

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL****(1) Appeal No.103 of 2022****Date of Decision: January 18, 2025**

Manjeet Singh Rana, T-11/0201, Tuskan Heights, TDI City, Kundli,  
Sonepat, Haryana

Appellant

Vs.

Taneja Developers Infrastructure Ltd., Vandna Building, 11, Upper  
Ground Floor, Tolstoy Marg, Cannaught Place, New Delhi

Respondent

**(2)Appeal No. 104 of 2022**

Chander Parkash Popli,

Appellant

Vs.

Taneja Developers Infrastructure Ltd., Vandna Building, 11, Upper  
Ground Floor, Tolstoy Marg, Cannaught Place, New Delhi

Respondent

**(3)Appeal No. 112 of 2022**

Sushil Kumar, T-10/0102, Tuskan Heights, TDI City, Kundli,  
Sonepat, Haryana

Appellant

Vs.

Taneja Developers Infrastructure Ltd., Vandna Building, 11, Upper  
Ground Floor, Tolstoy Marg, Cannaught Place, New Delhi

Respondent

**CORAM:**

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

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

**Present:** Mr.Sushil Kumar, Advocate,  
for the appellant.

Mr.Shubhnit Hans, Advocate,  
for the respondent.

**ORDER:****JUSTICE RAJAN GUPTA, CHAIRMAN**

This order shall dispose of above mentioned three appeals, as common question of law and facts are involved. However, the facts have been extracted from Appeal No. 103 of 2022.

2. The present appeal is directed against the order dated 07.12.2021, passed by the Authority<sup>1</sup>, whereby it was directed that the respondent-promoter shall pay DPC<sup>2</sup> to the allottee from 25.07.2016 till 01.02.2019.

3. The appellant was allotted unit no. 201 in Tower 11, measuring 1080 sq. ft., in the respondent's project "Tuscan City (Heights)", Kundli, Sonapat. The agreement<sup>3</sup> was executed between the parties on 25.01.2014, and the due date for possession as per the agreement was 25.07.2016. However, the possession certificate was issued on 01.02.2019, without grant of occupation certificate and lack of infrastructural facilities in the project. The allottee raised the grievance that the promoter increased the area from 1025 square feet to 1285.20 square feet without the consent of the allottee, which put additional financial burden on the allottee. It was further pleaded that possession of the unit was offered without obtaining occupation certificate and as such the allottee was entitled for DPC from due date of possession till the date of receipt of occupation certificate.

4. The respondent-promoter pleaded that it had applied for grant of occupation certificate on 09.05.2014 but the same had not been granted by the concerned Department. Possession Certificate was issued to the allottee on 01.02.2019 and as such, the allottee is entitled for DPC till that date.

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<sup>1</sup>Real Estate Regulatory Authority, Panchkula

<sup>2</sup> Delayed Possession Charges

<sup>3</sup> Apartment Buyer's agreement

5. The Authority, vide impugned order, granted DPC to the allottee from 25.07.2016 to 01.02.2019 i.e. the date when possession certificate was issued.

6. Aggrieved, the allottee is in appeal before this Tribunal.

7. Learned counsel for the appellant submitted that as Occupation Certificate has not been obtained by the promoter, DPC should have been granted from 25.07.2016 till obtaining of Occupation Certificate.

8. Learned counsel for the respondent defended the impugned order and submitted that DPC has rightly been granted by the Authority.

9. It is not in dispute that Occupation Certificate was never granted to the promoter. In terms of the agreement, possession was to be delivered to the allottee on 25.07.2016. However, the promoter was able to give the possession on 01.02.2019.

As per the allottee, delay in taking possession occurred as the area of the unit was increased without his consent. This plea is misconceived as there is a provision (Clause 6 of the agreement) according to which area of the unit can vary. This plea thus merits rejection.

10. The question now arises whether order of the Authority granting DPC from due date of possession (i.e. 25.07.2016) till the grant of possession certificate i.e. 01.02.20219 is sustainable. A perusal of the possession certificate shows that the same has been given by the promoter itself. Such a document has no value in the eyes of law. Thus, direction of the Authority to grant DPC till grant of Occupation Certificate is unsustainable and is hereby set aside.

11. The question thus arises as to the period for which the allottee would be entitled to DPC. It is evident that valid offer of possession has not been made to the allottee till date. Any offer of possession issued without

Appeal No. 103 of 2022 & connected appeals

Occupation Certificate by the promoter would not have any legal sanctity; offer of possession on its basis cannot be held to be a valid offer.

Even if allottee takes possession of the unit and is granted a possession certificate by the promoter, it would still not take away his right to claim DPC till a valid offer of possession (preceded by an occupation certificate) is made to him. It is, thus, directed that the allottee would be entitled to DPC from due date of possession i.e. 25.07.2016 till a valid offer of possession is made to him.

12. As regards the Holding Charges, the issue is no longer *res-integra* in view of the judgment of Hon'ble Supreme Court in Civil Appeal Nos.3864-3889 of 2020- "*DLF Home Developers Ltd. (Earlier Known as DLF Universal Ltd) and another vs. Capital Greens Flat Buyers Association Etc. Etc.*", wherein it was held that the builder is not entitled to levy holding charges. It is, thus, held that the respondent-promoter is not entitled to levy holding charges.

13. The appeals are allowed in the aforesaid terms. No order to costs.

14. Copy of this order be communicated to both the parties/learned counsel for the parties in all appeals and the Authority.

15. Files be consigned to the records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

RakeshManocha  
Member (Technical)

January 18, 2025  
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