

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.565 of 2022
Date of Decision: 07.11.2025

Emaar India Limited (Formerly known as Emaar MGF Land Limited), 306-308, 3rd Floor, Square One, C-2, District Centre, Saket, New Delhi – 110 017, also at Emaar Business Park, MG Road, Sikanderpur Chowk, Sector 28, Gurugram – 122 002, Haryana, through its Authorized representative Sayantan Mondal.

--Appellant

Versus

Pooja Agarwal, resident of Bellevueaan 185, Haarlem 2012 BX, Netherlands.

---Respondent

CORAM:

Justice Rajan Gupta
Shri Dinesh Singh Chauhan

Chairman
Member (Technical)

Present: Ms. Tanika Goel, Advocate,
for the appellant.

Mr. Arun Sharma, Advocate,
for the respondent.

O R D E R:

Rajan Gupta, Chairman (Oral):

Present appeal is directed against order dated 21.12.2021 passed by the Authority at Gurugram¹. Operative part thereof reads as under :-

“H. Directions of the authority.

40. 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 function entrusted to the authority under section 34(f) :

- i. The respondent is directed to pay the interest at the prescribed rate i.e. 9.30% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e.*

¹ Haryana Real Estate Regulatory Authority, Gurugram

21.08.2012 till 14.05.2018 i.e. expiry of 2 months from the date of offer of possession (14.03.2018). The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order as per rule 16(2) of the rules.

- ii. *The complainant is liable to pay administrative charges as the respondent has charged an amount of Rs. 14,160/- towards administrative charges vide letter of offer of possession dated 14.03.2018 which is less than 15,000/-.*
 - iii. *The respondent shall not charge electrification charges.*
 - iv. *The complainant is liable to pay Rs. 68,220/- towards advance maintenance charges (@ Rs. 3 per sq.ft. + GST @ 18%) for period of 12 months as per letter of offer of possession dated 14.03.2018.*
 - v. *The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement. The respondent is also not entitled to claim holding charges from the complainant/allottee at any point of time even after being part of the buyer's agreement as per law settled by hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.*
41. *Complaint stands disposed of.*
42. *File be consigned to registry."*

2. It appears that Emaar India Limited floated a project in the name and style of 'The Enclave' in Sector 66, Gurugram. The allottee, namely, Pooja Agarwal was allotted a unit measuring 1895 sq. feet in one of the towers in the project. Against total consideration of Rs.69,12,117/-, she paid Rs.63,00,995/-. Due date of possession was 21.08.2012. Occupation Certificate in respect of the project was received on 25.01.2018. However, as possession was not handed over, allottee approached the Authority at Gurugram seeking directions for grant of possession as also

delay possession charges. It is pointed out on behalf of the promoter at this stage that a valid offer of possession was made to the allottee on 14.03.2018 immediately after grant of Occupation Certificate.

3. The Authority, after considering rival contentions, came to the conclusion that allottee was entitled to possession as well as delay compensation @ 9.30% per annum from due date of possession i.e. 21.08.2012 till 14.05.2018 i.e. expiry of two months from the date of offer of possession (14.03.2018).

4. Ms. Tanika Goel has raised a plea that in terms of clause 14(a) of the Buyer's Agreement, appellant-company is entitled to six months' grace period. Said clause is reproduced hereunder for ready reference :-

14. POSSESSION

(a) Time of handing over the Possession

Subject to terms of this clause and the Allottee(s) having complied with all the terms conditions of this Agreement and not being in default under any of the provisions of this Agreement and upon complying with all provisions, formalities, documentation etc. as prescribed by the Developer, the Developer proposes to hand over the possession of the Unit within 24 months from the start of construction. The Allottee(s) agrees and understands that the Developer shall be entitled to a grace period of 6 months, for applying and obtaining the occupation certificate in respect of the Complex.

5. Mr. Sharma does not dispute the existence of the aforesaid clause in the Buyer's Agreement and the fact that the same was signed by the allottee as well.

6. In view of above, we feel that in terms of clause 14(a) of the Buyer's Agreement, the promoter is entitled to six months' grace period. The respondent would, thus, be entitled for interest @ 9.30% from due date of possession i.e. 21.02.2013 (i.e.

21.08.2012 plus six months' grace period) till 14.05.2018. Rest of the directions shall remain intact.

7. Appeal is partly allowed in the aforesaid terms.

8. The Executing Court where the execution proceedings are stated to be pending, shall expedite the same.

9. The amount deposited by the appellant-promoter with this Tribunal as pre-deposit in view of proviso to Section 43(5) of the RERA Act along with interest accrued thereon be remitted to the Authority to be disbursed to the parties as per their entitlement, subject to tax liability, if any, as per law.

10. Copy of this order be communicated to the parties/ their counsel and the Authority below for compliance.

11. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

07.11.2025
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