

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.699 of 2022

Date of Decision: 01.06.2023

1. Mr. Atul Chandra Agarwal
 2. Ms. Kaveri Agarwal
- Both residents of H.No.608, Lane-W, 10E/8, Sainik Farms, New Delhi-110062.

Appellants

Versus

Adani M2K Projects LLP, 10th Floor, Shikhar, Nr. Adani House, Mithakhali Six Roads, Navrangpura, Ahmedabad, Gujarat-380009.

Respondent

CORAM:

Justice Rajan Gupta	Chairman
Shri Inderjeet Mehta,	Member (Judicial)

Present: Mr. Shivansh Malik, Advocate,
for the appellants.

Mr. Ashim Aggarwal, Advocate,
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN:

Appellants had filed complaint in November, 2019 before Haryana Real Estate Regulatory Authority, Gurugram (hereinafter referred as 'the Authority'). Their grievance is that the respondent-promoter has failed to hand over possession of the unit in time. It has even failed to give possession notice to the appellants-complainants till the date the present appeal was filed before this Tribunal. They have claimed that they had made timely payments of instalments to the respondent-

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promoter. In rebuttal filed before the Authority, the respondent controverted all the pleas raised by the appellants-complainants. Respondent, inter alia, submits that the appellants did not make due payments of instalments in time despite several letters issued to them. On several occasions, it was proposed to cancel the unit allotted to the appellants. The respondent-promoter suffered considerable losses on account of non-payment of instalments on the due dates. Certain other averments were also made in the reply.

2. After considering all the issues, the authority below vide its order dated 21.12.2020, disposed of the complaint. Operative part of the order reads as under:-

“14. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act:

- i. The respondent is directed to pay the interest at the prescribed rate i.e. 09.30% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e. 11.01.2018 till the offer of possession i.e. 16.02.2019 plus 2 months.*
- ii. The arrears of interest accrued so far shall be paid to the complainants within 90 days from the date of this order.*
- iii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.*

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- iv. The respondent shall not charge anything from the complainants which is not part of the apartment buyer's agreement.*
- v. Interest on the due payments from the complainants shall be charged at the prescribed rate @ 09.30% by the promoter which is the same as is being granted the complainants in case of delayed possession charges.*

15. Complaint stands disposed of.

16. File be consigned to registry.”

3. Admittedly, pursuant to the aforesaid order no execution petition has been filed by the appellants-complainants. They, however, preferred another complaint bearing no.RERA-GARG-3361-2021 in September, 2021. Same was also disposed of as the matter has already been decided by the Authority vide its order dated 21.12.2020. It, thus, refused to re-open the matter.

4. On a query being put to learned counsel for the appellants about the reasons for filing second complaint, he submits that the appellants filed the subsequent complaint as they were aggrieved by the demand raised by the respondent-promoter vide letter dated 06.04.2021 (Annexure A-15). According to him, said demand was not in consistent with the order passed by the authority.

5. We have asked whether the said demand (Annexure A-15) is strictly in terms of the order passed by the Authority.

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Counsel for the promoter submits that there no anomaly in the same, however, there was some calculation error in the same which was rectified later vide communication dated 27.07.2022. He has further assured the Tribunal that another letter shall be issued to the appellants with up to date calculations in consultation with a Chartered Accountant within three weeks from today.

6. No cause of action, thus, survives. In case any grouse subsists, the appellants shall be at liberty to agitate the same in execution petition, if maintainable.

7. The appeal is, thus, disposed of.

8. The appeal is barred by huge delay of 309 days. Since, we have disposed of the appeal, no order need be passed regarding condonation of delay.

9. The appeal is, thus, disposed of.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta
Member (Judicial)

01.06.2023
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