

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

Complaint No.4947-2023

Date of Decision: 21.05.2025

Pinki Goyal r/o A-604, Pragjyotishpur Apartments, Sector-10, Dwarka,
New Delhi.

Complainant

Versus

M/s. Ansal Housing Limited,
Through its Managing Director
Having its Regd. Office at
606, 6th Floor, Indra Prakash, 21,
Barakhamba Road, New Delhi.

Corporate Office:-
Ansal Plaza, 2F, AHCL, 2nd Floor, Ansal Plaza, Sector-1, Vaishali,
Ghaziabad.

Respondent

APPEARANCE

**For Complainant:
For Respondent**

**Mr. Ashutosh Bhardwaj, Advocate
Respondent exparte.**

ORDER

1. This is a complaint filed by Pinki Goyal (allottee) under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in brief The Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation and Development) Rules, 2017, against M/s. Ansal Housing Limited (promoter/developer).

Handwritten signature/initials
AO

2. As per complainant, the respondent is a Private Limited Company, which is duly incorporated under the provisions of The Companies Act, 1956 and is fully responsible for the acts, conduct business and carry on day-to-day affairs through its Managing Director.
3. 'Ansal Estella' is a Residential Apartments Project (the "Project") being developed by respondent, on a parcel of land situated at Sector 103, Gurugram, Tehsil and District Gurugram, Haryana.
4. That the respondent gave advertisements and showed a rosy picture about the project. Son of the complainant relied upon the advertisements and visited the project site and then, booked the unit from the respondent by investing hard earned money in respondent's project. Booking was made for sale consideration of Rs.48,17,239/- under construction linked plan.
5. That son of the complainant paid an amount of Rs.2,06,992/- on 01.04.2011, Rs. 1,56,992/- on 02.05.2011, Rs. 1,56,992/- on 02.05.2011, Rs. 50,000/- on 03.05.2011, Rs. 2,06,992/- on 30.06.2011 and Rs. 2,06,992/- on 16.07.2011. The complainant paid Rs. 70,400/- on 19.07.2011, Rs. 2,06,992/- on 28.07.2011, Rs. 1,00,000/- on 05.03.2012, Rs. 3,41,345/- on 20.05.2012 and Rs. 81,540/- on 12.06.2012 respectively.

Ad

6. That the respondent allotted a residential apartment Unit No. K-508 of 1245 sq. ft @ basic price of Rs. 3300/- per sq. ft to the complainant wherein the respondent had to complete/give the possession of the flat within 36 months from the date of execution of apartment buyers agreement, which was executed between her (complainant) and respondent through its authorized representative on 28.6.2012.
7. As per the terms and conditions of the agreement executed on 28.6.2012, the respondent could not comply with the terms and condition of the agreement and failed to offer possession of the flat/unit to the complainant within commitment/agreed period of 36 months and not in stipulated grace period of further 6 months i.e. till 28.12.2015.
8. That the complainant paid a total amount of Rs. 48,06,157/- till 01.03.2017. The complainant made several requests to respondent on many occasions to give possession of the unit.
9. That the complainant had made almost full payment of sale consideration as per terms of builder buyer agreement and the respondent has delayed the possession of Unit deliberately or for reasons known best to them.

Sub
AO

10. That she (complainant) filed a complaint before the RERA authority for the possession of the flat and the RERA authority allowed the complaint and directed the respondent to pay the interest @ 9.30% per annum from 28.12.2015 till the handing over of the possession of the flat.
11. That the respondent failed to deliver the unit till 28.12.2015 and did not even apply for any completion certificate to the concerned authority.
12. In view of the facts mentioned above, the complainant sought following reliefs: -
 1. To pass an order and give necessary directions to the respondent to pay @ Rs. 5 per sq. feet per month calculated on super built up area of unit/flat for every month of delay w.e.f. 2.12.2015 to till date, to the complainant as per the term and condition of the agreement dated 2.12.2015 totalling to Rs. 5,40,000/-.
 2. To pass an order for a loss of appreciation of price of unit in question, as complainant cannot purchase the similar type of unit even in double price and thus had suffered loss of about Rs. 35,00,000/-.
 3. To impose penalty upon the respondent as per the provisions of Section 60 of RE (R&D) Act for willful default committed by them.

AO

4. To impose penalty upon the respondent as per the provisions of section 61 of RE (R&D) Act for contravention of Sec. 12, 13, Sect. 14 and 16 of RE (R&D) Act.
5. To direct the respondent to make payment for loss of monthly rent of Rs. 15,000/- as market value from 2.12.2015 till date for 81 months totalling to Rs. 12,51,000/-.
6. To direct the respondent to pay compensation on account of mental harassment, agonies and irreparable sufferance to the tune of Rs. 20,00,000/- being woman.
7. To direct respondent to pay on account of litigation charges to the tune of Rs. 3,00,000/- for pursuing the matter and hence he is liable to get the cost for it.
8. To issue directions to make liable every officer concerned i.e. Director, Manager, Secretary, or any other officer of the respondent company at whose instance, connivance, acquiescence, neglect any of the offences has been committed as mentioned in Sec. 69 of RE(R&D) Act, 2016 to be read with HAREAR Rules 2017.
9. To recommend criminal action against the respondent for the criminal offence of cheating, fraud and criminal breach of trust under section 420, 406 and 409 of IPC.
10. To award/allow costs of these proceeding to the complainant and against the respondent.
11. Any other relief, which this Hon'ble Authority deems fit and appropriate in view of the facts and circumstances of this complaint.

Aug
AD

13. None appeared for respondent on date fixed i.e. 30.11.2023 despite service of notice. No written reply was filed despite calling matter several times. Respondent was thus proceeded ex parte on that date i.e. 30.11.2023 and defence of same was struck off.
14. The complainant filed affidavit in evidence in support of his complaint.
15. I have heard learned counsel for complainant and perused the record on case file.
16. As described above, complainant^h had filed a complaint before Haryana Real Estate Regulatory Authority, Gurugram, seeking delay possession charges of the amount, which has already been allowed by the Authority, vide order dated 30.03.2022. A copy of such order is on the record. Allowing said complaint, the Authority has directed the respondent to pay interest at the rate of 9.30% p.a. for every month of delay on the amount paid by them (complainants) from due date of offer of possession till actual handing over the possession of unit.
17. 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, -

del
AO

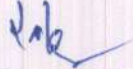
(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-----, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return 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.**

18. Needless to say that complainant did not wish to withdraw from the project but same 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 makes it clear 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 lending rate plus 2%. The provision of interest is in the form of compensation to the buyer when

drf
AO

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. When complainant has already been allowed delayed possession compensation, no reason to allow separate compensation for the delay in completion of construction. Complaint in hands is thus dismissed. File be consigned to record room.

Announced in open court today i.e. on 21.05.2025.


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