

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL
Appeal No.550 of 2024
Date of Decision: December18, 2025

- 1. M/s Mascot Buildcon Private Limited
- 2. M/s Hometown Properties Private Limited registered office at 294/1, Vishakarma Colony, Opp ICD, M.B. Road, Lalkuan, New Delhi-110044.

Appellants

Versus

- 1. Gajendra Singh;
- 2. Neelam Singh, both residents of Flat No.705, Block-C, NCC Meadows, Phase-I, Doddabalapur Road, Yelhanka New Town, Bangalore-560064.

Respondents

Coram:

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

Present: Mr.Gulshan Kumar, Advocate,
for the appellant.

Mr.Gejender Singh-Respondent No.1 in person.

ORDER

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against order dated 09.04.2024 passed by the Authority¹ at Gurugram. Operative part thereof reads as under:

G. Directions of the Authority:

45. Hence, the Authority hereby passes this order and issue 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) of the Act of 2016:

i) The respondent no.2 is directed to refund the entire paid-up amount i.e., Rs.22,24,156/- received by it from the complainant along with an interest @10.85% p.a. as prescribed under rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of

¹Haryana Real Estate Regulatory Authority at Gurugram

each payment till its realization. The amount of Rs.18,27,517/-already refunded by the respondent shall be deducted from the amount so assessed.

ii) A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

46. Complaint stands disposed of

47. File be consigned to the Registry.”

2. It appears that the project in the name and style of “Oadles Skywalk” was floated by the appellants-promoters in Sector 83, Gurugram. Complainants(respondents herein) applied for a commercial unit therein. They were allotted a unit bearing No.F-192 at first floor, measuring 370.5 sq. ft. SBA² was executed on 28.04.2016. Due date of possession calculated on the basis of 36 months from the execution of SBA came to 28.04.2019. Occupation Certificate for the building was granted on 26.10.2023. Much prior to all this, the allottees made request for refund vide e-mail dated 23.10.2020. As per allottees, they received no response, due to which they had filed complaint before the Authority at Gurugram on 22.01.2021. Said complaint was allowed in terms of the order reproduced in the opening paragraph of this order.

3. Learned counsel for the appellants has posed a challenge to the order primarily on the ground that the respondents were defaulters as they did not make the payments in time. The Authority has, thus, gravely erred in allowing the entire amount to be refunded to the appellant along with interest. As per him, 10% of the basic sale consideration ought to have been deducted therefrom.

4. Stand of the respondent-allottees on the other hand is that till due date of possession i.e., 28.07.2019, construction of the project had not made much headway. They had paid an amount to the tune of

² Space Buyer's Agreement

Rs.22,24,156/- till 26.04.2017. However, seeing no progress at the site, they wrote e-mails to the promoter time and again. Besides, the site shows that size of the shop was not as that was promised. On measurement thereof, they found major deviation. They sought clarification from the promoter also but no heed was given to them. Ultimately, the allottees addressed notice/e-mail dated 23.10.2020 to promoters seeking refund of their paid up amount along with 24% interest. As same was not granted, they were constrained to approach the Authority by way of filing the complaint.

5. After hearing learned counsel for the appellants and Mr. Gajender Singh-Respondent No.1 and giving careful thoughts to the facts of the case, this Tribunal observes that the due date of possession was 28.04.2019, and allottees had already paid substantial amount of Rs. 22,24,156/- towards sale consideration by 26.04.2017. However, the Occupation Certificate was granted only on 26.10.2023, after a delay of over four years beyond the committed date. The delay in handing over possession is substantial and without any reasonable explanation from the promoters.

6. Further, the respondent-allottees have raised concerns regarding the slow progress of construction and the discrepancies in the size of the unit allotted to them. These issues were raised repeatedly by the respondent-allottees, yet no corrective measures were taken by the promoters.

7. While the counsel for appellant-promoters has argued that the respondents failed to make timely payments, this contention does not absolve them from the obligation to offer the possession of unit within the agreed timeframe. The project's delay and the failure to deliver

possession on time have led the respondent-allottees to seek refund along with interest. The appellant-promoters cannot shift the blame on the allottees for their own failure to comply with the terms of the agreement.

8. Thus, the Authority has rightly directed the appellant-promoters to refund the entire amount paid by the complainants along with interest at 10.85% p.a., as per the provisions under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017.

9. In light of the above considerations, the Tribunal finds no merit in the appeal filed by the promoters and the appeal is hereby dismissed.

10. The amount deposited by the appellant/promoters i.e. Rs. 25,83,692/- 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 respondent-allottees in accordance with law and Rules.

11. Copy of this order be sent to the parties/their learned counsels and the Authority for compliance.

12. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

December 18, 2025/mk