

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.455 of 2023

Date of Decision: 09.01.2025

Somveer, 758, Shree Durga PG, Sector 48, South City-II,
Gurugram

Appellant.

Versus

Apex Buildwell Private Limited, 14A/36, WEA, Karol Bagh, New
Delhi

Respondent

Present : Mr. Aditya Sheoran, Advocate for the appellant.
Mr. Yashvir Singh Balhara, Advocate for the respondent

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)
(Joined through VC)

ORDER:

RAJAN GUPTA, CHAIRMAN (ORAL):

The present appeal is directed against the order dated 21.04.2023, passed by the Authority¹ dismissing the complaint filed by the appellant-allottee.

2. The facts, emanating from the record, are that in the year 2017, the appellant-allottee booked shop No. 45 on ground floor in the project, Sector 37C, Gurugram floated by the respondent-promoter. The allottee also made payments of Rs.14,00,000/- approximately. As the builder failed to execute the agreement, the allottee filed the instant complaint seeking following reliefs:

¹ Haryana Real Estate Regulatory Authority, Gurugram

“i. Direct the respondent to refund Rs.14,33,548/- paid by the complainant towards sale consideration of the said shop along with the interest at the prescribed rate.

ii Direct the respondent to pay Rs.10,00,000/- towards mental and physical harassment caused due to delay in delivery of possession, breach of trust, damages, false and frivolous promises, misrepresentation, deficiency in services and unfair trade practices.”

3. The respondent-promoter refuted the allegations of the allottee. It was pleaded that the allottee did not have any cause or concern with any shop of the respondent-promoter and the documents qua the shop had already been taken over by Sukhvir son of Ram Karan, resident of Dhani Churu, Rajasthan.

4. After hearing the parties and considering the material on record, the Authority dismissed the complaint vide impugned order.

5. From the record, it is evident that the actual allottee, namely, Sukhvir son of Ram Karan, resident of Dhani Mauji, Churu, whose documents are being relied upon by the allottee in the instant case, had already taken possession of shop No. G-39 which was renumbered as 45. As per respondent-promoter, agreement qua the shop had already been executed between it and said Sukhvir. No allotment letter in favour of the allottee-appellant has been placed on record to show his ownership. The rationale behind the allottee making payments to the builder when the unit was not in his name is not understandable.

6. In view of the above, there is no legal infirmity in the view taken by the Authority.

7. Consequently, the appeal is dismissed.

8. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(Joined through VC)

09.01.2025
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