



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

<b>Complaint no.:</b>	<b>2855 of 2022</b>
<b>Date of filing:</b>	<b>03.11.2022</b>
<b>Date of first hearing:</b>	<b>15.03.2022</b>
<b>Date of decision:</b>	<b>21.09.2023</b>

Parvesh Kumar, S/o Ram Kanwar

R/o House no. 7, Govt Polytechnic, Staff colony, Sonipat

Haryana, 131001

....COMPLAINANT

VERSUS

Parsvnath Developers Ltd.

Office: Parsvnath Metro Tower, Near Shahdara Metro Station,

Shahdara, Delhi- 110032

....RESPONDENT

**CORAM:**

**Dr. Geeta Rathee Singh**

**Member**

**Nadim Akhtar**

**Member**

**Present: -**

Mr. Ramesh Malik, learned counsel for the complainant through video conference.

Ms. Rupali S. Verma, learned counsel for the respondent through video conference.

*Geeta Rathee*

**ORDER (Dr. GEETA RATHEE SINGH - MEMBER)**

1. Present complaint has been filed on 03.11.2022 by complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

**A. UNIT AND PROJECT RELATED DETAILS**

2. The particulars of the unit booked by complainant, the details of sale consideration, the amount paid by the complainants and details of project are detailed in following table:

S.No.	Particulars	Details
1.	Name of the project	Parsvnath City, Sonapat
2.	Date of application by complainants	Not mentioned
3.	Plot no, and area	B-3278, Block B, 502 sq. yds.
4.	Date of allotment	Not mentioned
5.	Date of Plot buyer agreement	11.02.2011 (with original)



		allottee)
6.	Basic sale price	₹ 18,07,200/-
7.	Amount paid by complainants	₹ 27,40,770/-
8.	Offer of possession	Not made
9.	Date of endorsement in favour of the present complainant	14.08.2021.

**B. FACTS OF THE CASE AS STATED IN THE COMPLAINT**

3. The complainant has made the following submissions in his complaint:

(i) That in January 2011 original allottee Mr. Vikas Hemnani was allotted a residential plot bearing no. B-3278 having area of 502 sq. yds in the respondent's project namely "Parsvnath City" Sonipat -. Plot buyer agreement was executed between the respondent and original allottee on 11.02.2011. Said plot was transferred in the name of complainant Mr. Parvesh Kumar on 10.08.2021.

(ii) That as per the plot buyer agreement the basic sales price of the plot was Rs. 18,07,200/- against which an amount of Rs. 27,40,770/- stands paid by the complainant or his predecessor. Copies of payment receipts have been annexed with the complaint as Annexure C-3.

(iii) That respondent has acted contrary to clause 8(a) of the plot buyer agreement in accordance with which the promoter shall not withhold

*Parvesh Kumar*

the plot beyond reasonable period and shall be granted after payment of administrative charges. There is unreasonable delay in offering possession of the plot in question.

(iv) That respondent has also acted contrary to clause 11(a) of the plot buyer agreement in accordance with which it was agreed between the parties that the respondent would execute conveyance deed of plot and register the same in favor of the complainants within a reasonable time after the plot has been finally demarcated at site.

(v) That the complainant is entitled for receiving interest @ SBI MLCR+2% on the amount paid to the respondent as per Rule 15 of Haryana Real Estate( Regulation and Development) Rules, 2017.

(vi) That after physically inspecting the site of the project it is transpired that there is no scope of handing over possession of residential plot in question as the development at project area is very limited. Respondent has also not taken requisite approvals from the concerned authorities which strengthens the belief of the complainant that respondent has committed fraud on public at large.

(vi) That complainant has approached the respondent several times but respondent failed to do the needful. Hence present complaint has been filed.

