

PROCEEDINGS OF THE DAY		111
Day and Date	Tuesday and 19.11.2024	
Complaint No.	CR/778/2023 Case titled as Elan Kumaran Subramaniam VS Ocean Seven Buildtech Private Limited	
Complainant	Elan Kumaran Subramaniam	
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 16.02.2023 and reply was received on 30.01.2024.

The succinct facts of the case are as follows:

S. No.	Particulars	Details
1	Name of the project	Expressway towers, Sectors-109, Gurugram
2	Project area	7.5 acres
3	Nature of project	Group housing colony
4	RERA registered/not registered	Registered vide 301 of 2017 dated 13.10.2017 till 12.10.2021
5	DTPC License no.	6 of 2016 dated 16.06.2016
	Validity status	15.06.2021
	Name of licensee	Shree Bhagwan in collaboration with Ocean Seven Buildtech Pvt. Ltd.
6	Unit no.	803, tower 6, on 8 th floor, 2BHK, Type-I [Page no. 21 of complainant]



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CRJ-778/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

7	Unit measuring	645 Sq. ft. [Page no. 21 of complainant]
8	Allotment Letter	20.05.2017 [Page no. 18 of complainant]
9	Date of execution of builder buyer agreement	10.06.2017 [Page no. 19 of complainant]
10	Possession clause	5.2 Possession Time "The company shall sincerely endeavor 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)..." [Page no. 31 of complaint]
11	Due date of possession	30.05.2022 (Calculated as 4 years from date of approval of environment clearance i.e., 30.11.2017 being later as per policy, of 2013 + 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.)
12	Date of approval of Building plan	26.09.2016 [as per data available on DTCP website]
13	Total sale consideration	Rs.26,29,500/- [Page no. 24 of complaint]
14	Total amount paid by the complainant	Rs.27,18,251/- [Page no. 16 of complaint]
15	Reminder/Demand Letter by respondent for non-payment of dues	Undated [Page no. 57 of complaint]
16	Occupation certificate	Not obtained
17	Offer of possession	Not offered



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18	Tripartite agreement dated 12.06.2016 with India Infoline Housing Finance Limited	Rs.2462983/- [Page no. 59 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

Vijay Kumar Goyal
Member

Arun Kumar
Chairman
19.11.2024