

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

Complaint No. :1636-2023

Date of Decision: 23.04.2026

Mr. Subhas Chandra, resident of Flat No.1501, Building 1871, Road 5716, Block 257, Amwaj, Kingdom of Bahrain, through SPA Ms. Nirmal Chawla Bhalla, E-608, E-Block, Karkardooma Court Complex, Shahdara, Delhi-110032.

..... Complainant.

Versus

1. Imperia Structures Ltd. through its Director Office, A-25, Mohan Co-Operative Industrial Estate, Mathura Road, near Sarita Vihar, Metro Station, Delhi-110044.
2. TATA Capital Housing Finance Limited, through its Director, B-36, 1st & 2nd Floor, Lajpat Nagar 2, New Delhi-110021.
3. Manav and Sakshi Bhatia (Proprietors of Investor Fortune), presently the Company named as Seedwill Consulting Pvt. Ltd., Plot No.51, 2nd Floor, Sector-18, Udyog Vihar, Gurugram-122015.

..... Respondents.

APPEARANCE

For Complainant:

For Respondents:

Ms. Nirmal Chawla, Advocate

Ms. Priya Sharma, AR for respondent No.1

Mr. Ajay Singh, Advocate for respondent No.2.

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ORDER

This is a complaint, filed by Mr. Subhas Chandra (allottee), under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016) against Imperia Structures Ltd. & Others (promoters).

2. Briefly stated, according to the complainant, in March 2015, he purchased a Flat No. 1801, 18th Floor, Tower-E, in the project "Imperia the Esfera", Sector-37 Gurugram through owner/broker of respondent No.3 i.e. M/s Seedwill Consulting Pvt. Ltd. A Builder Buyer Agreement (BBA) was signed on 26.09.2015 under a subvention scheme and down payment of Rs.5,03,063/- was given by him (complainant) to respondent no.1. A housing loan amounting to Rs.72,60,000/- was also sanctioned on 29.02.2016 by the TATA Capital Housing Finance Ltd. (respondent no.2) at the instance of the developer (respondent no. 1).

3. That as per subvention scheme, the developer (respondent No.1) is bound to pay the Pre-EMI and EMI in the home loan amount to respondent no.2 till possession is handover to him (complainant) by respondent no. 1. He (complainant) had handed over few blank signed


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cheque (s) as security to the respondent no.2, on the assurance that the same will not be misused by them in any manner but same were intentionally used by the respondent no.2 (TATA Capital Housing Finance Limited) without consent of the complainants. Respondent No.2 withdrew Rs.3,39,761/- from bank account of the complainant.

4. That at the time of signing the documents, it was assured by respondents nos. 2&3 as well as representatives of respondent no.1 for timely possession of the flat and further assured that the complainant is not liable to pay any type of interest till possession of the flat is handed over. However, after passing of 7-8 years, respondent No.1 failed to handover the possession and the respondent No.2 started threatening him (complainant) and his family members and sent several baseless and false legal notices under SARFAESI Act and The Arbitration and Conciliation Act.

5. That respondent no.1 has defaulted, mis-represented and cheated him (complainant) by not complying with terms of BBA as well as tripartite agreement. The respondent no.2 also misused the cheques which were given for security purpose only. The complainant several times requested respondent No.1 to cancel the allotment of flat/apartment because of immense torture and harassment caused by the respondents.

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6. That aggrieved by the conduct of respondents, the complainant filed a complaint before the Authority and vide order dated 13.07.2022, the Authority directed the respondent No.1 to refund the amount to the complainant as well as respondent No.2 with interest at the rate of 9.70% per annum.

7. Citing facts as mentioned above, the complainant has prayed for following reliefs: -

- i) to direct the respondent no.1 i.e. Imperia Structures Ltd. to pay compensation of Rs.10,00,000/-for misrepresenting, committing, fraud and usurp the hard-earned money of the complainant.
- ii. to direct the respondent no.2 i.e. to pay compensation of Rs. 15,00,000/- for involving the complainant in false litigation in connivance with respondents nos.1 & 3.
- iii. to direct the respondent No.3 to pay Rs.8,00,000/- for misrepresenting, deceiving and alluring the complainant to invest in the project of respondent no.1, knowing that other respondents will not comply with the agreement.
- iv. to direct the respondents No.1&2 to pay Rs. 10,00,000/- each for all litigation expenses.
- v. to direct the respondents to pay Rs. 10,00,000/- each for causing mental pain agony, financial losses and loss of credit score by the complainant.

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- vi. to direct the respondent no.2 to return all blank signed cheques of the complainant which were taken as security at the time of execution of tripartite agreement and also to direct the respondent no. 2 to provide "No Objection/No Dues Certificate" to the complainant.
- vii. to direct the respondents not to initiate any other legal proceedings against the complainant.
- viii. to impose penalty on the respondents for not complying with the order dated 13.07.2022 passed by the Authority.

