

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: July 10,2025

(1) Appeal No. 121 of 2024

Navneet Yadav, H. No. C-23, Gali No. 1, Saraswati Enclave,
Sector 10A, Gurugram, Haryana-122001

Appellant.

Versus

M/s Vatika Limited, Ground Floor, Tower A, Vatika City Center,
Vatika India Next, near Kherki Daula Toll Plaza, Sector 83,
Gurugram

Respondent

(2) Appeal No. 122 of 2024

Aman Kumar, Ground Floor, Plot No. 29, Street E-I, Sector
82, Gurugram

Appellant.

Versus

M/s Vatika Limited, Ground Floor, Tower A, Vatika City Center,
Vatika India Next, near Kherki Daula Toll Plaza, Sector 83,
Gurugram

Respondent

Present : Mr. Akshat Mittal, Advocate for the appellant(s) .

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)
(Joined through VC)

O R D E R:**RAJAN GUPTA, CHAIRMAN:**

This order shall dispose of above-mentioned two appeals, as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 121 of 2024.

2. Present appeal is directed against order dated 14.11.2023, passed by the Authority¹, whereby the complaint filed by the appellant-allottee has been rejected on the ground that he did not fulfil his statutory obligation to pay 10% of the sale consideration as per mandate of Section 13 of the Act².

3. Brief factual matrix of the case are that the appellant-allottee applied for a residential unit in project 'Vatika Premium Floors' floated in Sector 82, Gurugram by M/s Vatika Limited. An allotment letter dated 15.07.2021 was issued to him. A unit measuring 1785 square feet was allotted to him. Total sale consideration for the unit was Rs.80,31,500/-. The allottee is stated to have remitted Rs.2,00,000/- to the respondent on 25.06.2021 as per Statement of Account. The project received Occupation Certificate on 16.09.2019.

4. The appellant claims that another amount of Rs.6,00,000/- was deposited by way of two separate cheques on his behalf in June, 2021. As per him, despite this, the

¹ Haryana Real Estate Regulatory Authority, Gurugram

² The Real Estate (Regulation and Development) Act, 2016

builder refused to execute BBA³ in favour of the allottee. As per him, on 07.07.2021, a demand notice dated 24.06.2021 was received by him asking him to pay total sale consideration. Thereafter, he visited the office of the respondent and requested the builder to encash the cheques submitted by him. On 15.07.2021, he instituted a civil suit seeking an injunction to restrain the respondent from cancelling his allotment. The suit was withdrawn after an agreement is stated to have arrived at between the parties.

5. The contentions made by the appellant were refuted by the respondent-promoter. As per its stand, the allottee did not approach the Authority with clean hands and suppressed material facts. He remitted only an amount of Rs.2,00,000/- for booking the unit for speculative gain. It was made clear to him that he will have to adhere to the payment plan and other terms and conditions till the execution of BBA, however, the appellant failed to do so. Number of communications by way of e-mail were sent to him for making payment as per the terms but the same went unheeded. As per its stand, complainant-Navneet Yadav booked the unit along with his friend Aman Kumar, who is a real estate agent, thus, he is not a genuine buyer. In view of failure on part of the allottee to make payment, his unit was cancelled as per Clause 18 of the booking application form. Thereafter, third party rights were created on the said unit.

6. The Authority examined the rival claims and gave finding that at the time the matter was pending before the Civil

³ Builder Buyer's Agreement

Court, respondent-Vatika Limited issued allotment letter dated 15.07.2021 and also shared a draft agreement. The allottee was supposed to make payment as agreed between them before the Civil Court. Thereafter, the allottee claimed that he had made payment of Rs.6,00,000/- by way of two separate cheques. The Authority, however, found that said cheques bearing No. '000007' dated 21.06.2021 and "000335" dated 22.06.2021 were issued by Sunder Lal Singhal and Abhay Singh respectively. These individuals were neither applicants nor party to the complaint. Thus payment, if any, through said cheques cannot be considered valid. The Authority, thus, dismissed the complaint on the ground that the allottee had failed to fulfil his statutory obligation to pay 10% of the sale consideration as required by Section 13 of the Act.

7. Counsel for the appellant has contended that the order passed by the Authority is erroneous in nature as the controversy has not been appreciated in correct perspective. He submits that pursuant to a query raised by this Bench on 31.05.2024 whether the appellant was ready to remit entire sale consideration for the unit in question, he had filed affidavit of appellant-Navneet Yadav contending that he was ready to remit the entire amount. In view of same, unit should be allotted to him.

8. We have heard counsel for the appellant and examined the record with his assistance.

9. It is evident that the appellant initially remitted an amount of Rs.2,00,000/- only to book the unit. Thereafter, he did not adhere to the payment plan. He claimed that another

amount of Rs.6,00,000/- had been paid by him to Vatika Ltd. in June, 2021. However, a perusal of the record shows that two cheques bearing No. '000007' dated 21.06.2021 and "000335" dated 22.06.2021 were issued by Sunder Lal Singhal and Abhay Singh respectively, who were strangers to the transactions. This shows that the appellant did not approach the Authority with clean hands. The very fact that he dilly-dallied the matter and failed to make rest of the payment, does not rule out the possibility of him being a speculative investor. He has not been able to explain why he chose to invoke jurisdiction of the Civil Court when the Act was enacted in the year 2017 itself. After having failed in all his efforts, he invoked jurisdiction under RERA in 2021. By that time, the unit allotted to him had been cancelled and allotted to third party. It cannot be lost sight of that jurisdiction of Civil Court is barred in view of provisions of Section 79 of the Act. Post the special enactment disputes related to ongoing projects or disputes that arise therefrom are primarily within RERA's jurisdiction and civil courts are barred from entertaining such cases. [*See- Trehan Apna Ghar Buildwell Private Limited v. Munish Ranjan Sahay-2022 Supreme (Raj.) 1393*]. The entire conduct of the appellant shows that the averments made by him are not only misleading but contumacious in nature. He claimed to have made payment of Rs.6,00,000/- to the promoter in June, 2021. However, a perusal of the record shows that the said cheques were issued by persons who were strangers to the transaction as well as the litigation. Their names do not find mention in the order of Civil Court.

10. In view of above, the appeals are without any merit and are hereby dismissed with costs of Rs.10,000/-each.

11. Files be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(Joined through VC)

July 10,2025
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