



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

DATE : 23.12.2025

Name of the Builder		TDI Infrastructure Ltd.		
Project Name		Present and Future Project, Sonipat		
Sr no	Complain t no.	Title of the case	Appearance on behalf of complainant	Appearance on behalf respondent
1.	50 of 2024	Jai Prakash Gupta deceased through his legal heirs V. TDI Infrastructure ltd.	Adv. Roopak Bansal through VC	Adv. Samriti proxy for Adv. Shubhnit Hans through VC
2.	51 of 2024	Jai Prakash Gupta deceased through his legal heirs V. TDI Infrastructure ltd.	Adv. Roopak Bansal through VC	Adv. Samriti proxy for Adv. Shubhnit Hans through VC

CORAM: Dr. Geeta Rathee Singh

Member

ORDER

1. This order shall dispose of above two captioned complaints filed by the complainants before this Authority under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as RERA, Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation &

Future

Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

2. The core issues emanating from the above captioned complaints are similar in nature. The complainants in the above referred complaint no. 50 of 2024 booked a unit in the respondent's project namely; Present and Future project, Sonipat being developed by the same respondent/promoter, i.e., TDI Infrastructure Ltd. The fulcrum of the issue involved in the above captioned cases pertains to failure on the part of the respondent/promoter to deliver timely possession of the unit in question and the complainant is now seeking refund of their paid amount along with the interest. Therefore, both the captioned complaints are taken up together as a bunch for the purpose of disposal of this bunch.

A. UNIT AND PROJECT RELATED DETAILS OF BOTH COMPLAINTS

3. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:



Sr. no.	Particulars	Details of complaint no. 50 of 2024	Details of complaint no. 51 of 2024
1.	Name of project	Present and Future project,, Sonipat	Present and Future project, Sonipat
2.	Unit no.	Not mentioned	Not mentioned
3.	Allotment letter	Not mentioned	Not mentioned
4.	Agreement to sell	Not executed	Not executed
5.	Basic Sale Price	Rs.20,41,180/- (as per facts of complaint)	Rs. 15,62,500/- (as per facts of complaint)
6.	Amount paid by complainant	Rs. 5,77,825/-	Rs. 5,77,825/-

B. FACTS OF THE COMPLAINT NO. 50 FO 2024 AND 51 OF 2024

4. Facts of the complaint are that late Sh. Jai Prakash Gupta applied in respondent's real estate project vide advance registration form dated 05.12.2005 by paying Rs. 4,37,500/-. Further, payment of Rs.3,18,150/- was made on 02.05.2008. Legal heirs of Sh. Jai Prakash Gupta was allotted 2 different plots measuring 350 sq. yds. each vide customer ID KSA00001 and customer ID KSA00003.
5. Complainants had earlier filed a joint complaint no. 3199 of 2022 for both the unit however vide order dated 31.08.2023 the Hon'ble court directed to file 2 separate complainants.



6. That a further payment of Rs. 2,00,000/- was made on 01.02.2014 and late on 05.06.2014 the amount paid in the year 2005 and 2008 was proportionately adjusted in the 2 plots and sum of Rs. 3,77,825 was adjusted for customer ID KSA00003.
7. Respondent has neither executed builder buyer agreement nor offered possession till date.
8. Mr. Jai Prakash Gupta has passed away on 31.03.2021. Death certificate and legal heirs certificate annexed with complaint file.
9. Complainant stated that till date the project is incomplete and abandoned by the respondent. Occupancy certificate has not been granted and the amount paid by the complainant has not been refunded.

C. RELIEF SOUGHT

Complainant in its complaint has sought following reliefs:

- i. i. To refund the full deposited money which is withheld with the respondent along with interest @ 18% p.a. from the date of deposit till realization in accordance with section 18(1), Section 19(4) of the Real Estate (Regulation and Development) Act 2016 and Rule 15 and 16 of Haryana Real Estate (Regulation and Development) Rules 2017.
- ii. ii. To pay interest @ 18% per annum on the amount paid by the complainant to the respondent from the date of payment to the date of realization.
- iii. iii. Direct the respondent to pay Rs. 5,00,000/-the complainant on



account of mental harassment caused for delay in possession of the shop.

iv. Direct the opposite party to pay Rs. 5,00,000/- under section 12 of the Real Estate (Regulation and Development Act 2016).

v. Direct the opposite party to handover 10% of the estimated cost of the real estate project to the complainant under section 59 of the Real Estate (Regulation and Development), Act 2016.

