

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

**Complaint no. : 2186 of 2023**  
**Date of order : 26.05.2025**

Rajesh Kumar Arora  
R/O: 198 A, Subhash Nagar, Gurugram-122001

**Complainant**

**Versus**

Conscient Infrastructure Pvt Ltd.  
ADDRESS: Global Business Park, MG Road,  
Gurgaon, Haryana -122002

**Respondent**

**APPEARANCE:**

For Complainant:

Mr. Jaswant Singh Katariya

Advocate

For Respondent:

Mr. Shayon Chakrabarti Advocate

**ORDER**

1. This is a complaint filed by Rajesh Kumar Arora through Special Power of Attorney (SPA) Sh. Amit Kumar Arora 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, against Conscient Infrastructure Pvt. Ltd.(promoter)

2. As per complainant, on 18.04.2013, He(complainant) booked a unit in commercial complex, developed by respondent and remitted Rs. 8,34,513/- as booking amount. The respondent issued a payment receipt and sent an allotment letter on 15.05.2023, against allotted Unit/ Flat no. 1008, 10<sup>th</sup> Floor, Block C, admeasuring 595 sq. ft., in "Conscient One", Sector-109, Gurugram. The said unit was purchased under the Construction Link payment plan for a total sale consideration of Rs. 48,39,295/-, comprising of the basic sale price to the tune of Rs. 40,23,390/- and Rs. 8,15,905/- qua other charges.
3. That a Builder Buyer's Agreement (BBA) was executed and signed between the parties on 29.07.2015 i.e. after 27 months of booking. As per clause no. 8.2 and 8.3 of the BBA, respondent had to give possession of the unit within 42 months from signing of the BBA, with a grace period of 180 days, therefore the due date of possession was 29.01.2019. It is pertinent to mention here that Hon'ble Authority upheld the due date of possession vide order dated 29.07.2019 in CRN 143 of 2021.
4. That the respondent issued demand letters on 06.08.2013, 27.04.2015, 21.04.2016, 22.04.2016, 14.06.2017, 11.09.2018, 21.09.2018, 10.01.2019 and 03.06.2019 demanding amount of Rs. 4,17,258, Rs. 2,08,629, Rs. 4,19,842, Rs. 70,508, Rs. 3,85,840, Rs. 3,37,964, Rs. 70,508, Rs. 3,37,964 and Rs.

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3,37,964 which were dully paid by him (complainant) through RTGS. Till 03.06.2019, he (complainant) paid a sum of Rs. 35,62,008 to the respondent.

5. He (complainant) approached the authority, by complainant bearing 143 of 2021, seeking refund of his hard-earned money. On 07.12.2022, the Authority directed the respondent to refund the entire amount paid by him, along with interest.
6. Citing facts as described above, complainant has sought following reliefs:

- i) To direct the respondent (s) to compensate for loss of interest on the entire deposited amount of Rs. 35,62,008/- from respective dates of payments till 09.12.2022 (date of surrender of the allotment) in violation of section 18 and Section 19 (4) Real Estate (Regulation and Development) Act 2016 read with Rule 15 & 16 of Haryana Real Estate (Regulation & Development) Rules 2017.
- ii) To direct the respondent to pay the complainant litigation costs and litigation expenses of Rs. 1,50,000/- for complaint No. 143 of 2021 and Rs. 1,20,000/- for the present complaint (totalling Rs.2,70,000/-)
- iii) To direct the respondent to pay US Dollar 3931.8 to the complainant on account of site visitation charges as the complainant specially came from USA to India site visitation purpose only qua the unit in question.
- iv) To direct the respondent to pay a sum of Rs. 5,50,000/- on account of causing mental and physical harassment

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to the complainant due to miserable attitude of the respondent and deficiency in service.

- v) Any other relief as this Hon'ble Adjudicating Officer, HRERA, Gurugram may deem fit and appropriate in the facts and circumstances of the instant complaint.

7. Respondent contested the complaint by filling written reply.

Following is averred by the respondent: -

8. That it is an admitted fact that the Hon'ble Authority vide order dated 07.12.2022 in complaint no. 143 of 2023 filed by the complainants, <sup>2-Rs</sup> already decided the grievances and dispute of the complainants against the respondent. The respondent vide email dated 05.04.2023 called upon the complainant to come forth and collect the refund amount of Rs. 46,64,678/- including interest at 10.35% p.a. from 09.12.2019 till 05.04.2023 as directed by the Authority. An amount of Rs. 1,22,519/- was deducted on account of TDS.
9. That when the complainant failed to come forth to collect the demand draft, it (respondent) issued a letter dated 26.04.2023 along with a cheque drawn on Punjab National Bank for a sum of Rs. 46,64,678/- towards the full satisfaction of the judgement passed by the Authority.
10. That this complaint has been filed on baseless and false facts, hiding the true facts from this Ld. Authority, raising unreasonable demands. The Complainant has failed to disclose the fact that he himself has voluntarily entered into



builder buyer agreement and defaulted in making timely payments as per payment plan.

