



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

### COMPLAINT NO. 718 OF 2018

Manju Arya

....COMPLAINANT

VERSUS

M/s TDI Infrastructure Ltd.

....RESPONDENT

### COMPLAINT NO. 721 OF 2018

Manju Arya

....COMPLAINANT

VERSUS

M/s TDI Infrastructure Ltd.

....RESPONDENT

### COMPLAINT NO. 723 OF 2018

Suresh Arya

....COMPLAINANT

VERSUS

M/s TDI Infrastructure Ltd.

....RESPONDENT

**CORAM:** Rajan Gupta  
Dilbag Singh Sihag

**Chairman**  
**Member**

**Date of Hearing:** 10.08.2022

**Hearing:** 2<sup>nd</sup> (Rehearing before Authority in all the complaints)

**Present:** - Mr. Vikas Deep, Ld. Counsel for the complainant through VC.  
( in all the complaints)  
Mr. Shubhnit Hans, Ld. Counsel for the respondent.  
( in all the complaints)

**ORDER** (DILBAG SINGH SIHAG-MEMBER)

1. The captioned complaints are being heard together and a common order is being passed on the ground that core issue involved in both cases are identical. All these cases pertain to the same project of the respondent i.e. "TDI City", Kundli, Sonapat. Facts of **Complaint case no. 718 of 2018 titled as Manju Arya vs M/s TDI Infrastructure Ltd.** are being taken into consideration for disposal of all the cases. Written submissions of both parties as well as arguments advanced by them were recorded in order dated 28.06.2022. Relevant part of order dated 28.06.2022 is reproduced as below:

"1. Captioned complaints have been remanded to this Authority by Hon'ble Haryana Real Estate Appellate Tribunal, Chandigarh for a fresh decision. Earlier, Complaint no. 34 of 2018, 37 of 2018 and 36 of 2018 were filed by complainants before this Authority. Complainants had sought relief of possession along with compensation for delay in delivery of possession of the plot in all the cases. During pendency of said complaints before Authority conveyance deeds of plots were got executed and registered by respondent in favour of complainants on 25.05.2018 and 01.08.2019. Since relief of possession had become infructuous, Hon'ble Authority while disposing of complaint on 24.07.2018 directed the complainants to approach the Court of Adjudicating Officer for claiming compensation. Complainants then filed complaints before Ld. Adjudicating officer seeking relief of statutory compensation but the same were dismissed by the then Ld.

Adjudicating officer vide its order dated 13.12.2018, on the ground that after execution of conveyance deed, contract between parties had come to an end and complainants are no longer entitled to delay compensation. Complainants filed appeals against the order passed by the then Adjudicating officer before Hon'ble Haryana Real Estate Appellate Tribunal. Orders dated 13.12.2018 passed by the then Id. Adjudicating Officer were set aside by Hon'ble Haryana Real Estate Appellate Tribunal in Appeal no. 272, 273 & 274 of 2019 vide order dated 19.01.2021. Hon'ble Tribunal observed that execution and registration of conveyance deed will not absolve the promoter of his liability which had accrued before execution and registration of conveyance deed. It has also been observed that moment delay has occurred in delivery of possession, statutory right to claim compensation had accrued to the complainant which cannot be subsequently extinguished with execution and registration of conveyance deed. In view of observation given by Hon'ble Appellate Tribunal, Ld. Adjudicating officer heard the case afresh on merits and vide its order dated 25.03.2021 directed respondent to pay an amount of Rs. 19,41,886/-, 12,30,780/- & 13,05,193/- in Complaint No. 718, 721 & 723 of 2018 respectively to the complainants on account of compensation. Parties filed cross appeals vide Appeal No. 452, 453 and 454 of 2021 before Hon'ble Appellate Tribunal. Hon'ble Appellate Tribunal set aside the order dated 25.03.2021 passed by Ld. Adjudicating Officer and allowed appeals vide its order dated 18.05.2022. Hon'ble Appellate Tribunal remitted all the cases to the Authority for fresh decision of complaints in accordance with



law and directed parties to appear before Hon'ble Authority on 28.06.2022.

2. In view of order dated 18.05.2022 passed by Hon'ble Appellate Tribunal, all the cases are being taken up for adjudication.

3. Present complaints are being heard together and a common order is being passed for the reason that core issue involved in all the cases are identical and all cases pertain to same project of the respondent i.e. "TDI City", Kundli, Sonapat. This order is being passed keeping in view facts of lead Complaint case no. 718 of 2018 titled as Manju Arya vs M/s TDI Infrastructure Ltd.

