

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

Complaint No.: 2455-2025

Date of Decision: 20.04.2026

1. Mr. Amitabh Khare,
 2. Ms. Seema Khare,
- both residents of A1/28 Second Floor, South City-II Sohna Road,
Gurugram.

.....**Complainants**

Versus

M/s BPTP Limited, OT-14, 3rd Floor, next door Parklands, Sector-76,
Faridabad.

..... **Respondent.**

APPEARANCE

For Complainants: Ms. Ada Khurshed, Advocate.
For Respondent: Ms. Tanya, Advocate.

ORDER

This is a complaint filed by Mr. Amitabh Khare & Ms. Seema Khare (allottees) under Section 31 read with Section 71 of The Real Estate (Regulation and Development) Act, 2016 (referred as "Act of 2016") read with Rule 36(1) of The Haryana Real Estate (Regulation and Development), Rules 2017, against M/s BPTP Limited (promoter).

2. Brief facts of the complainants' case are that on 31.12.2010 they booked a flat admeasuring 1800 Sq. ft. in the project "BPTP Spacio"

Handwritten signature/initials
AO

Sector-37D, Gurugram, developed by the respondent and paid booking amount of Rs.3,81,456/- through cheque. On 06.06.2011, they (complainants) were allotted flat no. M-705, 7th Floor, Tower-M in the aforesaid project. Buyer's Agreement (BBA) between the parties was executed on 18.05.2011. Total value of the aforesaid flat was Rs.51,96,800/- and an amount of Rs.50,38,954/- was paid by the complainants. Due date of possession was 31.12.2013.

3. That after a delay of more than seven years, the respondent offered possession of subject unit on 29.01.2021, but the unit was not in habitable condition. Being aggrieved with the acts of the respondent, they (complainants) filed a complaint bearing No.1238/2021 before the Authority seeking delay possession charges. The Authority vide its order dated 10.05.2022 directed the respondent to pay delayed possession charges at the rate of 9.30% p.a. from 31.12.2013 till 29.03.2021.

4. That on 03.08.2023, the respondent raised an illegal demand of Rs.1,88,995/- towards maintenance charges without even actually handing over the possession and handed over possession of the unit after a delay of ten years and executed conveyance deed in favour of the complainants on 16.02.2024.

5. Contending all this, the complainants have prayed for following reliefs:

AD

- i) to direct the Respondents to pay compensation of Rs. 10,00,000/- for medical treatment raised because of respondent's acts.
- ii) to direct the respondent to pay compensation of Rs. 11,97,001/- towards delay in handing over possession, for the period from 30.03.2021 to 20.09.2023.
- iii) to direct the respondent to pay compensation of Rs. 42,01,643.84/- towards the total rental loss that has been incurred by the complainants due to delay in possession of the unit by the respondent, along with all other facilities, amenities and services as mentioned under the Brochure and Puilder Buyer Agreement and assured at the time of booking.
- iv) to direct the respondent to pay compensation of Rs. 24,36,663.53/- towards the total loss on interest on rent that has been incurred to the complainants.
- v) to direct the respondent to pay compensation of sum of Rs. 5,00,000/- for illegally imposing maintenance charges on the complainants without handing over the actual physical possession.
- vi) to direct the respondent to provide the compensation of Rs. 3,00,000/- towards the legal costs incurred.
- vii) to direct the respondent to pay compensation of Rs. 25,00,000/- for continuous harassment of the complainants for not handing over the possession, not paying the delayed possession charges on time.

6. The respondent contested the complaint by filing a written reply. It is averred that it (respondent) completed the project and

Vib
AO

offered the possession of the unit to the complainants on 29.01.2021 after having received an Occupation Certificate on 15.01.2021. It (respondent) had also issued a reminder dated 15.03.2021 to the complainants, which was blatantly ignored by them.

7. That at the time of offer of possession, the respondent had credited a compensation for Rs. 5,99,408 in favour of the complainants, however, they (complainants) being aggrieved with the quantum of compensation approached the Authority by filing a complaint bearing No.1238 of 2021, which was disposed off by it vide order dated 10.05.2022.