11. The parties entered into a Builder Buyer Agreement dated 29.07.2015 whereby the possession of the unit in question was to be handed over to the allottee within a period of 42 months with 6 months grace period from the dated of execution of agreement and the complainant agreed to pay an amount of Rs. 48,39,295/- towards the basic sale consideration.
12. That It (respondent) was entitled for grace period on account of force majeure conditions due to demonetization, shortage of labour various orders passed by NGT and weather conditions in Gurugram and non-payment of installements by different allottees of the project are beyond control of respondent. That due to force majeure circumstances, there was a delay in the completion of the project and respondent received occupation certificate for Tower of the project on 19.02.2021.
13. Contending all this, respondent requested for dismissal of complaint.
14. I heard learned counsels representing both of the parties and <sup>went to</sup> ~~gone~~ through record on file.
15. Admittedly the complainant had filed a complaint before Haryana Real Estate Regulatory Authority, Gurugram, seeking refund of the amount, which has already been allowed by the authority, vide order dated 07.12.2022. A copy of such order is on the record. The Authority has directed present respondent to




refund the amount as received from the complainant, along with interest.

16. Section 18 (1) of The Real Estate (Regulation and Development) Act, 2016, if the promoter fails to complete or building:- 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, 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.

17. Simply to say that refund of amount has been allowed along with interest, is not enough to compensate the buyer. Perhaps keeping in view all this, the Parliament of India has provided for award of compensation also, along with refund of amount, with interest.

18. According to respondent, due to force majeure circumstances. Same could not complete the construction. I do not found much substance in this plea. The respondent failed to adduce any evidence in this regard. Moreover, the respondent has already been granted six months time anticipating such circumstances, which were beyond its control.

  
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19. Section 72 of the act of 2016, prescribes factors which have to be taken into account by the Adjudicating Officer, to adjudge quantum of the compensation, same are:

- 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.

20. The complainant claims to have paid Rs. 35,62,008/- out of sale consideration, whenever demands were raised by the respondents.

21. According to Builder Buyer's Agreement, as noted by the Authority while disposing of complaint filed by present complainant, the respondent was obliged to hand over possession of subject unit within a period of 42 months with grace period of 6 months subject to force majeure from the date of execution of agreement or start of construction of the tower wherein unit is located, whichever is later. Due date of possession was thus 29.07.2019. The Authority allowed said complaint directing the respondent to refund the amount on 07.12.2022. Simply to refund amount was not enough particularly when there was an escalation in price of Real Estate and devaluation of <sup>supce. 5</sup> ~~the~~ property. Although

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complainant did not adduce any evidence to prove as what actual loss was caused to him for not getting possession of subject unit in time. As mentioned above, the complainant paid Rs. 35,62,008/- and it was ordered to be refunded only on 07.12.2022. The respondent used said money and did not fulfill its obligations to complete the construction. In this way, same (respondent) got undue gains, consequently causing loss to the complainant. The complainant is awarded a sum of Rs.20,000/- per month as compensation in this regard from due date of possession i.e. 29.07.2019 till the order of the authority i.e 07.12.2022, when the amount was ordered to be refunded to him (complainant).

22. The complainant has prayed for a sum of Rs. 5.50 lacs on account of mental agony and physical torture. Apparently, despite making payment of sale consideration when complainant did not get compensation of his dream house, it caused mental harassment and physical agony to him. Rs. 5.50 lacs appear to be an excessive amount and same is awarded a sum of Rs. 2.00 lacs for this purpose to be paid by the respondent.

23. The complainant has prayed for a sum of USD 3931.8 on account of site visitation charges having come from USA to India. Personal appearance of complainant was not required. It is apparent that the complainant remained represented by his

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counsel during proceedings of this case. Moreover, same has been awarded compensation for mental agony and physical harassment, apart from refund of the amount by the Authority.

No reason to award any such <sup>Compensation</sup> ~~amount~~ for site visitation. <sup>etc.</sup>

Request in this regard is declined.

24. During deliberations, learned counsel for complainant sought compensation for Rs. 1 lac as litigation charges. However, no receipt of payment of advocate fee has been put on file. It is apparent that complainant was represented by a counsel during proceedings of this case. Same is awarded Rs. 50,000/- as cost of litigation to be paid by the complainant. Respondent is directed to pay said amount <sup>8</sup> within 30 days from today along with interest at the rate of 10.50% till realization of the amount. Complaint is thus disposed of. File be consigned to record room.

25. File be consigned to records.

26. Announced in open court i.e. 26.05.2025.

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