

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Appeal No. 549 of 2023**

**Date of Decision: May 12, 2025**

Pivotal Infrastructure Pvt. Ltd., 309, 3<sup>rd</sup> Floor JMD Pacific Square,  
Sector 15, Part-II, Gurugram-122001

Appellant

Versus

(1) Dhananjay Kumar Jha

(2) Nitu Kumari

Residents of D-305, Suncity Avenue, Sector 102, Gurgaon,  
Haryana-122505

Respondents.

**CORAM:**

**Justice Rajan Gupta  
Shri Rakesh Manocha**

**Chairman  
Member (Technical)**

Present: Mr. Karan Kaushal, Advocate for the appellant.  
Mr. Yashveer Singh Balhara, Advocate for the respondents.

**ORDER:**

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

1. Present appeal is directed against the order dated 21.04.2023, passed by the Authority<sup>1</sup>, operative part whereof reads as under:-

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

*i. The respondent is directed to pay interest to the complainants at the prescribed rate of 10.70% p.a. on the paid up amount for every month of delay from the*

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

*due date of possession i.e. 05.02.2019 till the date of offer of possession i.e. 14.03.2020 + 2 months of the allotted unit.*

- ii. The respondent is directed to handover physical possession of the subject unit within 60 days from the date of this order as occupation certificate of the project has already been obtained by it from the competent authority.*
- iii. The rate of interest chargeable from the allottees by the promoter in case of default shall be charged at the prescribed rate i.e. 10.7*
- iv. 0% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees in case of default.*
- v. The respondent is directed to refund the excess amount paid if any after adjustment of interest for the delayed period. Further, the respondent shall not charge anything from the complainants which is not part of the buyer's agreement.*

*35. Complaint stands disposed of.*

*36. File be consigned to registry."*

2. Learned counsel for the appellant has assailed the order. As per him, amount of Rs.12,32,071.77 is still outstanding against the allottees in terms of basic sale price. As per him, the Authority has ignored this fact from consideration while passing the aforesaid order.

3. Learned counsel for the respondents, on the other hand, submits that in case statement of account issued by the promoter is perused, it shall become clear that no amount is due from the allottees. In fact, excess amount has been paid by them.

4. Heard learned counsel for the parties and given careful thought to the facts of the case.

5. It appears that a unit measuring 474 square feet in the project “Devaan”, in Sector 84, Gurugram was allotted to the complainants. ABA<sup>2</sup> was executed on 04.08.2015 and due date of possession was 05.02.2019. Admittedly, the allottees remitted an amount of Rs.24,36,313/- to the promoter as per statement of account dated 01.09.2022. It is pertinent to mention that the project in question is affordable housing project. As conditional possession was offered to the allottees subject to payment of some amount, they approached the Authority.

6. After considering rival contentions, the Authority came to the conclusion that the allottees were entitled to possession and delay possession with a further observation that the promoter would pay excess amount, if any, after adjustment of interest for the delayed period.

7. The question which arises before this Tribunal is whether the order of the Authority is sustainable. A perusal of the record shows that due date of possession of the unit was 05.02.2019. The promoter was granted Occupation Certificate by the competent authority on 06.03.2020. Thereafter, offer of possession was made on 14.03.2020. The Authority, while directing that possession of the unit be given to the allottees, granted delay compensation from due date of possession (05.02.2019) till offer of possession (14.03.2020 plus two months). Certain consequential reliefs were also granted.

8. We find no illegality with the order passed. The Authority has taken all facts into consideration. Delay compensation has been granted from 05.02.2019 to 14.03.2020 plus two months (i.e. 14.05.2020) which is in accordance with law. The appeal is, thus, dismissed.

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<sup>2</sup> Apartment Buyer's Agreement

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9. The amount of pre-deposit made by the promoter in terms of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 along with interest accrued thereon be remitted to the Authority for disbursement to the allottees, subject to tax liability, if any.
10. Copy of the order be sent to the parties/their counsel and the Authority.
11. File be consigned to records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)

May 12, 2025  
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