

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: January 19, 2026

Appeal No.472 of 2022

Gopal Krishan Arora HUF

R/o C-1/17, Rana Pratap Bagh,

New Delhi-110007.

...Appellant

Versus

Experion Developers Private Ltd.

... Respondent

Regd. Office at F-9, 1st Floor, Manish Plaza – 1,

Plot no. 7,MLU, Sector 10, Dwarka, New Delhi-110075

Appeal No 277 of 2022

Experion Developers Private Ltd.

Regd. Office at F-9, First Floor, Manish Plaza – 1,

Plot no. 7,MLU, Sector 10, Dwarka, New Delhi-110075

Corporate Office at Plot No. 18, 2nd Floor,

Institutional Area, Sector -32 Gurugram,

Haryana-122001

... Appellant

Versus

Gopal Krishan Arora HUF

R/o C-1/17, Rana Pratap Bagh,

Delhi-110007.

...Respondent

CORAM:

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

Chairman
Member (Judicial)
Member (Technical)

Present: Mr Shekhar Verma, Advocate for the promoter.
Mr.Sandeep Khunger, Advocate for the allottee.

ORDER:

RAJAN GUPTA, CHAIRMAN

This order shall dispose of above mentioned appeals, as common question of law and facts are involved. However, the facts have been extracted from Appeal No. 472 of 2022.

2. Present appeals are directed against the order dated 22.12.2021, passed by the Authority¹. The operative part thereof reads as follows:

69. H. Directions of the Authority

Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the authority under section 34(f):

i. The respondent is directed to offer possession of the unit and handover the physical possession of the unit within one month and thereafter conveyance deed will be executed in next one month. The promoter will allow inspection of the unit after fixing the date and time in a week's time.

ii. The respondent is directed to pay interest at the prescribed rate of 9.30% p.a. for every month of delay from the due date of possession i.e., 27.06.2016 till the date of occupation certificate 24.12.2018 plus two months i.e., 24.02.2019 as per section 19(10) of the Act.

iii. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per rule 16(2) of the rules.

iv. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. The payment, if any, due towards the complainant shall be made after adjusting the delayed possession charges and calculating the interest at equitable rate from due date of possession i.e., 27.06.2016 till the date of occupation certificate 24.12.2018 plus two months i.e., 24.02.2019 as per section 19(10) of the Act.

¹ Real Estate Regulatory Authority, Gurugram

v. The promoter shall not demand any extra charge which are not part of BBA or otherwise legally not payable by the allottee. However, holding charges shall also not be charged by the promoter at any point of time even after being part of agreement as per law settled by the Hon'ble Supreme Court in civil appeal no.3864-3889/2020 dated 14.12.2020.

vi. The respondent is not entitled to charge GST from the complainant as the liability of GST had not become due up to the deemed date of possession as per the agreement.

vii. The complainant paid a sum of Rs.2,34,210/- as ad hoc charges on the basis of demands raised by the builder but the amount so received is liable to be refunded to the complainant.

70. Complaint stands disposed of.

71. File be consigned to the records.”

3. As per the averments made in the complaint, the complainant was allotted Unit No. 0801, Tower WT-07, admeasuring 2650 sq. ft., in the project titled “Windchants,” Sector 112, Gurugram. The total sale consideration was Rs.2,23,84,584/-. A Builder-Buyer Agreement (BBA) was executed between the parties on 26.12.2012 under a construction-linked payment plan. An amount of Rs.2,12,68,095/- was paid by the allottee as per ledger dated 07.01.2020. Clause 10.1 of the BBA stipulated that possession of the unit was to be handed over by 27.06.2016. However, an offer of possession was made on 08.12.2017, and the occupation certificate was subsequently granted on 24.12.2018.

4. Complainant -allottee approached the Authority alleging that the promoter had unilaterally increased the super area from 2650 sq. ft. to 2802 sq. ft. at the time of issuing the possession offer and raised additional demands accordingly. It was further alleged that the

unit offered was incomplete and uninhabitable, and therefore the allottee sought delayed possession charges (DPC) from the due date till actual handing over of possession.

5. The promoter contested the complaint by asserting that the occupation certificate had been received on 24.12.2018 and that the unit was ready for occupation. It was contended that the allottee failed to take possession despite repeated offers and was liable to clear the outstanding dues. The promoter further denied all other allegations and prayed for dismissal of the complaint.

6. After hearing both parties and perusing the record, the Authority passed the impugned order dated 22.12.2021, granting delayed possession interest and issuing ancillary directions already reproduced in para 1 of this order.

