

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 587 of 2023

Date of Decision: November 19, 2025

1. Jasbir Singh Vohra s/o Shri Bhagat Singh Vohra, aged about 70 years;

2. Smt. Narendra Kaur w/o Shri Jasbir Singh Vohra, aged about 68 years

Both residents of J-146, First Floor, Vikas Puri, New Delhi

Appellants

Versus

VSR Infratech Pvt. Ltd. through its Director, Registered office: A-22, Hill View Apartment, New Delhi-110057

Respondent

CORAM:

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

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

Present: Mr. Nihul Partap, Advocate for the appellants.
Mr. Aman Arora, Advocate for the respondent.

ORDER:

JUSTICE RAJAN GUPTA, CHAIRMAN

Challenge in the present appeal is to order dated 05.05.2023, passed by the Authority¹. Operative part thereof reads as under:

“49. 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 is directed to refund to the complainants the paid-up amount of

¹ Haryana Real Estate Regulatory Authority, Gurugram

Rs.21,00,087/- after deducting 10% as earnest money of the total sale consideration of Rs.20,25,000/- with interest at the prescribed rate i.e. 10.70% is allowed, from the date of filing of the complaint minus the amount already received by them by way of assured return.

50. Complaint stands disposed of.

51. File be consigned to the Registry.”

2. It appears that a project in the name and style of '68 Avenue', was floated by VSR Infratech Private Limited in Sector 68, Village Badshahpur, Gurugram. Licence for this project was granted by DTCP in January, 2012. The appellants were allotted a commercial unit measuring 225 square feet in the project. Due date of possession of the unit was 27.10.2017. The project was granted Occupation Certificate on 02.08.2019. Offer of possession was made to the appellant-allottees on 19.08.2020. Admittedly, the appellant-allottees sought to withdraw from the project vide legal notice dated 10.09.2020. It is also not disputed that till November, 2017, assured return to the tune of Rs.6,07,500/- was remitted to the appellant-allottees. Being dis-satisfied with the conduct of the promoter, the appellant-allottees approached the Authority and sought a direction to the promoter for refund of the paid-up amount and also to pay the balance assured returns from December, 2017 till offer of possession.

3. The respondent-promoter, however, took a stand that the appellant-allottees sought to withdraw from the project only after the offer of possession had been made to them. Therefore, it does not lie in the mouth of the appellant-allottees to claim entitlement to full refund, and the Authority's direction

allowing deduction of 10% from the refundable amount is justified.

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

5. It is clear that offer of possession was made to the appellant-allottees on 19.08.2020, subsequent to the grant of Occupation Certificate to the respondent-promoter on 02.08.2019. The appellant-allottees sought to withdraw from the project on 10.09.2020. The Authority, after considering rival contentions, came to the conclusion that the appellant-allottees were entitled to refund subject to deduction of 10% of the sale consideration. There is no infirmity with this direction. However, the Authority erred in holding that the amount of assured returns of Rs.6,07,500/- already remitted to the appellant-allottees be adjusted against the refundable amount. This direction cannot be sustained as the grant of assured returns arises from the contractual arrangement between the parties and the respondent-promoter is legally bound to honour such contractual commitments. Clauses in the agreement are considered valid contractual obligations and failure to honour the same, constitutes the breach of contract. The appellant-allottees would have vested right over the assured returns remitted to them; thus, deducting the same from the refundable amount would not be justified. Finding of the Authority to this extent is set aside. Similar is the view taken in ***Appeal No. 509/2020*** titled “***Arvind Kumar Gautam and Dr. Renu Gautam vs. UP Real Estate Regulatory Authority and***

Omaxe India Trade Center Pvt. Ltd.” by The Uttar Pradesh Real Estate Appellate Tribunal.

6. Thus, appellant-allottees are entitled to a refund of paid up amount after deduction of 10% of the sale consideration, along with interest @ 10.70%p.a from the date of filing of complaint till realization. The respondent-promoter shall make the payment within 90 days from the date of uploading of this order, failing which, penal provisions under Section 64 of the Real Estate (Regulation and Development) Act, 2016 will come into play and the respondent-promoter shall be liable to pay Rs.5,000/- per day as penalty till realization.

7. The appeal is partly allowed in above terms.

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

9. 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 19, 2025
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