

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Appeal No.594 of 2022**

**Date of Decision: August 01,2025**

Sandeep Yadav, # 332, Ward No. 6, near Saini truck body,  
Vikas Nagar, Kalaka road,Rewari-123401.

Appellant.

Versus

Ashiana Realtech Pvt. Ltd. (now known as Movish Realtech Pvt.  
Ltd.), 203-205, Progressive Chamber, D-3 Block Commercial  
Complex, Prashant Vihar, North West DL-110085

Respondent

Present : Mr. Irshaan Singh Kakar, Advocate with  
Mr. Kunal Thapa, Advocate for the appellant.  
Mr. Kamaljeet Dahiya, Advocate for the respondent.

**CORAM:**

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

**Chairman**  
**Member (Technical)**  
(joined through VC)

**ORDER:**

**RAJAN GUPTA, CHAIRMAN:**

Present appeal is directed against order dated 27.04.2022, passed by the Authority<sup>1</sup>, whereby the allottee was granted possession of the unit along with delayed possession charges from the deemed date of offer of possession till actual offer of possession.

2. It appears that the appellant-allottee booked a unit in the project "The Cubix" floated by the promoter at

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

Dharuhera, Haryana for a total consideration of Rs.55,00,000/-, out of which the allottee remitted an amount of Rs.23,78,401/-. Builder Buyer's Agreement was executed between the parties on 01.08.2013, due date of possession being 01.08.2017. As there was delay in handing over possession of the unit, the allottee preferred a complaint before the Authority seeking refund of the amount, remitted by him, along with interest.

3. After hearing the parties, the Authority directed the promoter to pay delayed possession charges from deemed date of offer of possession till actual offer of possession. The allottee was also directed to take possession of the unit.

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

5. It is evident that total consideration for the unit was Rs.55,00,000/- odd. Out of this, Rs.23,78,401/- were paid by the allottee till the year 2017. Thereafter, he stopped making payment. It is on record that number of reminders were sent to him to make balance payment as per Construction Linked Plan. However, neither any reply was received nor he opted out of the project.

6. Ultimately, occupation certificate for the project was granted on 08.11.2021. Before grant of occupation certificate, however, the allottee preferred the instant complaint before the Authority in March, 2021. Even before preferring the complaint, admittedly he never sent a notice to the builder to refund his amount as he was no longer interested in the project. The Authority, however, allowed his complaint and

granted him possession of the unit along with delay compensation. The allottee is not satisfied with this relief as he seeks refund along with interest. Though in the interest of justice, we are inclined to accept the prayer for refund of the amount remitted by the allottee but his plea for grant of interest thereon is mis-conceived.

7. A perusal of the record shows that the allottee never showed his disinclination to continue with the project. He neither opted out of the same nor gave any notice to the builder before filing the complaint before the Authority. The grant of occupation certificate to the builder/promoter on 08.11.2021 shows that the project never came to a stand-still. It was making headway, though with some delay. A perusal of the impugned order, whereby number of complaints have been disposed of, shows that other allottees preferred to take possession along with delay compensation. The insistence of the allottee in the present appeal for grant of interest despite apparent default on his part in making payment as per the plan, cannot be accepted. In this context, judgment in **Godrej Projects Development Limited v. Anil Karlekar and others**<sup>2</sup> would be relevant.

8. The appeal is, thus, partly allowed with the direction that the appellant is entitled to refund of the amount remitted by him.

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

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<sup>2</sup> Civil Appeal No. 3334 of 2023, decided on 03.02.2025

9. File be consigned to records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)  
(joined through VC)

August 01, 2025  
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