

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

Complaint No.4944 of 2023

Date of Order : 21.05.2025

Mr. Vijay Kumar Goyal

Ms Pinki Goyal

Address : A-604, Pragjyotishpur,

Appts, Sector-10, Dwarka, New Delhi

Complainants

Versus

M/s. Ansal Housing Limited

Address : 606, 6<sup>th</sup> Floor, India Prakash 21,

Barakhamba Road, New Delhi-11001

Respondent

**APPEARANCE:**

For Complainants:

Mr. Ashutosh Bhardwaj,

Advocate

For Respondent:

None

**ORDER**

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1. This is a complaint filed by Mr. Vijay Kumar Goyal and Ms. Pinky Goyal(allottees) under section 31 and section 71 of The Real Estate (Regulation and Development) Act of 2016(in brief the Act, 2016) and rule 29 of The Real Estate (Regulation and Development) Rules, 2017 against M/s Ansal Housing Ltd.(respondent).
2. According to complainants, they booked a residential apartment in project viz. "*Ansal Estella*" (project) located at Sector-103, Gurgaon developed by the respondent under construction linked plan for an amount of Rs, 71,69,972. They (complainants) paid to respondent amounts of Rs. 3,25,687, Rs. 3,25,000, Rs. 3,25,687, Rs. 50,000, Rs. 2,55,287, Rs. 3,25,687 and Rs. 1,94,634 on 28.02.2011, 05.04.2011, 30.06.2011, 01.07.2011, 16.07.2011, 28.07.2011 and 02.03.2012 respectively, making a total Rs. 18,01,982/-. These amounts were paid prior to execution of builder buyer agreement. The respondent allotted <sup>as</sup> the residential apartment unit no. M-



404 of 1945 sq. ft @ basic price of Rs. 2,800/- per sq. ft to them.

3. On 02.06.2012, a builder buyer agreement (BBA) was executed between allottee and the respondent. As per clause 30 of BBA, the respondent was obliged to offer possession of the unit within 36 months from the day of signing of the BBA or within 36 months from the date of obtaining all the required sanctions and approvals, necessary for commencement of construction, whichever is later, subject to timely payment of all dues by buyer and subject to force majeure circumstances as described in clause 31. Further, there was a grace period of 6 months, allowed to the developers over and above the period of 36 months for offering the possession of the unit. Therefore, the due date of possession was 02.06.2015 (02.11.2017 with grace period).

3. That they (complainants) paid a total sum of Rs. 66,69,032/- i.e. 91% of the total consideration of Rs. 71,69,972/-

  
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towards the said apartment from 28.02.2011 till 06.03.2017, as per demands raised by respondent.

4. That the issue of delayed delivery of possession of the unit has already been dealt with by Authority in complaint No 1411/2021 filed by the complainants through order dated 06.10.2020. Wherein the respondent was directed to pay the interest at the rate of 9.30% p.a. for every month of delay on the amount paid by them complainants from date of offer of possession.

5. That no completion certificate was applied for, and the project remains unregistered with the Haryana Real Estate Regulatory Authority.

6. Citing facts as described above, complainants have sought following reliefs:

- i. To direct respondents 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. 02.12.2015 to till date, to them (complainants),

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as per the term and condition of the agreement dated 02.06.2015 totalling to Rs. 8,75,250/-.

- ii. Pass an order of for a loss of appreciation of price of unit in question, as they cannot purchase the similar type of unit even in double price and thus had suffered loss of about Rs. 50,00,000/- (Rupees Fifty Lac only)
- iii. To impose penalty upon the respondent as per the provision of section 60 of RE (R&D) Act for wilful default committed by them.
- iv. To impose penalty upon the respondent as per the provisions of section 61 of RE (R&D) Act for contravention of sec. 12, 13, sec. 14 and Sec. 16 of RE (R&D) Act.
- v. To direct the respondent for the payment for the loss of monthly rent Rs. 20,000/- at market value from 02.12.2015 till date for 87 months totalling to Rs.17,40,000/-.

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- vi. 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 old and senior citizen.
  - vii. To direct respondents to pay compensation to the tune of Rs.3,00,000 in lieu of litigation cost/Advocate fee for pursuing the present case.
  - viii. To Award/allow costs of these proceeding to the complainant and against the Respondent.
  - ix. Pass any other order, as may deem fit.
6. Notice of complaint was served to the respondent through email as well as by speed post. However, none appeared on behalf of the respondent and no reply was filed. The respondent was proceeded ex-parte on 01.08.2024.
7. I heard learned counsel of the complainants and went through record on file.

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8. As described above, complainants 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.
9. 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

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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.**

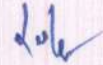
10. Needless to say that complainant did not wish to withdraw from the project but same prayed for delayed possession compensation by filing a complaint with the Authority. The said complaint has already been allowed. Proviso added to sub section (1) of section 18 makes it clear that where an allottee 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 <sup>rate</sup> ~~stage~~ 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%. 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 <sup>parliament</sup> ~~legislator~~ 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.