

IN THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION,
NEW DELHI

CONSUMER COMPLAINT NO. 54 OF 2024

WITH

I.A. No. 6916 of 2024

I.A. No. 6917 of 2024

I.A. No. 17491 of 2024

(Directions, Exemption from filing the certified copy,
Condonation of delay in filing the evidence)

1. Sumit Sharma
R/o 1-51, Gold Estate,
Near Judicial Academy,
Jhalamand, Jodhpur – 342013
2. Sanjay Shripatrao Mali & Aparna Magar
R/o 59, Pashu Chikitsa Bijali Ghar
Sayla, Tehsil – Sayla,
District Jalore
3. Usha Sharma & Ravi Prakash
349, Ashapurna Nanomax
Shikargarh, Jodhpur – 342015
4. Mayank Agrawal & Palak Singhal
R/o 99 803, Amanora Gateway
Towers, Amanora Park Town
Hadapsar, Pune, Maharashtra – 411028
5. Suraj Mewara & Jaya Mewara
R/o Kishan Bhawan,
Outside Merti Gate,
Jodhpur – 342006
6. Arun Kumar Rao
R/o 151, Hari Nagar,
Near BR Birla Public School,
CHB, Jodhpur – 342008
7. Shilpi Shyamsukha
R/o 188, Marudhar Kesari Nagar,
Shobhawato Ki Dhani,
Jodhipur - 342008

..... Complainants

Versus



1. Mantra Lifestyle Homes Pvt. Ltd.
Through Mr. Vibhishek Pal Singh
Managing Director

Registered address at:-
8th Floor, The Milestone,
Tonk Road, Jaipur 302015

Corporate Office:-
4th Floor, Unique Destination,
Laxmi Mandir Crossing,
Tonk Road, Jaipur – 302015,
Rajasthan

2. Mr. Vibhishek Pal Singh
Managing Director
Address at :
8th Floor, Milestone,
Gandhi Nagar Turn
Tonk Road, Jaipur – 302015

..... Opposite Parties

BEFORE:

HON'BLE MR. JUSTICE SUDIP AHLUWALIA, PRESIDING MEMBER
HON'BLE DR. SADHNA SHANKER, MEMBER

For the Complainants : Mr. Chandrachur Bhattacharyya, Advocate

For the Opposite Parties : Mr. Rakesh K. Rajwania, Advocate
(through video conferencing)

Pronounced on : 09 October 2025

ORDER

DR. SADHNA SHANKER, MEMBER

1. This complaint has been filed under Section 35(1)(a) read with Section 58(1)(A)(i) of the Consumer Protection Act, 2019 seeking direction to the opposite parties to complete the construction and offer possession of the flats after obtaining Occupancy Certificate without delay and to pay delay compensation at the rate of 12% per annum on the deposited amount from the date of breach of contract till the date of handing over of possession after



obtaining occupancy certificate or in the alternative, to direct the opposite parties to refund the deposited amount along with interest at the rate of 12% per annum from the date of each deposit till actual refund along with Rs. 1 lakh towards legal proceedings.

2. In view of the law laid down by the Hon'ble Apex Court in the case of **Brigade Enterprises Ltd. vs. Anil Kumar Vermani, Civil appeal No. 1779 of 2021**, the instant complaint has been filed by seven complainants having the same interest i.e. each of the seven complainants is aggrieved by the huge and inordinate delay in handing over legal possession of the respective flats in question including occupancy certificate and delay in completion of the project.

3. The brief facts of the case are that all the seven complainants booked their respective flats with the opposite parties. The details of complainants and their flats, date of first payment, date of agreement and promised dates of possession, total sale consideration and the total amount paid, are as under:

Sr. No.	Name	Flat No.	Date of First Payment	Date of Agreement / Notary
1.	Sumit Sharma	D-103	25.06.2015	23.03.2016
2.	Sanjay Shripatrao Mali and Aparna Magar	C-905	26.11.2013	06.02.2014
3.	Usha Sharma and Ravi Kumar	D-604	20.08.2015	02.11.2015
4.	Mayank Agrawal and Palak Singhal	B-601	25.08.2012	27.02.2015
5.	Suraj Mewara	B-601	25.08.2012	27.02.2015
6.	Arun Kumar Rao	C-305	31.08.2013	28.04.2015



