



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

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Day and Date	Thursday and 29.02.2024
Complaint No.	CR/7148/2022 Case titled as Om Parkash Singh VS Vatika Limited
Complainant	Om Parkash Singh
Represented through	Shri Vinit Kuma Shrivastava, Advocate
Respondent	Vatika Limited
Respondent Represented	Shri Dhurv Dutt Sharma, Advocate
Last date of hearing	23.11.2023
Proceeding Recorded by	H.R.MEHTA

Proceedings

The present complaint has been received on 24.11.2022 and the reply on behalf of respondent was received on 18.04.2023.

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

S. N.	Particulars	Details
1.	Name and location of the project	Xpression by Vatika, Sector-88B Gurugram
2.	Project area	38640.48 Sq. mtrs.
3.	Nature of the project	Residential Plotted Colony
4.	DTCP license no.	94 of 2013 dated 31.10.2013 Valid upto 30.10.2019
5.	RERA registered/ not registered and validity status	Registered Registered vide no. 271 of 2017 dated 09.10.2017 Valid upto 08.10.2022



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6.	Unit no.	HSG-028, pocket-H-2, level-1 (page 19 of complaint)
7.	Unit area admeasuring	1350 sq. ft. (as per BBA page 19 of complaint)
8.	Builder buyer agreement	29.03.2016 (page 17 of complaint)
9.	Possession Clause	13. "The Developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete construction of the said Residential Floor within a period of 48 (Forty Eight) months from the date of execution of this Agreement unless there shall be delay or there shall be failure due to reasons mentioned in other Clauses herein or due to failure of Allottee(s) to pay in time the price of the said Residential Floor along with all other charges and dues in accordance with the Schedule of Payments given in Annexure-I or as per the demands raised by the Developer from time to time or any failure on the part of the Allottee(s) to abide by any of the terms or conditions of this Agreement."
10.	Due date of possession	29.09.2020 (calculated from the date of execution of BBA including grace period in lieu of Covid-19)
11.	Total Sale Consideration	Rs. 86,17,012/- (as per BBA page 20 of complaint) Rs.92,38,415/- as per SOA annexure R-2 which includes EDC/IDC etc.
12.	Amount paid by complainant	Rs.16,41,742/- (as per SOA dated 13.04.2023 at page 14 of reply)
13.	Reminder letter	15.06.2021, 17.08.2021, 14.04.2022 (as per cancellation letter page 57 of complaint)



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14.	Notice for Termination	14.04.2022 (page 24 of reply)
15.	Cancellation letter	26.04.2022 (page 57 of complaint)
16.	Emails for refund	05.04.2018, 09.04.2018 (page 58 of complaint)
17.	Legal Notice (for Possession)	28.05.2022 (page 61 of complaint)
18.	Occupation Certificate	Not Obtained
19.	Offer of possession	Not offered

The complainant is seeking refund of the entire paid up amount alongwith interest.

The counsel for the respondent states that the e-mail request for refund was made by the complainant on 05.4.2018 and 09.4.2018 prior to due date of possession and hence the respondent is entitled to deduct 10% of the earnest money of the total sale consideration. However, the counsel for the complainant states that deduction can be only on the basic sale price as per regulation of the Authority and interest from the date of seeking cancellation be paid till its realization of the amount.

Arguments heard.

Order reserved.

Matter to come on 25.4.2024 for pronouncement of orders.

Vijay Kumar Goyal
Vijay Kumar Goyal
Member
29.02.2024