

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of decision: 04th April, 2025

1) Appeal No.413 of 2022

Magic Eye Developers Pvt. Ltd., GF-09, Plaza M-6, Jasola District Centre,
Jasola, New Delhi-110025.

--Appellant

Versus

Naveen Kumar, resident of RZ-1, O-Block, Shiv Mandir Road, New Roshapura,
Nazafgarh, New Delhi-110043.

--Respondent

2) Appeal No.414 of 2022

Magic Eye Developers Pvt. Ltd., GF-09, Plaza M-6, Jasola District Centre,
Jasola, New Delhi-110025.

--Appellant

Versus

1. Rajbir Singh
2. Sarla Devi residents of village and PO Daulatabad, Opposite Janghu Traders, District Gurugram, Haryana-122001.

--Respondents.

3) Appeal No.415 of 2022

Magic Eye Developers Pvt. Ltd., GF-09, Plaza M-6, Jasola District Centre,
Jasola, New Delhi-110025.

--Appellant

Versus

1. Chander Bhan son of Shubh Ram,
2. Sheela Devi C/o Chander Bhan, both residents of House No.21, Opposite Janghu Traders, VPO Daulatabad, District Gurugram, Haryana-122001.

..Respondents.

4) Appeal No.417 of 2022

Magic Eye Developers Pvt. Ltd., GF-09, Plaza M-6, Jasola District Centre,
Jasola, New Delhi-110025.

--Appellant

Versus

Ravinder Singh Phaugat, resident of Flat No.201, Sispal Vihar, AWHO Complex
Sohna Road, Sector-49, Gurugram-122018

... Respondent

5) Appeal No.418 of 2022

Magic Eye Developers Pvt. Ltd., GF-09, Plaza M-6, Jasola District Centre,
Jasola, New Delhi-110025.

--Appellant

Versus

Abhishek Kukreja, resident of House NO.656, Sector -31, Gurugram-122001.

--Respondent

CORAM:

Justice Rajan Gupta
Rakesh Manoch

Chairman
Member (Technical)
(joined through VC)

Present: Mr. Dixit Garg, Advocate,
for the appellant.

Mr.Arun Sharma and Mr. Gaurav Jaglan Advocates
for the respondent(s).

ORDER:**Rajan Gupta, Chairman (Oral):**

This order shall dispose of above-mentioned appeals, as common questions of law and facts are involved. However, the facts have been extracted from Appeal No. 413 of 2022.

2. Present appeal has been filed against order dated 09.02.2022, passed by the Authority¹, operative part whereof reads as under:

“65. Hence, the authority hereby passes this order and issue the following directions under Section 37 of the Act of 2016 to ensure compliance of obligation cast upon the promoter as per the function entrusted to the authority under Section 34(f) of the Act of 2016:

i. The respondent is directed to pay the interest at the prescribed rate i.e. 9.30% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 15.05.2016 till offer of possession 30.11.2019 plus two months i.e. 30.01.2020. If any payment for the delay in possession has been paid or credited in the account of

¹ Haryana Real Estate Regulatory Authority, Gurugram

allottee, it shall be adjusted in the amount of delayed possession charges to be paid as per above directions.”

3. Aggrieved by the aforesaid order, appellant-M/s Magic Eye Developers Private Limited has filed the instant appeal, primarily contending that the Authority has erred in not granting adequate grace period to the appellant for completion of the project. As per him, due date of possession was 15.05.2016 and completion of project was delayed due to several reasons. It has been claimed that six months' period, keeping in view the facts and circumstances of the case, deserves to be given to the appellant as number of formalities had to be undergone before a valid offer of possession could be made to the allottee.

4. Counsel for the respondents submits that the appellant-promoter cannot claim any grace period in respect of COVID-19 outbreak. It can only claim in terms of clauses incorporated in Buyer's Agreement.

5. Heard learned counsel for the parties.

6. A unit in the project "The Plaza at 106", Sector 106, Gurugram was allotted to the respondent-allottee. Due date of possession, if calculated from date of execution of agreement would come to 15.05.2016. The allottee made payments from time to time as per Construction linked Payment Plan. The promoter was granted Occupation Certificate on 28.11.2019. Immediately thereafter i.e. 30.11.2019, it offered possession of the unit to the allottee, which he promptly took. The Authority, after considering all the pleas, decided to grant delay possession compensation to the allottee from 15.05.2016 till the date of offer of possession i.e. 30.11.2019 plus two months i.e. 30.01.2020.

7. The appellant has claimed grace period of six months each, firstly in terms of the agreement and secondly due to out-break of COVID-19 pandemic.

8. We feel that benefit of grace period of COVID-19 out-break cannot be granted to the appellant in light of the judgment dated

18.10.2014 passed by the Tribunal in Appeal No. 105 of 2022—**Chetna Lodha v. Magic Eye Developers Pvt. Ltd.** However, as far as six months' grace period in view of the agreement between the parties is concerned, even the allottee has no objection to the same.

9. In view of the above, we feel that the appellant has to be granted six months grace period for delay in completion of the project. The order of the Authority shall stand modified in these terms.

10. The appeals are thus, partly allowed.

11. Pre-deposit amount along with interest accrued thereon in all the appeals be remitted to the Authority, who shall retain the same till culmination of the execution proceedings, if any, pending. The amount shall be released to the parties as per their entitlement.

12. This Bench hopes and trusts that execution proceedings shall be conducted expeditiously.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(joined through VC)

04.04.2025
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