

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.534 of 2024

Date of Decision: June 05, 2025

Haryana Shehri Vikas Pradhikaran through its Estate Officer,
HSVP, Panchkula (Haryana

Appellant.

Versus

1. Kanta Rani w/o Ragbir Lal, R/o H.No. 14, Sector 4,
Naraingarh, Haryana

2. Rajinder Kumar s/o Amar Nath, R/o H. No. 14, Sector 4,
Naraingarh, Haryana

3. Haryana Real Estate Regulatory Authority, Sector 1,
Panchkula

Respondents

Present : Mr. Arvind Seth, Advocate for the appellant.
Mr. Gaurav Gupta, Advocate for respondents
No. 1 and 2.

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)
(Joined through VC)

ORDER:

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against the order dated
07.12.2022, passed by the Authority¹. Operative part thereof
reads as under:

*“13. In light of the background of the matter,
Authority observes as follows:*

*i) That allotment was made to the complainant on
04.05.2021 and against the total sale price of
the plot i.e. Rs.1,90,57,400/-, complainant has
made full and final consideration within
specified period which has been duly*

¹ Haryana Real Estate Regulatory Authority, Panchkula

acknowledged by allotment letter annexed in complaint.

- ii) That as per clause '5' of the allotment letter dated 04.05.2021, the respondent had to deliver possession of the plot to the complainant within 30 days of the receipt of the application for taking possession. Offer of possession was made to the complainant vide letter dated 04.05.2021. Pursuantly, the complainant after receiving the offer of possession approached the respondent on 18.06.2021 for the physical possession of the plot and the same was accepted by respondent vide application receipt dated 18.06.2021 which means physical possession should have been delivered by July, 2021. But respondent has delivered the physical possession of the plot to the complainant on 21.01.2022 without paying anything on account of delay period interest.*
- iii) That as per the Section 18 of the RERA Act, 2016 and Rule 15 of the HREERA Rules, 2017, if the respondent promoter fails to deliver the possession in accordance with the terms of the agreement for sale, then he is liable to pay the delay interest for every month of delay till the handing over of the possession.*
- iv) Therefore, as per the mandate of law, prayer of the complainant is justified and he is entitled for the delay interest for the period of delay in handing over the possession i.e. from 18.07.2021 (deemed date of possession) upto 21.10.2022 (date of delivery of the actual possession of the plot).*
- v) Hence, Authority directs the respondent to pay to the complainant delay interest from the deemed date of possession i.e. 18.07.2021 till passing of the order i.e. 07.12.2022 at the rate*

prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+2% which as on date works out to 10.35% (8.35%+2.00%). Accordingly, delay interest which has got calculated by the Accounts Branch of the Authority works out to Rs.2,74,521/-.

14. Respondent is directed to make payment of Rs.2,74,521/- to the complainant within 90 days from the date of uploading of this order, as provided in Rule 16 of Haryana Real Estate (Regulation and Development) Rules, 2017.

15. Disposed of. Files be consigned to record room after uploading of this order on the website.”

2. Mr. Arvind Seth, counsel for the appellant, has assailed the order primarily on the ground that the Authority erred in accepting the plea of the allottees that they had applied for possession on 18.06.2021. As per him, the application is, in fact, dated 07.01.2022, as annexed with this appeal. Besides, interest granted by the Authority is on the higher side. The Authority has also erred in granting delay interest for the period from 18.07.2021 to 21.10.2022, taking it to be the actual date of possession.

3. Mr. Gaurav Gupta, counsel for the allottees, on the other hand, contends that there is no infirmity with the order. He has produced an application along with a receipt (Annexure C-4) to show that the allottees applied for physical possession of the plot on 18.06.2021. He submits that the application is part of the record before the Authority. Thus, the Authority has rightly granted interest from expiry of one month i.e. from

18.07.2021 till 21.10.2022 when they were actually handed over the possession.

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

5. It appears that Pradhikaran² held an auction for residential plot in Sector 11, Urban Estate, Panchkula. The allottees were one of the bidders for a plot measuring 206.53 square meters. They were successful bidders and were allotted the plot for total price of Rs.1,90,57,400/-. An allotment letter was issued to them (Annexure C2). As per clause 5 of the allotment letter dated 04.05.2021, Pradhikaran had to deliver possession of the plot to the allottees within 30 days of the receipt of application for taking possession. It appears that on 18.06.2021, the allottees applied for taking possession. Copy of this application is on record as Annexure C4. While Pradhikaran claims that possession of the plot was delivered within one month of the application, case of the allottees is that development works were not carried out due to which they had to send reminders to the concerned officials of the Pradhikaran. Consequently, possession was delivered on 21.10.2022.

6. After examining the rival contentions, the Authority came to the conclusion that the promoter had failed to deliver possession in accordance with the terms of agreement, thus, it was liable to pay delay interest for every month of delay till handing over of possession. It, thus, granted delay compensation from 18.07.2021 upto 21.10.2022 i.e. actual date of delivery of possession; alternatively till the date of order

² Haryana Shehri Vikas Pradhikaran

i.e. 07.12.2022. Needful was to be done within 90 days of uploading of the order.

7. On due consideration of the matter, we are of the view that the allottees are entitled to delay interest from deemed date of possession i.e. 18.07.2021 till actual handing over of possession i.e. 21.10.2022. The directions of the Authority to grant interest till date of order i.e. 07.12.2022 is untenable thus, set aside. As regards rate of interest, we find no infirmity with the formula adopted by the Authority i.e. MCLR+2% on the said date. Interest shall be payable in terms of the foregoing findings.

8. The order of the Authority is modified to this extent. The findings arrived by us shall apply *mutatis mutandis* to the subsequent rectification order passed on 28.03.2023.

9. The appeal stands disposed of.

10. The amount of pre-deposit made by the promoter with this Tribunal as pre-deposit to comply with the provisions of proviso to Section 43(5) of the Act, along with interest accrued thereon, be remitted to the Authority for disbursement to the allottees, subject to tax liability, if any.

12. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(Joined through VC)

June 05, 2025/mk