### C. RELIEF SOUGHT

4. The complainant in his complaint has sought following reliefs:



- (i) To direct the respondent company to offer actual physical possession of the Plot in question i.e, Plot B-3278, Block B, Parsvnath City, Sonipat;
- (ii) To direct the respondent -Company to obtain license from Haryana Town & Country Planning, Haryana of the project Parsvnath City, Sonipat, Haryana:
- (iii) To direct the respondent -Company to pay interest on delayed possession for more than 18 years as per Rule 15 of Haryana Real Estate (Regulation And Development) Rules, 2017 to the complainant;
- (iv) To direct the respondent to pay Rs.10,00,000/- as part of damages to the complainant on account of mental agony, torture and harassment;
- (v) To direct the respondents to pay upfront interest and also monthly interest in pursuance of the order dated 13.10.2021
- (vi) To direct the respondent company to refund of all legal cost of Rs. 1,00,000/- incurred by the complainants;
- (vii) Any other relief- remedy which is deemed fit by this Hon'ble Authority in the present facts and legal proposition of the case.

**D. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

5. Learned counsel for the respondent filed detailed reply on 30.05.2023 and contested the complaint on the following grounds:-



- (i) That the present complaint is not maintainable before this Hon'ble Authority, as this Hon'ble Authority does not have the jurisdiction to entertain the present complaint.
- (ii) That the Complainant before this Hon'ble Authority had made a speculative investment in the project of the respondent-company, wherein Complainant invested knowingly and willingly that there was no offer of possession in favour of his predecessor-in-interest since 2004.
- (iii) That without prejudice, it is stated that the project in which the complainant is seeking possession is not registered with this Hon'ble Authority and therefore, this Hon'ble Authority does not have jurisdiction to entertain the present Complaint.
- (iv) That the complainant is misdirected and is misleading this Hon'ble Authority by drawing parity with the order dated 13.10.2021 passed by this Hon'ble Authority in complaint No.865 of 2022, wherein the facts were completely distinguishable and therefore, the observations of the said judgment cannot be made applicable to the present case.
- (v) That without prejudice, the present Complaint is barred by limitation and this Hon'ble Court does not have jurisdiction to entertain a time barred claim. Moreover, in absence of any pleadings regarding condonation of delay, this Hon'ble Court could not have



entertained the Complaint in the present form. In recent judgment by the Hon'ble Supreme Court in the case of **Surjeet Singh Sahni us, State of U.P and others**, 2022 SC online SC 249, the Honble Apex Court has been pleased to observe that mere representations does not extend the period of limitation and the aggrieved person has to approach the court expeditiously and within reasonable time. In the present case the complainant is guilty of delay and latches, therefore, his claim should be dismissed.

(vi) That the provisions of Real Estate (Regulation and Development) Act, 2016 cannot be applied retrospectively.

(vii) That on January' 2011, Mr. Vikas Hemnani ( original allottee) had been allotted residential plot bearing no. B-3278 having area admeasuring 502 sq. yards in the project namely "Parsvnath City at Sonapat".

(viii) That on 11.02.2011, plot buyer's agreement was executed between the Mr. Vikas Hemnani and respondent company where the basic selling price of said Plot was fixed at Rs. 18,07,200/-. Further, it is pertinent to mention that the Mr. Parvesh Kumar's name was endorsed/ transferred on 10.08.2021 in the records of Respondent Company as well as plot buyer's agreement. It is pertinent to mention that the complainant was well aware that the possession had not been offered to the original allottee, in spite of; he procured said plot from



open or secondary market.

(ix) That the Complainant has deposited Rs. 27,40,770/- including basic selling price, EDC & IDC etc. till date to the respondent company.

(x) That the brief fact as regards to the project is that on 10.07.2010, respondent company applied LOI for the Land admeasuring 51 acres. However, the same was rejected by the Competent Authority (DTCP) vide letter dated 19.02.2013. Pursuant to that on 19.09.2019, one of the associate company of the respondent applied for license for the land as measuring 25.344 acres falling under in the revenue Village Rajpura, Sector 10 & 11, District- Sonapat, Haryana to develop a residential plotted colony.

