

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.678 of 2023

Date of Decision:27.08.2025

Neha Gupta, House No. 864-P, Near IFFCO Chowk, Sector 17-B,
Gurugram – 122 001.

Appellant-Allottee

Versus

M/s Prompt Engineering Private Limited, Office at Cabin-1, LGF-F22, Sushant Shopping Arcade, Sushant Lok Phase-1, Gurugram – 122 001.

Respondent-promoter

CORAM:

**Justice Rajan Gupta
Shri Rakesh Manocha**

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

Present: Mr.Ashok Kumar Jindal, Advocate,
for the appellant.

Mr. Aman Arora, Advocate
for the respondent.

O R D E R:

RAJAN GUPTA, CHAIRMAN :

Present appeal is directed against order dated 23.08.2023
passed by the Authority¹, operative part whereof reads as under :

“ 14. Keeping in view the aforesaid factual and legal provisions, the respondent can deduct the amount paid by the complainant against the allotted unit as the as it is both the earnest money and 10% of the consideration amount. So, the same was liable to be forfeited in terms of Regulations 11(5) of 2018. However, the amount paid by the complainant i.e. Rs18,50,000/- constitutes to only 5.57% of the sale consideration of Rs.3,31,89,331/-. Thus, no direction to this effect.

¹Haryana Real Estate Regulatory Authority, Gurugram

G. Directions of the Authority :

15. Hence, in view of the findings recorded by the authority on the aforesaid issues, cancellation is held valid and no case of refund of the paid-up amount with interest is made out. Hence, the complainant is liable to be dismissed being devoid of merits.

16. Complaint stands disposed of.

17. File be consigned to the registry.”

2. It was pleaded by the appellant/allottee that representatives of respondent-promoter projected to her regarding its upcoming project named “M3M Corner Walk” at Sector 74, Gurugram, Haryana and assured that if investment is made in the project, it will be of double benefit to the appellant-allottee, as firstly, the market price will increase and secondly, it is offering 18% per annum assured return for 9 years on the investment made by the appellant-allottee. Appellant-Allottee asked the respondent promotor for discount as she did not want assured return. After mutual discussion, 50% discount was granted by the respondent-promotor and thus one food court on second floor of the project having approx. area of 4338 square feet at the rate of Rs.3975/- per square feet was booked on payment of booking amount to the respondent-promotor. One blank booking form was got signed from the appellant-allottee on the assurance that the final draft copy will be shared once the same is filled by CRM office of the respondent-promoter. On 11.06.2022 appellant-allottee received one e-mail from the office of respondent-promotor giving information regarding booking of one unit no. R-4 201, but without any detail of area, rate etc. Appellant-allottee vide e-mail dated 14.06.2022 requested the respondent-promotor to give details of area, rate etc. No confirmation

was given by the respondent promotor to the said e-mail except another mail dated 29.06.2022 stating to close booking formalities on or before 14.07.2022. Thereafter vide subsequent e-mails, appellant-allottee raised several issues/clarifications. She almost everyday had a word with representatives of the respondent-promotor and on their demand to deposit the money believing the promises made by them, she further deposited amount in their account. After making total payment of Rs. 18.50 lakhs, she stopped making further payment as she did not receive any clarification on the issues raised by her. However, she kept on sending mails to them. On 17.07.2022, she received cost sheet of the unit R-4 201 for the first time, wherein respondent-promotor mentioned super area approx. 4338.50 square feet at the rate of Rs.7950/- per square feet costing Rs. 3,44,91,393/-. On 19.07.2022, appellant-allottee asked the respondent-promotor to rectify the mistake as the rate decided was Rs. 3975/- and not Rs. 7950/- per square feet. However, the queries of appellant-allottee were not answered. On 02.08.2022, respondent -promotor sent an allotment letter mentioning carpet area as 1374 square feet and super area as 4338 square feet. As per her, this shows that intention of respondent-promotor was to cheat appellant-allottee from the very beginning. Thereafter respondent-promotor started demanding Rs.3,44,91,393/- and illegally cancelled the allotment vide letter dated 01.09.2022. Thereafter, appellant-allottee filed instant complaint seeking revocation of cancellation and possession of allotted unit, alternatively, refund of paid amount.

3. The complaint was contested by the respondent-promoter by alleging that a unit bearing No. R-4 201 was allotted to the appellant-allottee for a total sale consideration of Rs.3,31,89,831/- plus other charges vide allotment letter dated 02.08.2022.

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Respondent-promoter sent buyer's agreement for due execution to the appellant-allottee along with letter dated 03.08.2022, but she did not execute the same. Further, appellant-allottee committed default in making payment of the outstanding amount as per the payment plan. So, a pre-cancellation letter dated 17.08.2022 requesting her to comply with her obligations and execute buyer's agreement and make payment as per the payment plan was issued. However, she failed to act and comply with her contractual obligations. The allotment of the appellant-allottee was terminated vide letter dated 01.09.2022 as she made a part payment of Rs.18,50,000/- only against the total sale consideration of Rs.3,31,89,831/- plus other charges. Respondent-promoter completed the construction of the project and received Occupation Certificate on 31.08.2021. Appellant-allottee did not adhere to the terms of the contract and committed breach of the agreement, so respondent-promoter is entitled to cancel the allotment and forfeit the booking amount. With these averments, respondent-promoter pleaded for dismissal of the complaint.

4. The learned Authority, after considering the rival contentions, dismissed the complaint and passed the impugned order, operative part whereof has been reproduced in para 1 of this order.

