

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.583 of 2022

Date of Decision: 25.03.2025

Uma Dutt, T-1, Flat No. 1101, TDI Tuscan City, Behind TDI Mall, Kundli, Sonipat

Appellant.

Versus

TDI Infrastructures Ltd., Vandna Building, 11, Upper Ground Floor, Tolstoy Marg, Connaught Place, New Delhi

Respondent

Present: Mr. Sushil Kumar, Advocate for the appellant.
Mr. Shubhnit Hans, Advocate for the respondent.

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)

O R D E R:

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against the order dated 28.06.2022, passed by Authority¹. Operative part thereof reads as under:

“4. Complainant has also raised additional grievances regarding lack of infrastructural facilities in ‘Tuscan City Phase-I’. He has stated that respondent has failed in providing infrastructural facilities like permanent electricity connection, sewage treatment plant, water treatment plant, two fully operational lifts

¹ Haryana Real Estate Regulatory Authority, Panchkula

in tower, maintenance and security etc. With regard to aforesaid grievances related to lack of basic infrastructural facilities in the project, complainant is granted liberty to file a fresh complaint. Complainant along with other similar allottees or through their concerned RWA may file fresh complaint for adjudication of their common grievances regarding lack of basic infrastructural facilities in said project.

Disposed off. File be consigned to record room and order be uploaded on the website of the Authority.”

2. The appellant was allotted a unit in project ‘Tuscan Heights’ at Kundli, Sonapat. BBA² was executed between the parties on 30.08.2011. As per agreement, delivery of the flat was to be given to the allottee within 30 months i.e. February, 2014. The complainant approached the Authority with the grievance that despite lapse of four years the respondent had only offered fit out possession of the flat on 15.05.2018 at a stage when it had not possessed Occupation Certificate. Besides, charges had also been levied for increase in area of the unit.

3. The Authority came to the conclusion that possession of the unit had been handed over to the appellant in December, 2018. The complainant had shifted there and was enjoying possession of the unit. Neither he expressed dissatisfaction with increase in area nor had lodged any complaint with regard to the alleged amount charged in excess of the admissible rate. Besides, he had signed ‘NOC³’ issued by the

² Builder Buyer’s Agreement

³ No Objection Certificate

builder thus, contractual relationship between the parties had come to an end thereafter.

4. Counsel for the appellant has relied upon a judgment dated 18.01.2025 passed by this Tribunal in Appeal No. 103 of 2022—***Manjeet Singh Rana v. Taneja Developers Infrastructure Ltd.*** to contend that DPC⁴ is payable till valid offer of possession is made to the allottee. NOC signed by him or factum of his having entered into possession would not take away his right for DPC till valid offer of possession was made to him. As per him, instant case is fully covered by the judgment rendered in ***Manjeet Singh Rana's case*** (*supra*).

5. Mr. Shubhnit Hans, counsel for the respondent has not controverted the applicability of the said judgment.

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

7. In the facts and circumstances of the case, it is evident that once possession was offered to the allottee, he had no option but to accept the same and sign on the dotted lines. If he was asked to append his signatures on any document in the nature of NOC/Possession Certificate, he would sign the same as he needed a roof over his head. However, this does not take away the legal right available to him under the Act⁵ for claiming DPC till valid offer of possession. Thus, in line with the view taken in ***Manjeet Singh Rana's case*** (*supra*), we hereby hold that the allottee is entitled to DPC from due date of

⁴ Delayed Possession Charges

⁵ The Real Estate (Regulation and Development) Act, 2016

possession i.e. February, 2014 till valid offer of possession is made to him. This is so because mere taking of possession and execution of certain documents between two private parties i.e. promoter and the allottee would not render the provisions of law inoperative which provide that the allottee is entitled to DPC till he receives a valid offer of possession (preceded by an Occupation Certificate).

8. Appeal is allowed in the aforesaid terms. The grievance, if any, as regards lack of infrastructural facilities in the project in question shall be looked into by the Authority. It shall be at liberty to initiate *suo moto* proceedings in terms of statutory provisions, if circumstances so demand.

9. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(joined through VC)

25.03.2025
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