

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.473 of 2023

Date of Decision: June 02, 2025

M/s Sternal Buildcon Pvt. Ltd., 12th Floor, Dr. Gopal Das
Bhawan, 28 Barakhamba Road, New Delhi

Appellant.

Versus

Ameena Bano, House NO. 10, Type-J, BSNL Colony, near Lions
Public School Sector 10A, Gurugram, Haryana

Respondent

Present : Ms. Gurpreet Kaur Bhatti, Advocate for the appellant.
Ms. Deepika Choudhary, Advocate for the respondent.

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)

O R D E R:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against the order dated 30.05.2023, passed by the Authority¹. The operative part of the order reads as under:

- “i. The respondents are directed to pay interest on the paid-up amount at the prescribed rate of 10.70% p.a. for every month of delay from the due date of possession i.e. 18.11.2021 till the date of offer of possession i.e. 27.03.2022 plus two months i.e. 27.05.2022 to the complainant.*
- ii. The arrears of such interest accrued from due date of possession till its admissibility as per direction (i)*

¹ Haryana Real Estate Regulatory Authority, Gurugram

above shall be paid by the promoters to the allottee within a period of 90 days from date of this order as per rule 16(2) of the rules.

iii. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e. 10.70% by the respondents/promoters which is the same rate of interest which the promoters shall be liable to pay the allottee, in case of default i.e. the delayed possession charges as per section 2(zb) of the Act. The 6 months grace period due to COVID-19 shall also apply to the allottee in case of any default in making payment.

iv. The respondent shall not charge anything from the complainant which is not the part of the flat buyer's agreement.

34. The complaint stand disposed off.

35. File be consigned to registry.”

2. It appears that allottee-Ameena Bano applied for a unit in Affordable Group Housing Project, namely, 'The Serenas' in Sector 36, Sohna. Licence for this project was granted vide order dated 26.09.2016. FBA² was executed on 20.9.2017. Environmental clearance of the project was granted on 18.05.2017. Due date of possession was 18.11.2021. The promoter received Occupation Certificate on 25.03.2022 and made offer of possession immediately thereafter on 27.03.2022. The allottee being aggrieved by delay in handing over possession, approached the Authority for grant of possession of the unit and delay compensation. It was contended that the allottee made all payments on due dates. The promoter failed to complete the project as per schedule and on the other hand, it unilaterally enhanced the price of the unit.

² Floor Buyer's Agreement

3. In its reply, the promoter refuted the claim and stated that unavoidable delay has taken place due to on-set of Covid-19 pandemic. On account of constraints, such as absence of labour and availability of material, the promoter suffered loss who could not deliver the project well in time. The promoter, thus, claimed that it be given at least six months grace period due to out-break of Covid-19 pandemic.

4. After hearing rival contentions, the Authority allowed the complaint and directed the promoter to give possession to the allottee and also pay delay compensation @ 10.70% for every month of delay from due date of possession i.e. 18.11.2021 till offer of possession i.e. 27.03.2022 plus two months i.e. 27.05.2022. It further granted six months grace period to the promoter on account of Covid-19 pandemic.

5. The appellant has, however, preferred the appeal with the plea that for entire period from 18.11.2021 till 27.05.2022, the allottee is not entitled to any delay compensation for said period.

6. It is evident from the order passed by the Authority that in terms of FBA, it has granted six months' grace period to the appellant-promoter on account of Covid-19 pandemic. In view of the same, it appears that sufficient time has already been granted to the appellant-promoter by the Authority. Its attempt to get further concession for the entire period on account of force majeure is mis-conceived and, hence, the same is denied.

7. In ***M/s Pragatej Builders and Developers Pvt. Ltd. V. Mr. Abhishek Anuj Shukhadia and another***³, Bombay High Court has denied the benefit of grace period on account of Covid-19 pandemic holding that the original agreement would be adhered to and Covid-19 pandemic would not exempt the promoter from interest liability.

8. In the instant case, the Authority has granted six months' grace period to the appellant on account of Covid-19 pandemic. However, no challenge has been posed to the impugned order by the allottee. Thus, this Court does not intend to upset the order on this account. The Authority would consider the ratio of the judgment in ***M/s Pragatej Builders and Developers Pvt. Ltd.'s case (supra)*** in other cases pending before it.

9. The appeal is dismissed.

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

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

³ 2024 Supreme (Online)(Bom) 1822

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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