(xi) That the inability of the respondent company to develop the project is primarily due to encroachments by the local farmers on part of project land for which they have already been paid the sale consideration. It is submitted that despite all sincere efforts to get the Project land vacated, the local farmers have failed to agree and rather they are coercing the respondent company to agree to their unreasonable demands.

(xii) That further, with effect from 11.01.2022, Government of Haryana has taken a policy decision that where the outstanding payment against the statutory dues in the nature of EDC etc. is more

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than 20 crore, fresh licence should not be issued to the landowner/ developer/its associate companies etc. till the clearance of all the outstanding EDC. Hence despite making all sincere steps, the respondent company is not able to get the LOI of the said Project Land.

(xiii) That it is submitted that despite all the efforts made by the respondent company towards the completion of the said Project as well as for getting the LOI, the Project could not be regularized and this has caused the abandoning of the project.

(xiv) That it is a matter of record that the respondent-company has not demanded any payment from the complainant since he had purchased the said plot from the original buyer, which itself establishes the fact that there is no development at site and the project is abandoned by the respondent company.

(xv) That the relief of possession in these circumstances is not applicable in the present case as the respondent company is not developing the project and under no provision of law the respondent-company can be asked to develop and deliver the project which has otherwise become impossible and hence, unviable. Moreover, right of the complainant would accrue from the date of the endorsement and not from the date the original applicant booked the present unit. this is a settled principle of law and also, is being followed by Hon'ble

  
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situation is not the same today. Respondent did not receive I.OI for the project and is not in a position to offer the possession of the booked plot. She stated that none of the allottees have been given possession by respondent in project in question. She further stated that in the present case even if deemed date of possession be considered as 3 years from the date of execution of builder buyer agreement it works out to be 11.02.2014, whereas the complainant stepped into the shoes of the original allottee on 10.08.2021, i.e. approx. 7 years after the due date of possession was passed meaning thereby that at the time of purchasing the plot the complainant was very well aware of the condition/status of the said project. Hence, he cannot be awarded delay interest from the due date of possession (11.02.2014) as he got rights endorsed in his favor on 10.08.2021. Rights of the complainant must accrue from date of endorsement and not from the due date of possession. Further she stated that in a situation where respondent is unable to develop the project and offer possession to the allottees, the only relief admissible is refund with interest. Therefore, she requested that refund be allowed instead of awarding possession with delay interest.

**F. OBSERVATIONS AND FINDINGS OF THE AUTHORITY**



8. Authority has heard arguments of both parties and perused the documents available on record. After going through the submissions made by both the parties, Authority observes as under:-
- (i) It is admitted fact that the original allottee Mr. Vikas Hemnani was allotted a residential plot bearing no. B-3278 having area of 502 sq. yds in the respondent's project namely "Parsvnath City" Sonipat; plot buyer agreement was executed between the respondent and original allottee on 11.02.2011; said plot was transferred/endorsed in the name of complainant Mr. Parvesh Kumar on 10.08.2021; even after a lapse of 7 years, possession of the plot has not been offered by the respondent. In view of these admitted facts, complainant in exercise of his rights u/s 18(1) is seeking relief of possession of the plot along with interest on delay in handing over possession.
- (ii) Per contra, the respondent has raised an objection regarding maintainability of the complaint on the ground that Authority does not have jurisdiction to decide the complaint. In this regard it is stated that Authority has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

#### **E.1 Territorial Jurisdiction**

As per notification no. 1/92/2017/TTCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Panchkula



shall be entire Haryana except Gurugram District for all purpose with offices situated in Panchkula. In the present case the project in question is situated within the planning area Sonapat district. Therefore, this Authority has complete territorial jurisdiction to deal with the present complaint.

### **E.2 Subject Matter Jurisdiction**

Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale

Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(a)

*Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees or the common areas to the association of allottees or the competent authority, as the case may be;*

*Section 34-Functions of the Authority*

*34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.*

So, in view of the provisions of the Act of 2016 quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by learned



Adjudicating Officer if pursued by the complainant at a later stage.

