



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		88
Day and Date	Tuesday and 19.11.2024	
Complaint No.	CR/7595/2022 Case titled as Navin Kumar VS Ocean Seven Buildtech Private Limited	
Complainant	Navin Kumar	
Represented through	Shri Harshit Batra Advocate	
Respondent	Ocean Seven Buildtech Private Limited	
Respondent Represented through	Shri Arun Yadav Advocate	
Last date of hearing	12.11.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings The present complaint was filed on 21.12.2022. Despite multiple opportunities to the respondent, the respondent has failed to file reply. In view of the above, the defence of the respondent was struck of by the authority vide order dated 14.11.2023. Vide order dated 09.01.2024 the authority gave final opportunity to the respondent to file reply in registry within a period of 10 days and was also directed to pay cost of Rs.5,000/-to the complainant before next date of hearing. Now the respondent has filed reply on 02.02.2024. Vide orders dated 25.04.2023 and 03.09.2024 respectively, the respondent/promoter was directed to not to create any third party rights in respect of unit of the complainant till further of the authority. The succinct facts of the case are as under:		
S. No.	Particulars	Details
1.	Name of the project	Expressway Towers, Sector 109, Gurugram, Haryana.



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CA/1595/2022

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2.	Project area	7.5 Acres
3.	Nature of the project	Affordable housing project
4.	DTCP license no.	06 of 2016 dated 16.06.2016
	License valid till	15.06.2021
	Licensed area	7.5 acres
	License holder	Sh. Shree Bhagwan C/o M/s Ocean Seven Buildtech Pvt. Ltd.
5.	HRERA registered/ not registered	Registered vide no. 301 of 2017 dated 13.10.2017
	HRERA registration valid up to	12.04.2022 (Including 6 months COVID extension)
6.	Building plan approval dated	26.09.2016
7.	Environment clearance dated	30.11.2017
8.	Allotment letter issued in favour of complainant on	20.05.2017 (Page 18 of complaint)
9.	Unit no.	203, 2nd floor, Tower 5 (Page 25 of complaint)
10.	Unit admeasuring	645 sq. ft. of carpet area along with 99 sq. ft. of balcony area [Page 25 of the complaint]
11.	Builder buyer agreement	02.06.2017 [Page 20 of complaint]
12.	Possession clause as per clause 5.2 of the agreement	<i>The Company shall sincerely endeavour to complete the construction and offer the possession of the said unit within five years from the date of the receiving of license ("Commitment Period"), but subject to force majeure clause of this Agreement and timely payment of installments by the Allottee(s), However In case the Company completes the construction prior to the period of 5 years the Allottee shall not raise any objection in taking the possession after payment of remaining sale price and other charges stipulated in the Agreement to Sell. The Company, on obtaining certificate for occupation and use by the Competent Authorities shall hand over the said unit to the Allottee for his/her/their occupation and use, subject to the Allottee having complied</i>

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण



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		<i>with all the terms and conditions of the said Policy and Agreement to Sell and payments made as per Payment Plan. It is further agreed by the Allottee that the Developer shall not be liable for delay in completion of construction, in case of force majeure condition and/or the delay is caused due to non-completion of construction of said Complex/building/unit. In the event if a number Allottee(s) are not paying due installments on time or a number of Allottee(s) has withdrawn their application after allotment of unit or a number of units has been cancelled due to nonpayment of due installments or otherwise...</i> [Page 32 of complaint]
13.	Possession clause	1(IV) of the Affordable Housing Policy, 2013 All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.
14.	Due date of possession	30.05.2022 (calculated from the date of environment clearance dated 30.11.2017 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)
15.	Total consideration	Rs.26,29,500/- [Page 25 of complaint]
16.	Amount paid by the complainant	Rs.23,86,277/- [Page 57 of complaint]
17.	Occupation certificate	Not obtained
18.	Offer of possession	Not offered
19.	Tri partite agreement dated	17.07.2017 [Page 58 of complaint]



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The counsel for the complainant states that the complainant is willing to take physical possession of the allotted unit. The complainant has paid almost 90% of the sale consideration. There is no progress of the construction of the project and occupation certificate is not yet obtained by the respondent from the competent Authority.

The counsel for the respondent states that the due date of possession may be calculated from the date of 'consent to establish' i.e. 05.02.2018 which comes out to be 05.02.2022 and further requests to allow the grace period due to force majeure circumstances i.e. Covid-2019, ban imposed by NGT from time to time. Moreover the delay was happened due to agitation by the members of Association of allottees who obstruct the construction work at site as a result the DTCP has cancelled the license on 23.2.2023 vide Memo No. LC-3089-PA(VA)-2023/5475 and even the Authority had frozen all the bank accounts of the respondent company. The counsel for the respondent has placed on record a report of Chartered Engineer dated 14.5.2024 vide which bringing out the financial losses caused by the delayed payments and escalated material costs due to delayed payment by the allottees.

The counsel for the complainant further states that in clause 1(iv) of the Affordable Housing Policy 2013, clearly mentioned that all such projects shall be required to be necessarily completed within **4 years from the date of approval of building plans or grant of environmental clearance**, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy hence there is no provision to calculate due date of possession from the date ^{of} Consent to Establish and also there is no provision to grant grace period. He further states that the action against the promoter has been taken by the competent authorities due to grave violations committed by the promoter and the allottees cannot be held responsible for the same.



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Arguments heard.

Order reserved.

Both the parties may submit written submissions within a period of 4 weeks with an advance copy to each other.

Matter to come up on 25.02.2025 for pronouncement of orders.

Ashok Sangwan
Member

V.I-3
Vijay Kumar Goyal
Member

Arun Kumar
Chairman
19.11.2024