

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.70 of 2023 (O&M)

Date of Decision: 30.10.2025

M/s Nani Resorts and Floriculture Pvt. Ltd., Regd. office: M-18, Greater Kailash Part 2 New Delhi-110048

...Appellant

Versus

1. Tshering Lamu Bhutia;

2. Tshering Bhutia

Both residents of House No.D-6, 6007/1, Vasant Kunj, South West, Delhi-110070.

3. Haryana Real Estate Regulatory Authority, Gurugram, office at Near PWD Guest House, Civil Lines, Gurugram, Haryana 122001.

Respondents

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad
Shri Dinesh Singh Chauhan**

**Chairman
Member (Judicial)
Member (Technical)**

Present: Mr. Shubnit Hans, Advocate and
Mr. Anjanpreet Singh, Advocate
Mr. Jaspreet Singh, Advocate,
for the appellant.

Mr. Kunal Thapa, Advocate,
for the respondents-allottees.

:O R D E R:

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against order dated 25.08.2022 passed by the Authority¹. Operative part thereof reads as under:

“34. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:

i) The respondent-promoter is directed to refund the amount after deducting 10% of the sale consideration of the unit being earnest money as per

¹ Haryana Real Estate Regulatory Authority, Gurugram

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regulation Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 2018 along with an interest @ 10% p.a. on the refundable amount, from the date of filing of the complaint which shall be treated as the date of surrender i.e. 20.08.2021 till the date of realization of payment after adjusting the amount received by complainants if any by way of assured returns.

ii) A period of 90 days is given to the respondent-builder to comply with the directions given in this order and failing which legal consequences would follow.

35. Complaint stands disposed of.

36. File be consigned to the registry.”

2. Appellant has posed a challenge to the said order primarily on the ground that interest @ 10% has been granted by the Authority on the refundable amount from the date of filing of the complaint (20.08.2021) till realization of the payment. As per Mr. Hans, facts of the case would show that the project of the promoter was granted OC² on 01.08.2019 and it offered possession to the allottees on the same date. As per him, default is on part of the allottees. The Authority erred in granting interest from the date of filing of the complaint till realization. As per him, this would put heavy liability on the promoter, who could not be blamed in any manner.

3. Mr. Thapa, on the other hand, submits that it needs to be taken into consideration that the respondent-promoter has already been permitted to deduct 10% of the sale consideration from the refundable amount. As per him, this sufficiently looks after the concerns of the promoter.

4. During the course of hearing, reference has also been made to the judgment dated 03.02.2025 passed by the Hon'ble

² Occupation Certificate

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Supreme Court in Civil Appeal No.3334 of 2023 titled as “*Godrej Projects Development Ltd. v. Anil Karlekar and others*”.

5. Mr. Hans submits that though said judgment emanates from the order passed by the NCDRC³, the principles of the same need to be followed.

6. In light of same, a query has been put to Mr. Thapa whether the allottees would be satisfied if instead of the date of filing of the complaint, interest is granted from the date of order. He submits that the allottees would be satisfied if the legal recourse is adopted.

7. As both counsel are agreed to this proposition, the appeal is hereby disposed of. Order passed by the Authority is modified to the extent that interest @10% shall be payable from the date of the order passed by the Authority till realization. Rest of the order shall remain intact.

8. In light of above, pre-deposit made by the appellant-promoter in terms of proviso to Section 43(5) of the RERA Act⁴ along with interest accrued thereon be remitted to the Authority to be disbursed to the parties as per their entitlement. Needless to observe tax liability, if any, would apply.

9. Copy of this order be forwarded to the parties, their counsel and the Authority at Gurugram.

10. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

30.10.2025
Manoj Rana

³ National Consumer Disputes Redressal Commission

⁴ Real Estate (Regulation and Development) Act, 2016