STATE CONSUMER DISPUTES REDRESSAL COMMISSION
CHANDIGARH
CONSUMER COMPLAINT NO. SC/4/CC/73/2025

PANKAJ MAHINDRA S/o. Surinder Kumar
PERMANENT ADDRESS - CHANDIGARHCHANDIGARH,CHANDIGARH.
MANISHA MAHINRA W/o. Pankaj Mahindra
PRESENT ADDRESS - CHDCHANDIGARH,CHANDIGARH.

.......Complainant(s)

Versus

OMAXE CHANDIGARH EXTENSION DEVELOPERS PVT LTD
PRESENT ADDRESS - CHANDIGARHCHANDIGARH,CHANDIGARH.

.......Opposite Party(s)

BEFORE:

HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI , PRESIDENT
HON'BLE MR. PREETINDER SINGH , MEMBER

FOR THE COMPLAINANT:

PANKAJ MAHINDRA S/o. Surinder Kumar

DATED: 22/12/2025

ORDER

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,

U.T., CHANDIGARH

Complaint No.	:	73 of 2025
Date of Institution	:	22.07.2025
Date of Decision	:	22.12.2025

1. Pankaj Mahindra S/O Surinder Kumar Mahindra.
2. Manisha Mahindra W/O Pankaj Mahindra.
   Both Residents of House No. 187-A, Near SBI Bank, Tagore Nagar, Ludhiana, Punjab.

….Complainants

Versus

1. Omaxe Chandigarh Extension Developers Pvt. Ltd. Now Known As Omaxe New Chandigarh Developers Pvt. Ltd Through Its Director/Authorized Signatory, Having Its Corporate Office At SCO No.139-140, First Floor, Sector 8C, Madhya Marg, Chandigarh-160008

   (2nd Address):- Omaxe Chandigarh Extension Developers Pvt. Ltd. Now Known as Omaxe New Chandigarh Developers Pvt. Ltd Through its Director/Authorized Signatory, Having its Zonal Office At India Trade Tower, First Floor, Baddi-Kurali Road, New Chandigarh, Mullanpur, Mohali-140901.
   Email – customerrelations_chandigarh@omaxe.com

2. Bhupendra Singh, CEO Cum Director, Omaxe Chandigarh Extension Developers Pvt. Ltd. Now Known as Omaxe New Chandigarh Developers Pvt. Ltd., Having its Office at India Trade Tower, First Floor, Baddi-Kurali Road, New Chandigarh, Mullanpur, Mohali-140901.
3. Shalini Barathi, Director, Omaxe Chandigarh Extension Developers Pvt. Ltd. Now Known as Omaxe New Chandigarh Developers Pvt. Ltd, Having its Office at India Trade Tower, First Floor, Baddi-Kurali Road, New Chandigarh, Mullanpur, Mohali -140901.

....Opposite Parties No.1 to 3

4. Axis Bank Limited, RAC-7-E, Second And Third Floor, Malhar Road, Gurdev Nagar, Ludhiana 141001 Through its Branch Manager.
5. HDFC Bank Ltd, SCO 11, Green Park Avenue, Canal Colony, Near Nehru Sidhant Kendra, Pakhowal Road, Ludhiana Through its Branch Manager.

…..Proforma Parties

BEFORE: **JUSTICE RAJ SHEKHAR ATTRI, PRESIDENT MR. PREETINDER SINGH, MEMBER**

PRESENT: Sh. Varun Bhardwaj, Advocate, for the complainants.

