

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 35 of 2023

Date of Decision: November 12, 2025

1. Rakesh Kapoor
2. Pooja Kapoor
Both residents of B-7/1, DLF Phase-I, Gurugram, Haryana

Appellants.

Versus

M/s Splendor Landbase Limited, Splendor Forum, Plot, Street
No. 3, Near Appolo Hospital, Jasola, New Delhi-110025

CORAM:

Justice Rajan Gupta
Dr. Virender Parshad
Dinesh Singh Chauhan

Chairman
Member (Judicial)
Member (Technical)

Present: Mr. Sandeep Kumar Sharma, Advocate
for the appellants.

Mr. Anjanpreet Singh, Advocate
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated
07.07.2022 passed by the Authority¹. Operative part thereof
reads as under:

“F. Directions of the authority

*19. Hence, the Authority hereby passes this order and
issue 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:*

¹ Haryana Real Estate Regulatory Authority, Gurugram

i. The respondent-promoter is directed to deduct 10% of the sale consideration from the amount deposited by the complainant along with Rs.5,80,556/- already paid to allottee and to return the remaining amount to the complainant.

ii. The abovementioned amount would be paid alongwith interest at the rate of 9.80% p.a. from the date of cancellation i.e. 02.08.2019 till the actual date of refund of that amount.

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

20. Complaint stands disposed of.

21. File be consigned to the Registry.”

2. A project “Splender Epitome” was floated by the respondent-promoter in Sector 62, Gurugram. The appellants were allotted a unit measuring 600 square feet therein. Provisional allotment was made on 10.12.2013. Admittedly, the respondent-promoter never applied for Occupation Certificate till the filing of complaint. The stand of the appellant-complainants is that construction did not commence till 05.10.2016, thus, no further payments were made by them. The respondent-promoter, thus, issued cancellation notice dated 02.08.2019 and refunded an amount of Rs.5,80,556/-. Present complaint was filed by the appellant-allottees seeking complete refund of the amount paid by them.

3. After hearing rival contentions of the parties, the Authority directed the respondent-promoter to refund the amount after deducting 10% of the sale consideration from the amount deposited by the appellant-complainants and also adjust Rs.5,80,556/- already returned by the promoter.

4. Grouse of the appellant-complainants is that the Authority failed to appreciate that the respondent-promoter was unable to commence the construction within the time line provided. Admittedly, it did not apply for Occupation Certificate.

5. We find substance in the plea of the appellant-complainants. A perusal of the impugned order shows that no ground is forthcoming for directing deduction of 10% of the sale consideration for the amount to be refunded to the appellant-complainants. It remains unrebutted that the respondent-promoter had not applied for grant of Occupation Certificate till filing of the complaint. Besides, construction was much behind schedule.

6. Under these circumstances, the impugned order is set aside. The appeal is allowed to the extent that the appellant-complainants would be entitled to full refund of the amount remitted by them to the respondent-promoter from the respective date of payment(s) made by them along with interest @ 9.80% per annum till realization after adjusting an amount of Rs.5,80,556/-, stated to have already been paid to the complainant-allottees. The amount due be paid to the appellant-allottees within 90 days of this order, failing which penal provisions of Section 64 of the Real Estate (Regulation and Development) Act, 2016 will also come into play and the respondent-promoter shall be liable to pay Rs.7,000/- per day as penalty till realisation.

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

8. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

November 12, 2025/mk