

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

Complaint No.2418-2023

Date of Decision: 02.05.2025

- 1. Shantanu Khandelwal s/o Sh. Virendra Kumar Khandelwal**
- 2. Pallavi Singh Khandelwal w/o Sh. Shantanu Khandelwal**

**Both residents of Flat No. G-9, Phase-1, Mangalam Ananda
Sunflower, Rampura Road, Sanganer Bazaar, Jaipur
(Rajasthan)-302029**

Complainants

Versus

**M/s. ILD Millennium Pvt Ltd, B-418, New Friends Colony, New
Delhi-11025.**

Respondent

APPEARANCE

For Complainants:

Mr. RK Goyal, Advocate

For Respondent

Mr. Harshit Batra, Advocate

ORDER

1. This is a complaint, filed by Shantanu Khandelwal and
Pallavi Singh Khandelwal (allottees) under section 71 of The Real

Estate (Regulation and Development), Act 2016 (in brief the Act), against M/s. ILD Millennium Pvt Ltd (promoter).

2. According to the complainants, on 24.05.2023, they filed a complaint before The Haryana Real Estate Regulatory Authority, Gurugram for refund of the paid amount to the respondent along with interest @ 10.7%. Their complaint was later on transferred to the Ld. Adjudicating Officer for further action and for disposal of it.

3. That they (complainants) were in search of a residential unit to settle at Gurgaon. M/s. ILD Millennium Pvt. Ltd (having its registered office at B-418 New Friends Colony, New Delhi-110025) had launched, advertised and invited applications for allotment of flats in their project "GRAND CENTRA". The staff/Agents (Honey Money Associate Limited) of Developer approached them (complainants) and presented a rosy picture of the project. Said agents of respondent requested them (complainants) to book a flat. They told that all the legal formalities have been completed and assured them to deliver possession within 36 months.

4. That on such assurances and based on documents of project, they (complainants) handed over initial booking amount of Rs. 4,00,000/- through three cheques with duly completed Registration Form. Builder Buyer's agreement was not got executed.

5. That on 05.12.20214, they (complainants) were asked vide demand letter dated 05.12.2014 to deposit an amount of Rs.8,64,595/-, which was paid on same day through RTGS and receipt No. of the same is 2675 dated 25.12.2014. Further, an amount of Rs. 8,43,015/- was deposited and receipt No.2988 dated 09.03.2015 of the same was received and an amount of Rs. 61,335/- was deposited vide receipt No. A-3603 dated 11.04.2016. In this way, the complainants have paid Rs. 21,68,995/- to the respondent till date.

6. That it is further submitted that the progress of construction came to a standstill. There was no possibility that the possession would be offered in next 4-5 years. They (complainants) sent an e-mail dated 07.02.2019, followed by reminders, for cancellation of the registration of the flat and refund of amount paid with interest. Resultantly, the respondent did not return the amount paid by them (complainants).

7. That they (complainants) approached the HRERA Authority on 03.04.2022 vide complaint No. 1541 of 2022 and prayed to direct the respondent to return the amount paid with interest with other relief that the Authority deem fit.

8. That the HRERA was pleased to decide their complaint on 11.04.2023 and directed the respondent to refund the paid amount with interest @ 10.7%.

9. That they (complainants) have approached this forum to direct the respondent of payment of compensation for Rs.5,00,000/- on account of mental agony, harassment etc, for Rs. 15,000/- on account of litigation expenses and Rs. 1,00,000/- on account of Advocate fees.

10. The respondent contested the complaint by filing a written reply. It is averred that complaint filed by complainants is misuse of process of law. The complainants have suppressed true and material facts from this forum. This complaint has been filed with malafide intention to extort money from it (respondent). There is no such harassment or mental agony meted out to the complainants. It has been held by the Hon'ble Supreme Court of India that no compensation should be granted more than the agreed rate in the agreement. The Hon'ble Authority has already granted the interest as delayed possession charges.

11. That in view of above circumstances, the complainants do not deserve any relief whatsoever. The respondent has prayed that the complaint may be dismissed, in the interest of justice.

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

13. I have heard learned counsels for both of the parties and perused the record.

14. As mentioned above, even as per complainants same filed the complaint before the Authority seeking refund of the amount and his complaint has already been allowed by the Authority, vide order dated 11.04.2023. Copy of order has been put on file.

15. Contending that despite making payment of sale consideration, they did not receive possession of their unit, all it caused to them mental agony and harassment. They requested the respondent several times for refund of amount but respondent did not pay any heed. Ultimately, they had to approach the Authority seeking refund of the amount. The complainant has prayed for Rs. 5 lakh as compensation for mental agony and harassment etc.

16. On the other hand, it is argued by learned counsel for respondent that when amounts paid by complainants have already been ordered to be refunded by the Authority, the complainants are not entitled to any compensation, as prayed by them.

17. As per Section 18(1) of The Real Estate (Regulation and Development) Act 2016, if promoter fails to complete or is unable to give possession of apartment, plot, or building in accordance with the terms of the agreement for sale as the case may be, *same shall be liable*

*on demand to the allottees, in case the allottees wishes to withdraw from the project, to return the amount received by him, in respect of that apartment, plot or building, as the case may be, **alongwith interest and compensation** in the manner as provided under this Act.*

18. A perusal of this provision makes it clear that apart from refund of amount the promoter is liable to pay interest as well as compensation, as prescribed under this Act. Even if, complainants have been ordered to be refunded the amount paid by them by the authority as mentioned above, same are entitled for compensation also.

19. Although it is not disputed during deliberations, it is well established from the order of the Authority mentioned above that respondent failed to complete the project in time, despite receiving sale consideration. All this caused mental harassment and agony to the allottees, for which the complainant are entitled for compensation from the respondent.

20. As per Section 72 of the Act of 2016, following factors are to be taken into account by the Adjudicating Officer, in determining amount of compensation: -

(a) the amount of disproportionate gain or unfair advantage,

wherever quantifiable, made as a result of the default;

(b) the amount of loss caused as a result of the default;

(c) the repetitive nature of the default;

(d) such other factors which the adjudicating officer

considers necessary to the case in furtherance of justice.

21. Admittedly, the respondent used money paid by the complainant and did not fulfil its obligation i.e. to complete the project and hence got unfair advantage on the amount received from the complainants. Same consequently caused loss to the allottees-complainants. However, complainants have prayed for Rs. 5 lakh an account of mental agony and harassment. Rs. 5 lacs appear to be excessive keeping in view facts of this case. The complainants are allowed a sum of Rs. 2 lakh as compensation for mental agony/harassment caused by them, to be paid by the respondent.

22. The complainants have also requested for litigation expenses of Rs. 1 lakh. No receipt of fee from advocate is put on the file. However, it is apparent that the complainants were represented by an advocate during proceedings in this case. Same are allowed a sum of Rs. 50,000/- as litigation expenses, to be paid by the respondent.

23. The respondent is directed to pay aforesaid amounts alongwith interest at rate of Rs.10.50% per annum, from the date of this order till the date of realization of amount.

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24. File be consigned to record room.

Announced in open Court today i.e. 02.05.2025



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