

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Appeal No. 21 of 2022**

**Date of Decision: 08.05.2025**

Smt. Krishna, B-36, Rohit Apartments, Plot no. 30, Dwarka, Sector 10,  
District South West Delhi – 110 075.

Appellant-Allottee

Versus

M/s. Vatika Limited, Vatika Triangle, 4<sup>th</sup> floor, Sushant Lok Phase-1,  
Block A, Mehrauli Gurugram Road, Gurugram – 122002.

Respondent-promoter

**CORAM:**

**Justice Rajan Gupta  
Shri Rakesh Manocha**

**Chairman  
Member (Technical)**  
(joined through VC)

Present: Mr. Ashok Tyagi, Advocate,  
for the appellant-allottee

Mr. Kamal Jeet Dahiya, Advocate  
for the respondent.

**O R D E R:**

**RAJAN GUPTA, CHAIRMAN (ORAL):**

1. Present appeal is directed against the order dated 28.07.2021 passed by the Authority<sup>1</sup>, operative part whereof reads as under:-

*“25. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act :*

*i. The respondent shall pay interest at the prescribed rate i.e. 9.30% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 10.03.2014 till the date of intimation of*

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

## Appeal No.21 of 2022

*possession i.e. 22.02.2018 i.e. expiry of 2 months from the date of offer of possession.*

- ii. The arrears of interest accrued till date of offer of possession shall be paid to the complainant within a period of 90 days from the date of this order and failing which the same would carry interest @ 9.30 p.a. till payment.*
- iii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.*
- iv. Interest on the due payments from the complainant shall be charged at the prescribed rate of interest @ 9.30% p.a. by the promoter which is the same as is being granted to the complainant in case of delayed possession charges.*
- v. The respondent shall not charge anything from the complainant which is not part of the builder buyer's agreement. The respondent is not entitled to claim holding charges from the complainant/allottee at any point of time even after being part of the builder buyer's agreement as per law settled by Hon'ble Supreme Court in Civil Appeal Nos. 3864-3899/2020 decided on 14.12.2020.*

*26. Complaint stands disposed of."*

2. Learned counsel for the appellant has primarily assailed the order on the ground that she has been offered an alternative unit by the promoter, M/s.Vatika Ltd.despite the fact that the earlier unit allotted to her was at a prime location. He submits that the allottee

is entitled for allotment of the same unit in view of the original agreement.

3. Mr. Dahiya has refuted this plea. He submits that after three years of execution of the BBA<sup>2</sup>, there was re-allotment of the unit on 31<sup>st</sup> of July, 2014 for a sale consideration of Rs.52,21,273.14. The complainant remitted a sum of Rs.43,53,437/- as would be evident from the statement of account dated 11<sup>th</sup> of March, 2019. The due date of possession was thus fixed as 10<sup>th</sup> of March, 2014. Thereafter, number of reminders were sent to the allottee, but no response was received. Vide notice dated 12<sup>th</sup> of July, 2018, the unit was cancelled. At the time possession of the new unit was offered, Occupation Certificate in respect of the project had already been received. Third party rights had been created on the earlier unit allotted to the appellant. As per him, instead of taking possession of the unit, the appellant knocked the doors of the Authority at Gurugram.

4. The Authority directed the promoter to pay delayed possession charges from 10<sup>th</sup> of March, 2014 till the date of intimation of possession (22<sup>nd</sup> of February, 2018 + 2 months).

5. There is no denial to the fact that the Addendum Agreement dated 06.02.2018 was signed by the appellant. Besides, third party rights had already been created by that time on the earlier unit allotted to the appellant. It is evident that the appellant accepted the new unit with open eyes. Her plea that she was forced to sign this agreement, is not proved by any evidence. Neither any complaint was lodged in this regard before any authority nor there is any document on record in support of this plea.

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<sup>2</sup> Builder Buyer's Agreement

## Appeal No.21 of 2022

5. Under these circumstances, this Bench finds there is no merit in this appeal. Same is hereby dismissed.

6. However, it shall be ensured that the order passed by the Authority is implemented within 90 days of uploading of this order failing which, penal provisions of Section 64 of the Real Estate (Regulation and Development) Act, 2016 would come into play and the builder would be required to pay Rs.5000/- per day as penalty.

7. Copy of this order be forwarded to the parties, their counsel and the Authority below.

8. File be consigned to the records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)  
*(joined through VC)*

08.05.2025  
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