Sh. Arjun Sharma, Advocate, for opposite parties No. 1 to 3-on VC

Sh. Gaurav Gupta, Advocate, for the proforma party No. 4-on VC

Sh. Sagar Kumar, Advocate, proxy for Sh. Atul Goyal, Advocate, for proforma party no.5

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PER JUSTICE RAJ SHEKHAR ATTRI

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Factual scenario:-

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The complainants, both doctors by profession who frequently visit Chandigarh for work, had applied in 2015 for a residential unit in the project "The Lake" at Omaxe New Chandigarh, Mullanpur, SAS Nagar, Punjab, developed by opposite parties no.1 to 3. They were induced to book the unit based on various representations made by the opposite parties no.1 to 3 regarding early commencement of construction in Tower Victoria-C, timely delivery of possession within 42 months, availability of premium lifestyle amenities including club, swimming pools, central lawns, yoga/meditation centre, guest parking, and other facilities, as well as the promise that the project would comprise residential, retail, corporate, hospitality, and healthcare spaces. The opposite parties no.1 to 3 assured the complainants that they would pay only the booking amount and that the EMIs of the remaining sale consideration would be borne by the opposite parties no.1 to 3 under the Subvention Scheme until actual possession of the unit is delivered to them. Acting on these representations, the complainants deposited Rs.5,00,000/- on 05.06.2015, were allotted Unit No. TLC/VICTORIA-C/NINETEENTH/1901, and executed the Allotment Letter dated 19.09.2015 which fixed the possession date as 18.03.2019 (36 months + 6 months grace). A housing loan of Rs.68,88,000/- was arranged from Axis Bank through a Tripartite Agreement under which the opposite parties no.1 to 3 undertook to pay the EMIs until possession. The complainants continued to pay amounts as demanded, depositing a total of Rs.68,46,999/-, yet construction remained incomplete and even the basic structure of the tower was not ready as observed by them during their visit in March 2019. The opposite parties no.1 to 3 stopped paying EMIs on 25.11.2020 despite the project being incomplete and without any occupation or completion certificate, forcing the complainants to shift the loan to HDFC Bank. Instead of paying delay compensation at 12% p.a. from 18.03.2019 as contractually and legally required, the opposite parties no.1 to 3 paid only meager amounts. Thereafter, the complainants received a purported possession letter dated 11.03.2024, which was merely a "paper fit-out possession" accompanied by illegal demands of Rs.2,23,278.42 as delayed interest, even though payments had been made by Axis Bank directly as per construction demands. Despite repeated emails seeking correction of the statement of account, clarification of possession status, and delay compensation, the opposite parties no.1 to 3 refused to rectify their illegal claims or provide possession. Opposite parties no.1 to 3 cannot demand payments without completing construction, must obtain occupation and completion certificates before offering possession, and are liable to pay interest on deposited amounts for the period of delay. Even in 2025, the basic amenities including the club house remained incomplete. Having paid Rs.68,46,999/- and yet receiving nothing in return, the complainants suffered mental agony, harassment, financial loss, and humiliation while the opposite parties no.1 to 3 continued to unjustly enrich themselves by using the complainants' funds. Consequently, after serving legal notice dated 04.05.2025, followed by exchange of emails, which yielded no satisfactory response, this complaint has been filed seeking following relief:-

(i.) Direct the Opposite parties to withdraw all the letters, wherein alleged delayed payment interest and other illegal charges, referred to above, have been demanded from the

Complainants immediately;

(ii.) Direct the Opposite parties to complete the construction work in the tower in question, complete in all respects, provide all the promised amenities and facilities, including club house, at the project site:

(iii.) Direct the Opposite parties to issue offer of possession letter in respect of the unit in question, complete in all respects, after obtaining occupation and completion certificates from the Competent Authorities;

(iv.) Direct the Opposite parties to refund the amount of EMIs already paid by the complainants to the AXIS Bank/Proforma Party from the date, when the same had been stopped by the Opposite Party No. 1 to 3, as they were legally liable to pay the under subvention scheme, as promised vide the Allotment Letter:

(v.) Direct the Opposite parties to pay to the complainant delayed compensation, by way of interest @12% p.a., on the entire amount deposited from 19.03.2019 till possession of unit in question is delivered to the Complainants;

(vi.) Direct the Opposite parties to pay to the Complainants compensation to the tune of Rs. 10,00,000/- for mental torture and harassment;

