

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.242 of 2023

Date of Decision: December 08,2025

Wonder City Buildcon Private Limited, 3rd Floor, UM House,
Plot No. 35-P, Sector 44, Gurugram-122002

Appellant.

Versus

1. Santosh Kumar Pandey
2. Seema Pandey
Both residents of Flat No. F704, Sujjan Vihar, AWHO, GH-4,
Sector 43, Gurugram

Respondents

CORAM:

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

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

Present: Mr. Saurabh Gauba, Advocate for the appellant.

Santosh Kumar Pandey-respondent No. 1 in person with
Ms. Shivangi Chauhan, Advocate for the respondents.

ORDER:

RAJAN GUPTA, CHAIRMAN:

Present appeal is directed against order dated
06.10.2022, passed by the Authority¹. Operative part thereof
reads as under:

“H. Directions of the Authority:

*23. Hence, the authority hereby passes this order
and issues the following directions under section 37
of the Act to ensure compliance of obligations cast*

¹ Haryana Real Estate Regulatory Authority, Gurugram

upon the promoter as per the functions entrusted to the Authority under section 34(f) of the Act of 2016:

i) The respondent shall pay interest at the prescribed rate i.e. 10% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 24.02.2021 till the date of offer of the possession of the unit (23.08.2021) plus 2 months i.e. 23.10.2021 at prescribed rate i.e. 10% p.a. as per proviso to Section 18(1) of the Act read with rule 15 of the rules.

*ii) External electrification would not be charged by the promoter as decided in complaint bearing no. **CR/4031/2019 Varun Gupta v. Emaar MGF Land Limited.***

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

24. Complaint stands disposed of.

25. File be consigned to the registry.”

2. It appears that a project in the name and style of ‘Godrej-101’ was floated by the appellant-promoter in Sector 79, Gurugram. The respondents were allotted Unit No. A-0005, Ground Floor therein. Total sale consideration of the unit was Rs.1,10,44,323/-, out of which, the respondent-allottees remitted an amount of Rs.89,80,889/-. An Apartment Buyer’s Agreement was executed between the parties on 30.12.2016. Due date of possession was 24.02.2021. Occupation certificate to the project was granted on 21.12.2020. Thereafter, the appellant-promoter offered possession to the respondent-allottees on 23.08.2021. As the appellant-promoter failed to

deliver possession by the stipulated due date, the respondent-allottees preferred a complaint before the Authority at Gurugram seeking withdrawal of offer of possession letter dated 23.08.2021 as the unit was not fit for possession, along with Delay Possession Charges (DPC) till the actual handing over of physical possession of the unit.

3. The Authority, after considering rival contentions of the parties, directed the appellant-promoter to pay DPC @ 10% per annum from the due date of possession i.e. 24.02.2021 till the date of offer of possession i.e. 23.08.2021 plus two months. The Authority also granted 12 months' grace period. Feeling aggrieved, the appellant-promoter has preferred the instant appeal before this Tribunal.

4. The limited grouse of the appellant-promoter is that an additional grace period of six months should be granted to it due to outbreak of second wave of COVID-19 and National Green Tribunal's (NGT) ban on the construction activities.

5. On the other hand, counsel for the respondent-allottees contends that they are entitled to DPC from the due date of possession till actual handing over of the physical possession.

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

7. Admittedly, during the pendency of this appeal, due to indulgence of this Tribunal, possession was actually handed over to the allottees as mentioned in the order dated 29.07.2025.

8. Upon a perusal of the record, it is evident that Occupation Certificate to the project was granted on 21.12.2020. Thereafter, the appellant-promoter offered possession to the respondent-allottees on 23.08.2021. Thus, it can be said to be a valid offer of possession. We find no infirmity with the impugned order. The Authority has rightly granted delay possession charges from 24.02.2021 till 23.08.2021 plus two months.

9. The plea for grant of “*force majeure*” for another six months on account of ban imposed by various authorities on construction activities, use of DG sets etc. and on account of COVID-19 pandemic, in our view, is totally mis-conceived.

10. The concept of “*force majeure*” has to be understood strictly in legal terms. In legal parlance “*force majeure*” refers to natural calamity such as war, flood, drought, fire, cyclone, earthquake, etc. Extending scope of the concept of “*force majeure*” would not be appropriate in view of the fact that the term has been defined in the Act itself (Section 6). In case a wider interpretation is given to the term, it would unduly benefit the promoter and be detrimental to the allottee. Section 6 of the Act is reproduced hereunder for ready reference:

“6. Extension of registration.

The registration granted under section 5 may be extended by the Authority on an application made by the promoter due to force majeure, in such form and on payment of such fee as may be prescribed.

Provided that the Authority may in reasonable circumstances, without default on the part of the promoter, based on the facts of each case, and for reasons to be

recorded in writing, extend the registration granted to a project for such time as it considers necessary, which shall, in aggregate, not exceed a period of one year.

Provided further that no application for extension of registration shall be rejected unless the applicant has been given an opportunity of being heard on the matter.

Explanation:- For the purpose of this section, the expression "force majeure" shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project."

11. It is evident that since an unqualified grace period of 12 months, as mentioned in Apartment Buyer's Agreement, has already been granted by the Authority, the plea for grant of another six months on account of 'force majeure' is misconceived and, hence, the same is denied.

12. In ***M/s Pragatej Builders and Developers Pvt. Ltd. V. Mr. Abhishek Anuj Shukhadia and another***², Bombay High Court has denied the benefit of grace period on account of Covid-19 pandemic holding that the original agreement would be adhered to and Covid-19 pandemic would not exempt the promoter from interest liability.

13. In view of above, we find no merit in the appeal. The same is hereby dismissed.

14. The amount of pre-deposit made by the appellant-promoter in terms of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 along with interest accrued thereon, be remitted to the Authority for disbursement to the respondent-allottees, subject to tax liability, if any.

² 2024 Supreme (Online) (Bom) 1822

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

16. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

December 08, 2025
mk