

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA
REAL ESTATE REGULATORY AUTHORITY, GURUGRAM**

Complaint No. 3052-2023

Date of Decision: 19.02.2026

M/s Native Build-con Pvt. Ltd. BPTP Crest Plot No. 15, Udyog Vihar,
Phase-IV, Gurugram- 122015.

.....Applicant/Respondent.

Versus

1. Mr. Rajesh Deshwal S/o Mr. Ram Sanahi Singh Deshwal, 2. Mrs.
Purnima Singh W/o Mr. Rajesh Deshwal, R/o Flat No. 501, La Lagune,
Sector-54, Golf Course Road, Gurugram-122011.

.....Non-applicants/Complainants.

APPEARANCE

**For Applicant: Mr. Harshit Batra, Advocate with Ms.Tanya Adv.
For Non-Applicant: Mr. Kuldeep Kumar Kohli, Advocate.**

ORDER

1. A complaint (complaint no. 2148-2018) filed by non-
applicants (Mr. Rajesh Deshwal and Mrs. Purnima Singh), was decided
by this forum vide order dated 16.01.2026. 2018). The complainants
sought refund of their amount, alleging that the respondent failed to

handover possession of their unit within time as mentioned in BBA. That complaint was allowed and respondent (present applicant) was directed to refund the amount as received by it from complainants^{ie} Rs. 1,65,57,968/- within 90 days of the order, alongwith interest at rate 9.30% per annum from the date of each payments till realization of amount.

2. File is put up again, on an application filed by respondent with a prayer for modification in said order. Heard. Through impugned order, the respondent has been directed to pay a compensation of Rs. 3 crore 50 lakhs to the complainants, apart from some other reliefs. While determining the amount of compensation, this forum observed that if allottees/complainants would have invested the same amount i.e. Rs. 1,65,57,968/-, it would have doubled till order of refund, passed in their favour.

3. Learned counsel for non-applicants/complainants opposed the application contending that same is not maintainable in view of Section 39 of Act of 2016.

4. A relevant portion of Section 39 is reproduced here for ready reference:-

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“The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties”.

5. Learned counsel appearing for applicant ^{is} of opinion that mistake in the impugned order is apparent. According to ^{him}, a perusal of impugned order makes it clear that this forum awarded compensation observing that money paid by the complainants in purchase of unit in question, would have been doubled, if invested in some other similar project. When complainants paid only Rs. 1,65,57,968/- at the most, this amount could have doubled to Rs. 3,31,15,936/-. As described earlier, the entire amount as was paid by present complainant as part of sale consideration, has already been ordered to be refunded by this forum, while deciding complaint no. 2148/2018 and that alongwith interest. It will be punitive for his client to coerce the same to pay Rs. 3 crore 50 lakhs as compensation apart from refund of amount i.e. Rs. 1,65,57,968/- with interest. Learned counsel reminded that in several cases this forum while allowing compensation after considering appreciation in market

value of unit, the amount which has already been ordered to be refunded to the allottees, was allowed to be deducted.

The very purpose of awarding compensation by a court is to provide monetary relief to an aggrieved party for losses/injuries or suffering caused by a wrongful Act ----- it aims to restore the victim to his/her previous position. The object can never be to enrich a party. In this way, amount of compensation should be reasonable and fair. It should neither be so excessive ^{amounting} to enrich the complainant and at the same time, it should not amount a punishment to the other party.

6. Even as per the observations of this forum, money invested by the allottees/complainants while purchasing unit in question would have doubled till the order of refund. When the amount has already been ordered to be refunded, it was not proper to ignore the fact that the amount which was paid by the complainants had been ordered to be refunded. In this way, it was an apparent mistake by this forum. This fact is substantiated from several orders passed by this forum as referred by learned counsel for applicant, where amount ordered to be refunded to the allottees was allowed to be deducted. It is an established principle that a party should not suffer injustice for mistake of the court. Due to

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this reason, when mistake is apparent from the record, section 39 does not come in the way of application seeking amendment in the order.

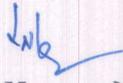
7. It is again plea of learned counsel for non-applicant/complainants that although order of refund was passed in favour of his client. An appeal has been filed before the Appellate Tribunal by the respondent (present applicant). Although the latter has deposited the amount before the Appellate Tribunal in compliance of provisions of Section 43(5) of the Act, no such amount has been refunded to his client.

8. Any party to the dispute has legal right to challenge the order in appeal. It is not of much importance for decision on this application, if the amount, ordered to be refunded has actually been returned to the allottees or not. I find no force in this plea of learned counsel.

9. Considering the facts as discussed above, I allow application in hands. The impugned order is modified to the extent that respondent is directed to pay a compensation of Rs. 3 crores 50 lakhs (rounded up), to the complainants as loss of appreciation in the property, after deducting the amount of Rs. 1,65,57,968/- which has already been ordered to be refunded in complaint no. 2418-2018, decided by this forum vide order dated 31.08.2021.

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10. Application is thus disposed of.
11. File be sent back to the record room.


(Rajender Kumar) 19.02.20
Adjudicating Officer,
Haryana Real Estate
Regulatory Authority,
Gurugram.