



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2418 of 2023
Date of filing:	24.11.2023
First date of hearing:	09.04.2024
Date of decision:	12.01.2026

Abhishek Rajgarhia,
R/o B-161, sector-51, Noida,
Gautam Buddha Nagar, Uttar Pradesh- 201301.

....COMPLAINANT

VERSUS

Parsvnath Developers Ltd,
6th floor, Arunanchal Building, 19,
Barakambha Road, new Delhi-11001.

....RESPONDENT

Present: - Ms. Samvedna Verma, Counsel for the complainant through VC.
Ms. Nectu Singh, proxy counsel for Ms. Rupali Verma, Counsel for
the respondent through VC.

ORDER (NADIM AKHTAR - MEMBER)

1. Present complaint has been filed by the complainant on 24.11.2023 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation

& 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 fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the project.	Parsvnath Pleasant, Dharuhera, District Rewari. .
2.	Nature of the project.	Residential
3.	RERA Registered/not registered	Unregistered
4.	Details of the unit.	T15-1102
5.	Date of flat buyer agreement	Not executed
6.	Possession clause in flat buyer agreement	Not available
7.	Due date of possession	Not available
8.	Total sale	₹35,24,500/- as per pleadings of



	consideration	respondent
9.	Amount paid by the complainant	₹4,50,000/-
10.	Offer of possession	Not given till date

B. FACTS OF THE COMPLAINT AS STATED IN THE PRESENT COMPLAINT:

3. That complainant booked a flat no. T3-1103, approximately of an area admeasuring 1855 sq. fts. in the project of the respondent, namely, "Parsvnath Pleasant" situated in Dharuhera, District Rewari.
4. Complainant paid an amount of ₹4,50,000/- to the respondent on 11.04.2006 and respondent issued the payment receipt against the said amount on 12.04.2006. Copy of payment receipt is attached as Annexure A in the complaint. That respondent had assured to the complainant of timely completion of the construction and subsequent possession of the booked flat.
5. Complainant in his pleadings has mentioned that as per the terms and conditions of the flat buyer agreement, the project had to be completed within a period of thirty six (36) months from the date of start of foundation of the particular Tower in which the unit is located with a grace period of six (06) months, on receipt of sanction of building plans/ revised building plans and approvals of all concerned authorities.



6. Complainant being anxious about the delay in the launch of said project, contacted and enquired about the said project. Respondent assured the complainant that the project would be soon launched and delay is due to some technical reasons.
7. Thereafter to the utter shock and dismay of the complainant, respondent relocated the unit of the complainant from T3-1103 to T15-1102 vide letter dated 09.05.2017 to achieve the early completion. Copy of letter is attached as Annexure B with the complaint.
8. Complainant had sent a legal notice to the respondent on 14.11.2017 through his legal counsel. However, no response has been received by the complainant till date. Copy of legal notice is annexed as Annexure C with the complaint. Therefore, the complainant has filed the present complaint.

C. RELIEFS SOUGHT

9. In view of the facts mentioned above, the complainant pray for the following reliefs:-
 - i. An order to hand over possession of the flat upon completion of full payment for the remaining amount of the flat.
 - ii. An order to refund the full amount to the complainant which was paid during the time of booking, i.e, ₹4,50,000/- alongwith 18% interest of the paid amount.
 - iii. An order to pay cost of the prosecution to the complainant.



iv. Any other order(s)/ relief(s) as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case, may also be passed, in the favour of the complainant and against the respondent.

10. That vide order dated 22.04.2025, complainant was directed to file amended Memo of Parties. In compliance of said order, an application dated 26.08.2025 has been filed by the complainant mentioning that name of the respondent no.2 be dropped from the memo of the parties. Further, complainant has clarified in the application that now, complainant wants refund along with interest instead of possession. Therefore, present order is passed only against respondent promoter "Parsvnath Developers Ltd." and observations are made with regard to relief of refund alongwith interest only.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

11. Learned counsel for the respondent filed detailed reply on 04.08.2025 pleading therein:

- (i) That the present complaint is not maintainable before this Hon'ble Authority.
- (ii) That present complaint is barred by limitation and this Hon'ble Authority does not have jurisdiction to entertained time barred claim.



