

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Appeal No.299 of 2023**

**Date of Decision: June 02, 2025**

Experion Developers Pvt. Ltd., Eighth Floor, B-Wing, Milestone  
Experion Centre, Sector 15, Part-II, Gurgaon,Haryana-122001

Appellant

Versus

Mrs. Amrita Baid and Mr. Rakesh Sirohia, both residents of H D  
115, Oakwood Estate, DLF, Phase II, Gurugram-122009

Respondents

**CORAM:**

**Justice Rajan Gupta**

**Chairman**

**Rakesh Manocha**

**Member (Technical)**

Present : Mr. Kamaljeet Dahiya, Advocate for the appellant.  
Mr. Neeraj Goel, Advocate for the respondents.

**O R D E R:**

**RAJAN GUPTA, CHAIRMAN**

Present appeal is directed against order dated  
09.12.2022, passed by the Authority<sup>1</sup>. Operative part thereof  
reads as under:

*“36. Hence, the authority hereby passes this  
order and issues the following directions under  
Section 37 of the Act to ensure compliance of  
obligations cast upon the promoter as per the  
function entrusted to the authority under Section  
34(f):*

*i.The complainant is entitled to delayed  
possession charges as per the proviso of*

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<sup>1</sup> Haryana Real Estate Regulatory Authority, Gurugram.

*Section 18(1) of the Real Estate (Regulation and Development) Act, 2016 at the prescribed rate of interest i.e. 10.35% p.a. for every month of delay on the amount paid by him to the respondent from the due date of possession i.e. 27.12.2016 till date of Occupation Certificate i.e. 24.12.2018 plus two months.*

- ii. The respondent is directed to hand over physical possession of the unit allotted to the complainant after giving him a copy of the latest account statement duly adjusting the delay possession charges.*
- iii. The promoter shall not charge anything which is not part of the BBA and if any payment is due from the complainant, it shall be adjusted from the amount of delayed possession charges.*
- iv. As per section 2(zd) of At of 2016, the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee.”*

2. It appears that project “Windchants” was floated by the promoter in Sector 112, Gurugram. Original allottees- Vishal Gupta and Mritunjaya Nautiyal booked a unit with the promoter on 05.07.2012 for total sale consideration of Rs.1,85,19,348/-. ABA<sup>2</sup> was executed between the parties on 21.12.2012. The due date of possession was 27.12.2016. Occupation Certificate was granted to the promoter on 24.12.2018. As there was delay in handing over possession, the

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<sup>2</sup> Apartment Buyer’s Agreement

subsequent allottees (respondents herein) filed the instant complaint seeking various reliefs.

3. After hearing the parties, the Authority directed the promoter to pay DPC<sup>3</sup> for every month of delay on the amount paid by the allottees from due date of possession i.e. 27.12.2016 till date of Occupation Certificate i.e. 24.12.2018 plus two months.

4. Counsel for the appellant has assailed the order passed by the Authority on the ground that the date from which DPC has been computed is erroneous. As per him, the due date of possession should be calculated from 06.03.2013, when the complainants purchased the unit from the original allottees. Thus, due date of possession would fall on 06.03.2017 instead of 27.12.2016.

5. Counsel for the respondents submits that the Authority has rightly granted DPC from 27.12.2016, as the complainants stepped into the shoes of original allottees much prior to the due date of possession.

6. Heard learned counsel for the parties and given careful thought to the facts of the case.

7. The Authority has granted DPC from due date of possession till grant of Occupation Certificate plus two months. It is inexplicable how the promoter is aggrieved by DPC granted for this period. Its plea that the respondents are subsequent purchasers and endorsement in their names is on 06.03.2013, thus due date of possession should be calculated therefrom, is

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<sup>3</sup> Delayed Possession Charges

misconceived. In fact, the respondents stepped into the shoes of the original allottees within three months of allotment and much prior to the due date of possession. Thus, there is no substance in the claim of the appellant. Besides, it needs to be kept in mind that the Authority has restricted DPC only till the date of grant of Occupation Certificate plus two months.

8. The judgment of Hon'ble Supreme Court in Civil Appeal No. 7042 of 2019—***M/s Laureate Buildwell Pvt. Ltd. V. Charanjeet Singh***, decided on 22.07.2021 cannot help the case of the appellant as the instant case has to be decided in its unique facts and circumstances.

9. Thus, no case for interference in appellate jurisdiction is made out. The appeal is hereby dismissed.

10. The amount of pre-deposit made by the promoter in terms of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 along with interest accrued thereon be remitted to the Authority for disbursement to the allottees, subject to tax liability, if any.

11. Copy of the order be sent to the parties/their counsel and the Authority.

12. File be consigned to records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)

June 02, 2025  
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