

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

**Appeal No.324 of 2022
Date of Decision: 01.08.2023**

1. M/s Omaxe Limited, Omaxe, House 7, Local Shopping Centre, Kalkaji, New Delhi.
2. M/s Omaxe Azorim Developers Private Limited, 10, Local Shopping Centre, Kalkaji, New Delhi-110019.

Appellants

Versus

1. Mr. Rahul Juneja son of Shri N.C. Juneja, M-129, Greater Kailash II, New Delhi-110048.
2. Mrs. Supriya Juneja wife of Shri Rahul Juneja, M-129, Greater Kailash II, New Delhi-110048.

Respondents

CORAM:

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

Present: Mr. Munish Gupta, Advocate,
for the appellants.

Mr. Shobit Phutela, Advocate, with
Ms. Gursimran Kaur, Advocate
for the respondents.

ORDER:

RAJAN GUPTA, CHAIRMAN (Oral):

Complainants (respondents herein) moved to the Haryana Real Estate Regulatory Authority, Panchkula (hereinafter referred to as 'the Authority') for possession of an apartment along with delay compensation.

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2. The matter remained pending before the Authority for a considerable period. It was ultimately decided vide order dated 20.07.2021. The relevant findings of the Authority are reproduced below for ready reference:-

“Upon perusal of the complaint file it is observed that total payment made by complainant to the respondent has been mentioned as Rs.2,50,09,675/-. However, in the latest application submitted by the complainant the said amount is quoted to be Rs.2,45,42,649/-. In view of the dispute arising in regard to exact amount paid by the complainant, Authority is relying upon the account statement dated 21.08.2019 filed by respondent wherein admitted amount paid by the complainant has been shown as Rs.2,44,12,177/-. Respondent is however entitled to recover Rs.57 Lakh from the delay interest as decided in order dated 19.01.2021.”

3. Sequel to above, the delay interest to be paid by the promoter was calculated on total amount of Rs.2,34,56,450/-. This amount was worked out after deducting the taxes paid by the respondents-complainants on account of service tax and “External Development Charges” (EDC).

4. We do not intend to express any opinion on the view taken by the Authority on merits of the case as we have been informed that a settlement has been arrived at between the parties. “Settlement Deed” has been produced. Copy thereof is

taken on record as mark 'A'. Relevant part of the "Settlement Deed" is reproduced herein below as under:-

"C. In pursuant to aforesaid Rs.40,00,000/- (Rupees Forty Lac Only) including Rs.2,50,000/- for Smart Homes & Rs.1,50,000/- for Terrace Green Area shall be paid/refunded by the First Party through a PDC no."000788" drawn on AXIS BANK, Malviya Nagar, Delhi Branch, dated 10-Aug-2023 & the same is hereby acknowledged by the Second Party.

D. That after the aforesaid adjustments, nothing shall remain due and outstanding between the parties and all kind of disputes/demands and differences arisen between the parties with regard to the said Unit stand resolved/settled and Second Party shall not demand/claim further delay compensation etc. in respect of the said unit.

E. That the Parties have agreed, that the First Party shall waive off interest on delayed payment amounting to Rs.55,90,000/- as full and final settlement to the complete satisfaction of the Second Party and undertakes that upon waiver of interest, the First Party shall not claim any amount towards interest against the said Unit from the Second Party."

5. Perusal of the "Settlement Deed" shows that it is signed by the authorised signatory of the promoter- Omaxe

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Azorim Developers Private Limited as well as by both the allottees (Rahul Juneja & Supriya Juneja).

6. In view the above, no lis survives between the parties. Learned counsel for the appellants submits that he may be allowed to withdraw this appeal. Dismissed as withdrawn.

7. The amount deposited by the appellants i.e. Rs.86,98,948/- with this Tribunal in view of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016, along with interest accrued thereon, be sent to the Haryana Real Estate Regulatory Authority, Panchkula, for disbursement to the appellants subject to tax liability, if any, as per law and rules.

8. Copy of this order be communicated to the parties/learned counsel for the parties and the learned Authority for compliance.

9. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

01.08.2023
CL