

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Appeal No.573 of 2024**

**Date of Decision: 20.01.2025**

1. Mr. Satyanand Shukla son of Sh. Ram Lakhan Shukla, R/o  
Amber 53 FF, Emaar Emerald Hills, Sector 65, Gurugram

2. Jaya Shukla W/o Mr. Satyanand Shukla, R/o Amber 53 FF,  
Emaar Emerald Hills, Sector 65, Gurugram

Appellants.

Versus

Emaar India Limited (formerly M/s Emaar MGF Land Ltd.),  
through its Managing Director and other Directors, Emaar MGF  
Business Park, Mehrauli Gurgaon Road, Sector 28, near  
Sikanderpur Chowk, Gurugram, Hry.

Respondents

Present : Mr. Harshit Joon, Advocate for the appellants.

**CORAM:**

**Justice Rajan Gupta**  
**Rakesh Manocha**

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

**ORDER:**

**RAJAN GUPTA, CHAIRMAN (ORAL):**

The present appeal is directed against the order  
dated 09.04.2024, passed by the Authority<sup>1</sup>. The operative  
part thereof reads as under:

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<sup>1</sup> Haryana Real Estate Regulatory Authority, Gurugram

*“i). In view of the factual as well as legal positions detailed above, the complaint filed by the complainants seeking relief of delayed possession interest against the respondent is not admissible and the same is hereby ordered to be rejected.*

*ii) The respondent shall not charge anything from the complainants which is not part of the buyer’s agreement.”*

2. The facts, emanating from the record, are that in the year 2009, original allottee had booked a flat in residential group housing project- Emerald Hills-floors, situated at Sector 65, Gurugram developed by the respondent for a total consideration of Rs.54,57,578/- and made advance payment. Pursuant to the booking amount, he was allotted the unit. The original allottee entered into BBA<sup>2</sup> with the promoter on 17.03.2010. The original allottee made an endorsement in favour of second allottees. Subsequently, the second allottees transferred the unit in favour of the appellants. The possession of the unit was to be handed over in the year 2013. The promoter obtained Occupancy Certificate on 09.05.2019 and issued unit hand over letter dated 03.10.2019. As the promoter failed to hand over the possession within the stipulated period and demanded other charges, the allottees filed the complaint.

3. The promoter resisted the claim of the allottees by pleading that the original allottee and subsequent allottees defaulted in making payments on time. The unit was transferred in favour of the complainants on 03.09.2019 and

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<sup>2</sup> Builder Buyer’s Agreement

possession of the unit was handed over to them on the same day. Conveyance deed was also executed between the appellants and the respondent on 07.11.2019. The promoter pleaded that delay, if any, had occurred due to non-receipt of occupation certificate, completion certificate from the competent authorities. It was also pleaded that the complaint was barred by limitation as the cause of action, if any, accrued in favour of the complainants in the year 2013 i.e. due date of possession.

4. We have heard learned counsel for the appellants and given careful thought to the facts of the case.

5. The appellants herein had purchased the unit from the transferee to whom the original allottee had sold the unit, thus becoming second subsequent purchaser. The occupation certificate was obtained by the promoter on 09.05.2019 and possession of the unit was offered to first transferee on 11.05.2019. The complainants (second transferee) were well aware about the fact that construction of the unit had already been completed and offer of possession of the same had been made.

6. From the record, it is evident that the appellants are already in possession of the unit and conveyance deed has already been executed in their favour. In our considered view, there is no legal infirmity in the order passed by the Authority as possession was handed over to them promptly. No interference is called for in the present appeal.

7. The appeal is, accordingly, dismissed.

8. File be consigned to the record.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)

20.01.2025  
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