

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.969 of 2025

Date of Decision: December 10,2025

1. Anjali Tiwari
2. Ratnesh Kumar Jha
Both residents of 221, First Floor, Deep Plaza Commercial Complex,
Opp. Gurgaon District Court-122001
...Appellants

Versus

M/s Emaar MGF Land Ltd., Emaar Business Park, MG Road,
Sikanderpur Chowk, Sector 28, Gurgaon, Haryana-122002

...Respondent

CORAM:

Justice Rajan Gupta	Chairman
Dr. Virender Parshad	Member (Judicial)
Dinesh Singh Chauhan	Member (Technical)

Present: Mr. Shubhnit Hans, Advocate with
Mr. Anjanpreet Singh, Advocate for the appellants.

ORDER:

JUSTICE RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 29.01.2025, passed by the Authority¹ dismissing the complaint filed by the appellant-allottees on the ground of undue delay, limitation etc.

2. It appears that a commercial complex in the name and style of 'Emerald Plaza' was floated by the respondent-promoter in Village Nangli, Badshahpur, Maidawas, Gurugram. The appellant-allottees were allotted a unit measuring 479.09 square feet vide provisional allotment letter dated 23.09.2009. Total sale consideration of the unit was Rs.37,74,457/-. The appellant-allottees paid an amount of Rs.37,92,471/- as per statement of account dated 01.12.2023. Due date of possession was 25.02.2013. Occupation Certificate to the project was

¹Haryana Real Estate Regulatory Authority, Gurugram

granted on 08.01.2018. Immediately thereafter, offer of possession was given to the appellant-allottees on 24.01.2018. As there was delay in handing over the possession, the appellant-allottees filed a complaint on 17.11.2023 before the Authority seeking DPC².

3. The complaint was, however, dismissed by the Authority as having been filed after undue delay.

4. Learned counsel for the appellant-allottees has assailed the impugned order on the ground that the demand made by the respondent-promoter at the time of offer of possession from them was illegal.

5. We have heard learned counsel for the appellant-allottees and given careful thought to the facts of the case.

6. It is on record that offer of possession was made to the allottees on 24.01.2018 after grant of Occupation Certificate to the project. Thereafter, possession was given to the appellant-allottees on 27.08.2018. However, the appellant-allottees approached the Authority on 27.11.2023 i.e. after more than five years from the date of actual handing over of possession.

7. Keeping in view the fact that:

- (i) the allottees were handed over possession on 27.08.2018;
- (ii) admittedly, Occupation Certificate was received by the promoter on 24.01.2018 and complaint was instituted on 27.11.2023;
- (iii) no cogent reason has been given by the allottees in their complaint before the Authority for such a huge delay in filing thereof;
- (iv) as the appellant-allottees are in possession of the property since 27.08.2018 and have been enjoying usufruct of the

²Delayed Possession Charges

same, it appears that they initiated the complaint only for monetary gains; and

(v) the complaint suffers from severe delay and laches.

8.. In **B. L.Sreedhar and others v. V.K.M. Munireddy and others**, AIR 2003 SC 578, Hon'ble the Supreme Court observed as under:

"Lapse of time and delay are most material when the plaintiff, by his conduct may be regarded as waiving his rights, or where his conduct, though not amounting to a waiver, has placed the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards asserted. When, however, an argument against a relief, otherwise just, is founded upon mere delay not amounting to bar by limitation, the validity of that defence must be tried by principles substantially equitable."

9. In view of above, we find no infirmity with the impugned order passed by the Authority below dismissing the complaint.

10. The appeal is thus, without any merit and is hereby dismissed.

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

12. 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 10,2025
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Anjali Tiwari and Anr.
vs
M/s Emaar India Ltd.
CM No. 1476 of 2025
In Appeal No. 969/2025

Present: Mr. Shubnit Hans, Advocate with
Mr. Anjanpreet Singh, Advocate,
for the appellant.

Arguments heard.

Order reserved.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

10.12.2025
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