant states that the respondent has already constructed a commercial project on the same land in which the residential plot was allotted to the complainant, hence, the original allotted residential plot does not exist now.

The counsel for the respondent states that there is no such pleading regarding commercial construction on the said unit as per the pleadings of the complainant in the complaint filed. Further states that there was change in the master layout plan of the said township and the respondent had offered the complainant to come forward for reallocation of some other plot as per page 54 to 58 of the complaint.

The counsel for the complainant states that complainant is an NRI and living Offshore and the intimation regarding changes in the master layout plan and offer for choosing an alternate plot was not made through email, rather by post which is a letter dated 30.04.2013. Further states that the letter dated 30.04.2013 was received by the complainant on 8.5.2013 i.e. after the expiry of



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time given in letter dated 30.04.2013 which was upto 07.05.2013 and further on 29.05.2013, the complainant sent a letter in response to the letter dated 30.04.2013 in which it was mentioned that as per the discussion with the customer care of the respondent by the complainant it was told that reallocation for me has been postponed till further notice. Further stated that as per email dated 30.07.2013 of the respondent which is at page 57 it is mentioned that construction is in progress and is in full swing, hence they shall inform you when a certain milestone is achieved.

The counsel for the respondent states that on 26.02.2014 there was an email sent by the respondent which is Annexure C5 at page 53 which states that we do have more than 8 options available for reallocation, requesting you to please select the unit and for reallocation of the plot. The counsel for the complainant states that they had sent reply on 01.03.2014 to the above said mail dated 26.02.2014 in which it was mentioned that "please find attached my reply and relevant documents in response to your letter No.ref#12-01-0069005-20/02/2014 the same shall be couriered to you on first working day.

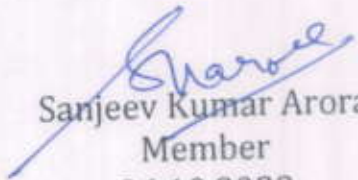
The counsel for the complainant states that as per page 71 of the reply, the respondent was well aware that it is not a residential unit rather it is a commercial complex and still they had accepted it as a residential unit. The counsel for the respondent states that there is no plot/unit available in this very project, hence they are ready to refund the deposited amount. Further the counsel for the complainant is not agreeable to the same. The respondent is hereby directed to file an affidavit regarding non availability of plot in the very same project within a period of 2 weeks alongwith written submissions.

Arguments heard.

Both the parties are directed to submit written submissions within a period of 15 days with an advance copy to each other.

Order reserved.

Matter to come up on 12.01.2024 for further proceedings.


Sanjeev Kumar Arora
Member
06.10.2023