



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

**COMPLAINT NO. 826 of 2020**

Jai Prakash Jain

....COMPLAINANT(S)

VERSUS

M/s BPTP Ltd

....RESPONDENT(S)

**CORAM: Rajan Gupta  
Dilbag Singh Sihag**

**Chairman  
Member**

**Date of Hearing: 29.06.2022**

**Hearing: 5<sup>th</sup>**

**Present: - Mr. J.P. Jain, Complainant through VC.  
Mr. Hemant Saini, Counsel for the respondent.**

## **ORDER (RAJAN GUPTA-CHAIRMAN)**

Captioned complaint had been disposed of vide order dated 09.03.2022 whereby respondent was directed to offer fresh possession to the complainant after receipt of occupation certificate along with upfront delay interest and monthly interest amounting to Rs. 12,64,156/- and Rs 15,755/- respectively. Relevant part of the order is reproduced below for reference:-



(vii) Complainant has attached statement of accounts dated 13.08.2020 as proof of paid amount of Rs 23,18,035.23/- in their complaint and receipts of Rs 15,69,853.68/- are attached with complaint. So, an e-mail dated 08.04.2022 was written to the complainant to submit the receipts of balance payments so as to verify the date with such payments were made to enable the Authority to calculate the payable interest thereon. The complainant has not provided receipts of the balance amount. So, the amount of 7,48,181.55/- of which the receipts have not been submitted, the interest is being calculated from the date of issuance of the statement of accounts dated 13.08.2020.

(viii) A delay of more than 10 years has already been caused. This fact of inordinate delay having been caused entitles the complainant to upfront payment of delayed interest amounting to Rs. 12,64,156/- within a period of 90 days from uploading this order. This delay interest has been calculated from the Accounts Department of the Authority for the period from the due date of possession till the date of passing this order i.e 26.12.2012 to 09.03.2022. The complainants will further be entitled to monthly interest of Rs. 15,755/- from the date of passing this order till the date a valid and lawful offer of possession is made.

(ix) The delay interest mentioned in aforesaid paragraph is calculated on total amount of Rs 20,32,839.98/-. Said total amount has been worked out after deducting charges



of taxes paid by complainant on account of EDC/IDC amounting to Rs 1,63,739.16/-, Rs 23,627/- on account of VAT and Rs 97,829.09/- paid on account of EEDC from total paid amount of Rs 23,18,035.23. The amount of such taxes is not payable to the builder and are rather required to be passed on by the builder to the concerned revenue department/authorities. If a builder does not pass on this amount to the concerned department the interest thereon becomes payable only to the department concerned and the builder for such default of non-passing of amount to the concerned department will himself be liable to bear the burden of interest. In other words, it can be said that the amount of taxes collected by a builder cannot be considered a factor for determining the interest payable to the allottee towards delay in delivery of possession.

(x) It is added that if any lawful dues remain payable by the complainants to the respondent, the same shall remain payable and can be demanded by the respondent at the time of offer of possession.

8. **Disposed of** in above terms. File be consigned to record room.

2. Thereafter complainant has filed an application for review of order dated 09.03.2022. As per the submission of complainant, he has paid a total sum of Rs 23,18,035.23/- to the respondent which has duly been recorded in said order. Out of this amount receipts for an amount of Rs 15,69,853.68/- were attached with



the complaint file and since for remaining amount of Rs 7,48,181.55/- receipts were not available, Authority had taken into consideration the date of issuance of the statement of accounts dated 13.08.2020 as the due date of payment in which total amount of Rs 23,18,035.23/- was mentioned. However, complainant stated that in the statement of account dated 08.01.2013 available at page no. 53 of complaint file respondent has admitted to having received amount of Rs 22,94,206.23/- Accordingly he pleaded to take into consideration statement of account dated 08.01.2013 alongwith statement of account dated 13.08.2020 for calculation of interest.

3. Upon perusal of record, it was found that while calculating interest for the amount of ₹ 7,48,181.55/- of which receipts are not available, inadvertently in order to ascertain the due date of payment of said amount only statement of account dated 13.08.2020 was considered to whereas other statement of account dated 08.01.2013 available at page no. 53 of complaint file could not be taken into consideration. In view of this fact, there had been an apparent error on the face of record in the order dated 09.03.2022. In order to rectify this error the case was reopened and listed for hearing on 29.06.2022 i.e today.

4. Accordingly, after rectifying said error, the amount of interest payable to the complainant for the period ranging from 26.12.2012 to 09.03.2022 has been calculated again for a total amount of Rs 23,18,035.23/-

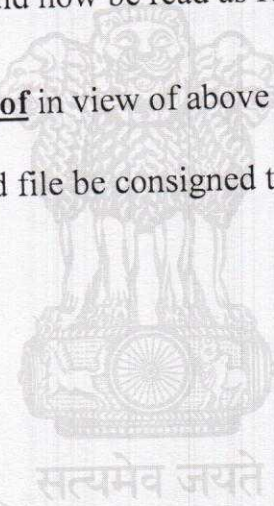




[= Rs 15,69,853.68/-(as taken from available receipts) + Rs 7,24,352.55/- (as taken from statement of account dated 08.01.2013) + Rs 23,829/- (as taken from statement of account dated 13.08.2020). Amount of upfront delay interest payable to complainant now works out to Rs 17,38,567/-. Monthly interest amounting to Rs. 15,755/-remains same.

5. In view of rectification of error in para no. 4 of this order, the amount of upfront delay interest payable to complainant mentioned in para 7 (viii) of order dated 09.03.2022 should now be read as Rs 17,38,567/-.

6. Case is **disposed of** in view of above terms. Order be uploaded on the website of the Authority and file be consigned to the record room.



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

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**DILBAG SINGH SIHAG**  
**[MEMBER]**