8. That in compliance of the aforementioned judgment, the respondent issued a compliance letter dated 22.08.2022 to the complainants and compensation of Rs. 22,70,223/- was credited into the accounts of the complainants and additional benefit of Rs. 7,27,445/- was also given.

9. That the complainants have filed execution petition no. 6544 of 2022 for execution of the order of the Authority. During proceedings, it (respondent) made payment of Rs. 10,24,722/- to the complainants, as is evident from the order dated 20.12.2022 passed by the Executing Forum. After said payment, entire decretal amount has been paid to the allottees.

Handwritten signature
AO

10. That after checking each and every fit-out in the unit, the complainants had taken the physical possession of the unit on 20.09.2023 and executed the Conveyance Deed on 16.02.2024. In this way, all claims have been settled between the parties.

11. Stating all this, the respondent prayed for dismissal of complaint, with exemplary costs.

12. Both of the parties filed affidavits in support of their claims. I have heard learned counsels appearing for both of parties and perused the record.

13. The factual matrix i.e. allotment of flat no. M-705, 7th Floor, Tower-M, admeasuring 1800 sq. ft. in project "BPTP Spacio", Sector-37D, Gurugram, in favour of complainants for a total sale consideration of Rs.51,96,800/-, after receipt of total sale consideration, respondent offered possession on 29.01.2021, is not in dispute. Admittedly, complainants filed a complaint no. 1228 of 2021, seeking delay possession charges, which was allowed by the Authority vide order dated 10.05.2022. The respondents were directed to pay DPC @ 9.30% p.a. from 31.12.2013 to 29.03.2021, along with some other reliefs.

14. The complainants have sought compensation of Rs.11,97,001.01/- towards delay in handing over possession for the period of 30.03.2021 to 20.09.2023. It is contended by learned counsel

du
A

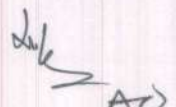
for complainants that actual physical possession was handed over on 20.09.2023 despite order of Authority to pay DPC.

15. In view of mandate given by Apex Court in *M/s Newtech Promoters and Developers Private Limited versus State of UP & Ors.*, the Authority has jurisdiction to decide complaint seeking delay possession compensation. Moreover, the complainants have already availed this remedy by approaching the Authority, as described earlier.

16. When the complainants have already been allowed DPC, no reason to entertain plea seeking delay possession charges again. Request in this regard is declined.

17. Similarly, the complainants have prayed for compensation of Rs.42,01,643.84/- for rental loss, Rs.24,36,663.53/- towards loss of interest on rent, alleging that due to delay in handing over possession of subject unit they (complainants) have suffered rental loss of amount mentioned above.

18. Rule 15 of The Rules of 2017 provides that for the purpose of proviso to section 12; section 18; and sub-section (4) and sub-section (7) of section 19, the interest at the rate prescribed shall be the State Bank of India highest marginal cost of lending rate + 2%. Provision to award 2% interest more than highest lending rate by SBI is nothing but to compensate the allottees. When the complainants have already been allowed DPC with interest, which is considered to be a compensation, no


AD

reason to allow compensation in the name of rental loss or loss on interest on rent. Request in this regard is also declined.

19. Complainants have prayed for compensation of Rs.5,00,000/- for illegally imposing maintenance charges without handing over actual physical possession. The complainants have put on file, demand of maintenance charges by the respondent as Annexure C10 and C11. Levy on maintenance charges in this way, is not disputed on behalf of respondent, during deliberations.

20. It stands to no reason to levy maintenance charges, when possession was not handed over to the allottees. To impose maintenance charges, without handing over physical possession or without sending valid offer of possession was not justified. Request for compensation in this regard is allowed. Respondent is directed to refund of the amounts of maintenance charges, which were collected from the complainants before the date of handing over physical possession, along with interest @ 10.85% p.a. from the date such amount is received by the respondent till its realisation.

