

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,  
HARYANA REAL ESTATE REGULATORY AUTHORITY,  
GURUGRAM.**

**Complaint No. 2400 of 2023**

**Date of Decision: 29.07.2025**

**Navneet Kumar & Suman Choudhary @ Suman Dhillon,  
residents of C-102, 10<sup>th</sup> Floor, Tower-C, Raheja Atlantis,  
Sector 30-31, Gurugram, Haryana-122001.**

**Complainants.**

**Versus**

**BPTP Limited & Countrywide Promoters Pvt. Ltd., registered  
office at M-11, First Floor, Middle Circle, Connaught Circus,  
New Delhi-110001.**

**Respondents.**

**APPEARANCE**

**For Complainants: Mr. Sukhbir Yadav, Advocate.**

**For Respondents: Mr. Harshit Batra, Advocate.**

**ORDER**

This is a complaint filed by Mr. Navneet Kumar & Suman Choudhary @ Suman Dhillon, (allottees), under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in brief The Act of 2016) read with Rule 29 of The Haryana Real Estate (Regulation and Development) Rules, 2017 for violation of sections 12 & 18 of the Real Estate (Regulations and



Development) Act, 2016 read with Rule 29 of The Haryana Real Estate (Regulation and Development) Rules, 2017 against BPTP & M/s Countrywide Promoters Pvt. Ltd. (promoters/ developers).

2. The brief facts of the complainant's case are that believing in the representations of the respondents, the complainants on 03.07.2010 booked a 4 BHK Flat bearing no. MI-404 admeasuring 2764 sq. ft. in Mansions Park Prime, Sector-66, Gurgaon. This Project is being developed by the respondents under Group Housing Policy. They (complainants) paid Rs.10,36,500/- towards the booking amount along with application form. The respondents acknowledged said payment and issued the payment receipt on 12.07.2010. The flat was purchased under the construction-linked Plan for a total sale consideration of Rs.1,20,41,968/-. Thereafter, on 23.08.2010 the respondents issued an allotment letter confirming the allotment of Flat No. MAI-404 in Tower No. MI in the name of the complainants. The respondents had raised a demand of Rs.10,89,880/- and the said demand was paid by the complainants before the due date mentioned in the allotment cum demand letter. The respondents issued the payment receipts for the said payments on 06.09.2010.



3. That on 16.09.2010 an unilateral, arbitrary and one-sided, Flat Buyer Agreement (hereinafter called the "BBA/FBA") was executed inter-se the complainants and the respondents. As per clause 3.1 of the BBA, the respondents had to give possession of the flat within 36 months from the date of booking of the flat, which was booked on 03.07.2010. Therefore, the due date of possession was 03.07.2013.

4. That on 07.10.2010 respondents issued a payment request letter and raised a demand of Rs.11,73,601/- in the said letter. They (complainants) made the full payment against the said demand and the respondents acknowledged the same by issuing the payment receipt on 20.10.2010. Thereafter on 24.02.2011 respondents further raised a demand of Rs.15,92,379/- which was also paid by them. The respondents issued payment receipts on 11.03.2011 for the said payments made by the complainants.

5. That they (complainants) had availed a home loan from Indiabulls Housing Finance Ltd. against the unit in question and were paying EMIs of the same. On 06.07.2011 and 14.09.2011 the respondent sent further two payment request letters in the name of the complainants and raised a demand of Rs.13,82,990/- in each of the letters. They (complainants) made these payments



also through different cheques. The respondent issued the payment receipts on 21.07.2011 and 29.09.2011. On 06.12.2011 the respondent issued a statement of account acknowledging payment of Rs.87,21,533/-.

