

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.247 of 2020

Date of Decision: 17.12.2024

M/s Deepak Land Promoters (P) Ltd. through its Director Shri Pankaj Aggarwal, registered office at 158-E, Kichlu Nagar, Ludhiana (Punjab) 141001.

Appellant.

Versus

Ansal Housing Limited registered office at 606, 6th Floor, Indra Prakash, 21, Barakhamba Road, New Delhi 110001.

Respondent.

CORAM:

**Justice Rajan Gupta
Shri Rakesh Manocha**

**Chairman
Member (Technical)**

Present: Mr. Shreshth Nanda, Advocate,
for the appellant

Respondent already ex parte.

O R D E R:

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against order dated 05.03.2020 passed by the Authority¹ at Gurugram. Operative part thereof reads as under:-

“i. The respondent is directed to pay the interest at the prescribed rate i.e. 10.15% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 28.09.2015 till the officer of possession i.e. 22.06.2017. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order.

¹ Haryana Real Estate Regulatory Authority, Gurugram

Appeal No.247 of 2020

ii. The complainant is directed to pay outstanding due, if any, after adjustment of interest for the delayed period.

iii. The respondent will intimate the complainant w.r.t. amount due towards him as per payment plan. The respondent is directed to charge the amount as per apartment buyer's agreement and not to charge or shall not charge extra amount from the complainant till obtaining the occupation certificate and offer of possession.

iv. Interest on the due payments from the complainant shall be charges at the prescribed rate @ 10.15% by the promoter which is the same as is being granted to the complainant in case of delayed possession charges.”

2. It appears that despite service effected on the respondent by way of due process, none appeared. It was, thus, proceeded *ex parte* vide order dated 24.07.2024.

3. Brief factual matrix of the case is that the project in the name and style of 'M/s Ansal Heights' was floated over an area of 10.563 acres. Appellant was one of the applicants in the project and stated to have remitted an amount of Rs.46,77,403.39/- against total sale consideration of Rs.57,28,729/-. As there was delay in handing over of possession, the appellant invoked the jurisdiction of the Authority at Gurugram in November 2019. It pleaded that despite representations, respondent had not disclosed any reasons for delay in construction of the project. It only gave assurances that the timeline for construction shall be followed. The complainant also went for inspection of the site of the project and was surprised to find that conditions were bad. Respondent filed reply stating therein that the delay was caused due to reasons beyond its control. As per stand of the appellant, apart from other constraints, there were some legal hurdles. After considering the rival pleas, the Authority directed that the complainant was entitled for delay

Appeal No.247 of 2020

possession charges from 28.09.2015 till offer of possession i.e. 22.06.2017 along with interest.

4. Limited plea raised before this Bench is that the offer of possession given by the appellant was not a valid offer of possession as they had not been granted OC². During the course of hearing of the matter, this Bench had issued notice to the DGTCP, Haryana to enquire whether OC had been granted to the respondent.

5. On 07.08.2023, Shri Dinesh Sabharwal, District Attorney along with Pankaj Beniwal, Department of Town and Country Planning, Haryana appeared before this Tribunal and stated that the OC had not been granted to the respondent. Order reads as under:

“In view of the order dated 03.07.2023 passed by this Tribunal, Shri Dinesh Sabharwal, District Attorney along with Pankaj Beniwal, Department of Town and Country Planning, Haryana, have put in appearance. They have produced the relevant file and submit that the respondent-promoter has not been granted the Occupation Certificate till now. File be returned to the District Attorney.

To come up for further hearing on 10.10.2023.

Intimation of next date of hearing be sent to learned counsel for the appellant.”

6. As limited grievance of the appellant is that he should have been granted interest on delay possession charges till valid offer of possession is made, it has to be seen whether a valid offer of possession has been made to the appellant, till now.

7. A perusal of the order dated 07.08.2023 reproduced above shows that till 07.08.2023 respondent had not been granted any OC by the Directorate, Town and Country Planning, Haryana and as such the

² Occupation Certificate

Appeal No.247 of 2020

offer of possession was not a valid offer. Order under appeal, thus, needs to be suitably modified.

8. It is, thus, directed that the appellant would be entitled interest from the due date of possession i.e. 28.09.2015 till a valid offer of possession is made to the appellant. Rest of the directions shall be maintained as such and apply *mutatis-mutandis*.

9. Appeal is partially allowed in above terms.

10. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(joined through VC)

17.12.2024
Manoj Rana