7.	Shilpi Shyamsukha	C-907	22.09.2012	10.11.2015
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Sr. No.	Name	Promised date of possession	Total Sale Consideration	Total Sale Consideration paid till date
1.	Sumit Sharma	6 years from the date of agreement	Rs.56,86,000/-	Rs.47,21,837/-
2.	Sanjay Shripatrao Mali and Aparna Magar	6 years from the date of agreement	Rs.29,29,210/-	Rs.27,07,791/-
3.	Usha Sharma and Ravi Kumar	6 years from the date of agreement	Rs.48,32,800/-	Rs.39,40,181/-
4.	Mayank Agrawal and Palak Singhal	6 years from the date of agreement	Rs.45,77,694/-	Rs.36,44,317/-
5.	Suraj Mewara	6 years from the date of agreement	Rs.34,59,810/-	Rs.30,50,857/-
6.	Arun Kumar Rao	6 years from the date of agreement	Rs.35,73,000/-	Rs.34,11,276/-
7.	Shilpi Shyamsukha	6 years from the date of agreement	Rs.32,31,607/-	Rs.8,05,402/-

4. It is alleged that in terms of Clause 20 of the Agreement to Sell, the opposite parties agreed to complete the development of the demised premises within a period of 5 years with 1 year grace period from the date of the respective agreements but the opposite parties have failed to complete the construction and hand over the possession till the date of filing the complaint.



It is further alleged that since the occupancy certification has not been obtained by the opposite parties till the date of filing the complaint, the complainants are entitled to compensation for delay at the rate of 9% per annum.

5. The complainants, alleging deficiency in service on the part of the opposite parties, filed the instant complaint before this Commission with the following prayer:

- (a) Pass orders and direct the opposite parties to complete the construction and offer possession to the complainants along with the occupancy certificate and all other promised facilities and amenities at the earliest.
- (b) Pass orders and direct the Opposite Parties to pay to the complainants delay compensation @9% p.a. from the promised date of possession as per the Agreement till the date of offer of possession or occupancy certificate whichever is later.
- (c) In the event, the Opposite Parties fails to construct and offer possession along with the occupancy certificate within a period of six months from the date of filing of the present complaint, this Hon'ble Commission may direct the Opposite Parties to refund to the complainants their principal deposits along with interest @12% p.a. from the date of each deposit till actual refund.



(d) Pass orders and direct the Opposite Parties to pay to the Complainants legal cost of Rs. 1 lakh each towards legal proceedings.

(e) Pass any further order or orders which this Hon'ble Commission deems fit and proper in the interest of justice.

6. This Commission, vide its order dated 17.05.2024, issued notice to the opposite parties to file the written version. The opposite parties did not file their reply and their right to file written version was closed on 31.07.2024.

7. The complainants have filed evidence by way of affidavit on 05.12.2024. Both the sides have filed written arguments in the matter.

8. It is seen that vide order dated 12.06.2025 of this Commission, the following has been recorded:

"Learned Counsel for the Complainants submitted that the Complainants are seeking refund of their deposited amount with the Opposite Parties, which is an alternate prayer in his complaint, in view of the fact that the project is still incomplete and no occupation certificate for the project obtained till date. He further submitted that there is no likelihood of early completion of the project. The due date of possession was some time in 2021 and now more than four years have passed and therefore the complaint may be disposed of in view of the inordinate delay by ordering refund of the deposited amount with 9% delay compensation keeping in line with the orders of the



Hon'ble Supreme Court in *Experion Developers Pvt. Ltd. vs. Sushma Ashok Shiroor (2022) 15 SCC 286.*"

In view of the above, it is the alternate prayer of the complaint, that is being considered in this complaint.

9. Learned counsel for the opposite parties has argued that a 'permissive possession' of flat no. B-601 was offered to complainant no. 4, Mr. Mayank Agarwal and Ms. Palak Singhal and they failed to clear the outstanding amount and did not take possession, therefore, the consideration amount of Rs.36,44,317 paid towards flat No. B-601 cannot be considered for determining the pecuniary jurisdiction. Hence the complaint lacks pecuniary jurisdiction and the same is liable to be dismissed for want of pecuniary jurisdiction. He further argued that except the complainant no. 5 i.e. Shri Suraj Mewara and Smt. Jaya Mewara, none of the complainants have adhered to their financial obligations in accordance with the stipulated payment schedule and such non-compliance has a direct adverse impact on the cash flow required for the construction and development. He further argued that due to force majeure i.e. 'COVID-19' and 'ban on 'Bajri' by Hon'ble Supreme Court and the Hon'ble High Court of Rajasthan', there was delay in handing over of the possession and there is no deficiency in service on the part of the opposite parties.



