

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,
HARYANA REAL ESTATE REGULATORY AUTHORITY,
GURUGRAM.**

**Complaint No. 193 of 2024
Date of Decision: 15.07.2025**

**Mr. Satpal Singh S/o Sh. Sardar Banta Singh, R/o Flat No. 002,
Tower-20, Vipul Greens, Sohna Road, Gurugram, Haryana-
122001.**

Complainant.

Versus

M/s. Countrywide Promoters Pvt. Ltd.

M/s Anjali Promoters Pvt. Ltd.

Respondents.

APPEARANCE

**For Complainant: Ms. Priyanka Aggarwal, Advocate
For Respondents: Mr. Harshit Batra, Advocate**

ORDER

This is a complaint filed by Mr. Satpal Singh (allottee), under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in brief The Act of 2016) read with Rule 29 of The Haryana Real Estate (Regulation and Development) Rules, 2017 for violation of sections 11, 12, 14 & 18 of the Act of 2016 against M/s Countrywide Promoters Pvt. Ltd. and another (promoters/ developers).

2. The brief facts of the complainant's case are that Mr. Anubhav Agarwal (previous allottee) approached the respondent for booking of a commercial space admeasuring 1000 Sq. ft. in latter's Project at Faridabad (HR) and paid booking amount Rs.12,00,000/- dated 18.12.2006. Mr. Anubhav Agarwal paid total amount Rs.21,00,000/- through cheques no. 007328, 195607 and 195606 dated 03.01.2007, 04.04.2007 and 10.03.2007 before April 2007. The respondent endorsed said payment and gave receipt of payment.

3. That the respondent abandoned said commercial project and allotted another commercial space i.e. Unit No. 05-502, area 1000 Sq. ft. in Project "CENTRA ONE" Sector-61, Gurugram, Haryana on 10.06.2008. The respondents, to dupe the complainant in their nefarious net, even executed Space Buyer Agreement on 11.03.2013, after extracting 100% consideration amount. They (respondents) created a false belief that the project shall be completed in time bound manner. In the garb of this agreement, they persistently raised demands due to which they were able to extract huge amount of money from them (complainant). Total cost of the said flat was Rs.60,00,000/- and

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sum of Rs.68,01,001/- has been paid by ^{him (complainant)} them, in time bound manner.

4. That respondents were liable to hand over the possession of a said unit before 31.12.2011 as per clause no. 2.1 of Space Buyer's agreement but respondents offered possession on 19.11.2018. The flat is not in habitable condition. ~~They~~ ^{he} (complainant) ^{was} ~~were~~ shocked, when respondents sent offer of possession on 19.11.2018. The respondents did not adjust any delay penalty for the delay in handing over the possession.

5. That being aggrieved with the acts of the respondents, he (complainant) filed a complaint bearing no. 4601 of 2020 before the Hon'ble Haryana Real Estate Regulatory Authority seeking delay possession charges along with interest on the amount of money paid by them. Hon'ble Authority, upon considering the facts and circumstances vide order dated 15.03.2023, directing the respondents to pay delayed possession charges at the rate of 10.70% p.a. from the due date i.e., 30.06.2012 till 29.01.2019.

6. That he (complainant) filed an execution of the aforesaid judgment, which is still pending before the Ld.

Adjudicating Authority, i.e. Execution Petition RERA-GRG-2990-2023.

7. That the respondents also changed the unit without any consent of complainant. The unit earlier allotted was unit no. 05-502 which was changed to 09-911. New unit mentioned in the offer of possession letter.

8. That the respondents charged PLC of Rs.3,01,500/- for unit however, unit doesn't meet the any criteria set by the builder for PLC therefore charges of PLC is unilateral, illegal and arbitrary.

9. Citing facts as described above, the complainant has sought following reliefs: -

i. To direct the respondents to provide the total rental loss of Rs.1,06,67,769.86/- that has been incurred by the complainant due to the delay in possession of the unit by the respondent, along with all other facilities, amenities and services as mentioned under the Brochure and Builder Buyer Agreement and assured at the time of booking.

ii. To direct the respondents to provide the total loss on interest on rent to the tune of Rs.77,99,320.72/- that has been incurred to the complainant.

iii. To direct the respondent to provide compensation of Rs.50,00,000/- for continuous harassment of the complainant due to their non-compliance of the judgment dated 15.03.2023 of the Hon'ble Authority.

iv. To direct the respondent to pay compensation of Rs.10,00,000/- for illegally charging extra EEC, FFC, PBIC & Advance maintenance charges.

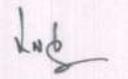
v. To direct the respondent to pay compensation of Rs.10,00,000/- for illegally changing the unit of the complainant without his prior consent.

vi. To direct the respondent to provide compensation of Rs.20,00,000/- for causing financial and mental agony and harassment to the complainants;

vii) To direct the respondent to provide the compensation of Rs.3,68,000/- towards the legal costs incurred.

viii) To impose penalty upon the respondent as per the provisions of Section 61 of the Act for contravention of Section, 12, 13, 14 and 16 of the Act.

ix) To conduct enquiry under section 35 of the Act against the Respondents.