(iii) Respondent has further raised an objection that the project in which the complainant is seeking possession is not registered with this Hon'ble Authority and therefore this Hon'ble Authority does not have jurisdiction to entertain the present complaint. This issue as to whether this Authority has jurisdiction entertain the pertaining to unregistered projects has been dealt with and decided by the Authority in **complaint no. 191 of 2020 titled as Mrs. Rajni and Mr. Ranbir Singh vs Parsvnath Developers Ltd.** Relevant part of said order is being reproduced below:

*“Looked at from another angle, promoter of a project which should be registered but the promoter is refusing to get it registered despite the project being incomplete should be treated as a double defaulter, i.e. defaulter towards allottees as well as violator of Sector 3 of the Act. The argument being put forwarded by learned counsel for respondent amounts to saying that promoters who violate the law by not getting their ongoing/incomplete projects registered shall enjoy special undeserved protection of law because their allottees cannot avail benefit of summary procedure provided under the RERA Act for redressal of their grievances. It is a classic argument in which violator of law seeks protection of law by misinterpreting the provisions to his own liking.*

14. *The Authority cannot accept such interpretation of law as has been sought to be put forwarded by learned counsel of respondent. RERA is a regulatory and protective legislation. It is meant to regulate the sector in overall*



*interest of the sector, and economy of the country, and is also meant to protect rights of individual allottee vis-a-vis all powerful promoters. The promoters and allottees are usually placed at a highly uneven bargaining position. If the argument of learned counsel for respondent is to be accepted, defaulter promoters will simply get away from discharging their obligations towards allottee by not getting their incomplete project registered. Protection of defaulter promoters is not the intent of RERA Act. It is meant to hold them accountable. The interpretation sought to be given by learned counsel for respondent will lead to perverse outcome.*

15. *For the foregoing reasons, Authority rejects the arguments of respondent company. The application filed by respondent promoter is accordingly rejected."*

The same reasoning is applicable and adopted in the present case as well. Further, the RERA Act, 2016, nowhere provides that the provisions of the Act shall only be applicable to registered real estate projects, or only aggrieved person of a registered real estate project shall file a complaint u/s 31 of the RERA Act, 2016. Thus the complainant is well within the ambit of RERA Act, 2016.

(iv) Respondent has also taken objection that complaint is grossly barred by limitation. In this regard Authority places reliance upon the judgement of Apex court Civil Appeal no. 4367 of 2004 titled as **M.P Steel Corporation v/s Commissioner of Central Excise** where it has been held that Indian Limitation Act deals with applicability to courts and not tribunals. Further, RERA is a special enactment with



particular aim and object covering certain issues and violations relating to housing sector. Provisions of the limitation Act 1963 would not be applicable to the proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority set up under that Act being quasi-judicial and not Courts. The promoter has till date failed to fulfil its obligations because of which the cause of action is re-occurring.

(v) Another objection taken by the respondent is that the provisions of RERA Act, 2016 cannot be applied retrospectively. In order to adjudicate this issue, reference can be made to the case **titled M/s Newtech Promoters & Developers Pvt. Ltd. vs. State of UP & Ors. Etc. (supra)**, wherein the Hon Apex Court has held as under:-

*“41. The clear and unambiguous language of the statute is retroactive in operation and by applying purposive interpretation rule of statutory construction, only one result is possible, i.e., the legislature consciously enacted a retroactive statute to ensure sale of plot, apartment or building, real estate project is done in an efficient and transparent manner so that the interest of consumers in the real estate sector is protected by all means and Sections 13, 18(1) and 19(4) are all beneficial provisions for safeguarding the pecuniary interest of the consumers/allottees. In the given circumstances, if the Act is held prospective then the adjudicatory mechanism under Section 31 would not be available to any of the allottee for an ongoing project. Thus, it negates the contention of the promoters regarding the contractual*





*terms having an overriding effect over the retrospective applicability of the Act, even on facts of this case."*

In view of the aforementioned judgement it is now settled that provisions of the Act are retroactive in nature and are applicable to an act or transaction in the process of completion. Thus, the rule of retroactivity will make the provisions of the Act and the Rules applicable to the acts or transactions, which are in the process of the completion though the contract/ agreement might have been entered into before the Act and the Rules became applicable. Hence, this objection raised by the respondent is negated.