10. The only question before this Commission is as to whether the opposite parties are deficient in service in handing over physical possession of the flats to the complainants.

11. We have heard the arguments of learned counsel for the parties and perused the record.

12. As regards pecuniary jurisdiction, the total consideration of the respective flats of the complainants is Rs. 2,83,60,121/- and the total paid consideration is Rs.2,22,81,661/-. From a perusal of record, it is seen that the opposite parties have not produced any documentary evidence to prove that they have obtained the occupancy certificate from the concerned authority, therefore, the offer of possession of the flats to the complainant no. 4 does not amount to a legal offer. The complainant no. 4 remains a part of the complaint. Since the complainants have made a claim of more than Rs. 2 crores, the complaint is well within the pecuniary jurisdiction of this Commission. Hence, the contention of the opposite parties that the complaint lacks pecuniary jurisdiction is rejected.

13. As regards force majeure, it is seen that the first payments were made in between 2012 to 2015 and the agreements were made in between 2013 to 2016. Even if, for the sake of arguments, if Covid period is excluded, there was huge delay in handing over the physical possession of the flats. As regards the ban on bajri, it is the responsibility of the opposite parties to make arrangement of bajri. It is seen that after expiry of more than 9 years from the



date of last agreement, the opposite parties have not been able to obtain the occupancy certificate. Therefore the contention of the opposite parties that due to force measure, project has not been completed cannot be accepted.

14. Further, it is an admitted position that the complainants have booked their respective flats and made the first payment in between the period from 2012 to 2015 and the agreement to sell was executed in between the period from 2013 to 2015. It is not in dispute that the period for handing over the physical possession of the flats is six years (five years plus 1 year grace period) from the date of execution and the period of more than six years from the date of execution of the agreement has expired. It is seen that the opposite parties have also admitted in the written arguments that there is a delay in handing over the physical possession of the flats to the complainants. It is pertinent to note that the opposite parties have kept the money of the complainants for an inordinately long period. In view of the same, the complainants are well within their rights to seek the refund of their respective deposited amount along with reasonable interest.

15. The larger bench of Hon'ble Supreme Court in the case of **M/s Nexgen Infracon Pvt. Ltd. Vs Manish Kumar Sinha in Civil Appeal No. 62 of 2021** decided on 11.01.2021, has held as under:

".... This take us to the next question whether the rate of interest awarded by the Commission be maintained or whether such rate is required to be scaled down. In keeping with the directions issued by this Court in the



case of Prateek Infra projects, we scale down the interest from 12% & 14% as ordered by the Commission to 9% per annum. We also modify the direction restraining the appellant from deduction the tax at source.

It is, therefore, directed that the amounts deposited by the respondents in respect of the apartment in question shall be refunded to them along with interest @9% per annum from the dates of respective deposits."

16. The Hon'ble Supreme Court in the case of ***DLF Homes Panchkula Pvt. Ltd. vs. D.S. Dhanda***, in CA Nos. 4910-4941 of 2019 decided on 10.05.2019 has held that multiple compensations for singular deficiency is not justifiable.

17. In view of the above discussions and keeping in view the decisions of the larger bench in the case of ***M/s Nexgen Infracon Pvt. Ltd. Vs Manish Kumar Sinha (supra)*** and ***DLF Homes Panchkula Pvt. Ltd. vs. D.S. Dhanda (supra)***, we are of the opinion that the complainants are entitled to refund of the entire deposited amounts with compensation in the form of interest at the rate of 9% per annum from the date of respective deposits till its realization.

18. In the result, the complaint is partly allowed and the opposite parties are directed to refund the deposited amount of the seven complainants with interest at the rate of 9% per annum to the complainants from the date of respective deposits till its realization, within a period of eight weeks from today, failing which, the interest shall be enhanced to 12% per annum. The



opposite parties shall also pay Rs. 50,000/- as cost of litigation to each complainant.



Naresh/reserved



2796

Sd/-

.....
(SUDIP AHLUWALIA, J)
PRESIDING MEMBER

Sd/-

.....
(DR. SADHNA SHANKER)
MEMBER

Kishor
09/10/2025