6. That on 05.06.2012 the respondent sent a payment request letter and raised a demand of Rs.10,68,527/- and the complainant made a payment of Rs.10,73,709/- against the said demand of the respondent and the respondent issued the payment receipts of the said payment on 18.06.2012. Thereafter the complainants continued to pay the remaining installment as per the demand raised by the respondent and further made two payments of Rs.13,16,613/- and Rs.70,791/- as per the payment plan. The receipts for both payments were issued by the respondents on 16.08.2012.

7. That on 07.06.2014 the respondent issued a statement of account and the said statement of account shows that the complainants have paid a total sum of Rs.1,11,82,584/- against the unit no. MAI-404 till July 2014. The complainants have paid more than 92% of the total sale consideration till 2014. Thereafter, on 05.11.2016 a letter having a demand of Rs.1,14,106/- on account of VAT was received by the



complainants sent by the respondent party and the complainants paid Rs.1,14,500/- against the said demand of VAT.

8. That since July 2013 complainants are regularly visiting at the office of the respondents as well as construction site and made efforts to get the possession of allotted flat but all in vain. The respondent party had promised to deliver the flat on or before 03.07.2013, but they failed to do so.

9. That thereafter aggrieved by the acts, conduct and deficiencies of the builder/respondent, the complainants filed a complaint No. 2195 of 2018 before the Hon'ble Haryana Real Estate Regulatory Authority, Gurugram. The Hon'ble Authority pronounced the final decision/judgment on the above-said complaint on 03.09.2019. The Hon'ble Authority exercising powers vested in it under section 37 of the Real Estate (Regulation and Development) Act, 2016, issued the directions to the respondent.

10. That the respondent did not comply with the order of the Hon'ble Authority. Resultantly the complainants filed an execution petition having CRN No. 318 of 2020 and the same is pending for adjudication. That the respondents offered the



possession after a lapse of 7 years and that too contains various illegal demands.

11. That the main grievance of the complainants in the present complaint is that in spite of the complainants having paid more than 100% of the actual amount of the flat and is ready and willing to pay the remaining amount, the respondents have failed to deliver the possession of the flat. Moreover, the due date of possession was 03.07.2013 and physical possession of the flat is yet not been delivered the complainants are suffering from acute financial losses since July 2013.

12. Citing facts as described above, the complainants have sought following reliefs: -

i. To grant compensation for the rental cost/loss of Rs.1,00,30,000/- from July 2013 (due date of possession) to May 2023 and Rs.85,000/- from June 2023 till the actual handover of the Flat.

ii. To grant compensation on account of depreciation of Rs.26,49,229/-.

iii. To grant compensation on account of loss of interest from offer of possession till actual handover of the unit.

  
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iv. To grant the compensation of Rs.10,00,000/- for causing mental agony.

v. To grant a compensation of Rs.1,00,000/- for travel expenses and loss of work as the complainants had to appear before the Hon'ble Authority (for complaint and execution) for about 20 times on their working days.

vi. To grant the litigation cost of Rs.3,25,000/-.

vii. Any other relief/direction that the Adjudicating Officer deems fit and proper in the facts and circumstances of the present complaint.

13. The respondents contested the claim of complainants by filing a written reply. It is averred that the instant complaint is untenable both in facts and law. As per the FBA, respondent no. 2 is a mere licensee and a Confirming Party. The Confirming Party i.e. respondent no. 2 had transferred all the developing rights in favour of respondent no.1, as noted in Clause 1.5 of the FBA. That moreover no specific relief has been sought from the respondent no. 2, as such the name of the respondent no. 2 should be deleted from the array of parties. Further, the rights and obligations of the parties are to be determined from this Agreement under which despite being faced with a number of hurdles and force majeure



circumstances, the respondent no. 1 duly completed the development of the Project and offered the possession of the Unit to the complainants on 06.03.2020 after having received the occupation certificate on 14.02.2020.

