

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Date of Decision: December 19, 2025**

1. Appeal No.566 of 2021

M/s TDI Infrastructure Ltd. Through its authorized signatory having registered office at 10, ShaheedBhagat Singh Marg, New Delhi-110001.

Appellant.

Versus

Nirmala Deviwife of Sh. Karambir resident of VPO.Oldepur, Sonipat, Haryana.

Respondent.

2. Appeal No.197 of 2022

M/s TDI Infrastructure Ltd. Through its authorized signatory having registered office at 10, ShaheedBhagat Singh Marg, New Delhi-110001.

Appellant.

Versus

Sunitawife of Sh. Satish Kumar resident of House No. 61, Type II, MDU Campus, Rohtak, Haryana.

Respondent.

**CORAM:**

**Justice Rajan Gupta  
Dinesh Singh Chauhan**

**Chairman  
Member (Technical)**

**Present:** Mr.Shubhnit Hans, Advocate,for the appellant.  
None for the respondent in both appeals.

**ORDER:**

**RAJAN GUPTA, CHAIRMAN**

This order shall dispose of above-mentioned two appeals, as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 566 of 2021.

2. Present appeal is directed against order dated 27.02.2020 passed by the Authority<sup>1</sup> at Panchkula,whereby Complaint No.566 of

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1. Haryana Real Estate Regulatory Authority, Panchkula

2021 filed by the respondent-allottee was disposed of with the following directions:

*“7. Now, in case the complainant opts for taking immediate possession of unit she will be entitled to receive the net amount of delay compensation after adjustment of receivable and payable which comes to Rs. 96,660/-. The Authority in such case directs the respondent to handover the physical possession of the unit within 30 days of uploading of this order and pay Rs. 96,660/- to the complainant within 90 days of the uploading of this order on the website of the Authority.*

*In case the complainant exercises her option to wait for the delivery of possession till the obtaining of Occupation Certificate by the respondent, she shall be entitled to a further amount of delay compensation which shall continue to accrue in favour of her till the date of grant of Occupation Certificate from the concerned department. In such case, the respondent shall handover the possession of the unit on obtaining Occupation Certificate and shall be bound to pay the total amount of delay compensation accrued in favour of the complainant till grant of Occupation Certificate.*

*Respondent shall also periodically apprise the complainant the status of the application for obtaining Occupation Certificate.*

*Disposed of accordingly. File be consigned to the record room and the order be uploaded on the website of the Authority.”*

3. Factual matrix of the case is that a project in the name and style of “Espania Royale Floors (KRF)”, situated at Sonapat, Haryana was floated by appellant-promoter. The respondent-allottee was allotted unit No. RF-45/Duplex, measuring 1499 sq. ft., pursuant to an allotment dated 11.08.2010 under a construction-linked payment plan. Floor Buyer Agreement was executed between the parties on 12.09.2014. As per the agreement, due date of possession was 12.03.2017. The allottee has admittedly paid Rs.38,15,409/- out of the total sale consideration of Rs. 40,32,514/-.

4. The promoter contended that construction of the project was completed and an application for Occupation Certificate was submitted on 31.03.2017, however, same has not been granted till date. A fit-out possession was offered on 04.04.2019, along with

demands due to increase in super area of the unit from 1499 sq. ft. to 1783.81 sq. ft., which were never paid.

5. On the other hand, stand of the allottee before the Authority was that the fit-out offer was accompanied by illegal and unilateral demands bases on increased area, which imposed an unreasonable financial burden and was issued without her consent.

6. Upon hearing both parties and perusal of the record, Authority issued the directions in its order dated 27.02.2020 already reproduced in para 2 of this order.

7. Feeling aggrieved, appellant-promoter has filed present appeal before this Tribunal. Stand of the promoter is that the project is complete and non-issuance of Occupation Certificate is causing the delay, which should not be attributed solely to the promoter. He stated that unit is ready for possession and the fit-out possession dated 04.04.2019 was bona fide along with the demands for increase in area as per sanctioned plan. The Authority erred in granting delay compensation till the grant of occupation certificate. Thus, promoter accordingly seeks modification of the impugned order directing the allottee to clear dues and take possession; alternatively, they are ready to give complete refund along with interest.

8. We have heard learned counsel for the appellant-promoter and given careful thought to facts of the case.

9. Admittedly, the promoter has not obtained the Occupation Certificate till date, despite the lapse of several years from the stipulated due date of possession i.e., 12.03.2017. An offer of fit-out possession cannot be construed as a lawful offer of possession under RERA. Fit-out possession does not transfer legal possession nor does it fulfil statutory requirements without a valid occupation certificate.

10. The promoter's plea that the delay in grant of OC is not attributable to it is unsupported by any evidence. The burden lies on

the promoter to show that the delay occurred due to circumstances beyond its control. No such material has been placed on record. Further, the record shows that the allottee has paid Rs. 38,15,409/- out of Rs. 40,32,514/-.

11. There is no prayer for refund by the allottee. The promoter's plea for refund along with interest is therefore not tenable. Thus, allottee is entitled to delay possession charges till valid offer of possession is made to allottee, if at all occupation certificate is granted to appellant-promoter at any stage.

12. The amount deposited by the appellant-promoter with this Tribunal in both the appeals, along with accrued interest, in terms of provisions of Section 43(5) of the Act be remitted to the Ld. Haryana Real Estate Regulatory Authority, Panchkula for disbursement to the allottees in accordance with law and Rules.

12. The appeals are, thus, dismissed.

13. Copy of this order besent to parties/Ld. counsel for the parties and the Ld. Authority for compliance.

14. Filesbe consigned to the records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan  
Member (Technical)

December 19,2025 mk