5. Feeling aggrieved, appellant-allottee filed the present appeal stating that she booked a commercial unit in a project launched by the respondent-promoter by depositing Rs.18,50,000/- on the offer of Rs.3975/- per sq. feet for an area of 4338 sq. feet, totalling Rs.1,72,43,550/- instead of Rs.7950/- per sq.feet i.e. at a discount of 50% on the total price of Rs.3,44,87,100/-. The discount was granted as the appellant-allottee decided to forego the benefit of

assured return @ 18% per annum for nine years. However, the respondent-promoter illegally forfeited the amount of Rs.18,50,000/- by cancelling the allotment on the basis of a blank booking application form, which neither contained area nor the price details etc. A unilateral and one-sided allotment letter was created by the respondent-promoter after many months of receiving amount of Rs.18,50,000/- with the sole motive to usurp the said amount. Learned Authority, by wrongly relying upon the application form and such one-sided allotment letter, dismissed the complaint without realising that the fault lay with the respondent-promoter and not the appellant-allottee, who was always ready to pay the amount of Rs.1,72,43,550/-. A number of e-mails were sent by the appellant-allottee requesting the respondent-promoter for clarification regarding area and price of the unit and for sending the draft buyer's agreement. However, respondent-promoter did not answer such e-mails and on the other hand, illegally cancelled the allotment and forfeited the amount.

6. On the other hand, learned counsel for the respondent-promoter has argued that the appellant-allottee booked a unit measuring 4338 sq. feet @ Rs.7950/- per sq. feet for a total price of Rs.3,44,87,100/- and paid Rs.10,00,000/- as booking amount. No discount allegedly of 50% of the total price was ever granted to the appellant-allottee. She did not pay the balance amount as per payment plan, resulting in cancellation of the unit. However, on her request, the unit was revived. She paid Rs.8,50,000/- more, totalling Rs.18,50,000/-, but despite repeated messages and e-mails, she did not pay the balance amount. Pre-cancellation notice dated 17.08.2022 was issued to her followed by cancellation letter dated 01.09.2022. Frivolous pleas of the application form having blanks or

the allotment letter being unilateral or one-sided and also of discount of 50% were raised by the appellant-allottee just to wriggle out of the bargain and to get back the amount of Rs.18,50,000/-. As she failed to fulfil her part of the contract by not paying the balance amount, so the respondent-promoter was well within its right to cancel the allotment and to forfeit the amount. Order of the learned Authority is legal and valid. He has finally argued for dismissal of the appeal.

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

8. Indisputably a commercial unit in the project launched by respondent-promotor was booked in the name of appellant-allottee and booking amount of Rs. 18.50 lakhs was paid. The main dispute between the parties is that whether discount of 50% was granted to the appellant-allottee or not by the respondent-promotor in the price of the said unit. A perusal of the application form for booking of the unit and also of the allotment letter shows that the columns of area and price are blank. So, appellant -allottee was very much justified in asking the respondent-promotor to clarify the same. Mails dated 09.07.2022, 11.07.2022, 13.07.2022 and 14.07.2022 show that the appellant-allottee has been agitating this point and asking the respondent-promotor to clarify queries regarding area, final price and final draft of allotment letter as per the agreed rate of Rs.3975/- per square feet, but to no effect. On the other hand, respondent-promotor sent cost sheet for the first time, vide e-mail dated 17.07.2022 claiming the price of the booked unit to be @ Rs.7950/- per square feet and the area being 4338.50 square feet and the total price being Rs. 3,44,87,100/-. In response, appellant-allottee again sent email dated 19.07.2022 apprising the respondent-promoter of

discount of 50% having been granted in lieu of her foregoing the assured returns and for sending amended cost sheet accordingly. Respondent-promotor did not respond to the same, rather sent allotment letter dated 02.08.2022 and thereafter sent buyer's agreement on 06.08.2022 asking the appellant-allottee to execute the same.

9. From the aforementioned correspondence between the parties, it is evident that there were deliberations between the appellant-allottee and respondent-promotor for grant of 50% concession as the appellant-allottee had agreed to forego periodical payment of assured returns. It was thus not unreasonable for the appellant-allottee to expect that concession, as promised to her, would be granted. Email dated 09.07.2022 written by the appellant-allottee to the respondent-promotor gives an indication to this effect. Merely sending reminders to the allottee would not serve any purpose.

10. It cannot be lost sight of that an allottee may book a unit by remitting all his savings to the promoter. If entire amount is forfeited without any cogent reason, the allottee would not only be deprived of the unit, but his hard money as well. In case, a promoter, who is always in a dominant position, resorts to any illegal method for forfeiture of the booking amount, the Authorities under the special enactment are expected to come to his rescue. In the instant case, all pleas of the allottee have been ignored. Thus, the order forfeiting the amount remitted by her needs to be set aside.

11. No other point was argued before us by the learned counsel for the parties.

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12. Keeping in view the aforesaid discussion, the present appeal is allowed and the impugned order dated 23.08.2023 passed by the Authority, Gurugram is hereby set aside. It is ordered that the respondent-promoter will refund the entire paid-up amount of Rs.18,50,000/- to the appellant/allottee along with interest @ 9 % per annum from the date of cancellation (01.09.2022) till realization.

13. No order as to cost.

14. Copy of this judgment be communicated to both the parties/their counsel and the Authority, Gurugram.

15. File be consigned to records.

Rajan Gupta
Chairman
Haryana Real Estate Appellate Authority

Rakesh Manocha
Member (Technical)
(joined through VC)

August 27,2025
Deepak Gera/mk