Vi. To direct the opposite party to pay the costs to the complainant equivalent to the cost of similar property in the area at the present prices.

vii. To direct the opposite party to reimburse litigation cost of Rs. 1,00,000/-complainant. to the

viii. Any other relief which this Hon'ble authority deems fit be passed in favor of complainant.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed reply on 20.05.2024 pleading therein:

10. That the project in question i.e. "Park Street Service Apartment" located at Kamaspur, Sonipat, Haryana is covered under the license nos. 999/2006, 1000/2006, 1001/2006 and 1002/2006 which have been granted by the DTCP.

11. Respondent company had commenced the construction of the said



project in 2006, which is much prior to the existence of the Real Estate (Regulation and Development) Act. Therefore, the respondent company could not have contemplated any violations or penalties as stipulated under the RERA Act. Provisions of the RERA Act, 2016 are to be applied prospectively. Therefore, the present complaint is not maintainable and falls outside the purview of the provisions of the RERA Act, 2016. Be that as it may, the RERA Act came into effect in 2016 and cannot be held to be retrospective in nature.

12. Complainants had invested in the said project of the respondent company for the sole reason of investing and earning profits and speculative gains.

13. Respondent company had on various occasions requested the complainant to visit the office of the respondent company to execute the builder buyer agreement and clear his outstanding dues however, it is the complainant who had not come forward for the same.

14. Respondent company had vide demand letter dated 03.05.2014 requested the complainant to pay his outstanding dues amounting to Rs. 2,08,236/- but the complainant had failed to comply with the same. It is further submitted that the complainant has been a defaulter in making timely payments which are essential for the completion of the project.

15. It is submitted that the possession of the unit has always been tentative



subject to force majeure conditions.

16. That the present complaint is barred by limitation and the same is not maintainable before the Ld. Authority.

E. ISSUES FOR ADJUDICATION

17. Whether the complainant is entitled to refund of the amount deposited by him along with interest in terms of Section 18 of Act of 2016?

F. ARGUMENT OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

18. During oral arguments learned counsel for the complainant and respondent reiterated arguments as mentioned in their written submissions. Ld. counsel for complainants submitted that aggrieved by the fact that possession has not been handed over to complainant even till date, therefore complainants are seeking refund of entire amount paid for the units along with interest in both complaints.

G. FINDINGS ON THE OBJECTIONS RAISED BY THE RESPONDENT.

G. (a) Objection raised by respondent is that construction of the project was commenced before existence of RERA Act, 2016 therefore respondent company could not have contemplated any violations or penalties as stipulated under the Rera Act, 2016

Respondent raised preliminary objection that RERA Act, 2016 does not apply to respondent's project as construction of the respondent's



project was commenced prior to commencement of RERA Act, 2016. In this regard Authority observe that RERA Act came into force in the year 2016 however, respondent has not placed any documents which can show that respondent company had received occupation certificate meaning thereby park street is an ongoing project and provisions of RERA Act, 2016 applies on the project of the respondent. Authority also relies upon judgment of Hon'ble Supreme Court in **Newtech Promoters and developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021**. Relevant paragraph is herein reproduced:.

“ 37. Looking to the scheme of Act 2016 and Section 3 in particular of which a detailed discussion has been made, all “ongoing projects” that commence prior to the Act and in respect to which completion certificate has not been issued are covered under the Act. It manifests that the legislative intent is to make the Act applicable not only to the projects which were yet to commence after the Act became operational but also to bring under its fold the ongoing projects and to protect from its inception the inter se rights of the stake holders, including allottees/home buyers, promoters and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer and supervise the unregulated real estate sector within the fold of the real estate authority.”

In its judgment the Hon'ble Apex Court has made it clear that the projects in which completion certificate has not been granted by the competent authority, such projects are within the ambit of the



definition of on-going projects and the provisions of the RERA Act, 2016 shall be applicable to such real estate projects. In the present complaint it is a matter of fact that respondent has not received occupation certificate and completion certificate till date. Therefore the project in question is within the ambit of the definition of on-going projects and thus provisions of the RERA Act, 2016 shall be applicable to matters pertaining to the same.

G. b) Objection raised by respondent that the present complaint is barred by limitation

Respondent had raised objection regarding maintainability of the complaint on ground of that complaint is barred by limitation. In this regard the Hon'ble Apex Court in Civil Appeal no. 4367 of 2004 *titled as M.P Steel Corporation v/s Commissioner of Central Excise* has held that the Limitation Act applies only to courts and not to the tribunals. Relevant para is reproduced herein:

19. It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963."

Authority observes that the Real Estate Regulation and Development Act, 2016 is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the Limitation Act 1963, thus, would not be applicable to



the proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority established under the Act is a quasi-judicial body and not Court. Therefore, in view of above objection of respondent with respect to the fact that complaint is barred by limitation is rejected.