(vii.) Direct the Opposite parties to pay to the Complainants Rs. 2,00,000/- towards Legal Expenses;

(viii.) Pass such other or further orders as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

<u>Written version filed by opposite parties no.1 to 3:-</u>

2. Opposite parties no.1 to 3 contested the complaint and filed written version wherein numerous objections were taken as under:-

(i) that the complainants have concealed material facts from this Commission as such, this complaint needs to be dismissed on this ground alone;

(ii) that the complainants being investors did not fall within the definition of consumer;

(iii) that Opposite parties no.2 and 3 have been wrongly impleaded as parties in their personal capacity;

(iv) that under the subvention scheme, the company has already paid an amount of Rs.38,22,256/- upto 10.03.3024, as it was liable to pay the same only till offer of possession of the unit in question;

(v) that occupation certificate in respect of the unit in question was obtained on 11.10.2024, Annexure OP-4;

(vi) that after receipt of occupation certificate, the complainants were called number of times vide letters dated 12.11.2024, 21.04.2025 and 16.05.2025 (Annexures OP-5 colly.) to execute sale deed on making payment of the remaining amount but they failed to do so;

(vii) that this Commission cannot rewrite or modify the terms and conditions of the agreement;

(viii) that delay in delivery of possession of the unit took place because the complainants defaulted in making payments;

3. On merits, while admitting the factual matrix of the case with regard to purchase of the unit in question by the complainants; payments made by them; execution of agreement in question; and that possession of the said unit was not offered by the stipulated date, it has been stated that vide settlement deed dated 14.06.2024, all the disputes stood settled between the parties and it was agreed that no one will drag into any sort of litigation. Prayer has been made to dismiss this complaint with exemplary cost.

Written version filed by proforma party no.4:-

4. Proforma party no.4 in its written statement stated that the complainants have no *locus standi* to initiate legal proceedings against the Proforma Party No.4, as no allegation whatsoever has been made against it in the entire complaint. The grievance of the complainants is specifically against Opposite Party No.1 to 3, who have allegedly failed to deliver possession in terms of the Buyer's Agreement. Proforma Party No.4/Axis Bank has been impleaded merely as a *proforma party*, and the complainants have not sought any relief against it. The complainants had availed a housing loan from Axis Bank vide Loan Account No. PHR004203213057, which already stands closed by the complainants. A copy of the loan account statement is annexed as Annexure OP-4/1. Proforma Party No.4 therefore, deserves to be discharged from the present complaint on the ground of misjoinder as no cause of action has arisen against it.

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Written version filed by proforma party no.5:-

5. Proforma party no.5 in its written version stated that there is no allegation of deficiency in service against HDFC Bank (Proforma Party No.5) in the complaint, nor has any relief been sought from it. The complainants' dispute is entirely with the developer–promoter (Opposite Party No.1 to 3) regarding the alleged delay in possession and imposition of charges. It has been impleaded only as a proforma party. As per records, the complainants availed a Resident Housing Loan (Refinance–Variable Rate–Monthly Rest) of Rs.59,00,000/- from it under Loan Account No. 693303825. A copy of the Loan Agreement dated 20.06.2024 along with the sanction letter is annexed as Annexure PP-5/1. The outstanding amount in the said loan account is Rs.55,03,172/- as on 29.09.2025, as reflected in the foreclosure/loan statement annexed as Annexure PP-5/2. The complainants are solely responsible for repayment of the loan, which is independent of any dispute between the developer and the allottee. The bank is neither responsible for completion of the project nor connected with the dispute raised by the complainants.

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Rejoinder:-

6. In the rejoinder filed, the complainants reiterated all the averments contained in their complaint and controverted those contained in written reply of the opposite parties no.1 to 3.

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Evidence by the parties:-

7. The contesting parties led evidence in support of their case.

8. We have heard the contesting parties and have gone through the evidence and record of the case including the written arguments filed by the parties concerned, very carefully.

