

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.362 of 2025

Date of Decision: July 15,2025

1. Vinita Seth W/o Mr. GP Capt. V.N Seth
 2. GP Capt. V. N Seth S/o Sh. D. N. Seth,
- Both R/o 1107, Sector 21, Gurugram, Haryana

Appellants.

Versus

M/s Emaar MGF Land Ltd. presently known as Emaar India Ltd. through its Authorized Signatory having Registered Office at: Emaar MGF Business Park, Mehrauli Gurgaon Road, Sikandarpur Chownk, Sector 28, Gurugram-122002

Respondent

Present : Mr. Neeraj Goel, Advocate for the appellants.

CORAM:

**Justice Rajan Gupta
Rakesh Manocha**

**Chairman
Member (Technical)**

ORDER:

RAJAN GUPTA, CHAIRMAN

The present appeal is directed against the order dated 25.09.2024, passed by the Authority¹. The operative part thereof reads as under:

“19. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the Authority has observed that the Buyer’s Agreement between the complainants and the respondent was executed on 30.12.2008. According to the terms of this agreement, possession of the unit was to be

¹ Haryana Real Estate Regulatory Authority, Gurugram

offered by December, 2010 plus an additional 90 days grace period is allowed to the respondent, in terms of the agreement. Therefore, the due date for possession, considering the grace period was 30.03.2011. The respondent obtained the occupation certificate for the relevant tower on 13.02.2017. An offer of possession was made to the complainants on 10.04.2017, and the unit was formally handed over on 17.05.2017, as indicated by the handover letter dated 17.05.2017. The conveyance deed was executed in favour of the complainants on 05.09.2017.

20. The cause of action for this complaint arose on 10.04.2017, when possession was offered. The complainant filed the present complaint on 10.10.2022, resulting in a delay of 5 years and 6 months from the date the cause of action arose. Consequently, the complaint is dismissed being barred by limitation.

21. Complaint stands disposed of.

22. File be consigned to the registry.”

2. It appears that the appellants booked a unit in project ‘Premier Terraces at the Palm Drive’ floated by the respondent in Sector 66, Gurugram for a total consideration of Rs.1,14,05,810/-, out of which the appellants remitted Rs.1,10,58,456/-. Buyer’s agreement was executed on 30.12.2008. Due date of possession was in December, 2010. The promoter made offer of possession on 10.04.2017. Conveyance deed was executed in favour of the appellants on 05.09.2017. In 2022, the appellants preferred the instant complaint seeking various reliefs.

3. After hearing the rival contentions of the parties, the Authority dismissed the complaint vide impugned order. Aggrieved, the appellants have preferred the instant appeal.

4. Counsel for the appellants has assailed the order. According to him, the Authority has erred in dismissing the complaint on the ground of delay in filing the same. As per him, the order of the Authority is not sustainable and against law.

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

6. It is evident that the project was contemplated way back in the year 2007 and buyer's agreement was executed between the parties on 30.12.2008. As per the terms and conditions thereof, possession of the unit was to be handed over by December, 2010 with a grace period of 90 days. Due date of possession would thus come to 30.3.2011. It appears that the project was considerably delayed, yet Occupation Certificate was granted to the promoter on 13.02.2017 and offer of possession was made on 10.04.2017. Even the unit was formally handed over on 17.05.2017, as would be clear from perusal of handover letter of even date. Thereafter, conveyance deed was executed on 05.09.2017. Present complaint was preferred by the appellants in the year 2022 (i.e. after lapse of 5-1/2 years). The main challenge by the appellants is that complaint could not have been dismissed on the ground of delay. However, from the date of grant of Occupation Certificate and offer of possession, it appears to be a pre-RERA project. Thus, this Bench does not feel any need to delve on the question of delay, the project having received Occupation

Certificate prior to the enactment of RERA Act². The complaint deserved to be dismissed on this ground alone.

7. The present appeal, thus, does not survive and is hereby dismissed.

8. Copy of the order be sent to the parties/their counsel and the Authority.

9. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

July 15, 2025
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² The Real Estate (Regulation and Development) Act, 2016