



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2542 of 2023
Date of filing.:	06.12.2023
First date of hearing.:	20.02.2024
Date of decision.:	04.11.2025

Mr. Ved Prakash Nain S/o Sh. Dariya Singh
R/o H.no 305/29, Sector 4,
Rohtak 124001
through power of attorney holder
Sh. Jitender Bhardwaj S/o Sh. R.K Bhardwaj
R/o H.no 1075 Sector 3,
Rohtak 124001

....COMPLAINANT

VERSUS

M/s Parsvnath Developers Ltd through its Chairman
Parsvnath Tower, Near Shahdara Metro Station,
Shahdara,
Delhi-110032

....RESPONDENT

CORAM: **Dr. Geeta Rathee Singh** **Member**

Present: - Mr. Sushil Malhotra, Learned Counsel for the complainant
 through VC
 Ms. Neetu Singh, Learned Counsel for the respondent
 through VC

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Present complaint has been filed by complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the project, details of sale consideration, amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project.	"Parsvnath City" Rohtak, Haryana
2.	Nature of the project.	Residential
3.	RERA Registered/not registered	Unregistered
4.	Details of the unit.	Plot no. D-146 (originally allotted D-167)
5.	Date of booking	08.12.2009



6.	Date of allotment (Plot no. D-167)	21.03.2012
6.	Date of plot buyer agreement	None
7.	Due date of possession	Not available
8.	Basic sale consideration	₹5,37,750/-
9.	Amount paid by complainant	₹11,52,936/- (as per customer ledger dated 31.05.2020)
10.	Offer of possession.	14.07.2020

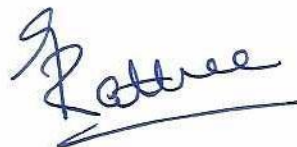
**B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT
AS STATED IN THE COMPLAINT**

3. Captioned complaint pertains to a plot booked by in the respondent company namely 'Parsvnath City' situated at Rohtak on 08.12.2009. At the time of booking, the complainant was initially allotted plot bearing no. D-167 admeasuring 239 sq yds. vide allotment letter dated 21.03.2012. However, later the allotment of the complainant was shifted from D-167 to D-146 of the same project.
4. At the time of booking, the complainant was promised that the possession of the plot would be delivered within a period of two years. The complainant regularly made payments to the respondent in lieu of booked plot. By 2012, the complainant had made a total payment of



₹11,52,936/- which is almost 90% of the total sale consideration of the plot in question.

5. The complainant religiously pursued the respondent seeking possession of the plot, however, the respondent time and again delayed the delivery of possession for one reason or another. Ultimately, an offer of possession was issued to the complainant on 14.07.2020 along detailed statement of accounts. However, this offer of possession had been issued without developing the basic amenities like water and electricity. Further vide said statement of account, the respondent had raised illegal demands on account of GST charges, Interest Free Security Deposit, maintenance charges and Professional and Incidental charges.
6. It has been submitted that complainants have been associated with project since 2009 and are the bona-fide buyers, end users having only the objective to construct their dream home and have been since regularly requesting the respondent possession of the plot for which complainants are ready to pay the balance sale consideration.
7. The conduct on the part of respondent regarding delay in delivery of possession of the said plot has clearly manifested that respondent never had any intention to deliver the said plot within stipulated time. All the promises made by the respondent at the time of sale of the involved plot were false. The respondent had made all those false, fake, wrongful and fraudulent promises just to induce the complainants to buy the said plot on the basis of



its false and frivolous promises, which the respondent never intended to fulfill. Respondent had falsely claimed delivery of possession within 2 years and resorted to all kinds of unfair trade practices while transacting with the complainant but possession of the plot has not been offered till date. Hence, present complaint has been filed

C. RELIEF SOUGHT

8. In view of the facts mentioned above, the complainants pray for the following reliefs):-

- i. Direction to respondent to deliver possession of plot bearing No. D-167 to complainant after developing the project as per agreement.
- ii. Pass an order to direct the respondent to pay interest on account of delay in offering possession on the paid-up amount from the date of booking till the date of delivery of possession supported with completion/part completion certificate.
- iii. To quash balance/final accounts statement.
- iv. Authority may pass any order in favour of the complainant in the interest of justice looking into facts and circumstances of case with in four corners of pleadings.

9. During hearing, ld. counsel for the complainant was enquired whether the complainant wishes to accept the possession without part completion certificate. In response, complainant's counsel submitted that the



complainant is ready to wait for receipt of part completion certificate and thereafter take possession of the plot in question. He further submitted that the complainant has paid a total amount of 11,52,936/-, receipt of which is annexed at page 20 and 21 of the complaint file.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed detailed reply on 15.02.2024 pleading therein:.