(vi) The respondent has taken a stand that the complainants are speculative buyers who have invested in the project for monetary returns and taking undue advantage of RERA Act 2016 as a weapon during the present downside conditions of the real estate market and therefore not entitled to the protection of the Act of 2016. In this regard, Authority observes that "any aggrieved person" can file a complaint against a promoter if the promoter contravenes the provisions of the RERA Act, 2016 or the rules or regulations. In the present case, the complainants are an aggrieved persons who have filed a complaint under Section 31 of the RERA Act, 2016 against the promoter for violation/contravention of the provisions of the RERA Act, 2016 and the Rules and Regulations made thereunder. Here, it is

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important to emphasize upon the definition of term allottee under the RERA Act of 2016, reproduced below: -

Section 2(d) of the RERA Act:

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

In view of the above-mentioned definition of "allottee" as well as upon careful perusal of builder buyer agreement dated 11.02.2011, it is clear that complainants are an "allottee" as unit bearing no. B-3278, Block B in the real estate project "Parsvnath City", Sonipat was allotted to them by the respondent promoter. The concept/definition of investor is not provided or referred to in the RERA Act, 2016. As per the definitions provided under section 2 of the RERA Act, 2016, there will be "promoter" and "allottee" and there cannot be a party having a status of an investor. Further, the definition of "allottee" as provided under RERA Act, 2016 does not distinguish between an allottee who has been allotted a plot, apartment or building in a real estate project for self-consumption or for investment purpose. The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in **appeal no. 0006000000010557** titled as **M/s Srushti Sangam Developers Ltd. Vs**



**Sarvapriya Leasing (P)Ltd. And Anr.** had also held that the concept of investors not defined or referred to in the Act. Thus, the contention of promoter that allottees being investor are not entitled to protection of this Act also stands rejected.

9. Now there remains no doubt regarding the fact that the complaint is well within ambit of RERA Act, 2016 and the Authority has complete jurisdiction to adjudicate the same. Now there remains two fold issues for adjudication

(i) Whether complainant is entitled to possession of the plot along with interest on delay in handing over possession.

(ii) From which date complainant who is a subsequent allottee shall be entitled to interest on delayed possession.

10. With respect to the issue whether the complainant is entitled to possession of the plot along with interest on delay in handing over possession, as admitted the original allottee was allotted plot no. B-3278 measuring 502 sq. yds in project Parsvnath City, Sonipat and plot buyer agreement was signed on 11.02.2011 inter se the original allottee and the respondent. The plot buyer agreement did not provide for a specific date for handing over of possession. In such cases where the exact date for handing over possession cannot be ascertained, 3 years time has been held as reasonable time by the **Hon'ble Apex Court in in 2018 STPL 4215 SC titled as M/s Fortune**



**Infrastructure (now known as M/s Hicon Infrastructure) & Anr.**

Accordingly, the respondent was to handover the possession of the plot by 11.02.2014. However, respondent had failed to handover the possession of the plot till 2021. The original allottee instead of waiting endlessly for possession of the plot sold the plot to the complainant and complainant accepted the same along with all rights and liabilities attached to the plot. The respondent acknowledged the transfer and endorsed the name of the complainant on the same plot buyer agreement on 14.08.2021, meaning thereby that the respondent acknowledged the complainant as its allottee on the same terms and the complainant had stepped into the shoes of the original allottee with effect from 14.08.2021. The respondent has taken a plea that at the time of purchasing the plot the complainant was well aware of the fact that even after a period of almost 10 years from booking, possession of the plot had not been handed over to the original allottee, despite the same he took the risk of purchasing a plot, thus now the complainant should not press upon the relief of possession, rather relief of refund is more plausible. Here, the Authority observes that the date on which the complainant had purchased the plot from the original allottee, he was aware of the fact that there had already been an inordinate delay in handing over the possession, however since the complainant purchased the plot in 2021 from the original allottee. He