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Findings/observations of this Commission:-

Complainants are consumers:-

9. First, addressing the objection that the complainants did not fall within the definition of "consumer," it is noted that the complainants, in the complaint as well as in their duly sworn affidavits, have categorically asserted that the residential unit was purchased solely for their personal use, as both complainants are medical professionals who frequently visit Chandigarh for their professional engagements. The opposite parties no.1 to 3 have not placed on record any documentary evidence, such as proof of multiple real-estate transactions, or investment motive to rebut this assertion or to show that the complainants are engaged in the business of buying and selling units for profit. It is well-settled by the Hon'ble National Commission in *Kavit Ahuja vs. Shipra Estates, I (2016) CPJ 31,* that once the complainant asserts personal use, the burden shifts to the builder to establish the contrary. Since the opposite parties no.1 to 3 have failed to discharge this burden, we hold that the complainants fall within the definition of "consumer" under Section 2(7) of the Consumer Protection Act.

Merits of the case:-

10. Now coming to the merits of the case, following facts are evident from the record and are not disputed:-

1. The complainants applied in 2015 for a residential unit in the project *"The Lake"*, Omaxe New Chandigarh, developed by Opposite Parties No.1 to 3.
2. The complainants deposited **Rs.5,00,000/- on 05.06.2015** as booking amount and were

allotted **Unit No. TLC/VICTORIA-C/NINETEENTH/1901 vide letter dated 13.07.2015, Annexure C-1**.

3. An **Allotment Letter dated 19.09.2015** (Annexure C-2) was executed, wherein the opposite parties, vide clause no.40 (a) fixed the possession deadline as **18.03.2019** (36 months + 6 months grace totaling 42 months).
4. A housing loan was sanctioned through **Axis Bank** under a **Tripartite Agreement (Annexure C-3)**, under which, admittedly, Opposite Parties No.1 to 3 undertook to pay the EMIs (Pre-EMI) until possession.
5. The complainants deposited a total of **Rs.68,46,999/-** towards the unit as per demands raised by Opposite Parties No.1 to 3.
6. A letter dated **11.03.2024 (Annexure C-5)** was issued by the opposite parties no.1 to 3, which was only a **fit-out possession letter**, wherein they raised **demand of Rs.2,23,278.42** towards delayed interest and in all demanded an amount of Rs.20,03,171.14ps.

<u>Effect of Settlement Deed dated 14.06.2024 (Annexure OP-3):-</u>

11. However, it is significant to mention here that though as per clause 40 (a) of the agreement dated 19.09.2015, the opposite parties no.1 to 3 committed to deliver possession of the unit in question, within a period of 36 months plus 6 months i.e. upto 18.03.2019, yet, there is Settlement Deed dated 14.06.2024 (Annexure OP-3) careful and thorough examination whereof makes it abundantly clear that the parties (complainants and the company) had mutually agreed to resolve all disputes up to the said date. As per the terms of the settlement, the opposite parties no.1 to 3 expressly waived the delayed payment interest of Rs.2,09,724/- shown outstanding in the statement of account. In reciprocation, the complainants categorically undertook and consented that they would not claim any right, interest, compensation, delayed possession penalty, expenses, or any other monetary or non-monetary claim against the company in respect of the unit in question i.e. up to the date of execution of the settlement i.e., 14.06.2024. The complainants are signatories to this settlement deed, they have not denied their signatures, nor have they contended that the settlement was obtained through fraud, coercion, undue influence, or any misrepresentation. Thus, there is no legal or factual basis for the complainants to resile from the terms of the settlement, as far as compensation for the period of delay in delivery of possession till 14.06.2024 is concerned. In our considered opinion, therefore, the Settlement Deed dated 14.06.2024 effectively and conclusively some of the grievances, and claims between the parties up to the said date, and neither party can be permitted to agitate any issue relating to delayed compensation, delayed payment interest, or any other claim pertaining to the period prior to 14.06.2024. Accordingly, this Commission holds that up to the date of settlement i.e. 14.06.2024, the complainants are not entitled to seek any remedy before this Commission concerning the unit in question, except Pre-EMIs payable under the subvention scheme.

