

BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA REAL ESTATE REGULATORY AUHORITY, GURUGRAM.

Complaint No. 803-2024

Date of Decision: 24.02.2026

Raj Kumar Chawla and Indu Chawla, both residents of K-3/15, Ground Floor, DLF Phase-II, Gurugram, Haryana.

..... Complainants

Versus

Parsvnath Hessa Developers Pvt. Ltd., having its Office at Parsvnath Metro Tower, near Shahdara Metro, Shahdara, Delhi- 110032.

..... Respondent

APPEARANCE

For Complainants:

Mr. Garvit Gupta, Advocate.

For Respondent:

Mr. Ankit Goel, Advocate.

ORDER

1. This is a complaint, filed by Mr. Raj Kumar Chawla and Ms. Indu Chawla (allottees) under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016) against Parsvnath Hessa Developers Pvt. Ltd. (promoter).
2. According to complainants, they are simple, law abiding and peace-loving persons. They (complainants) received a marketing call from the office of respondent and also came across respondent's advertisement

for sale of flats in a building/project named "Parsvnath Exotica" located at Golf Course Road, Sector 53/54 for booking in its said residential project. They (complainants) and respondent through its sister concern entered into a Memorandum of Understanding (MOU) dated 01.09.2012. Vide said MOU, the allotment of the complainants of four shops that were allotted to them were cancelled and it was mutually agreed that the amount paid towards the sale consideration of the said shops would either be adjusted towards the unit that would be allotted to them in the said project now in question or the amount of Rs.79,60,537/- would be refunded to them. It was further mutually agreed upon that till the time either of the abovementioned refund or adjustment is not done as per said MOU, no demand could be raised by the respondent.

3. That upon the booking of a unit in the project of the respondent as stated above, they (complainants) were made to sign a pre-printed Flat Buyer's Agreement (FBA) dated 03.09.2012. By virtue of said FBA, they (complainants) were allotted an apartment bearing B5-403 on 4th Floor in Tower no. B5 having an approximate super area of 3390 sq. ft. for a total sale consideration of Rs.3,47,00,000/-. The respondent was under an obligation, not to raise any payment demand before the adjustment of the amount already paid. Furthermore, the respondent was

under an obligation of completing the construction of the said project and handing over the possession of the unit to the complainants within a period of 24 months from the date of booking of the flat.

4. That they (complainants) made the booking on 03.07.2012 as the amount of Rs.10,00,000/- was paid by them to the respondent and accordingly the receipt was issued by the respondent bearing the aforementioned date. ~~Therefore,~~ ^h ~~The~~ ^T due date of handing over of possession was 03.01.2015 including the grace period.

5. That total amount of Rs.1,55,26,537/- was paid by the complainants towards the said unit. Moreover, the amount paid by them towards the said unit, was prior to the adjustment done by the respondent as per the hereinbefore mentioned MOU. The said adjustment was done in the month of June, 2014. The respondent failed to comply with the contractual obligations and the possession was not handed over despite lapse of the due date as determined under the FBA. Moreover, the construction was left abandoned for more than 4 years. The complainants demanded refund of their amount from the respondent due to the non-compliance of the due date of handing over of possession but the same was paid no heed by the respondent.

6. Contending all this, complainants sought following reliefs: -

- i. To direct the respondent to make payment of Rs.82,50,000/- towards the loss of profit.
- ii. To direct the respondent to make payment at the rate of 6% of the amount deposited by the complainants to be calculated from the date of each payment till realization as compensation towards mental harassment, trauma and distress caused to the complainants by the respondent.
- iii. To direct the respondent to make payment of Rs.2,15,46,666/- towards the compensation amount for loss of opportunity.
- iv. To direct the respondent to make payment of Rs.2,50,000/- towards the litigation cost.
- v. Any other order, the Hon'ble Forum may deem fit.

7. The respondent contested the complaint by filing a written reply. It is stated that the averments made in the complaint under reply may be considered to have been specifically denied and controverted, unless specifically admitted hereinafter. According to respondent, it is a settled proposition of law that no one can be penalized twice for same cause of action and any litigation initiated after a relief already been granted by the another court/tribunal of parallel jurisdiction, is not maintainable and is liable to be dismissed. The Hon'ble Supreme Court of India in catena of Judgments has held that the interest awarded is to be treated as compensation towards the loss suffered by the allottee for the delay in handing over possession of the unit.

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8. It is further averred that once complainants have been awarded interest on refund of the amount paid by them, such interest on the refund is nothing but compensation to the complainants in lieu of delay in handing over possession, loss of opportunity and loss of rent etc. Therefore, the complaint under reply is in direct infringement of principle of Res-Judicata. As complainants have already been granted compensation in lieu of delay in handing over possession of the unit. Thus, allowing the complaint under reply would lead to double jeopardy and violation of Article 20 of The Constitution of India.

