

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.319 of 2025

Date of Decision: 25.09.2025

Ashok Kumar Soni, C-5, Gulmohar Park, New Delhi – 110 049.

Appellant

Versus

M/s. Tata Housing Development Co. Ltd., Regd. Office : E Block,
Voltas Premises, TB Kadam Road Marg, Chinchkopli, Mumbai – 400
033.

Respondent

CORAM:

**Justice Rajan Gupta
Shri Rakesh Manocha**

**Chairman
Member (Technical)**

Present: Mr. Prashant Kapila, Advocate,
for the appellant.

O R D E R:

RAJAN GUPTA, CHAIRMAN :

Present appeal is directed against order dated 13.01.2025
passed by the Adjudicating Officer of the Authority¹. Operative part
thereof reads as under :

“ 22. Although the complainant has sought compensation on the ground that the promoter/respondent has changed site plan of the project, copy of which was provided to him i.e. complainant. Complainant did not adduce any evidence to prove said fact. Even copy of site plan claimed to have been provided to him by the respondent or the copy of actual site plan are not put on record. The complainant claims that respondent changed main entrance of Tower-II and shifted to revenue road adjoining to private property or the existing road as provided by respondent is passing through some private land i.e. road but no evidence is

¹Haryana Real Estate Regulatory Authority, Gurugram

shown to establish all this. Needless to say that respondent has denied having changed any such site plan.

23. In this way, the complainant has failed to prove his case. Complaint in hand is thus dismissed.

24. As mentioned above, although respondent has requested to initiate proceedings against the complainant for misleading this forum, due to pendency of so many cases, I do not think proper to initiate any such proceedings and to increase burden of litigation upon this forum. Request in this regard is declined.

2. Factual matrix of the case are that the appellant-complainant booked an apartment bearing Unit No. Tower-II-3501 in respondent's project, namely, 'Premanti' situated at Sector 72, Gurugram vide application dated 31.10.2012. Apartment Buyer's agreement dated 16.08.2014 was executed between the parties. Appellant-complainant paid total amount of Rs.2,77,74,702/- for the apartment. Respondent-promoter offered possession of apartment on 28.06.2017. Appellant-complainant came to know under Right to Information Act that Oriental Bank of Commerce has purchased ten flats for their officers of the same area for an amount of Rs. 2.18 crores each i.e. at a lesser rate in comparison to the amount paid by him and respondent-promoter charged Rs. 66 lacs extra from him. Therefore, he filed a complaint bearing No. 1171 of 2018 before the Authority at Gurugram seeking refund of its paid-up amount along with interest. The said complaint was disposed of vide order dated 07.02.2019 granting possession and delay possession charges to the appellant-complainant. Appellant-complainant preferred an appeal against the said order (Appeal No. 490 of 2019). However, the said appeal was dismissed as withdrawn. Appellant-complainant reserved his right to raise the issue regarding compensation before the Adjudicating Officer against the losses suffered by him on account of

non-availability of promised facilities in accordance with terms and conditions of apartment buyer's agreement dated 16.08.2014. Respondent-promoter obtained two occupation certificates i.e. one dated 28.06.2017 and another dated 09.03.2018 but failed to deliver possession of the allotted unit despite having received entire amount for the apartment due to which, appellant-complainant had to live on rent for a period of almost five years from 01.01.2016 to 28.02.2021 by paying an amount of Rs. 30,50,000/- on account of rent due to negligence of the respondent-promoter. The present complaint is being filed seeking compensation for financial loss, mental agony as well as physical loss suffered by the appellant-complainant due to fraudulent acts of the respondent-promoter. Respondent-promoter also resorted to unfair practices of making incorrect, false and misleading statement regarding possession and thereby violated provisions of Section 12 of the Act of 2016. Respondent-promoter has also failed to provide requisite facilities, amenities and services as agreed at the time of booking and violated the provisions of Section 14 of the Act. In view of the facts elaborated above, complainant prayed for compensation.

3. On notice, respondent-promoter appeared and contested the claim of the appellant-complainant by filing a written reply. Per contra, respondent-promoter contended that appellant-complainant, with *mala fide* intention, has concealed the material fact that he had filed a complaint bearing No. 241 of 2021 before this Forum which was dismissed vide order dated 15.09.2021. Appellant-complainant took same pleas in the said complaint which are now being reiterated in the present complaint. The Adjudicating Officer, after hearing both the parties, dismissed the previous complaint being devoid of merit. Appellant-complainant was seeking refund of Rs.66

Appeal No.319 of 2025

lacs along with interest on the ground of difference in sale price for same size of units sold to different allottees and for delay in handing over possession. He was also seeking compensation for change in the site-plan. The Adjudicating Officer, vide order dated 15.09.2021, dismissed the complaint.

4. Respondent-promoter stated that appellant-complainant has already accepted delayed possession charges granted in order dated 07.02.2019. Respondent-promoter has provided all the amenities as per sanctioned plan and revised plan and as agreed under the agreement. Order dated 07.02.2019 in complaint bearing No. 1171 of 2018 has already attained finality and appellant-complainant has accepted compensation of Rs.10,70,855/- which was credited in his account through RTGHS on 20.03.2021. Appellant-complainant filed appeal against order dated 07.02.2019 and thereafter, withdrew the same in order to file purported complaint before the Adjudicating Officer.