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x) To pass such directions, as may be deemed fit, under section 37 & 38 of the Act, towards giving effect to any one or more of the above sought reliefs.

xi. ~~With~~ any other order, which this Court may deem fit and proper be also passed in the interest of justice.

10. The respondents contested claim of complainant by filing a written reply. It is averred that the instant complaint is untenable both in facts and law. Respondent no. 1 is not a proper party to the present complaint as the Agreement forming the basis of the relationship between the parties is only executed between the complainant and the respondent no. 2. Additionally, no relief has been sought by the complainant from the respondent no. 1. It is requested that respondent no. 1 may kindly be deleted from the array of parties.

11. It is further stated by respondents that the original allottee namely Anubhav Aggarwal, after conducting his due diligence sought to book a unit in their Project which is to be developed in Faridabad and had applied for the same via Application Form dated 18.12.2006.

12. That after booking of the said unit, the original allottee and the complainant requested for the transfer of the unit

in favour of the complainant and hence the unit was transferred in favour of the complainant. After transferring the unit in favour of the complainant, the latter (complainant) on 10.01.2008, requested to cancel the unit applied by the original allottee in Faridabad Project and to adjust/transfer the money towards the booking/registration for the commercial space in the Project of the respondent no. 2 known under the name and style of "CENTRA ONE" situated at Sector 61, Gurugram (the "Project").

13. That the request of the complainant was duly accepted and he (complainant) was provisionally allotted Unit bearing no. 05-502, having tentative super area admeasuring 1000 sq. ft. (Now, 09-911, 9th Floor, admeasuring 1005 Sq. ft.) vide allotment letter dated 10.06.2008. Thereafter, a Builder Buyer Agreement dated 11.03.2013 (hereafter referred to as "Agreement") was executed between the complainant and respondent no. 2. The complainant understood the implications of the terms and conditions of the Agreement and only after being completely satisfied same had made a decision to execute the agreement.

14. That the contractual relationship between the complainant and respondent no. 2 is governed by the terms and

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conditions of the said agreement. Hence the complainant is bound by the terms and conditions incorporated in the said agreement in respect of the said unit.

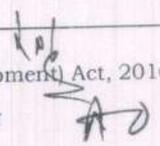
15. That the respondents duly completed the development of the Project and offered the possession of the Unit to the complainant on 29.11.2018, after having received the occupation certificate on 09.10.2018.

16. That the grant of delay possession charges is already in the form of compensation and no additional compensation can be paid. Respondent no. 2 has already provided hefty amount of compensation amounting to Rs.34,87,024/- however, the complainant being unsatisfied with the same, approached the Ld. Authority, which further allowed delay possession charges under its judgment dated 15.03.2023.

17. That no compensation can be claimed by allottee, who intends to stay in the project and only delay possession charges can be claimed under the Real Estate (Regulation and Development) Act, 2016.

18. Contending all this, the respondents prayed to dismiss the complaint.

19. Both parties filed affidavits in support of their claims.



20. I have heard learned counsels appearing on behalf of both of parties and perused the record on file.

21. The complainant has impleaded M/s Countrywide promoters Pvt. Ltd. as well as M/s Anjali promoters Pvt. Ltd. It is admitted that agreement (BBA) was executed between the complainant and M/s Anjali promoters Pvt. Ltd. (respondent no.2). It is latter (respondent no.2) who received the payment and hence liable for implementation of BBA, executed by the same with the complainant.

22. The factual matrix as stated by the complainant i.e. allotment of unit, execution of BBA and not handing over possession in time, is not in dispute. The complainant has sought a compensation of Rs.1,06,67,769.86/- due to delay in handing over possession of subject unit. Even as per complainant, aggrieved by the act of respondents for not handing over possession in time, he approached the Authority by filing of complaint No. 4601 of 2020. That complaint was allowed by the Authority vide order dated 15.03.2023. The Authority has directed respondent to pay interest at the prescribed rate of 10.70% per annum for every month of delay from the due date of possession i.e. 30.06.2012 till the date of offer of possession plus two months i.e. 29.01.2019 after

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adjustment of amount of assured return paid to the complainant by the respondent.