7. Aggrieved thereby, both parties have filed cross-appeals before this Tribunal, raising various contentions.

8. During the pendency of the appeals, an interim order dated 18.01.2023 was passed by the predecessor Bench, directing the allottee to deposit an amount of Rs. 10,58,001/-, whereafter the promoter was to hand over possession of the unit. Relevant para of said order as reproduced below:

As per impugned order dated 22.12.2021, the total sale consideration of the unit is Rs.2,23,84,584/- and the total amount paid by the appellant-allottee is Rs.2,12,68,095/-. The Ld. Authority vide impugned order dated 22.12.2021 has awarded delayed possession interest @ 9.30% per annum from the due date of possession i.e. 27.06.2016 till the date of occupation certificate dated 24.12.2018 plus two months i.e. 24.02.2019 as per Section 19(10) of the Real Estate (Regulation and Development) Act, 2016.

During the course of hearing, Ld. counsel for the respondent has stated that the appellant is still liable

to pay an amount of Rs.20,00,00/- approximately besides the stamp duty/paper charges etc.

On the other hand, Ld. counsel for the appellant has stated that as per his calculations, the appellant is only liable to pay an amount of Rs.10,58,001/-. The appellant is directed to deposit the amount of Rs.10,58,001/- with the respondent-promoter within one week. After receipt of the said amount, the respondent-promoter would hand over the possession of the unit to the appellant within 04 weeks.

9. The aforesaid interim order was challenged by promoter in Hon'ble Punjab and Haryana High Court in RERA-APPL-3-2023(O&M). Learned counsel states that the said appeal was dismissed as withdrawn vide order dated 14.02.2025.

10. Thus, the matters be heard on merits.

11. Learned counsel for the allottee contended that despite directions issued by the Authority and this Tribunal, possession of the unit has not been handed over, and the promoter continues to raise illegal demands as a precondition for possession.

12. On the other hand, learned counsel for the promoter submitted that the demands are perfectly valid and were raised in accordance with the BBA. It was further argued that the area, at the time of booking, was tentatively adjudicated as 2650 sq ft, but after completion of the construction, the said area was increased to 2802 sq. ft. as per the sanctioned plan. The said increase in area was also in consonance with the terms of the BBA , and the allottee is liable to pay outstanding dues as per demands raised by it.

13. It was further contended that under Clause 10.1 of the BBA, the promoter was entitled to a grace period of 180 days, which has not been duly considered by the Authority. Relevant clause is reproduced hereunder for ready reference:

Subject to Force Majeure, timely payment of the Total Sale Consideration and other provisions of this Agreement, based upon the Company's estimates as per the present Project plans, the Company intends to handover possession of the Apartment within a period of 42 (forty-two) months from the date of the Building Plans or the date of receipt of the approval of the Ministry of Environment and Forests, Government of India for the Project or execution of this Agreement, whichever is later ("Commitment Period"). The Buyer further agrees that the Company shall additionally be entitled to a time period of 180 (one hundred and eighty) days ("Grace Period") after the expiry of the Commitment Period for unforeseen and unplanned Project realties

14. Learned counsel for the promoter also submitted that a sum of Rs. 41,08,473/- has already been deposited with this Tribunal in compliance with the proviso to Section 43(5) of the Act.

15. We have heard learned counsel for the parties and given careful thoughts to the facts of the case and material on record.

16. Clause 10.1 of the BBA clearly provides for a grace period of 180 days beyond the commitment period for handing over possession. In the facts and circumstances of the present case, we find no reason to deny the promoter the benefit of the said clause. Accordingly, due date of possession would come to 27.12.2016 instead of 27.06.2016.

17. With respect to the issue of increase in super area and corresponding charges, a perusal of the relevant clauses of the BBA leaves no ambiguity that variation in the area is permissible and that the price is adjustable proportionately. We find no violation of the terms of the BBA in this regard. Consequently, no interference is warranted in appellate jurisdiction on this issue.

18. As regards the grant of delayed possession interest, we find no infirmity in the directions issued by the Authority warranting interference.

19. In view of the above discussion, the appeal No.277 of 2022 is party allowed and the Appeal No. 472 of 2022 is dismissed.

20. The amount deposited by the appellant-promoter with this Tribunal, along with accrued interest, in order to comply with the provisions of Section 43(5) of the Act be remitted to the Ld. Haryana Real Estate Regulatory Authority, Gurugram for disbursement to the parties as per their entitlement in accordance with law and Rules.

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

22. Files be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

January 19, 2026/mk