G.c) Objection raised by respondent stating that complainant herein is an investor and have invested in the project of the respondent company for the sole reason of investing, earning profits and speculative gains.

Respondent has also averred that complainant is an investor and not a consumer and the RERA Act of 2016 is enacted to protect the interest of consumers of the real estate sector, thereby complainant is not entitled to file the complaint under Section 31 of the Act and the complaint is liable to be dismissed. In this regard, Authority observes that the respondent is correct in stating that the Act is enacted to protect the interest of consumer of the real estate sector. It is settled principle of interpretation that the preamble is an introduction of a statute and states main aims and objects of enacting a statute but at the same time, the preamble cannot be used to defeat the enacting provisions of the Act. Furthermore, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations, made thereunder. Upon



careful perusal of all the terms and conditions of the buyer's agreement, it is revealed that the complainants are buyers and paid total price of Rs. 5,77,825/- to the promoter towards purchase of an unit in the project of the promoter, At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"2[d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent:

In view of above-mentioned definition of "allottee" as well as all the terms and conditions of the unit application for allotment, it is crystal clear that the complainant is an allottee . The concept of investor is not defined or referred in the Act. As per the definition provided under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. **0006000000010557 titled as M/s Srushti Sangam Developers Pvt Ltd, Vs. Sarvapriya Leasing (P) Lts. And Anr.** has also held that the concept of investor is not defined or referred in the Act. Thus, the



contention of promoter that the allottee being investor is not entitled to protection of this Act also stands rejected.

H. OBSERVATIONS OF THE AUTHORITY

19. Proceeding on the merits of the case, it is not disputed between the parties that late Sh. Jai Prakash Gupta applied in respondent's real estate project 'Present and Future project' Sonipat, vide advance registration form dated 05.12.2005 by paying Rs. 4,37,500/-. Further, payment of Rs. 3,18,150/- was made on 02.05.2008. Legal heirs of Sh. Jai Prakash Gupta was allotted 2 different plots measuring 350 sq. yds. each vide customer ID KSA00001 and customer ID KSA00003. On 05.06.2014, the amount paid in the year 2005 and 2008 was proportionately adjusted in the 2 plots and sum of Rs. 3,77,825 was adjusted for customer ID KSA00003. Complainants had paid Rs. 5,77,850/- for each plot against total sale price of Rs. 20,41,180/-.
20. Legal heirs of Sh. Jai Prakash Gupta are aggrieved by the fact that till date neither builder buyer agreement has been executed nor possession has been offered to complainants.
21. Respondent in its reply has taken a defence that respondent requested numerous times to complainant to come forward to execute builder buyer agreement, however it is the complainant who did not come forward to execute the same.



22. With regards to respondent's defence that respondent requested complainant numerous times to come forward to execute builder buyer agreement however Authority observes that after acceptance of booking amount it is the obligation of on part of respondent to invite the complainant to execute the builder buyer agreement. Thus, the onus to prove that the respondent fulfilled its obligation lies on respondent only. There is no document on record to prove/show that the respondent ever invited complainant to execute the builder buyer agreement. Hence, the respondent failed to discharge its obligation to execute builder buyer agreement.

23. Now, issue in hand is what was the due date for handing over possession of the booked plot. In absence of builder buyer agreement exact date for handing over possession cannot be ascertained. In such circumstances, Authority places reliance upon judgment of Hon'ble Supreme Court in case titled as **M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr, 2018 STPL 4215 SC**, where the Hon'ble Apex Court had made the following observation:

"15. Moreover, a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and



circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract i.e., the possession was required to be given by last quarter of 2014."

In view of above observation made by Hon'ble Supreme court in absence of specific clause with respect to handing over possession, 3 years is taken to be reasonable time to handover possession to allottees. In present case 3 year is taken from date of advance registration form i.e. 05.12.2005. Accordingly, respondent should have offered possession to the complainant by 05.12.2008. However, possession has not been offered to complainant till date.

24. Respondent has taken a defence that that possession was subject to force majeure conditions. In this regard Authority observes that the respondent has failed to place on record as what specific force majeure events occurred, for what period it continued and how it affected the construction activities in the project. Proceeding before this authority are summary nature and claim have to be proved by the party asserting by way of placing on record relevant document on record. In the present complaint respondent has failed to place on record any such document, therefore this argument of the respondent that the delay in possession is due to force majeure condition is rejected.