4. Case of the complainant is that Original allottee had booked one plot measuring 500 sq. yds. by depositing initial amount of ₹ 7,75,000/- on 21.09.2005 in the project "TDI City", Kundli, Sonapat, launched by respondent. Booking rights were purchased by complainant from original allottee and she got entries transferred in her name. Complainant was allotted Plot No. 663, Block-L having an area of 500 sq. yds. vide Allotment letter dated 02.03.2006. No builder Buyer Agreement was executed between parties. Though there was no development at the site but still complainant kept on paying instalments towards price of the plot as per demands raised by respondent till 07.11.2007. Complainant had deposited ₹ 25,75,000/- against basic sale price Rs. 28,75,000/-, which was 90% of total basic sale price. She also deposited Rs. 3,95,500/- on account of EDC till Nov,2007 and ₹ 84,375/- on account of PLC on 11.04.2006. Said payments are also reflected in

Statement of Accounts dated 10.02.2015. Complainant has paid Rs. 37,30,767/- against basic sale consideration Rs. 28,75,000/- till date. Total consideration of the plot was Rs. 33,41,875/- including basic sale price and all other charges viz. External development charges (herein after referred as EDC), Preferential Location Charges (herein after referred as PLC) etc.

Initially at the time of booking of the plot, respondent had assured the complainant that possession of the plot will be given within 24 months of the booking after carrying out all development works and obtaining completion certificate in respect to the colony. Thereafter, despite failure on his part to offer possession, even after lapse of about eight years from the date of booking, respondent continued to raise demands from complainant. On 13.02.2013, complainant deposited the amount of ₹ 4,36,250/- under fear of cancellation and compelling circumstances.

Complainant had also filed Complaint No. 756/2015 before Hon'ble District Consumer Disputes Redressal Forum, New Delhi but the same was dismissed as withdrawn vide order dated 24.11.2017. Sale deed of plot was registered in favour of complainant on 25.05.2018 i.e. after about thirteen years from the date of booking. Therefore, on account of delay in delivery of possession of the plot complainant is seeking statutory compensation on the amount deposited by her till registration of conveyance deed and to pay amount of ₹ 4,36,250/- and ₹ 84,375/- received in excess by the respondent.

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5. Respondent has filed reply and raised preliminary objections regarding maintainability of the complaint for the reason that sale deed has already been executed vide conveyance deed dated 25.05.2018. Therefore, as title of property has already been transferred to the complainant, this Authority has no jurisdiction to deal with present complaints, and provisions of THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 (herein after referred to as the RERA Act) are not applicable on the fact of these cases.

6. Learned counsel for complainants appeared today and sought time to present her arguments.

7. On basis of arguments advanced by learned counsel for respondent and examination of the records of the case, Authority observes that the relief sought by the complainant i.e. 'statutory compensation' on the amount deposited by her till registration of conveyance deed of the plot is not compensation but is actually interest on delay in handing over possession, which falls under jurisdiction of this Authority.

8. Further, admittedly, no builder buyer agreement was executed between the parties. As per averment in complaint, possession of the plot was to be delivered within 24 months of the booking after carrying out all development works and obtaining completion certificate in respect to the colony but no deemed date of delivery of the plot in all cases was agreed upon in writing between the parties. So in order to determine the deemed date of delivery of plot principles laid by Hon'ble

Apex Court will be followed. As per principle laid down by Hon'ble Apex Court 2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr., promoter cannot indefinitely defer delivery of possession after receiving substantial sale price. The promoter is duty bound to deliver possession within reasonable time. On basis of this principle, two years from payment of major amount by complainant is being taken as reasonable time by which respondent was duty bound to deliver plot to the complainant. As per Annexure -C & D of the complaint and detailed statement of accounts filed by respondent as Annexure R-2, complainant had paid Rs. 16,58,750/- by 07.11.2007, so, said plot should have been delivered to complainant by 07.11.2009. Possession of plots was given to complainant in the year 2018. Thus, complainant has deposited major amount till 2007 and sale deed of the plot was executed on 25.05.2018. Thus, sale deed was executed after long span of nine years from the deemed date of delivery, therefore, the complainants are claiming interest on the amount deposited by them till the date of execution of conveyance deed as per Rule 15 of the HRERA, Rules 2017.