10. Firstly, the present complaint is barred by limitation and thus this Authority does not have jurisdiction to entertain a time barred complaint.
11. On 21.03.2012, Mr Ved Prakash Nain was allotted plot No. D-167 admeasuring 239 sq. yds in the project namely "Parsvnath City", Rohtak provisionally. Thereafter on 06.12.2012 and 11.12.2012, respondent company had sent letters to the complainant along with two copies of allotment letter/plot buyer agreement containing various details/specifications of the unit to the complainant. However, the complainant neither responded to the letter sent by the respondent, nor did he return the documents.
12. The complainant has paid an amount of ₹ 11,52,936/- for a plot of 239 sq. yds. That the plot no. D-167 having area ad-measuring 239 square yards was changed with the plot no. D-146 having area ad-measuring 239.20 square yards due to revised lay-out plan & demarcation & zoning plan from the



competent authority. There is a very slight change in area ad-measuring of 0.20 square yards in previous area. Further there is no change in the location of the plot. In any case, the complainant is at liberty to surrender the allotment in case the location is not acceptable to him

13. It is submitted that in chronological order the Land Acquisition process was initiated on 13.02.2008 with the issuance of notification under Section 4 of the Land Acquisition Act, 1894. The land owning Company filed objections under Section 5A and without opportunity of hearing; declaration under Section 6 was issued on 13.12.2008. The land was acquired vide two separate Awards dated 13.07.2009 and 17.08.2009. The Government of Haryana has a land release policy dated 22.10.2007 and the Respondent-Promoter/Land owning Companies were expecting release of land under the said Policy.

14. Thereafter, the respondent-promoter had applied for grant of license to develop land measuring 118.188 acres in Sector 33 & 33A, Rohtak vide application dated 22.06.2006 and 07.05.2007. These applications were accepted on 07.05.200 with the grant of License No. 36 of 2010. The said license was valid up to 06.05.2014. Then on 24.01.2011, the Department of Town & Country Planning, Haryana issued a show cause notice/provided opportunity of hearing before De-licensing of land measuring 14.15 acres. Thereafter, the Civil Writ Petition No. 6196 of 2012 filed by the Landowning Companies/respondent-promoter was dismissed on the ground



of delay and latches. The respondent-promoter made representation to the Director General, Town & Country Planning, Haryana and Haryana State Industrial Infrastructure Development Corporation. Accordingly on 31.10.2014, the Department of Town & Country Planning was pleased to De-license the area measuring 14.15 acres out of the total licensed area measuring 118.188 acres.

15. On 08.01.2015, the respondent-promoter submitted a revised Layout Plan for land measuring 104.038 Acres and on 07.10.2015, 29.09.2019, the respondent applied for the renewal of the license. It is submitted that on 19.06.2018, with the intervention of this Hon'ble Authority, the pending applications submitted by the respondent-promoter for approval of the revised layout plan and renewal of license was considered by the department and accordingly, on 23.12.2019 a revised layout plan for residential plotted colony measuring 104..038 acres was sanctioned followed by approval of zoning plan dated 28.02.2020 and approval of demarcation plan dated 17.03.2020.

16. On 22.03.2020, due to outbreak of COVID-19, nationwide lockdown imposed by the Government of India and thereafter, on 30.06.2020 upon ease of COVID restrictions, process of possession of the plots was initiated and as on date, possession process is complete.

17. It is further submitted that the complainant was offered possession of the plot bearing no. D-167 on 14.07.2020 along with detailed statement of

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accounts. Thereafter on 03.11.2020, the respondent had sent a reminder letter vide reference no. PDL/D/146/Rohtak/2074 dated 03.11.2020 for making balance payment & getting No Dues Certificate (NDC) for further process. But, the complainant had never come forward for the same. Further, it is respectfully submitted that the offer of possession had already been offered to the complainant on 14.07.2020, it is now the complainant who has not been accepting the offer of possession and causing more delay in delivery of possession. It is respectfully submitted from this Hon'ble Authority to direct the complainant to take offer of possession; NDC & proceed for conveyance deed/ sale deed of the above mentioned plot. A Copy of the letter dated 03.11.2020, is annexed herewith as Annexure R-6.

18.The respondent has not charged any escalated cost of the plot from the complainant. He has been offered possession of the plot @ Rs. 2250/- per sq. yard for basic selling price, whereas, the present market value of the same plot in the Rohtak City is Rs. 35,000-40,000 per sq. yard excluding EDC & IDC. Therefore, this additional factor actually obviates the need and necessity to claim any delay possession interest/compensation for the alleged delay.

19.That in view of the abovementioned facts, it is pertinent to state that the relief (s) sought by the complainant are neither tenable nor maintainable before this Authority.

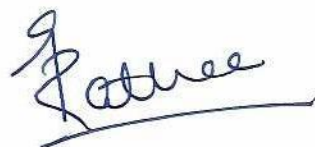


E. ISSUES FOR ADJUDICATION

20. Whether the complainant is entitled to possession of the plot in question along with interest in terms of Section 18 of Act of 2016?

F. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

21. In light of the background of the matter as captured in this order and also the arguments rendered by both parties, Authority observes that the respondent in the present complaint has raised a preliminary objection with respect to present complaint being barred by limitation. In this regard it is observed that since, the promoter has till date failed to fulfil its obligations to hand over the possession of plot in question bearing no. D-146 in its project, the cause of action is recurring and the ground that complaint is barred by limitation stands rejected. Further reference in this regard is made to the judgement of Apex court Civil Appeal no. 4367 of 2004 titled as M.P Steel Corporation v/s Commissioner of Central Excise wherein it is observed that the Indian Limitation Act applies only to courts and does not apply to quasi-judicial bodies. The scope of the various articles in this division cannot be held to have been so enlarged as to include within them applications to bodies other than courts, such as a quasi judicial tribunal, or even an executive authority. RERA is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the limitation Act 1963 thus would not be applicable to



the proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority set up under that Act being quasi-judicial and not Courts.

22. As per facts and circumstances, a plot had been booked by the complainant in an upcoming project of the respondent company namely 'Parsvnath City' situated at Rohtak. Complainant was provisionally allotted plot bearing No. D-167, area admeasuring 239 sq. yds vide allotment letter dated 21.03.2012. However, later the allotment of the complainant was to D-167 ad-measuring 239.20 square yards due to revised lay-out plan & demarcation & zoning plan from the competent authority. The basic selling price of the unit was fixed as ₹5,37,750/-. Complainant has made a total payment of ₹ 11,52,936/- to the respondent in lieu of the booked plot. An offer of possession had been issued to the complainant in respect of the plot D-167, however, the said offer of possession had been issued without completion of developmental works and without receipt of completion/part completion certificate. The main grievance of the complainant is that the respondent has miserably failed to complete construction of the project and deliver a valid possession of the plot even after a lapse of 15 years from the date of booking.

23. The plot in question had been booked by the complainant in the year 2009. No plot buyer agreement was executed between the parties in respect of the plot in question. In the absence of a plot buyer agreement

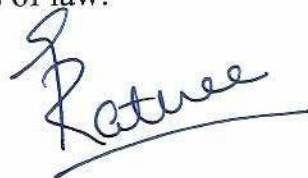


no terms have been crystallised between the parties with respect to delivery of possession, thus, it cannot be rightly ascertained as to when the possession should have been delivered to the complainant. In these circumstances, reliance is placed upon the observation of Hon'ble Apex Court in 2018 STPL 4215 SC titled as **M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr.** in which it has been observed that period of 3 years is a reasonable period of time to deliver possession of a unit in cases where there is no fixed deemed date of possession. In captioned complaint, the plot had been allotted on 21.03.2012. Therefore, a period of three years from the said date works out to 21.03.2015, meaning thereby that the respondent should have delivered possession of the plot to the complainant by 21.03.2015.

24. As per observations in the preceding paragraph possession of the plot in question should have been delivered to the complainant by 21.03.2015. However, the respondent had failed to deliver the possession of the plot within a time bound manner. An offer of possession had been issued to the complainant on 14.07.2020. This offer of possession was unacceptable to the complainant since the respondent had failed to complete the development works at the site of the project and also the respondent had raised illegal demands on account of GST charges, IFMS, maintenance charges and professional and incidental charges which were not payable by the complainant.


Page 12 of 20

With respect to the offer of possession dated 14.07.2020, it is observed that the said offer of possession had been issued to the complainant without receipt of completion/ part completion certificate. The respondent was obligated to complete the development works in a time bound manner however, as per respondent's own admission, the respondent is yet to receive part completion/ completion certificate in respect of the project in question. Rather, the respondent has itself submitted that the revised layout plan for the residential plotted colony was sanctioned vide application dated 23.12.2019 and only thereafter the zoning plan got approved on 28.02.2020 and approval of demarcation plan dated 17.03.2020. The respondent has failed to apprise with regard to any application/receipt of part completion/completion certificate qua the project in question. Further, the respondent has failed to prove that at the time when the offer of possession had been issued to the complainant the development works at the site of the project had been duly completed. Thus, in light of these facts, it can rightly be observed that at the time when the alleged offer of possession dated 14.07.2020 had been issued to the complainant, the project was not ready for delivery of possession. The respondent could not have issued an offer of possession to the complainant. Therefore, the offer of possession dated 14.07.2020 was premature and bad in the eyes of law.