12. Since the effect of the settlement deed is strictly confined to past events upto 14.06.2024, it becomes necessary to examine the legal and factual position for the period subsequent to the settlement. It stands admitted on record that as on 14.06.2024, no actual, lawful, or valid offer of possession had been issued by the opposite parties no.1 to 3. In fact, it was not even legally possible for them to make such an offer because the Occupation Certificate (OC) a mandatory statutory requirement before offering possession was issued only on 11.10.2024, as evidenced from Annexure OP-4. Even more significantly, as of the date of adjudication of the present case, the opposite parties no.1 to 3 have failed to place on record any Completion Certificate, which is equally mandatory under law and is specifically required under Clause 40(b) of the Allotment Letter/Agreement dated 19.09.2015.

Importance of occupation and completion certificates:-

13. It is significant to mention here that an Occupation Certificate and a Completion Certificate are two distinct documents, each serving a different purpose in the construction and approval process. An Occupation Certificate is issued by the competent authority after verifying that the completed building is safe and fit for human occupation. It confirms that the structure complies with all applicable laws, safety norms, zoning regulations, and environmental requirements. Only after obtaining the Occupation Certificate, is the owner legally permitted to occupy the building.

Similarly, a Completion Certificate certifies that the entire development works of the project has been carried out in accordance with the sanctioned plans, approvals, and applicable laws. These development works are broadly classified as external development works and internal development works, each having a distinct scope and purpose. External development works refer to infrastructure and services that are executed in the periphery of, or outside, the project area but are essential for the benefit and functioning of the project. These include the construction of roads and road systems, landscaping, water supply systems, sewage and drainage systems, electricity supply infrastructure such as transformers and substations, solid waste management and disposal facilities, and any other works required under local laws to support the project. Internal development works, on the other hand, relate to infrastructure and facilities developed within the project premises as per the sanctioned plans. These include internal roads and footpaths, water supply lines, sewers and drains, parks and open spaces, tree planting, street lighting, community buildings, systems for treatment and disposal of sewage and water, solid waste management and disposal, water conservation measures, energy management systems, fire protection and fire safety requirements, and social infrastructure such as educational, health, and other public amenities, along with any other works necessary for the benefit of the project. Accordingly, the Completion Certificate confirms that both external and internal development works have been duly completed, ensuring that the project is fully developed from an infrastructure and service perspective.

Mere obtaining of occupation certificate will not absolve the builder from its liability of obtaining completion certificate, before offering and delivery possession of the unit/plot(s). Without the Completion Certificate, the possession offered is incomplete, illegal and not in conformity with the law. In

Debashis Sinha v. R.N.R. Enterprise, 2020 SCC OnLine NCDRC 429; Pioneer Urban Land and Infrastructure Limited vs. Union of India & Ors. (2019) 8 SCC 416; Treaty Construction vs. Ruby Tower Cooperative Housing Society Ltd. (2019) 8 SCC 157 and recently also, the Hon'ble Supreme Court in Dharmendra Sharma v. Agra Development Authority, 2024 INSC 667 has clearly held that the absence of completion certificate, unquestionably vitiates the offer of possession made by the builder.

14. In the case of Faqir Chand Gulati Vs. Uppal Agencies Pvt. Ltd. & Anr., Civil appeal no.3302 of 2005, judgment dated 10.06.2008, the Hon'ble Supreme Court has held that a prayer for completion certificate and C&D Forms cannot be brushed aside by stating that the builder has already applied for the completion certificate or C&D Forms. It was further said that if the completion certificate is not issued, the builder owes a duty to make necessary application and obtain it. If the builder fails to do so, he will be liable to compensate the complainant(s) for all loss/damage. The Hon'ble National Commission also, in Inderjit Singh Bakshi Versus S.M.V. Agencies Private Limited, FA No. 729 of 2013, decided on 30.11.2015 held that the allottee is not obliged to take possession of the unit in the absence of completion certificate. Relevant part of the said order reads as under:-