9. Nevertheless, the RERA Act is a special legislation for regulation of the real estate sector of the economy. The very object and purpose of the Act is to protect the interest of the consumers viz.-a-viz. promoters in the real estate sector keeping in view the overall interest of the project, and the principles of natural justice. Authority keeping in view the objectives of the RERA Act 2016 has been adjudicating

cases in such a way that interest of allottees are protected without adversely affecting the real estate sector and the economy. In the present cases, sale deeds have already been registered in favour of complainant on 25.05.2018 and 01.08.2019, which implies that the contractual relationship between parties had come to an end on execution of the sale deeds. Even possession of plots were taken by complainants in the year 2018 and 2019. The contractual relationship between parties as well as the contractual liabilities for both parties comes to an end with handover of possession and execution of conveyance deed in favour of allottees i.e. complainants. Conveyance deed is executed by way of mutual consent of both parties. Both parties state on oath before registrar that they are satisfied with the exchange of consideration as per the agreement executed by the parties. Further, many a times informal exchange also takes place before the execution of conveyance deed. So, question before Authority is when both parties by executing conveyance deed with mutual consent have accepted satisfactory conclusion of agreement, then can one party be allowed to go back and reopen such a concluded agreement. Allowing such reopening may lead to unlimited and uncontrolled litigation. So, Authority at this stage would like to hear both parties at a greater length and detail before arriving at its final conclusion.

10. In view of above discussion, parties are directed to file their written arguments at least fifteen before next date of hearing and exchange copies with each other. Cases are adjourned to 10.08.2022.”





2. Shorn of unnecessary details, learned counsel for the complainants reiterated facts of the case submitted by Ms. Nidhi Jain on last date of hearing. He argued that complainant has deposited 90% of the amount till 2007 even then possession was not delivered to her within agreed period of 2 years. It was only on 24.05.2018, sale deed was executed that too after long span of 9 years. Since respondent has been utilising amount of ₹ 25,75,000/- for last thirteen years, therefore, respondent be directed to pay interest for delay in delivery of possession of plot on said amount deposited by her from deemed date till the date of execution of conveyance deed. Quoting observations of Hon'ble Apex Court in **2020(3) RCR (Civil) 544** titled as **Wg. Cdr. Arifur Rahman Khan and Ors. Vs. DLF Southern Homes Pvt. Ltd. and Ors.**, learned counsel for the complainants stated that purchasers will not lose their right to claim compensation for delayed handing over of the unit on the ground that possession has been delivered and deed of conveyance had been executed. Execution and registration of conveyance deed will not absolve the promoter of the liability which had accrued before execution and registration of conveyance deed. It has also been observed that the moment the delay has occurred in the delivery of possession, statutory right to claim compensation had accrued to the complainant which cannot be subsequently extinguished with execution and registration of conveyance deed. Complainants have also submitted their written submissions.



3. On the other hand, ld. counsel for the respondent has contended that respondent is not liable to pay any interest after execution of conveyance deed because with the execution and registration of conveyance deed all contractual obligations of respondent have come to an end. Since, complainants had executed conveyance deed after being fully satisfied with possession of the plots and did not raise any demand at that time, therefore, respondent is not liable to pay any interest to complainants.

4. After hearing both parties and perusal of records of the case, Authority observes that since complainants after taking possession of plots have already executed conveyance deeds on 25.05.2018 in Complaint No. 718-2018 and on 01.08.2019 in Complaint No.s 721-2018 and 723-2018, it will have to be presumed that complainant took possession of the unit and executed conveyance deeds after he was fully satisfied with the plots. This implies that the contractual relationship between parties had come to an end. The contract executed between complainant and respondent cannot continue to operate till forever especially when both parties have given signed acceptance that all obligations towards each other are fully satisfied and there are no obligations left on any side to fulfil. As per conveyance deeds dated 25.05.2018 and 01.08.2019 complainants had taken possession of their plots on an undertaking signed by them that no claim against respondent survives. Execution of conveyance deed by parties by appearing before



the Registrar signifies that both parties have agreed that their contractual rights and liabilities are satisfied.

Learned counsel for the complainant has cited judgment passed by Hon'ble National Consumer Disputes Redressal Commission, New Delhi in Gurdarshan Singh Kalra vs TDI Infrastructure Ltd. in Consumer Complaint No. 246 of 2010 in support of his arguments. He has also quoted judgment passed by Hon'ble Apex Court titled as Wg. Cdr. Arifur Rahman Khan and Ors. Vs. DLF Southern Homes Pvt. Ltd. and Ors. 2020(3) RCR (Civil) 544 where Apex Court held that the purchasers will not lose their right to claim compensation for delayed handing over of the unit on the ground that possession has been delivered and deed of conveyance had been executed. Authority intends to differentiate aforesaid cited cases from the present cases filed by complainants. It is pertinent to mention here that objective of the RERA Act, 2016 is different from the Consumer protection Act, 1986. Meaning of 'Consumer' and his rights and liabilities under the Consumer protection Act are different from those of 'allottee' under the RERA Act, 2016. Even the purpose and intent of legislature behind enactment of these two Acts are different.

The Consumer Protection Act, 1986 seeks to provide for better protection of the interests of consumers to promote and protect the rights of consumers such as (a) the right to be protected against marketing of goods which are hazardous to life and property; (b) the right to be informed about the quality, quantity, potency,

purity, standard and price of goods to protect the consumer against unfair trade practices; (c) the right to be assured, wherever possible, access to an authority of goods at competitive prices; (d) the right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums; (e) the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers; and (f) right to consumer education.

The Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as RERA Act) was enacted by the Parliament of India, the statement of objects and reasons of which are re-produced below:-

“...The real estate sector plays a catalytic role in fulfilling the need and demand for housing and infrastructure in the country. While this sector has grown significantly in recent years, it has been largely unregulated, with absence of professionalism and standardization and lack of adequate consumer protection. Though, the Consumer Protection Act, 1986 is available as forum to the buyers in the real estate market, the recourse is only curative and is not adequate to address all the concerns of buyers and promoters in that sector. The lack of standardization has been a constraint to the healthy and orderly growth of Real Estate Industry. Therefore, the need for regulating the sector has been emphasized in various forums.”

Objective of the RERA ACT, 2016 is to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate



project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto. Thus, the objective of the Consumer Act is limited to protect the rights of 'consumer' whereas RERA Act has been entrusted with responsibility of protecting interest of allottees as well as to ensure timely completion of projects.

Under the RERA Act, obligations of the promoters towards the group of allottees of a project are usually in-separable from their obligations towards the individual allottees. Similarly, the obligations of individual allottees are towards the promoters as well as towards rest of the group of allottees. In an under construction project some rights and duties of the allottees have to be understood together with rest of the group of allottees because on account of default by a small number of individual allottees, cash flow of entire project can get jeopardised resulting into adversely affecting the rights of all the allottees of the project. The obligation cast upon both the parties have to be read harmoniously so as to protect the interests of the allottees who approach the Authority by way of complaints as well as the allottees who do not approach the Authority by way of complaints. Accordingly, a balance has to be struck between rights of the allottees and interest of the project. Thus, Authority has to regulate the real estate

sector as well as redress grievances of the Allottees in accordance with the principles of natural justice for achieving the objectives of the Act.

The RERA Act has not been enacted to be a substitute of the Consumer Protection Act to only settle disputes between the contracting parties. This Act is meant to regulate the real estate sector. Settling individual or a class of complaints is one of the modes with which the real estate sector is to be regulated. The Authorities in discharge of their regulatory duties can extend the directions given in an individual case to all other allottees who may not have approached the Authorities by way of complaints. The RERA Act, therefore, is unlike the Consumer Protection Act because under the RERA Act, the Authority while passing orders on various complaints also have to take care of the interest of the project as well as of the non-complainant allottees.

Therefore, Authority keeping in view the objectives of the RERA Act 2016 that interest of allottees are protected without adversely affecting the real estate sector and the economy, observes that in the present cases, sale deeds have already been registered in favour of complainant on 25.05.2018 and 01.08.2019, which implies that the contractual relationship between parties had come to an end on execution of the sale deeds. Even possession of plots were taken by complainants in the year 2018 and 2019. The contractual relationship between parties as well as the contractual liabilities for both parties comes to an end with handover of possession and execution of conveyance deed in favour of allottees

i.e. complainants. Conveyance deed was executed by way of mutual consent of both parties. Both parties stated on oath before the Registrar that they are satisfied with the exchange of consideration as per the agreement executed by the parties. Thus, it is held that with execution of conveyance deed with mutual consent both parties had accepted satisfactory conclusion of agreement, and now at this stage neither party cannot be allowed to go back and reopen such a concluded agreement. Moreover, grant of relief sought by complainants will result in reopening of several contracts which have already been concluded by way of execution of conveyance deeds.

Further, execution of conveyance deed is equivalent to entering into a new agreement which inter alia signifies that both parties are satisfied with the considerations exchanged between them, and also that all other obligations have been duly discharged except the facts recorded in the conveyance deed. In present complaints, there is no mention of delay interest in the conveyance deeds and by omitting to do so, complainants cannot be allowed to seek delay compensation at this stage by approaching this Authority. As of today, contractual obligations between the parties stand discharged. Authority further observes that some act or incident must signify conclusion of contractual relationship between the parties. Handing over of lawful possession and execution of conveyance deed brings contractual relationship to an end. Thereafter only certain statutory rights like rectification of defects or satisfactory maintenance etc will survive. Permitting to reopen concluded contracts will not be in public interest. It will lead to endless

litigation. Therefore, Authority decides to dismiss the present complaints. Accordingly, these complaints are dismissed. Hence, reliefs sought by complainants for grant of statutory compensation on the amount deposited by them till registration of conveyance deed and to pay amounts received in excess by the respondent stand rejected. Files be consigned to the record room and orders be uploaded on website of Authority.



.....  
**RAJAN GUPTA**  
[CHAIRMAN]



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**DILBAG SINGH SIHAG**  
[MEMBER]