14. That the complainant had approached the Authority through complaint bearing no. 2195 of 2018. After adjudicating the matter, the reliefs were granted by the Authority vide order dated 03.09.2019 (corrected on 13.01.2020). Thereafter, the complainants filed an execution petition bearing no.318 of 2020, whereunder, in compliance of the said order dated 03.09.2019 (corrected on 13.01.2020), a total sum of Rs.9,93,779/- has been paid by the respondent to the complainants.

15. That at the time of offer of possession, compensation of Rs.2,87,122/- was credited in favour of complainant, as is evident from the statement of dues (Annexure A) of the offer of possession. Additionally, the respondents have also credited a sum of Rs.4,25,809/- over the years to the complainants.

16. That out of the total sale consideration of Rs.1,60,30,934.31, the complainants have paid only a sum of Rs.1,12,97,146.81. The entire allegations of the complainant revolve around the delay in the development of the unit, alleged



depreciation and the alleged loss. However, the complainants have miserably failed to take into account the compensation/delay interest already credited to the complainants.

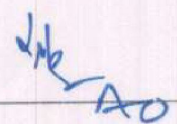
17. That no compensation can be claimed by an allottee, who intends to stay in the project and only delay possession charges can be claimed under the Real Estates (Regulations and Development) Act, 2016.

18. Contending all this, the respondents have prayed to dismiss the complaint.

19. Both parties filed affidavits in support of their claims.

20. I have heard learned counsels appearing on behalf of both of parties and perused the record on file.

21. Admittedly, complaint No. 2195/2018 filed by present complainants seeking delay possession compensation has already been allowed by the Authority vide order dated 03.09.2019. Complainant has been allowed the interest at the prescribed rate i.e. 10.45% per annum for every month of delay from the due date of possession i.e. 03.02.2014 till the offer of the possession by the respondent. I find weight in the plea of respondent claiming that award of interest was in the form of compensation.

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22. As per Section 18 (1) of Act of 2016, if promoter fails to complete or unable to give possession of an apartment, plot or building, -

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-----, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot or building, as the case may be, with interest at such rate as may be prescribed in this behalf **including compensation, in the manner as provided under this Act.**

23. It is worth mentioning here that complainant did not wish to withdraw from the project but prayed for delayed possession compensation, by filing a complaint with the Authority. The said complaint has already been allowed. Proviso added to sub section (1) of section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid by the promoter interest for every month of delay till handing over of possession, at such rate as may be prescribed. Rule 15 (1) of The Haryana Real Estate (Regulation and Development) Rules 2017 makes it clear that for the purpose of proviso to section 12,



section 18 and sub section 4 and sub section 7 of section 19 “interest at the rate prescribed” shall be the State Bank of India higher than marginal cost of landing rate plus 2%. Thus, the provision of interest is in the form of compensation to the buyer when the promoter fails to complete the project in agreed time. The parliament did not intend to provide compensation separately as in case of refund of the amount described above.

24. In upholding that the claim of compensation and interest can be allowed only in case the allottee seeks to withdraw from the project as per Section 18 (1) of Act of 2016, following was held by Uttar Pradesh Real Estate Appellate Tribunal in case **“Greater Noida Industrial Development Authority vs. Ranjan Misra” Appeal No. 70 of 2023 decided on 20.04.2023-----;**

*“13.9. If were closely examine the above two provisions, it comes out that in a case where the Allottee exists the projects, the Act expressly provides INTEREST AND COMPENSATION both, but in cases where the Allottee tends to stay in the project the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to provide Compensation only to those Allottees who exit the project and not to those who tends to stay in the project.”*

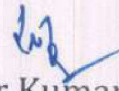
25. When complainant has already been allowed delayed possession compensation by the Authority for same cause of



action, there is no reason to allow separate compensation for the delay in completion of construction by the promoter. Complaint in hands is thus dismissed.

26. File be consigned to record room.

Announced in open Court today i.e. 29.07.2025.

  
(Rajender Kumar)  
Adjudicating Officer,  
Haryana Real Estate  
Regulatory Authority,  
Gurugram. 29.07.2025