5. With these averments, respondent-promoter prayed that complaint be dismissed with exemplary costs and further sought initiation of proceedings against the appellant-complainant for concealment and suppression of material facts and further sought costs to the tune of Rs.1,50,000/-.

6. After hearing both the parties, learned Adjudicating Officer dismissed the complaint and also declined the request of the respondent to initiate proceedings against the appellant-complainant for misleading the Forum.

7. Feeling aggrieved, the appellant-complainant has approached this Tribunal by way of instant appeal.

8. Learned counsel for the appellant-complainant has argued that the impugned order is based on conjectures and surmises and is not legally sustainable. Learned Adjudicating Officer has not properly appreciated the matter and has wrongly dismissed the complaint. Earlier complaints were on separate cause of action. In the present complaint, appellant-complainant sought compensation on account of a number of facts not agitated earlier. Apart from change in the site-plan, material changes were made in the project. Facilities as promised in the apartment buyer agreement were not provided. Due to non-delivery of possession in time, appellant-complainant had to live in rented accommodation for about 5 years. All this caused loss of money and time as well as mental agony, stress and harassment, for which compensation ought to have been granted to the appellant-complainant. All these points have not been considered and adjudicated and complaint has been wrongly dismissed. He has prayed for allowing of the complaint by accepting the appeal.

9. We have considered the submissions and have gone through the record.

10. Indisputably, an earlier complaint bearing No. 1171 of 2018 was filed by the appellant-complainant before RERA Authority, wherein, he sought relief for refund of the amount paid to the respondent-promoter on the grounds of (i) delay in handing over possession of the apartment, (ii) completion certificate not obtained, (iii) play ground being 200 to 300 meters away from Tower No. II and (iv) respondent has sold similar size of apartments to Oriental Bank of Commerce at a lesser rate. The said complaint was decided vide order dated 07.02.2019, whereby, RERA Authority directed the parties to hand over/take over possession of the unit and also

directed the respondent-promoter to pay delayed possession charges to the appellant-complainant at the prescribed rate of interest i.e. 10.75% per annum w.e.f. 02.05.2016 to 28.06.2017 and further directed the respondent-promoter to adjust the payment of delayed possession charges towards dues from the complainant-appellant, if any. The appellant-complainant assailed order dated 07.02.2019 by filing Appeal bearing No. 490 of 2019. However, the said appeal was dismissed as withdrawn by this Tribunal on 13.02.2020. In compliance of order dated 07.02.2019 of the Authority, possession of the apartment was delivered to the appellant-complainant on 05.03.2021 and delayed possession charges were also paid to the appellant-complainant.

11. Thereafter, appellant-complainant preferred another complaint bearing No. 241 of 2021 before the Adjudicating Officer, RERA Authority, Gurugram, claiming that an apartment of same size was sold to Oriental Bank of Commerce for Rs. 2.18 Crores by the respondent-promoter whereas it took Rs.2,77,74,709/- from him. Thus, there was huge difference of Rs.66 lacs between the sale price to different allottees. Appellant-complainant sought refund/payment of Rs.66 lacs being difference in the sale price and also sought compensation on account of material changes having been made in the project and the site-plan and promised facilities having not been provided. Ld. Adjudicating Officer dismissed said complaint vide order dated 15.09.2021. Appellant-complainant assailed the order dated 15.09.2021 before this Tribunal by filing appeal bearing No. 201 of 2022 and same was also dismissed as withdrawn vide order dated 31.03.2023 by this Tribunal.

12. Thereafter, appellant-complainant preferred instant complaint before the Adjudicating Officer again seeking

compensation on account of material changes in the site-plan and project, promised facilities having not been provided, suffering financial loss for living on rent due to non-delivery of possession in time and for mental agony and stress.

13. It is thus noticed that compensation on almost similar grounds was sought in earlier complaint by the appellant-complainant but he remained unsuccessful. Said complaint was dismissed on merits by Id. Adjudicating Officer and appeal preferred was withdrawn by him. He concealed the said fact while filing the present complaint. It is well settled that a party approaching the court must disclose the details of all legal proceedings and litigations either past or present concerning any part of the subject matter of dispute. Suppression of such litigation either by remaining silent or by making misleading statements in the pleadings amounts to practising fraud on the court. Such a party loses right to be heard on merits and can be summarily thrown out at any stage of the proceedings. So only on this ground, present appeal merits dismissal. Once the matter has already been adjudicated upon in the earlier complaint, appellant-complainant cannot raise the same again by filing this fresh complaint and by concealing the earlier complaint. Learned Adjudicating Officer considered the entire claim of the appellant-complainant and rightly dismissed the complaint vide the impugned order, which is legal and valid and does not call for any interference by this Tribunal.

14. In view of the foregoing discussion, the present appeal is dismissed.

15. We are conscious of the fact that we have passed this order without calling upon the respondent-promoter to appear before

Appeal No.319 of 2025

this Tribunal in view of the facts of the case being very clear and further frivolous litigation needs to be avoided.

16. No order as to costs.

17. Copy of this order be sent to the appellant/his counsel and the learned Authority.

18. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

25.09.2025
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