was also conscious and aware of the fact that after enactment of RERA Act, 2016 , if he purchases a plot, possession of which is delayed, he as subsequent allottee shall be entitled to right of interest on delayed possession. Any person who purchases a property/plot in a project for which plot buyer agreement is executed with the respondent, crystallizing terms and conditions of allotment under no circumstances be expected to presume that such plot shall never be handed over, especially when in the present case, clause 5(b) of the plot buyer agreement states that in case the promoter is not able to deliver the plot due to any reason, the promoter may offer another plot in the colony or vicinity. After RERA Act, 2016 coming into force , people have gathered courage to invest into delayed project as well as they know that their interest shall be protected under the Act. Here, the fact that the respondent endorsed the name of the complainant on the plot buyer agreement (executed with original allottee) on 14.08.2021, re-affirmed the fact that the respondent even in year 2021 had agreed to giving possession of the plot to the complainant. Thus, there remains no doubt that the complainant is entitled to relief of possession with interest under Section 18 of the RERA Act, 2016.

11. With respect to the issue that from which date complainant who is a subsequent allottee, shall be entitled to interest on delayed possession, respondent has argued that the rights have been endorsed in favor of

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the complainant on 14.08.2021 so legal obligations, if any starts from the date of endorsement in his favor and not from the due date of possession. In the present case as observed in para 10 that in absence of a specific date of possession, three year from signing of plot buyer agreement i.e. 11.02.2014 shall be the deemed date of possession. The complainant who is a subsequent allottee stepped into the shoes of the original allottee on 14.08.2021. i.e. after coming into force of RERA Act, 2016. However as per section 2(d) of RERA Act, 2016 Act does not distinct between an original allottee and subsequent allottee. Further, Section 18 of the RERA Act provides that if the promoter fails to complete or is unable to give possession of an apartment, plot or building, in accordance with agreement for sale and where allottee does not intend to withdraw from the project, he shall be paid by the promoter interest for every month of delay till handing over of possession. As per this provision there are two ingredients that are required , one, promoter fails to give possession as per agreement and secondly allottee does not wish to withdraw from the project. The provision does not provide for different dates for original allottee and subsequent allottee. What is important to see is that plot has not been handed over as per agreement for sale or not. Here, the promoter failed to handover possession as per agreement for sale thus on the day of transfer/endorsement, the right of delay interest had accrued in



favour of the original allottee, the complainant shall be entitled to same and all such rights and liabilities as accrued in favour of the original allottee.

12. The complainant has argued that facts of his case are similar to complaint case no. 865 of 2020 titled as Deepak Gupta vs Parsvnath developers Ltd. Authority has referred to complaint case no. 865 of 2020, on perusal of the same, it was revealed that respondent neither had license to develop the project nor even LoI was obtained by him for the same. In that eventuality, since complainants were not interested to withdraw from the project and wanted to continue with the project, respondent was directed to pay the complainant upfront interest on the amount paid by him from deemed date of possession along till date of the order and also future interest for every month of delay occurring thereafter till the handing over of possession of the plot. Further respondent was prohibited from alienating the land of the project in question for any purposes except for completion of the project.

In the present complaint also the complainant wishes to continue in the project and in his complaint, he has prayed for directions to the respondent to hand over the possession of the plot no. 3278, Block B, 502 sq. yds in Parsvnath City along with interest on the amount paid



from the date of payment till the date of possession of plot as per RERA Rule 15. It is further observed that though the learned counsel for respondent has orally argued that the respondent has not received the LoI for the project and is not in a position to develop the same and offer possession of the booked plot to the complainant, however no document issued by competent authority has been placed on record or relied upon by the respondent to prove that it has surrendered/abandoned the project. Reference is also made to para 3 of the letter dated 19.02.2013 written by DTCP, Haryana to the respondent (annexure R-3 of the reply). Relevant part of said letter is being reproduced.