25. Now with regard to the contention of the complainant with respect to illegal demands raised on account of GST charges, Interest Free Security Deposit, maintenance charges and Professional and Incidental charges, it is observed as follows:

- a. GST Charges: With regard to the demand raised by the respondent on account of GST, Authority is of the view that the deemed date of possession in this case works out to 21.03.2015 and charges/taxes applicable on said date are payable by the complainant. Fact herein is that GST came into force on 01.07.2017, i.e. post deemed date of possession. The delay caused in delivery of possession has already been attributed on the part of the respondent's. In case the respondent had timely completed the construction of the project, then the GST charges would not have come into force. Therefore, the complainant is not liable to pay GST charges.
- b. Maintenance charges: Complainant has raised an objection that respondent is charging maintenance charges without handing over actual possession. In this regard, maintenance charges will become payable only after taking over possession of physical possession of the unit.
- c. Interest Free Security Deposit: The Authority vide order dated 01.04.2021 in Complaint No. 464 of 2019 titled



Kanwar Singh vs Mudra Finance Ltd. has laid down certain principles in regard to IFMS, according to which IFMS is a non-refundable interest free security contributed by the allottees for carrying out capital works in future. Thus, IFMS money is payable by the complainant. However, the said amount can only be charged by the respondent at the time of a valid offer of possession.

- d. Professional and Incidental charges: With regard to the amount charged on account of Professional and Incidental charges, it is observed that these charges have been raised by the respondent towards registration of plots. Now as per the terms of allotment letter dated 21.03.2012 (Note, page 2, point 4), the complainant was liable to pay the registration fees to the respondent. Since, these charges have been raised towards registration of plots. Hence, the same are payable by the complainant at the appropriate stage.

26. The facts set out in the preceding paragraph demonstrate that, admittedly, the delivery of possession of the booked plot has been delayed beyond the stipulated period of time. As per para 23 of this order, respondent should have delivered possession of the plot by 21.03.2015. However, the respondent failed to construct the project and deliver possession of the booked plot. An offer of possession was issued to the complainant on

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14.07.2020. However, the said offer of possession was without receipt of completion/part completion certificate. Even at present, the respondent is yet to receive the same for the project in question. Admittedly there has been an inordinate delay in delivery of possession but the complainant wishes to continue with the project and is ready to wait for receipt of part completion certificate and thereafter take possession of the plot in question. In these circumstances, provisions of Section 18 of the Act clearly come into play by virtue of which while exercising the option of taking possession of the booked floor, the complainant is also entitled to receive interest from the respondent on account of delay caused in delivery of possession for the entire period of delay till a valid offer of possession is issued to the complainant. So, the Authority hereby concludes that the complainant is entitled to receive delay interest for the delay caused in delivery of possession from the deemed date of possession i.e 21.03.2015 till the date of issuance of a valid offer of possession after receipt of part completion/completion certificate. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. Section 18 of RERA Act, 2016 is reproduced below for reference:

"If the promoter fails to complete or is unable to give possession of an apartment, plot or building,- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the



registration under this Act or for any other reason. He shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed"

Further, the definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.-For the purpose of this clause-

(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest

which is as under:

"Rule 15: "Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4)



and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%:

Provided that in case the State Bank of India marginal cost of lending rate (NCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public"

27. Hence, Authority directs the respondent to pay delay interest to the complainants for the delay caused in delivery of possession on the paid amount along 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 10.85% (8.85% + 2.00%) from the date amounts were paid till the date of valid offer of possession.
28. Authority has got calculated the interest on total paid amount from date of payments till date of order(i.e 04.11.2025) and same is depicted in the table below:

Sr. No.	Principal Amount (in ₹)	Due date of possession/Date of Payment	Interest Accrued till date of order i.e 04.11.2025 (in ₹)
1.	11,52,936/-	21.03.2015	13,30,447 /-
Total:	11,52,936/-		13,30,447 /-
Monthly Interest:	11,52,936/-		10,282/-



F. DIRECTIONS OF THE AUTHORITY

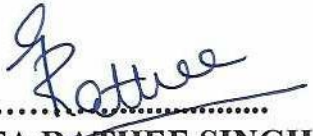
29. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- i. Respondent shall issue a fresh offer of possession to the complainant after receipt of completion/part completion certificate along with detailed statement of accounts of payable and receivable amounts as per the observations recorded in para 25. The respondent shall adjust the component of delay interest admissible to the complainant in the said statement.
- ii. Respondent is directed to pay upfront delay interest of ₹13,30,447 /- (till date of order i.e. 04.11.2025) to the complainant towards delay already caused in handing over the possession within 90 days from the date of this order and further monthly interest @ ₹ 10,282/- till the date of issuing a valid offer of possession as per the terms mentioned in this order.
- iii. Complainant will remain liable to pay balance consideration amount to the respondent at the time of taking over of possession. For any delay in payment complainant shall also be liable to pay interest at equitable rate.



- iv. Respondent shall not charge anything that is not part of the agreement for sale.

30. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.


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DR. GEETA RATHEE SINGH
[MEMBER]