21. Learned counsel for complainants contended that the respondent illegally charged cost of escalation from his clients. There was no such agreement between the parties, allowing the respondent to levy cost escalation charges.

lab
AO

22. On the other hand, learned counsel for respondent submits that cost escalation charges have been allowed by the Authority, in case i.e. complaint no. 1228 of 2021 and 36 others. Through a single judgment, the authority decided 37 complaints. Learned counsel pointed out that the authority through said order allowed levy of escalation cost at rate Rs.374.76 per sq. ft. and set aside the demand raised by the promoters at rate Rs.588 per sq. ft.

23. Copy of agreement for sale (BBA) has been put on file. As per clause 3 of said agreement, the seller (respondent) agreed to hand over possession of unit in question within 36 months from the date of booking/registration of the Flat. Admittedly the respondent failed to deliver possession within agreed time and the project was highly delayed. Clause 1.31 of agreement defined 'sale consideration' which included but not limited to Basic Sale Price, DC, PLC, CMC, IFMS, CPC, ECC, FFC, PBIC and Administrative Charges. It does not mention about escalation charges. Even otherwise, sale consideration was fixed after considering the escalation of the cost, till due date of possession.

24. Clause 1.24 of the agreement mentions about 'maintenance charges' meaning as may be demanded by the Maintenance Service Provider towards the regular upkeep, security and maintenance of the Colony. When the complainants were not given possession of their unit,


Am
A0

they cannot be held liable to pay charges for regular upkeep or security of the Colony. If respondent could not deliver the unit due to its own fault, same cannot penalise the allottees by imposing escalation charges. A party cannot be allowed to take benefit of its own wrong.

25. So far as order of the authority passed in complaint no. 1228 of 2021 is concerned, admittedly present complainants were not party in that complaint. Moreover, the order of the authority where complainants were not a party is not a precedent, hence not binding. Escalation charges, levied upon the complainants are illegal, being contrary to the agreement entered between the parties. Respondent is directed to refund the amount of escalation charges collected by it from the complainants along with interest at rate 10.85% per annum from the date the amount was received by it (respondent) till its realisation.

26. The complainants have prayed for compensation of Rs.3,00,000/- towards legal costs. Same appears to be excessive. Even then it is apparent that complainants were represented by a lawyer during proceedings of this case, same are allowed a sum of Rs.50,000/- as cost of litigation.

27. The complainants have prayed for compensation of Rs.10,00,000/- for medical treatment. According to learned counsel for complainants, his client (Mr. Amitabh Khare) developed cardiac


AD

problems and remained hospitalized. Copy of some medical record has been put on record.

28. Even if one of complainants (Mr. Amitabh Khare) had developed cardiac problem, same cannot be attributed to the respondent. No reason to allow any compensation in the name of medical treatment. Request in this regard is declined.

29. The complainants have further prayed for compensation of Rs.25,00,000/- for their continuous harassment by respondent for not handing over possession. As mentioned above, the complainants have already been allowed delay possession compensation. Considering same, no reason to allow any compensation ^{in name of harassment} for not handing over possession.

30. It is claimed by learned counsel for complainants that respondent refused to hand over possession of subject unit, unless entire payment as demanded by it (respondent) has been made. Some of demands were apparently illegal. Further, his clients were forced to give indemnity bonds mentioning that they i.e. complainants had no grievance against the respondent and their unit was complete in all aspects, while his clients had several objections.

31. True, to impose a condition before handing over possession for furnishing such indemnity bond copy of which has been put on file


Sub
AO

is contrary to law and unfair trade practice. The complainants suffered mental agony and harassment, same are allowed a sum of Rs.1,00,000/- in this regard, to be paid by the respondent.

32. This complaint is thus disposed of. The respondent is directed to pay amounts of compensation detailed above, along with interest at rate of 10.85% per annum from the date of this order, till realization of amounts.

33. File be consigned to the record room.

Announced in open court today i.e., on 20.04.2026.


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