*“Since, you did not attend the personal hearings on two occasions, therefore, it can be concluded that you are making lame excuse as the application for renewal of original license is yet to be filed and license for an additional area can be considered only if the main license is valid. It is, therefore regretted that the grant of license for an additional area measuring 51.50 acres is hereby refused due to the reason mentioned above”*

Perusal of this para shows that respondent had no intention of honouring his obligations and complainant cannot be made to suffer because of the repeated and deliberate defaults on the part of the respondent. Therefore, the complainant U/s 18(1) of the RERA Act is entitled to the relief of interest on account of delayed possession.





13. Upon careful examination of plot buyer agreement executed between the parties on 11.02.2011, it has been revealed that terms and wordings of said plot buyer agreement are exactly the same as of builder buyer agreement executed between the parties on 08.10.2012 in complaint case no. **"865 of 2020 titled as Deepak Gupta versus M/s Parsvnath Developers Ltd."** Moreover, the complainant in complaint case no. 865 of 2020 was allotted plot bearing no. B- 3305, Block B, Parsvnath City, Sonapat and complainants in present case have been allotted plot bearing no. B 3278, Block B, Parvsnath City, Sonapat. Meaning thereby, the booking of plots made by complainants in both the complaints was made in "B Block" of same project i.e. Parsvnath City, Sonapat. So, it is observed that the factual matrix of present case is similar to bunch of cases with lead case except the fact that in the present complaint, complainant is a subsequent allottee. Accordingly, Authority is satisfied that issues and controversies involved in present complaints are of similar nature as complaint case no. 865 of 2020. Therefore, captioned complaint is disposed of in terms of the orders passed by the Authority in **Complaint no. 865 of 2020 titled as Deepak Gupta versus Parsvnath Developers Ltd.**
14. Accordingly, complainant in the present case is also entitled to upfront interest on the amount paid by him from deemed date of possession

  
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till today along with future interest for every month of delay occurring thereafter till the handing over of possession at the rate prescribed in Rule 15 of the HRERA Rules, 2017 i.e. SBI MCLR+2% which as on date works out to be 10.75% (8.75%+2%).

15. Authority has got delay interest calculated from its account branch in terms of the observations made by Hon'ble Haryana Real Estate Appellate Tribunal vide its order dated 10.01.2023 in appeal no. 619 of 2021 titled as Parminder Singh Sohal versus BPTP Ltd. The details of amounts paid by the complainant and delay interest calculated on amount are shown in the following table: -

Amount paid by complainants	Upfront delay interest calculated by Authority till 21.09.2023	Further monthly interest
₹27,40,770/-	₹26,87,640/-	₹24,216/-

16. The complainant is seeking compensation on account of mental agony, torture and harassment. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & ors.*" (supra.), has held that an allottee is entitled to claim compensation under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of



compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

17. With respect to relief no. ii, the same is neither part of the pleadings nor was argued/pressed by Id. Counsel for the complainant, thus the same is not allowed.

#### **H. DIRECTIONS OF THE AUTHORITY**

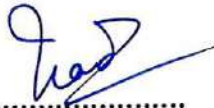
18. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(I) of the Act of 2016:-

- (i) Respondent is directed to pay the complainant upfront amount of ₹26,87,640/-. Respondent's liability for paying monthly interest of ₹24,216/- as shown in above table will commence w.e.f. 21.10.2023 and it shall be paid on monthly basis till valid offer of possession is made to complainants.
- (ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule

  
Rathee

16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.

19. **Disposed of.** File be consigned to record room after uploading order on the website of the Authority.



.....  
NADIM AKHTAR  
[MEMBER]



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Dr. GEETA RATHEE SINGH  
[MEMBER]