> *'….An allottee is not obliged to take possession of a flat unless it is complete in every respect, including the completion certificate….'*

The Hon'ble National Commission in its order dated 13.06.2018 passed in First Appeal No.855 of 2018 (Vision India Realtors Pvt. Ltd. & Anr. v. Sanjeev Malhotra) also, categorically held that legal possession cannot be delivered in the absence of completion certificate issued by the competent authority. It was held in Para No.5 as follows:-

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> 5. *During the course of hearing, it was submitted by the learned counsel for the appellant that the completion certificate in respect of the project was obtained by the appellant on 15.03.2016. A copy of the communication dated 15.03.2016 from Municipal Council, Kharar has been placed on record. It is therefore, evident that the completion certificate having been received only on 15.03.2016, the appellant could not have offered legal possession of the apartment to the complainant at any time before that date. As noted earlier, the amount of Rs.1,81,375/- was demanded on 20.04.2015 and the amount of Rs.2,12,489/- was demanded on 06.02.2016. The complainant was requested to pay the aforesaid amount so that the appellant could offer the possession of the flat. The said offer of possession was meaningless being unlawful as the requisite completion certificate had not been obtained by that date….. "*

15. Furthermore, Section 14 (1) of CHAPTER II Regulation of Promotion of Construction, Sale, Transfer and Management of Apartments, Plots and Properties of the Punjab Apartment and Property

Regulation Act, 1995 (PAPRA) says that the project proponent is duty bound to obtain occupation and completion certificates from the competent authority before offering possession of a unit/plot.

16. In the present case, the only communication issued prior to obtaining the Occupation Certificate dated 11.10.2024, Annexure OP-4, was the letter dated 11.03.2024 (Annexure OP-2/C-5), which is merely a "fit-out possession" letter. This letter merely permits the allottees to carry out internal works such as furniture, fixtures, and interior alterations after obtaining their own contractor approvals, in case, he opts for it or wishes to do so but such fit-out permissions do not constitute possession in the eyes of law. In light of the binding precedents qua obtaining of completion certificate, the so-called "fit-out letter" dated 11.03.2024 cannot, by any stretch of interpretation, be construed as a valid or enforceable offer of possession. Consequently, in the absence of a lawful offer of possession, no obligation could arise against the complainants to pay any further amount, nor could the opposite parties no.1 to 3 invoke any clause of the Allotment Letter requiring payment of any alleged dues.

17. It is also an admitted and undisputed fact on record that the opposite parties no.1 to 3 stopped paying the Pre-EMI interest to the bank concerned. This is despite their contractual obligation under the Tripartite Agreement as well as the Allotment Letter to bear and pay the Pre-EMI interest until actual delivery of possession of the unit in question. Since the possession is yet to be lawfully offered, owing to the absence of the Completion Certificate, opposite parties no.1 to 3 continue to remain liable to pay the Pre-EMI interest. Thus, the discontinuation of Pre-EMI payments by opposite parties no.1 to 3 is wholly unjustified, illegal, and constitutes a clear deficiency in service.

18. It is equally clear that since all claims (except Pre-EMIs under subvention scheme) prior to 14.06.2024 stand barred by the Settlement Deed, the only period requiring adjudication is the period after 14.06.2024. Even after the settlement, the opposite parties no.1 to 3 did not obtain the Completion Certificate and also did not issue any legal offer of possession. Mere issuance of letters or emails calling upon the complainants to execute a sale deed or take possession cannot be given any legal sanctity when the statutory pre-conditions for possession remain unfulfilled. What to speak of a Completion Certificate, the opposite parties no.1 to 3 have not even obtained a partial Completion Certificate. The Hon'ble National Commission in <u>M/s Motia Developers Private Limited Vs Priya Bose Chanda & Anr. (2024) 09 NCDRC CK 0003</u> has held that a builder cannot deliver possession in the absence of completion certificate and even the partial completion certificate is of no use. In view of the foregoing discussion, the opposite parties no.1 to 3 shall remain liable to continue paying the Pre-EMI interest until lawful possession is offered to the complainants in accordance with law and supported by the requisite Completion Certificate.