23. As per Section 18 (1) of Act of 2016, if promoter fails to complete or unable to give possession of an apartment, plot or building, -

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-----, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot or building, as the case may be, with interest at such rate as may be prescribed in this behalf **including compensation, in the manner as provided under this Act.**

24. It is worth mentioning here that complainant did not wish to withdraw from the project but prayed for delayed possession compensation, by filing a complaint with the Authority. The said complaint has already been allowed. Proviso added to sub section (1) of section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid by the promoter interest for every month of delay till handing over of possession, at such rate as may be prescribed. Rule 15 (1) of The

Haryana Real Estate (Regulation and Development) Rules 2017 makes it clear that for the purpose of proviso to section 12, section 18 and sub section 4 and sub section 7 of section 19 "interest at the rate prescribed" shall be the State Bank of India higher than marginal cost of landing rate plus 2%. Thus, the provision of interest is in the form of compensation to the buyer when the promoter fails to complete the project in agreed time. The parliament did not intend to provide compensation separately as in case of refund of the amount described above.

25. Upholding that the claim of compensation and interest can be allowed only in case, ^{when ✓} the allottee seeks to withdraw from the project as per Section 18 (1) of Act of 2016, following was held by Uttar Pradesh Real Estate Appellate Tribunal in case "**Greater Noida Industrial Development Authority vs. Ranjan Misra**" **Appeal No. 70 of 2023 decided on 20.04.2023-----;**

"13.9. If were closely examine the above two provisions, it comes out that in a case where the Allottee exists the projects, the Act expressly provides INTEREST AND COMPENSATION both, but in cases where the Allottee tends to stay in the project the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to provide Compensation only to those Allottees who exit the project and not to those who tends to stay in the project."

26. In this way, when complainant has already been allowed interest for delay in handing over possession, same cannot claim compensation before this forum on the same ground. Request in this regard is declined.

27. Apart from afore-mentioned relief, the complainant has sought compensation of Rs.10 lacs for illegally changing his unit without his consent, Rs.20 lacs for causing financial and mental agony and harassment to him, Rs.10 lacs for illegally changing extra EEC, FFC, PBIC & advance maintenance charges and again Rs.3,68,000/- towards legal costs apart from some other reliefs.

28. It is contended by learned counsel for complainant that his client was allotted a Unit i.e. No. 05-502, which was situated at 5th floor of the building, but the respondent changed that unit without his consent to Unit No.09-911, which is situated at 9th floor of same building. The unit in question is a commercial unit. His client has paid Preferential Location Charges (PLC) for that unit. Being commercial building, the customers hesitate in climbing up-to 9th floor, which can cause huge business loss to his client i.e. complainant.

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29. The change of unit in this way is not denied on behalf of respondent. Similarly, it did not remain in dispute that PLC of Rs.3,01,500/- was charged. This fact is established from statement of accounts cum invoice (Annexure-A) put on file. It is not plea of respondent even that same obtained consent of the complainant, before changing said unit. As per copy of BBA put on file, the respondent agreed to allot no. 05-502 on 5th floor by entering into an agreement. In this way, change of unit by respondents is in violation of agreement as well as provisions of Act of 2016. The respondent is thus liable to compensate the complainant in this regard. As stated above, the respondent no. 2 has charged Rs.3,01,500/- as PLC, same is directed to pay a sum of Rs.5 lacs (including amount of PLC) to the complainant, for change of unit, without consent of latter (buyer).

30. It is again plea of learned counsel for the complainant that his client was levied a sum of Rs.1,06,748/- as GST. GST had not come into force at the relevant time i.e. at the time of purchase of the said unit. According to him, it came into effect in 2017, while space buyer agreement was entered between the parties on 11.03.2013. The respondents could not have charged GST.

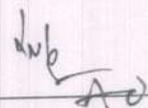
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Further, no such amount has been deposited by the respondent before the Government Agency concerned.

31. The respondent could not show any evidence to verify that any such amount has been deposited by the same, with the Government Agency concerned. It is also not denied that at the relevant time GST had not come into effect. Considering all this, respondent was not legally right to levy GST amount. Same is directed to pay a sum of Rs.1,50,000/- (including amount of GST) to the complainant, as compensation.

32. To raise illegal demands and to compel a buyer to pay the amount is nothing but physical and mental harassment to the customer. The respondent is thus liable to compensate the complainant in this regard. Same (respondent) is directed to pay a sum of Rs.1,00,000/- as compensation to the complainant for physical and mental harassment, having suffered due to illegal of respondents.

33. Though the complainant has prayed for a sum of Rs.3,68,000/- as legal fee. No receipt of payment to the Advocate is put on file. Even then, it is apparent from the record that complainant was represented by a lawyer in this matter.



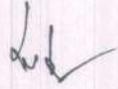
Considering same, complainant is allowed Rs.50,000/- as litigation expenses, to be paid by the respondent.

34. The complainant failed to establish his case for other reliefs claimed by the same. Prayer for these reliefs is declined.

35. The complaint is thus disposed of. The respondent is directed to pay the amounts of compensation, mentioned above along with interest at rate of 10.50% per annum from the date of this order till realisation of amount.

36. File be consigned to record room.

Announced in open Court today i.e. 15.07.2025.


(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate
Regulatory Authority,
Gurugram.15.07.2025