

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No. 328 of 2021
Date of Decision: 27.03.2023

Emaar India Limited, Registered office: 306-308 Square one,
C-2, District Centre, Saket, New Delhi-110017.

Appellant

Versus

Neha Sharma, R/o House No. 331, Ward no. 24, Jagdish
Colony, Rohtak.

Respondent

CORAM:

**Justice Rajan Gupta
Shri Inderjeet Mehta
Shri Anil Kumar Gupta**

**Chairman
Member (Judicial)
Member (Technical)**

Present: Mr. Yashvir Singh Balhara,
for the appellant.

Mr. Sanjeev Sharma, Advocate,
for the respondent.

ORDER:

Rajan Gupta, Chairman:

The present appeal is directed against the order dated 26.03.2021 passed in Complaint No.902 of 2020 by the Haryana Real Estate Regulatory Authority, Gurugram (hereinafter referred as, 'the Authority'), operative part thereof reads as under:

"i. The respondent is directed to pay the interest at the prescribed rate i.e. 9.30% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 25.04.2014 till the handing over of possession. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order.

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ii. *However, the respondent has already paid a sum of Rs. 5,07,193/- towards delay in handing over possession at the time of offer of possession, therefore, the said amount shall be adjusted towards the amount to be paid by the respondent/promoter as delay possession charges under proviso to section 18(1) read with rule 15 of the Rules.*

iii. *The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.*

iv. *The respondent shall not charge anything from the complainant which is not part of the buyer's agreement.*

v. *Interest on the delay payments from the complainant shall be charged at the prescribed rate @ 9.30% by the promoter which is the same as is being granted to the complainant in case of delayed possession charges.”*

2. Appellant has a limited grievance that interest at the prescribed rate i.e. 9.3% per annum on the payment made after the due date of possession needs to be calculated from the respective dates of payments made by the respondent-allottee till the handing over of the possession.

3. Learned counsel for the respondent has fairly conceded that as per law and the precedent on the issue such a direction would be in order.

4. Under these circumstances, we do not intend to go deeper in the issue. Shorn of details, we dispose of the matter in the aforesaid terms. The order passed by the Authority would accordingly stands modified.

5. The appeal stands disposed of.

6. The amount of Rs.46,37,465/- deposited by the appellant with this Tribunal to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act,

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2016, along with interest accrued thereon, be sent to the learned Authority, Gurugram for disbursement to the respondent-allottee subject to tax liability, if any, according to law.

6. Copy of this order be sent to parties, learned counsel for the parties and the Authority for information and compliance.

7. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal
Chandigarh

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

27.03.2023
Manoj Rana