

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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Appeal No. 40 of 2023  
Date of Decision: 08.11.2023

M/s Vipul Limited, Golf Course Road, Sector-43, Gurugram,  
Haryana-122009

M/s Mudra Finance Ltd., G-12/A, First Floor, Hauz Khas, New  
Delhi-110016.

Appellants

Versus

1. Abhay Jain resident of 5, First Floor, Near Jain Mandir,  
Sadar Bazar, Gurugram-122001.

2. Haryana Real Estate Regulatory Authority, Panchkula, Mini  
Secretariat, New Office Block, 2<sup>nd</sup> & 3<sup>rd</sup> Floor, Sector-1,  
Panchkula.

Respondents

**CORAM:**

**Justice Rajan Gupta**  
**Shri Anil Kumar Gupta**

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

Present: Mr. Vineet Sehgal, Advocate,  
for the appellant.

Mr. Rishab Jain, Advocate,  
for the respondents.

**ORDER:**

**Rajan Gupta, Chairman (Oral):**

The present appeal is directed against the impugned order dated 22.03.2022 passed by the Haryana Real Estate Regulatory Authority, Panchkula (hereinafter called 'the Authority'). Operative part thereof reads as under:

*“ In the interests of equity and justice, Authority directs the respondent to refund the entire amount paid by the complainant along with interest payable in terms of Rule 15 of the HRERA Rules 2017 i.e. at the rate of SBI MCLR+2%(=9.30%). Said amount works out to be Rs. 8,99,001/-. Therefore, respondent is directed to pay an amount of Rs. 19,07,001/- as refund of deposited money along with interest to the complainant.*

13. *In these terms, the present complaint stands disposed of. File be consigned to record room, after uploading order on website of Authority.”*

2. Learned counsel for the appellant, at the outset, submits that the respondent/ allottee had booked a flat in its project namely ‘Vipul Gardens, Dharuhera’ in May 2012. He was allotted flat no. 101, 1<sup>st</sup> floor, Tower 7, in Vipul Garden, Daruhera, Dist Revari, having a super area of 1535.0 sq. ft. for a sale consideration of Rs.40,20,980/- vide letter dated 24.05.2012. The respondent/ allottee has paid an amount of Rs. 10,08,000/- upto December 2012 and thereafter did not come forward to pay the instalments. His stand is that the allottee did not come forward to execute the Builder Buyer’s Agreement (hereinafter called ‘Agreement’). The learned counsel referred to letter dated 15.06.2013 placed at Page 96 of the paper book. As per him, final notice was given to the allottee to sign the Agreement. Occupation Certificate (OC) was also granted to the appellant-promoter on 01.12.2014 (Annexure A-3). Ultimately, the complainant approached the Authority on 06.04.2019 by way of complaint. Learned counsel for the appellant has vehemently contended that the appellant may be allowed to deduct 10% of the total sale consideration from the amount paid by the allottee and no interest be allowed as the allottee kept sleeping over his rights. He states that the allottee is entitled only for the interest from the date of filing the complaint i.e. 06.04.2019.

3. Though, counsel for the respondent has controverted all other pleas. He is amenable to the proposal that interest may be granted on whole of the amount paid by the allottee from the date of filing of the complaint.

4. We have carefully gone through the record of the case and have duly considered the contentions of both the parties.

5. The respondent allotted was allotted flat no. 101, 1<sup>st</sup> floor, Tower 7, in the project of the appellant/ promoter, namely, Vipul Garden, Daruhera, Dist Revari, having a super area of 1535.0 sq. ft. for a sale consideration of Rs.40,20,980/- vide letter dated 24.05.2012. The respondent/ allottee has paid an amount of Rs. 10,08,000/- upto December 2012. Admittedly no agreement was ever executed between the parties. The appellant asserts that the respondent allottee was requested to sign the agreement vide its letter dated 15.06.2013, but the allottee did not proceed to execute the agreement. On the other hand, the allottee contends that due to a lack of progress at the site, he wrote a letter to the appellant seeking a refund with interest and further payments were halted. It's worth noting that the letter from the respondent allottee does not bear any specific date. The allottee made the last payment in December 2012, totalling Rs 10,08,000/-. Subsequent to this, the respondent allottee did not initiate any further communication, except for the aforementioned letter. The Occupation Certificate (OC) was granted to the appellant-promoter on 01.12.2014. Despite this development, the appellant took no measures to cancel the unit and initiate a refund of amount due to the allottee. Additionally, the allottee, despite being aware of the situation since long, did not take any action until filing the complaint in 2019. Given these circumstances and in the interest of fairness, equity, and justice, we firmly believe that the respondent allottee is entitled to a refund of Rs.10,08,000/-, along with interest @ SBI MCLR+2% (=9.30%), accruing from the date of the complaint i.e. 06.04.2019 until the

actual realization of the amount. Needless to observe that this order would not serve as a precedent.

6. The amount of Rs.19,07,001/- deposited by the appellant- promoter in view of proviso to Section 43(5) of the Act, along with interest accrued thereon, be sent to the Authority for disbursement to the respondent/ allottee as per the afore said observations and the balance, be remitted to the appellant/ promoter, subject to tax liability as per law.

7 No order as to costs.

8. Copy of this order be sent to the parties, learned counsel for the parties and Haryana Real Estate Regulatory Authority, Panchkula.

9. File be consigned to the record.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Anil Kumar Gupta  
Member (Technical)