



**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**

22

Day and Date

Wednesday and 25.01.2023

Complaint No.

CR/714/2022 Case titled as Jatinder Singh Vs Sepset Properties Private Limited

Complainant

Jatinder Singh

Represented through

Shri Jagdeep Kumar Advocate

Respondent

Sepset Properties Private Limited

Respondent Represented

Shri Harshit Batra Advocate

Last date of hearing

28.09.2022

Proceeding Recorded by

Naresh Kumari and HR Mehta

**Proceedings**

The present complaint has been filed on 28.02.2022 and the reply was received on 25.05.2022

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

Sr. No.	Particulars	Details
	Name of the project	'Paras Dews', Sector -106, Gurugram
1.	Unit no.	08, 5 <sup>th</sup> floor, Tower-F
2.	Unit admeasuring	1385 ft.
3.	Allotment letter	10.01.2013 (Page no. 18 of the complaint)
4.	Date of execution of builder buyer agreement	18.04.2013 (Page no. 21 of complaint)



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CR 114/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

5.	Possession clause	<b>Clause 3.1: Proposes to handover the possession of apartment to purchaser within a period of 42 months with addition of 6 months from the date execution of BBA or obtaining the license or approvals for commencement of construction whichever is later, subject to force majeure grace period 90 days.</b>
6.	Environment clearance	06.09.2013
7.	Due date of delivery of possession	<b>06.09.2017</b> (06.03.2017 + 6 months of grace period being unconditional) (Calculated from the date of environment clearance)
8.	Total sale consideration	Rs. 1,01,66,198/- (As per page no. 40 of complaint)
9.	Total amount paid by the complainant	<b>Rs. 89,64,863/-</b> (Alleged by the complainant and confirmed by the respondent during proceedings)
10.	Occupation Certificate	Applied but not yet obtained as confirmed by AR during the proceedings
11.	Offer of possession	Not offered

The counsel for the complainant is seeking delayed possession charges as the possession of the unit is not yet offered and neither the project is complete at site till date. The counsel for the respondent through AR confirms that after



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CA/14/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

completing the construction at site, the application for grant of OC has been made to DTCP on 22.12.2022 and is expected to be granted by March 2023. The counsel for the complainant is also seeking other relief regarding non charging of GST and directing the respondent to intimate the status of construction.

After considering the above-mentioned facts, the authority has calculated the due date of possession according to clause 3.1 of the flat buyer's agreement i.e., 48 months (including a grace period of 180 days) from the date of signing of the flat buyer's agreement or date of obtaining all licenses approvals for commencement of construction, whichever is later. So, the due date comes out to be 06.09.2017 (calculated from the date of environment clearance), a grace period of 180 days is allowed for the above-mentioned reason.

There is nothing on record which shows that respondent builder has applied for occupation certificate or offered possession of the unit to the complainant.

The authority hereby allows to delay possession charges w.e.f. 06.09.2017 till the offer of possession or handing over of physical possession after obtaining occupation certificate, whichever is earlier plus 2 months as per section 19(10) of the Act.

### **1. Restrain the respondent from charging GST tax from the complainant.**

For the projects where the due date of possession was prior to 01.07.2017 (date of coming into force of GST), the respondent/promoter is not entitled to charge any amount towards GST from the complainant(s)/allottee(s) as the liability of that charge had not become due up to the due date of possession as per the builder buyer's agreements. For the projects where the due date of possession was/is after 01.07.2017 i.e., date of coming into force of GST, the builder is entitled to charge GST, but it is obligated to pass the statutory benefits of that input tax credit to the allottee(s) within a reasonable period.

### **2. Litigation Cost.**

The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors.* (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer



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*Handwritten signature and date: 25/1/2023*

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation. Therefore, the complainant is advised to approach the adjudicating officer for seeking the relief of compensation.

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

*Handwritten signature: Sanjeev Kumar Arora*  
Sanjeev Kumar Arora  
Member

*Handwritten signature: Vijay Kumar Goyal*  
Vijay Kumar Goyal  
Member  
25.01.2023