

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Date of Decision: July 08, 2025**

**(1) Appeal No. 474 of 2022**

M/s Omaxe Forest Spa & Hills Developers Ltd., 10, Local Shopping Complex, Kalkaji, New Delhi-110019

Appellant.

Versus

(1) Chanchal Tuteja wife of Vishesh Juneja  
(2) Vinesh Juneja son of Rajesh Kumar Juneja  
residents of 110, Tanjong, RHU Road, #02-02 Camelot, Singapore-436928, presently at B-59, Lajpat Nagar-1, New Delhi-110024.

Respondents

**(2) Appeal No. 533 of 2021**

(1) Chanchal Tuteja Juneja wife of Vishesh Juneja  
(2) Vinesh Juneja son of Rajesh Kumar Juneja through Sh. Rajesh Kumar Juneja son of Shri Satya Pal Juneja, resident of House No. 362, Sector 9, Faridabad, Haryana

Appellants

Versus

M/s Omaxe Forest Spa & Hills Developers Ltd., 10, Local Shopping Complex, Kalkaji, New Delhi-110019

Respondent

Argued by: Mr. Shobit Puthela, Advocate for the appellants  
In Appeal No. 533 of 2021 and for respondents in  
Appeal No. 474 of 2022.

Mr. Munish Gupta, Advocate for the respondent in  
Appeal No. 533 of 2021 and for the appellants in  
Appeal No. 474 of 2022

**CORAM:**

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

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

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

This order shall dispose of above-mentioned appeals as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 533 of 2021.

2. Present appeal is directed against order dated 20.07.2021, passed by the Authority<sup>1</sup>, whereby the promoter was directed to pay delay compensation from 06.08.2014 to 31.03.2020 along with interest @ 9.3% per annum.

2. In the appeal filed by the allottees, challenge has been posed that DPC<sup>2</sup>, as granted by the Authority, should have been from the due date of possession till handing over of possession, whereas in the appeal filed by the promoter, the prayer is that DPC should be granted from due date of possession till offer of possession.

3. It appears that in the year 2011, the allottees applied for a unit measuring 5025 square feet in project 'Forest Spa Faridabad' floated by the promoter. FBA<sup>3</sup> was executed between the parties on 06.08.2011. Due date of possession was 06.08.2014. The promoter offered possession on 29.9.2018 raising demand of Rs.49,16,809/-. The allottees preferred the instant complaint seeking DPC from due date of possession till handing over of possession.

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

<sup>2</sup> Delayed Possession Charges

<sup>3</sup> Flat Buyer's Agreement

4. After hearing rival contentions of the parties, the Authority awarded DPC from 06.08.2014 till 31.03.2020.

5. We have heard learned counsel for the parties and given careful thought to the facts of the case.

6. It is pertinent to mention that with the intervention of the Bench, the possession of the unit was handed over to the appellants on 24.12.2023.

7. From a perusal of the record, it is apparent that the promoter was granted Occupation Certificate in 2016 and it also offered the allottees to take possession of the unit on 29.09.2018. The allottees did not take possession of the apartment on the ground that the same was not ready for possession.

8. We find that offer of possession dated 29.09.2018 is a 'valid offer of possession'. Had the allottees acted promptly, they could have taken possession immediately and protracted litigation could have been avoided. During pendency of the proceedings, the promoter was asked to consider whether possession could be delivered to the allottees. The same was ultimately delivered on 24.12.2023 due to indulgence of this Tribunal. It appears that the allottees were reluctant to take possession probably for the reason that further delay would entitle them to more compensation. As expected, they raised the plea that they should be granted DPC till the date of handing over of possession i.e. 24.12.2023 despite the fact that valid offer of possession was made to them on 20.09.2018.

9. Under these circumstances, this Bench feels that there would be no justification in granting DPC to the allottees

beyond the period when the unit was ready for occupation. It is evident that the allottees never thought it fit to pose any challenge to the offer of possession dated 29.09.2018. The allottees would be entitled to DPC from due date of possession i.e. 06.08.2014 till 29.09.2018 when valid offer of possession was made.

10. The order passed by the Authority suffers from illegality in so far as it has decided to grant delay compensation till 31.03.2020 on the basis of assumption that till then, the unit was not ready for occupation. It ignored the fact that the concerned Department (DTCP) had granted Occupation Certificate in the year 2016. It means that the project was ready for occupation. Offer of possession was made thereafter i.e. on 29.09.2018 which is deemed to be a valid offer of possession. It is inexplicable how the Authority fixed date of 31.03.2020. Delay compensation has to be granted as per law and not *ipse dixit* of the Authority. It has nowhere been clarified how delay compensation was granted till a date beyond the date when offer of possession was made (29.09.2018). It appears that the Authority merely relied upon certain photographs to come to the conclusion that the building was not ready for occupation. This is not permissible in law.

11. The order passed by the Authority is accordingly modified.

12. The appeals stand disposed of in the above terms.

13. In Appeal No. 474 of 2022, the amount of Rs.1,15,39,368/- deposited by the promoter with this Tribunal as pre-deposit to comply with the provisions of proviso to

Section 43(5) of the Act, along with interest accrued thereon, be remitted to the Authority for disbursement to the parties as per their entitlement, subject to tax liability, if any, according to law. Registry found that there was deficit of Rs.49,20,824/- in the pre-deposit made by the appellant. CM has been moved for exemption of payment of the said amount on the plea that the same was outstanding towards the allottees.

14. CM is hereby disposed of with liberty to the concerned party to rake up this issue before the Executing Court.

15. Copy of this order be forwarded to the parties/their counsel and the Authority.

16. Files be consigned to the record.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)

July 08,2025  
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