19. Apart from above, it is held that the delay in delivery of possession of the unit, for the period after the execution of the Settlement Deed dated 14.06.2024 till date, is solely and exclusively attributable to the opposite parties no.1 to 3. There is no material on record to show that the complainants, in any manner, contributed to or caused the delay.

Compensation payable to the complainants:-

20. Now, we will like to decide as to what amount/extent of compensation should be granted to the complainants, for the period of delay in delivery of possession of the units in question from 15.06.2024 onwards. On account of delay in actual delivery of possession of the unit to the complainants, they have definitely suffered and are suffering mental agony, hardships and financial loss. In the case titled as Lucknow Development Authority v. M K Gupta (1994) 1 SCC 243, the Hon'ble Supreme Court discussed about the extent of the jurisdiction of the Consumer Fora to award just and reasonable compensation for the harassment and agony suffered by a consumer. In DLF Homes Panchkula Pvt. Ltd. Versus Himanshu Arora, Civil Appeal No. 11097 of 2018, decided on 19 November, 2018 under similar circumstances, the Hon'ble Supreme Court of India has upheld the order of the Hon'ble National Commission awarding interest @9% p.a. for the period of delay in delivery of possession of the units. Thereafter also, similar rate of interest i.e. 9% p.a. was granted by the Hon'ble Supreme Court in DLF Homes Panchkula (P) Ltd. Versus Sushila Devi, Civil Appeal Nos.2285-2330 of 2019, decided on 26 February, 2019, by making reference to the earlier order passed by it in Himanshu Arora's case (supra). In Nagesh Maruti Utekar Vs. Sunstone Developers Joint Venture, Consumer Case No. 12 of 2017, decided on 04 May 2022 also, the Hon'ble National Commission awarded interest @9% p.a. from the committed date of delivery till possession is delivered. In Shreya Kumar & 11 Ors. Vs. M/s. Ansal Housing & Construction Ltd. & 3 Ors., Consumer Case No. 1021 of 2017, decided on 05 May 2022, the Larger Bench of the Hon'ble National Commission has awarded interest @9% p.a. from the committed date of delivery till possession is delivered. Recently also, the Hon'ble National Commission in Anshuman Sinha & Anr. Versus M/s. Jai Prakash Associates Ltd., Consumer Case No. 1245 of 2016, decided on 01 February 2024 has awarded interest @9% p.a. from the committed date of delivery till actual physical possession is delivered. Relevant part of the said order is reproduced hereunder:-

> *".....Resultantly, the complaint is allowed in terms aforesaid to the extent that the opposite party shall pay delay compensation @ 9% p.a. on the total amount paid by the complainant with effect from 05.09.2011, that is expected date of delivery till the date of offer of possession, that is 24.12.2015 within a period of three months..."*

As such, in the present case also, the complainants deserve just and fair compensation for the period of delay in delivery of possession to them by the opposite parties no.1 to 3. However, before coming to conclusion qua compensation payable to the complainants, it is necessary to mention here that it is an admitted fact that the complainants had closed the loan account from AXIS Bank/proforma party no.4 (under subvention scheme). Thereafter, they had obtained housing loan from HDFC Bank/Proforma Party No.5 under Loan

Agreement dated 20.06.2024, Annexure PP-5/1 colly.

Under above circumstances, if we order opposite parties no.1 to 3 to refund the entire amount of Pre-EMIs paid by the complainants from their own pocket, to proforma party no.4/AXIS Bank, under subvention scheme till closure of the said loan account, and also to pay interest @9% p.a. to the complainants on the entire amount deposited by them, starting from one day after the date of closure of loan account of AXIS Bank-under subvention scheme onwards till delivery of possession of the unit in question, complete in all respects, that will meet the ends of justice.