25. Further, respondent has averred that legal heirs of late Sh. Jai Prakash Gupta defaulted in making payments. With regard to this authority



observes that complainant was obligated to pay to respondent till 05.12.2008 and it is admitted fact that complainant had paid Rs. 5,77,825/- against each unit till 2014. Hence, there is no apparent default on part of complainant in making payment. In view of this discussion Authority is not hesitant to hold that there is no exceptional circumstances or any default on part of complainant that could have stretched the stipulated time line for completion of project and handing over possession of plots. Hence, respondent was obligated to offer possession of the plots to complainant by 05.12.2008. It is not disputed that till date respondent has neither complete the construction nor has it offered possession of the unit to complainant.

26. In view of the above observation it is established that respondent failed to fulfill its obligation i.e. to handover possession by 05.12.2008. Complainant Mr. Jai Prakash Gupta booked the unit in the year 2005 and subsequently he died in the year 2021 without enjoying fruits of his investment. Now his legal heirs cannot be forced to wait endlessly for the possession of the plot. In such circumstances, provisions of Section 18 (1) comes into play. As per Section 18(1) of RERA Act, 2016 allottee may either choose to withdraw from the project and demand refund of the amount paid or may continue with the project and seek interest on account of delay in handing over possession. In the present case complainant wish to withdraw from the project and seeking



refund along with interest on paid amount.

27. The issue regarding to seeking relief of refund by an allottee has been dealt with and decided by the Hon'ble Supreme Court in judgment of Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others* " in Civil Appeal no. 6745-6749 of 2021 wherein it has been highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgment is reproduced below:

"25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

28. This decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee, such as in the present case, seeking refund of the paid amount along with interest on account of delayed delivery of



possession. Since complainant wishes to withdraw from the project of the respondent, and respondent has failed to give a definite timeline to handover possession, Authority finds it to be fit case for allowing refund along with interest at prescribed rate in favor of complainant. The definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.-For the purpose of this clause-

(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

Rule 15 of IIRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%: Provided that in case the State Bank of India

marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public".

29. As per website of the State Bank of India i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date i.e.23.12.2025 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.80%/-
30. Authority directs respondent to refund to the complainants in both captioned complaints the paid amounts along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 10.80 % (8.80% + 2.00%) from the date amounts were paid till the actual realization of the amount. Calculations have been made as per amounts admitted in statement of account dated 10.03.2025 available on file. Authority has got calculated the total amount along with interest calculated at the rate of 10.80% till the date of this order as per detail given in the table below:

Table in complaint 50 of 2024

Sr. No.	Principal Amount in (Rs.)	Date of payment	Interest Accrued till 23.12.2025(Rs.)
1.	200000	10.02.2014	256537
2.	377825	05.06.2014	471774



	Total Principle amount= Rs. 5,77,825/-		Interest – Rs. 7,28,311/-
	Total amount to be refunded by respondent to complainant -- Rs. 13,06,136/-		

Table in complaint no.51 of 2024

Sr. No.	Principal Amount in (Rs.)	Date of payment	Interest Accrued till 23.12.2025(Rs.)
1.	200000	10.02.2014	256537
2.	377825	05.06.2014	471774
	Total Principle amount= Rs. 5,77,825/-		Interest= Rs. 7,28,311/-
	Total amount to be refunded by respondent to complainant Rs. 13,06,136/-		

31. Complainants are also seeking compensation of Rs. 5,00,000/- for mental harassment, agony, and Rs. 1,00,000/- litigation expenses. In this regard it is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "**M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & Ors.**" has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19, which is to be decided by the learned Adjudicating Officer as per Section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaint in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the Adjudicating



Officer for seeking the relief of litigation expenses and compensation.

32. As for relief iv, v, and vi of relief clause c, same are neither part for pleadings and nor they have been pressed upon in hearings. Therefore, these reliefs are not allowed.

I. DIRECTIONS OF THE AUTHORITY

33. Hence, the Authority hereby passes this order in both captioned complaints and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) Respondent is directed to refund the entire amount of Rs. 13,06,136/- in complaint no. 50 of 2024 and Rs. 13,06,136/- in complaint no. 51 of 2024 to the legal heirs of the Mr. Jai Prakash Gupta. It is clarified interest shall be paid up till the time period as provided u/s 2(z) of RERA Act, 2016
- (ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.



34. **Disposed of.** File be consigned to record room after uploading of order on the website of the Authority.



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Dr. GEETA RATHEE SINGH
[MEMBER]

