

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: September 01,2025

(1) CM No. 145 of 2025 in/and
Appeal No. 20 of 2025

M/s Alpha Corp. Development Private Limited, 602, 6th Floor, Tower J,
World Trade Centre, Ring Road, Nauroji Nagar, New Delhi-110029

Appellant.

Versus

1. Mrs. Madhu Mehta W/o Vijay Kumar Mehta

2. Mr. Vijay Kumar Mehta S/o Sh. Lado Ram Mehta

Both R/o Satish Colony, Street No. 2, Near Blue Bird School,
Fatehabad-125050

Respondents

(2) CM No. 142 of 2025 in/and
Appeal No. 21 of 2025

M/s Alpha Corp. Development Private Limited, 602, 6th Floor, Tower J,
World Trade Centre, Ring Road, Nauroji Nagar, New Delhi-110029

Appellant.

Versus

1. Mrs. Madhu Mehta W/o Vijay Kumar Mehta

2. Mr. Vijay Kumar Mehta S/o Sh. Lado Ram Mehta

Both R/o Satish Colony, Street No. 2, Near Blue Bird School,
Fatehabad-125050

Respondents

(3) CM No. 765 of 2025 in/and
Appeal No. 22 of 2025

M/s Alpha Corp. Development Private Limited, 602, 6th Floor, Tower J,
World Trade Centre, Ring Road, Nauroji Nagar, New Delhi-110029

Appellant.

Versus

1. Mrs. Anamika Agarwal W/o Manoj Agarwal

2. Mr. Manoj Agarwal S/o Sh. Manohar Agarwal

Both R/o H. NO. 134A, Street No. 3, Near G. T. Road, Jagriwan Pura,
Fatehabad-125050

Respondents

Present: Mr. Alok Jain, Advocate for the appellant.

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)

ORDER:

RAJAN GUPTA, CHAIRMAN

This order shall dispose of above-mentioned appeals, as common question of law and facts is involved therein. However, the facts have been extracted from Appeal No. 20 of 2025.

2. Present appeal is directed against the order dated 11.10.2023 passed by the Authority¹. The operative part thereof reads as under:

“48. Hence, the Authority hereby passes and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- i. Complainants are directed to accept the offer of possession issued by the respondent on 09.01.2019 and take physical possession of the booked units from the respondent.*
- ii. Respondent is directed to pay upfront delay interest as calculated in para 45 of the order to the complainants towards delay already caused in handing over the possession within 90 days from the date of uploading of the order.*

¹ Haryana Real Estate Regulatory Authority, Panchkula

- iii. Respondent is directed to quash holding charges as same cannot be charged along with maintenance charges.*
- iv. Respondent is directed to get conveyance deed of plots of the complainants executed within 90 days of actual handover of possession of plot. In case, any amount is due on account of stamp charges, then respondent shall inform the same alongwith letter of actual handing over of possession.*
- v. The rate of interest chargeable from the allottees by the promoter in case of default shall be charged at the prescribed rate i.e. 10.75 by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay to the allottees.*
- vi. The respondent shall not charge anything from the complainant which is not a part of agreement to sell.”*

3. It appears that a project, namely, “Alpha International City”, Fatehabad was floated by the appellant-promoter, in which a plot was booked by Mr. Sunil Kumar (original allottee). Plot Buyer’s Agreement dated 29.01.2009 was executed between the promoter and the original allottee. Thereafter, the said plot was transferred in the names of present respondents vide endorsement dated 19.03.2012, The respondents paid the entire sale consideration. As per agreement, promoter was supposed to deliver possession of the plot within 18 months from the date of commencement of development work along with grace period of 90 days, subject to obtaining necessary approvals from the authorities. As there was delay in handing over possession, the respondents approached the Authority seeking actual physical possession along with delayed possession charges.

4. The promoter resisted the claim of the allottee by pleading that the project was complete for intents and purposes in the year 2011 and thus, not amenable to the jurisdiction of the Authority.

5. The Authority, *vide* impugned order, disposed of the complaint by issuing directions, as referred to above.

6. Aggrieved, the promoter has filed the present appeal.

7. Along with appeal, application (CM No. 145 of 2025 has been filed seeking exemption from making pre-deposit in terms of proviso to Section 43(5) of the Act².

8. Counsel for the promoter contended made two-fold submissions -firstly, the project in question does not fall within the purview of the Act and the Rules and secondly, the promoter is entitled to Holding Charges.

9. From the scheme of the Act, it is apparent that its application is retroactive in character and it can safely be observed that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. At the same time, it will apply to on-going projects and future projects registered under Section 3 of the Act. (*See M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P, 2022(1) RCR (Civil) 367*).

10. As regards the Holding Charges, the issue is no longer *res-integra* in view of the judgment of Hon'ble Supreme Court in Civil Appeal Nos. 3864-3889 of 2020—***DLF Homes Developers Ltd. (Earlier known as DLF Universal Ltd.) and another v. Capital Greens Flor Buyers Association etc. etc.***, wherein it was held that the builder is not entitled to levy holding charges.

11. As regards the plea of the appellant that it is not required to make any pre-deposit, the project being pre-RERA, is devoid of any merit in view of the findings given in foregoing paragraphs. Besides,

² The Real Estate (Regulation and Development) Act, 2016

there is no provision in the Act whereunder mandatory provision of pre-deposit can be exempted or waived off.

12. The application for exemption from making pre-deposit is accordingly dismissed. The appeal would thus, meet the same fate. The same needs to be dismissed. Ordered accordingly.

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

14. Files be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

September 01, 2025
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