9. Contending all this, respondent prayed for dismissal of complaint.

10. Both of the parties filed affidavits in support of their claims.

11. I have heard learned counsels appearing for both of parties and perused the record.

12. It is pointed out that before approaching this forum, the complainants filed a complaint before the Authority i.e. Complaint No. 5544 of 2019, which was allowed by the Authority vide order dated 14.09.2022. The Authority directed respondent to return the amount received by the same from the allottees/complainants i.e. Rs.1,55,26,537/- with interest at rate 10% per annum as prescribed under Rule 15 of

Haryana Real Estate (Regulation and Development) Rules, 2017 from date of each payment till actual payment of refund of the amount.

13. That the Authority noted that the due date of possession was 13.01.2015 and there was delay of 3 years 1 month 20 days on the date of filing the complaint. The occupation certificate/completion certificate of the project where unit is situated had still not been obtained by the respondent-promoter. According to the Authority, allottees cannot be expected to wait endlessly for taking possession of the allotted unit, for which they have paid a considerable amount towards the sale consideration. The Authority relied upon finding of the Apex Court in case **IREO GRACE REALTECH Pvt. Ltd. Vs. Abhishek Khanna & Ors. Civil Appeal No. 5785 of 2019, decided on 11.01.2021.**

14. In this way, it has well been established that respondent failed to complete the construction and to handover possession of subject unit despite delay of more than 3 years.

15. Section 18 (1) of Act of 2016 provides that if the promoter fails to complete or unable to give possession of an apartment, plot or building,-

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(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) -----,

he shall be liable on demand to the allottee, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him----- **including compensation, in the manner as provided under this Act.**

16. From this provision, it is abundantly clear that in case promoter fails to complete the project or to give possession of an apartment, plot etc. in agreed time, the allottee is entitled for refund of the amount along with interest as well as compensation, determined in the manner as provided under this Act. The complainants were thus entitled for refund of the amount as well as compensation from the promoter i.e. respondent.

17. So far as the amount of compensation is concerned, the complainants have prayed for an amount of Rs.82,50,000/- towards loss of profit, Rs.2,15,46,666/- towards loss of opportunity. It is contended by learned counsel for complainants that due to inflation and increase in prices even a residential unit of lesser area i.e. 2895 sq. ft. was sold for Rs.4,75,00,000/-. Copy of a sale deed dated 26.09.2023 has been put on

file. The complainants referred another sale transaction regarding a unit having covered area of 3390 sq. ft., which was sold for a sum of Rs.4,30,00,000/- through sale deed Vasika No. 7832 dated 22.07.2022. Again, one more sale deed i.e. Vasika no. 11535 dated 03.09.2025 where a similar unit was sold in August, 2025 for a sum of Rs.8,00,00,000/-. Referring all this, learned counsel claims that there is increase of approximately 275-300% in prices of similar residential houses in nearby areas, where subject unit is situated.

18. As noted by the Authority, due date of possession was 13.01.2015 and possession (fit out) was offered by the respondent on 23.03.2018. As per AI Overview, Sector 53 and 54 of Gurgaon are highly premium, located along the Golf Course Road and Rapid Metro line, ensuring high demand ----- The area experienced significant, though uneven appreciation from Sept. 2012 (date of BBA) to Sept. 2022 (when order of refund was passed), largely driven by infrastructure development and luxury demand while specific 2012- 2022 data shows appreciation rate 100% in 10 years. However, market saw a period of slower growth roughly from 2017 to 2020. Taking an overall approach, it is presumed that prices of residential houses were appreciated by 50% during entire period from Sept. 2012 to Sept. 2022. If the amount paid by

the complainants to the respondent i.e. Rs.1,55,26,537/- was invested in some other similar project, the price of their property would have appreciated to Rs.2,32,89,805/- (Rs.1,55,26,537/- + Rs.77,63,268/-). As mentioned above, the Authority has already allowed refund of the amount as paid by the complainants, considering all this, complainants are allowed a sum of Rs.77,63,268/- as compensation for appreciation in the value of the property/loss of profit. When compensation in the name of appreciation of value/loss of profit has already been allowed, I find no reason to allow compensation again in the name of loss of opportunity. Request in this regard is declined.

19. Complainants have prayed for payment of interest at rate of 6% of the amount deposited by the same, in the name of mental harassment, trauma and distress caused to them. When despite making payment of considerable amount i.e. Rs.1,55,26,537/-, complainants could not get possession of their unit, within agreed time, it apparently caused mental harassment and agony to them, compensation in the form of interest at rate 6% on the deposited amount as claimed by the complainants appears to be very excessive. Same are allowed a sum of Rs.1,00,000/- as compensation in the name of mental agony and harassment.

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20. Complainants have further requested for Rs.2,50,000/- towards litigation cost. Same also appears to be excessive. No court fee is required to be paid to the Authority, while filing such complaint. Even then as complainants were represented by an advocate during proceedings of this case, same are allowed a sum of Rs.50,000/- as cost of litigation.

21. The amounts mentioned above be paid by the respondent to the complainants along with interest at rate 10.85% per annum from the date of this order till realization of amount.

22. Complaint is thus disposed of. File be consigned to the record room.

Announced in open court today i.e. on 24.02.2026.


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