- (iii) That on 14.03.2007, Mr. Abhishek Rajgarhia, was allotted a flat bearing no. T3-1103 of area admeasuring 1855 sq. ft tentatively in the project of the respondent.
- (iv) That on 18.03.2008, a letter was sent to the complainant requesting to get signed the two copies of flat buyer agreement and return the same with two recent photographs. That the basic selling price of ₹35,24,500/- was agreed as payment against the said flat. Copy of letter dated 18.03.2008 is annexed as Annexure R-1.
- (v) The complainant had opted for a construction linked payment plan. All the payment demands have been made as per the agreed payment plan.
- (vi) That out of the basic selling price of the unit, i.e, ₹35,24,500/-, the complainant has deposited only ₹4,50,000/- till date to the respondent. Copy of ledger reflecting the amount paid by the complainant to the respondent is annexed as Annexure R-2.
- (vii) That the interest of the complainant was protected under clause 9(c) of the builder buyer agreement in which it is clearly agreed that in case of delay in possession of the unit beyond the stipulated period, subject to force majeure and other circumstances, the respondent shall pay to the buyer compensation of ₹53.80 per sq. metre or @5/- per sq. ft. of the super built up area of the unit per month for the period of delay.
- (viii) With regards to the status of the project in question, respondent has submitted that in the year 2007 the respondent had proposed to develop

the said project under various Collaboration Agreements/ Development Agreements with the landowner and had planned to develop the project for total land admeasuring 112.956 acres (hereinafter referred to as "Project Land"). That on 03.03.2007 DTCP granted the Petitioner ten licenses for establishment of project bearing No. 129 to 138 of 2007 for setting up of a residential colony on area measuring 112.956 acres which is falling in the revenue estate of Village Dharuhera, District, Rewari. The license was valid up to 02.03.2016.

- (ix) Respondent has already applied for renewal of license which was still pending before the DTCP, Haryana. Copy of letter dated 29.10.2025 for renewal of License no. 129-138 of 2007 up to 02.03.2016 and application for renewal up to 02.03.2020 are annexed as Annexure R-3 and Annexure R-4 respectively.
- (x) Respondent has completed all the development work in the project related to the infrastructure and basic amenities. That all the basic facilities and amenities like road, electricity, water, sewage, storm water etc, are duly available at the project site.
- (xi) That the respondent has already obtained all the necessary approvals from the competent authorities. That on 25.05.2016, the Office of Senior Town Planner (STP), Gurgaon affirmed to DTCP, Haryana vide Memo No. STP (G)/ 2016/712 dated 25.05.2016 that all the development works of the project-site as per the approved layout plan have been completed. Copy of



the memo no. STP (G)/2016/712 dated 25.05.2016, issued by Senior Town Planner (STP) is annexed as Annexure R-5.

- (xii) That on 21.02.2021, inspection of project site was conducted by the Ld. CTP, HRERA, Panchkula and the observations noted by the Ld. CTP, were submitted before the Hon'ble Authority.
- (xiii) That respondent has duly complied with the payment of dues and the respondent is in process of the availing the relief policy for depositing the outstanding dues.
- (xiv) That complainant was duly informed vide letter dated 09.05.2017 that said unit has been shifted from T3-1103 to T15-1102 for getting early completion of the project. Copy of letter dated 09.05.2017 is annexed as Annexure R-6.
- (xv) Complainant miserably defaulted in making the payments of the instalments as committed under the payment plan and in this regard he was served various reminders. True copies of reminders dated 13.03.2008, 14.04.2008, 09.07.2008, 13.10.2008, 12.11.2008 and 12.05.2009 are annexed as Annexures R-7(Colly).
- (xvi) That there is no intentional delay on the part of the respondent company. The project has been delayed for reasons beyond the control of respondent company. Now, the respondent endeavours to streamline and complete the project to offer possession at the earliest and therefore the complaint be dismissed in the interest of justice.



E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

12. On 08.12.2025, Authority ordered that "*Vide order dated 08.09.2025, an opportunity was granted to the respondent to file reply to the application dated 26.08.2025 filed by the complainant. As per office record, no reply has been filed by the respondent to the application filed by the complainant.*

Today, ld counsel on behalf of complainant stated that vide order dated 22.04.2025, complainant was directed to file amended Memo of Parties. In compliance of said order, an application dated 26.08.2025 has been filed by the complainant mentioning that name of the respondent no.2 be dropped from the memo of the parties. Further, she clarified in the application that now, complainant wants refund along with delay interest instead of possession."

F. ISSUES FOR ADJUDICATION

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


G. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

14. Respondent has taken an objection that complaint is grossly barred by limitation. In this regard, Authority places reliance upon the judgment of Apex Court in *Civil Appeal no. 4367 of 2004 titled as M.P Steel*



Corporation v/s Commissioner of Central Excise where it has been held that Indian Limitation Act deals with applicability to courts and not tribunals. Further, RERA Act is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the Limitation Act, 1963 would not be applicable to the proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority set up under that Act being quasi-judicial and not a Court. The promoter has till date failed to fulfill its obligations because of which the cause of action is re-occurring.

