

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 491 of 2023

Date of Decision: January 05,2026

1. Arun Kumar Gupta
2. Sunita Gupta

Both residents of C-1/136, Sanjay Enclaves, Uttam Nagar, West Delhi, Delhi – 110059.

Appellants.

Versus

Vatika Ltd. having office at Unit No. A-002, INXT City Centre, Ground Floor, Block-A, Sector-83, Vatika India Next, Gurugram, Haryana-122012

Respondent.

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad**

**Chairman
Member (Judicial)**

Present: Mr. Gurmeet Singh, Advocate
for the appellants.

Mr. Yashvir Singh Balhara, Advocate
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 28.04.2023 passed by the Authority at Gurugram¹. Operative part thereof reads as under:

“17. So, in view of findings on with regard to validity of letter of termination of the allotted unit, neither the complainants are entitled to its possession nor any delayed possession charges as claimed. Thus, the respondent is right in forfeiting the amount already paid by the allottees against the subject unit and they are not entitled to claim any refund in this regard.

18. Hence, in view of the findings of the Authority on issue no. F1 and discussion above, there is no merit in the complaint

¹ Haryana Real Estate Regulatory Authority, Gurugram

filed by the complainants seeking possession of the allotted unit by setting aside its cancellation issued vide letter dated 29.09.2021 by the respondent and as such the same is hereby ordered to be rejected.

19. Complaint stands disposed of.

20. File be consigned to the registry.”

2. Factual matrix of the case is that the appellants/allottees booked a unit bearing no. 57 on 1st floor in Lamps Avenue admeasuring 1800 sq. ft. in the project of the respondent/promoter namely “Vatika India Next” located at Sector 82, Vatika Road, Gurugram, Haryana by paying amount Rs.1,00,000/- as token money. Subsequently, after making an additional payment of Rs. 7,30,000/-, BBA² was executed between the parties on 10.12.2020. As per the terms of the agreement, the appellants/allottees were required to pay the remaining amount within 30 days from the date of booking, sanction of bank loan or on offer of possession, whichever is later. HDFC bank has sanctioned a home loan of Rs. 15,00,000/- on 27.03.2021. OC³ for the project had already been granted by the competent authority on 16.09.2019. Offer of possession was made on 24.05.2021 along with demand notice for the payment of balance amount towards total sale consideration. Accordingly, the due date for making the remaining payment was 24.06.2021. Out of the total sale consideration of Rs. 82,80,000/-, the appellants/allottees had paid Rs.8,30,000/- only. As per agreement, possession of the unit was to be handed over within two months from the date of last payment against the total sale consideration, since the OC has already been received by the respondent/promoter and the unit was ready for

² Builder Buyer Agreement

³ Occupation Certificate

possession at the time of booking. The appellants/allottees have pleaded that they had applied for a home loan from Punjab National Bank (PNB), however, the said loan was not sanctioned due to the respondent/promoter's failure to furnish the requisite documents within the stipulated time. Thereafter, appellants/allottees had applied for home loan through HDFC Bank, which caused delay in sanctioning the loan. Furthermore, even after the loan was sanctioned, the sanction letter contained discrepancies, which were not rectified despite repeated requests from the appellants/allottees, thereby causing additional delay. Despite several reminders issued by the respondent/promoter requesting the appellants/allottees to make the payment of the balance amount and take possession, they failed to comply. Consequently, the respondent/promoter vide letter dated 29.09.2021, cancelled the allotment of the said unit due to non-payment of the dues by the appellants/allottees. The appellants/allottees preferred the complaint seeking setting aside the said cancellation letter and restoring the unit and handover the possession.

3. Stand of the respondent/promoter before the Authority is that the appellants/allottees failed to make timely payment as per the terms and conditions of the agreement and did not adhere to the agreed payment plan. Accordingly, notice of termination was sent on 23.07.2021, followed by cancellation of the allotment of the unit on 29.09.2021 in accordance with the terms of the agreement. Subsequently, the unit was resold to another buyer, thereby creating third party rights.

4. After considering rival contentions of the parties, the Authority dismissed the complaint vide impugned order, operative part whereof has been reproduced in para 1 of this order.

5. Aggrieved by the impugned order, the appellants/allottees preferred the instant appeal before this Tribunal. They primarily challenged the impugned order on the ground that Authority failed to consider that delay in payment was attributable solely to the respondent/promoter and HDFC Bank and, not to the appellants/allottees. They further contended that clause 10(x) of the agreement mandated 30 days' prior notice before cancellation of the unit. Contrarily, the respondent/promoter had issued only a seven-day demand notice of balance amount vide its letter dated 23.07.2021.

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

7. A perusal of the impugned order reveals that the OC for the project was granted on 16.09.2019, which was prior to the execution of the agreement. This clearly indicates that the offer dated 24.05.2021 was valid. As per the terms of the agreed payment plan, the appellants/allottees were obligated to pay 10% of the Basic Sale Price within fifteen days of booking, and the balance amount was to be paid within thirty days from the date of booking, sanction of bank loan, or offer of possession, whichever was later. It is evident from the record that the appellants/allottees failed to adhere to the said payment schedule and did not make the requisite payments, even after the loan had been sanctioned by HDFC Bank. Despite several reminders issued by the respondent/promoter, the appellants/allottees remained in default. Consequently, the

respondent/promoter served a notice of termination on 23.07.2021, and thereafter, the allotment of the subject unit was cancelled vide letter dated 29.09.2021.

8. We are, therefore, of the considered view that the respondent/promoter acted in accordance with the due process of law in cancelling the said unit. We find no legal infirmity or procedural irregularity in the order passed by the Authority warranting interference of this Tribunal. The appeal is without any merit and is hereby dismissed.

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

10. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

January 05,2026/mk