Directors/CEOs necessary parties:-

21. As far as the objection taken to the effect that the company has been wrongly impleaded through opposite parties no.2 and 3 (CEO/Directors) is concerned, it may be stated that the company, being a juristic person, has to be impleaded through its Directors/Senior Officers. In our considered opinion, Officers such as the Managing Director/ Directors/CEOs hold important positions in the company and are directly involved in the decision-making process; therefore, they will be jointly and severally liable along with the company for all its acts. Thus, the Managing Director/CEO/Directors can be held responsible for the liabilities of the company, as they represent the top management and are in a position to influence decisions taken on its behalf; hence, their names cannot be deleted from the array of parties. A similar view was taken by the Hon'ble National Commission in <u>M/s India Bulls Real Estate & Wholesale Services Ltd. & Ors. vs. Vemparala Srikant & Anr., First Appeal No. 797 of 2017, decided on 16 August 2017, and in Vasant Janardan Aher vs. Shivajirao Ambajirao Kawale & Anr., RP No. 188 of 2017, decided on 17.10.2017</u>. A similar view was also taken by the Hon'ble Punjab and Haryana High Court, Chandigarh, in <u>Tavish Garg and another vs. M/s Vansh Knitwears and another, 2024:PHHC:102618</u>. As such, the objection taken in this regard stands rejected.

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Relief/award:-

22. For the reasons recorded above, this complaint is partly accepted, with costs and opposite parties no.1 to 3, jointly and severally, are directed as under:-

i. To hand over physical possession of the unit in question, to the complainants, complete in all respects i.e. after providing all the basic amenities and facilities, including club house, and also obtaining completion certificate from the competent Authorities, within a period of three months (03 months) from the date of receipt of a certified copy of this order, on receipt of balance sale consideration from the complainants without charging any delayed payment interest, holding charges/penalties etc.

ii. To refund the amount of Pre-EMIs paid by the complainants from their own pocket, to proforma party no.4/AXIS Bank starting from March 2024 onwards till closure of the said loan account, within a period of 30 days from the date of receipt of a certified copy of this order, failing which the said amounts of Pre-EMIs refundable, shall carry interest @9% p.a. from the date of default till realization.

iii. To pay to the complainants compensation by way of interest @9% p.a. starting from one day after the date of closure of loan account of AXIS Bank-under subvention scheme till 30.11.2025, on the entire amount received in respect of the unit in question, within a period of 30 days from the date of receipt of a certified copy of this order, failing which the entire accumulated amount of compensation for the said period shall carry interest @12% p.a. from the date of default till this entire accumulated amount is paid to the complainants.

iv. To pay to the complainants, compensation by way of interest @9% p.a. on the entire amount received in respect of the unit in question, w.e.f. 01.12.2025, onwards (per month), by the 10th of the following month till compliance of directions given in sub-para no.(i) above.

v. To pay to the complainants, compensation to the tune of Rs.75,000/- for causing them mental agony & harassment, deficiency in providing service and adoption of unfair trade practice; and also cost of litigation to the tune of Rs.35,000/-, within a period of 30 days, from the date of receipt of a certified copy of this order, failing which the said amounts shall carry interest @9% p.a. from the date of default till realization.

23. Complaint against opposite parties no.4 and 5 stands dismissed with no order as to cost, subject to order passed by this Commission.

24. Pending application(s), if any, stands disposed of, accordingly.

25. Certified copies of this order be sent to the parties free of charge, forthwith

26. File be consigned to Record Room after completion.

Pronounced

22.12.2025

Sd/-

[JUSTICE RAJ SHEKHAR ATTRI]

PRESIDENT

Sd/-

(PREETINDER SINGH)

MEMBER

Rg.

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JUSTICE RAJ SHEKHAR ATTRI
PRESIDENT

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PREETINDER SINGH
MEMBER