15. Factual matrix of the case is that admittedly, complainant applied for registration of a residential unit in the respondent's upcoming project in the year 2006 and paid an amount of ₹4,50,000/- against "present and future project" for which respondent issued receipt dated 12.04.2006 which is annexed at page no. 12 of the complaint file. As per the pleadings of the respondent, respondent issued letter dated 18.03.2008 to the complainant requesting to get signed the two copies of flat buyer agreement and return the same with two recent photographs. Copy of letter dated 18.03.2008 is annexed as Annexure R-1 of the reply. However, as on record no flat buyer agreement is attached by any of the parties. Meaning thereby, no flat buyer agreement is executed between both the parties till date. As per the pleadings and documents placed on record by the respondent, clearly shows that respondent allotted unit no. T3-1103 to the complainant in "Parsvanth



Pleasant" Dharuhera which is evident from letter dated 18.03.2008. Thereafter, respondent issued letter dated 09.05.2017 to the complainant informing about the relocation of the unit from T3-1103 to T15-1102 in the same project. Further, to substantiate the claim that respondent allotted unit no.T15-1102 in favour is evident from the customer ledger dated 16.12.2023 attached by the respondent which is attached as Annexure R-2 at page no. 11 of the reply. Considering all the documents on record, it is evident that till date respondent had received an amount of ₹4,50,000/- from the complainant.

Now, main question which arises is what is the deemed date of possession in the present case. In general circumstances in absence of builder buyer agreement, reliance is placed on **M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) &Anr 2018 STPL 4215 SC** wherein Hon'ble Apex Court has observed that period of 3 years is reasonable time of completion of construction work and delivery of possession. The facts remains that in present complainant, neither there is any allotment letter nor any flat buyer agreement executed but respondent allotted the unit in favour of complainant. Therefore, a period of 3 years can be taken from the date of receipt, i.e, 12.04.2006 for offer of possession. Hence, deemed date of completion of the unit works out to 12.04.2009. Further, it is a matter of fact that the respondent promoter has till date neither handed over possession nor



completed the construction of the unit, thus, the respondent has failed to fulfill its obligation to handover the possession within stipulated/agreed time.

16. As per observations recorded in the preceding paragraph possession of the unit should have been delivered to the complainant by 12.04.2009. However, respondent has failed to complete construction of the project and deliver possession within stipulated time. Now even after a lapse of 16 years from the proposed date of delivery of possession the construction of the project is not complete and the respondent is not in a position to handover possession in foreseeable future. Respondent has submitted that basic infrastructure and facilities are available at site and an offer of possession will soon be made to the complainant, but again the respondent has failed to attach latest photographs of site and/or the unit in question to give weight to its claim with regard to handing over of possession of the unit in foreseeable future. In such circumstances, the complainant who is already waiting since 12.04.2009, cannot be forced to wait further for delivery of possession of the booked unit for an indefinite amount of time. Complainant in this case does not wish to continue with the project on account of inordinate delay caused in delivery of possession and hence is seeking refund of paid amount along with interest as per RERA Act 2016.

17. Further, 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(S). 6745 - 6749 of 2021 has observed that in case of delay in



granting possession as per agreement for sale, the allottee has an unqualified right to seek refund of amounts paid to the promoter along with interest. Para 25 of this judgement 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."

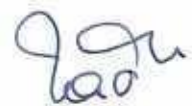
The decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession.

18. Authority observes that the project, i.e., "Parsvnath Pleasant" is already delayed by several years. It is still not complete and admittedly respondent is not in a position to complete the project within reasonable time. The



complainant wishes to withdraw from the project of the respondent, therefore, the Authority finds it to be a case fit for allowing refund in favour of the complainant. The Authority hereby concludes that complainant is entitled to receive a refund of the paid amount along with interest as per Rule 15 of HRERA Rules 2017 on account of failure on part of the respondent. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. Section 18 of RERA Act, 2016 is reproduced below for reference:

"If the promoter fails to complete or is unable to give possession of an apartment, plot or building,- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason. He shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed"



19. Further, the definition of term 'interest' is defined under Section 2(za) 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;

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

"Rule 15: *"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"

21. Hence, Authority directs the respondents to refund to the complainant the paid amount 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 SBI (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.
22. Authority has got calculated the interest on total paid amount from date of payment till date of order (i.e 12.01.2026) and same is depicted in the table below:

Sr.no	Principal amount	Date of payments	Interest accrued till 12.01.2026
1.	₹4,50,000/-	12.04.2006	₹9,60,815/-
	Total=₹4,50,000/-		₹9,60,815/-
Total amount to be refunded by respondent to complainant= ₹4,50,000/- + ₹9,60,815/- = ₹14,10,815/-			

23. Complainant is seeking legal expenses. 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.*" (supra,), 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 complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief for mental torture, agony, discomfort and undue hardship of litigation expenses.

H. DIRECTIONS OF THE AUTHORITY

24. Hence, the Authority hereby passes this order 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 paid amount of ₹4,50,000/- with interest of ₹9,60,815/- to the complainant. It is further clarified that respondent will remain liable to pay interest to the complainant till the actual date of realization of the amount.
- (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.

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



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NADIM AKHTAR
[MEMBER]