8. The respondents No.1&2 contested the complaint by filing separate written reply. Following is averred by the respondent No.1: -

9. That it (respondent No.1) has successfully completed the construction of the said project, way before the agreed timeline, and has applied to the Competent Authority for issuance of Occupation Certificate on 15.04.2021 itself, after complying with all the requisite formalities. Moreover, despite numerous reminders, large sum is pending to be paid by the complainant.

10. That respondent No.2 in its written reply claims that same is not liable to pay any compensation. The Authority vide order dated 13.07.2022 directed respondent No.1 to first refund the entire loan outstanding with


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applicable interest to the Finance Company i.e. respondent No.2 and then the balance amount (if any), be refunded to the complainant. Role of it (respondent no.2) was limited i.e. to forward the financial services to the borrowers, thus there was no liability on its part towards the completion or delivery of the project. Said loan facility was subject to the terms and conditions mentioned in the sanction letter and the loan agreement, where the borrower had agreed to pay the loan amount. Respondent No.2 is not liable to issue "No Dues Certificate" to the complainant, as he defaulted and failed to pay the loan amount.

11. Denying all averments, the respondents prayed for dismissal of complaint.

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

13. Factual matrix i.e. allotment of subject unit i.e. Flat No. 1801, 18th Floor, Tower-E, in the project "Imperia the Esfera", Sector-37 Gurugram, by the respondent No.1 in favour of the complainant, execution of BBA on 26.09.2015, total sale consideration was Rs. 1,02,26,250/-, out of which the complainant paid Rs.5,03,633+ Rs.3,39,761/- and Rs.72,60,000/-



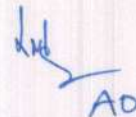
(loan amount) were paid by respondent no.2 (bank), are admitted on behalf of respondent No.1. It is also not denied that the project was not completed in agreed time. The only plea raised on behalf of the respondent No.1 is that when the Authority has already allowed refund of the amount, the complainant is not entitled for any compensation.

14. Admittedly, a complaint (No.1466 of 2021) filed by the present complainant seeking refund of the amount has been allowed by the Authority vide order dated 13.07.2022. The respondent/promoter i.e. respondent No.1 has been directed to refund the amount of Rs.81,02,824/- received by him from the complainant along with interest at the rate of 9.70% per annum from the date of each payment till actual date of refund of the deposited amount. In the absence of filing of any appeal etc. said order has become final.

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

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

(b)


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he shall be liable on demand to the allottees, 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. When the respondent No.1 failed to complete the project and to handover possession of subject unit in agreed time and an allottee/complainant wishes to withdraw from the project, the promotor/respondent No.1 was liable to repay the amount along with interest, as well as compensation. The respondent No.1 is thus liable to pay compensation, despite order of refund of the amount.

17. Section 72 of the Act of 2016 prescribes the factors which are to be taken into account by the Adjudicating Officer, while adjudging quantum of compensation and the same are: -

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default;
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.

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18. It is noted by the Authority in its order dated 13.07.2022, (referred above) and also not disputed on behalf of respondent No.1, ^{that} the latter received a sum of Rs.81,02,824/- from the complainant, but failed to complete the project in time. The complainant has prayed for compensation of Rs.10 lakhs from respondent No.1 for misrepresenting, committing fraud and usurping their hard-earned money. During deliberations, it is contended by learned counsel for the complainant that her client suffered huge loss due to appreciation in the price of residential houses. He had invested his hard-earned money to get the house for him, but was cheated by the respondents.

19. No reliable evidence has been adduced by the complainant to prove loss caused to him or even appreciation in prices of residential houses. When the complainant has been found entitled for compensation, his case cannot be thrown away, simply for want of conclusive evidence in this regard. This Forum is legally obliged to adjudge the amount of compensation, keeping in view facts of case and prevailing circumstances.

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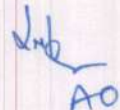
20. According to AI Overview, the residential property prices in Sector-37, Gurugram experienced significant appreciation between March 2016 and July 2022, primarily driven by its proximity to the Dwarka Expressway and improved connectivity to the Delhi-Gurugram Expressway. Overall appreciation between March 2016- July 2022, based on historical data, residential properties in this corridor saw a sharp increase towards the end of this period, with some areas along the expressway experiencing over 75%-80% capital appreciation over 5-10 years.
21. The amount paid by the complainant to respondent No.1 i.e. Rs.81,02,824/- if invested in some other similar project in Sector-37, Gurugram, in March 2016 (when the amount mentioned above was paid) till July 2022 (date of order of the Authority for refund of the amount) same would have appreciated to at least 75%. In other words, it would have increased to Rs.60,77,118/- ($81,02,824 \times 75/100$). The complainant is thus allowed a sum of Rs.60,78,000(rounded up) as loss of appreciation to be paid by respondent No.1.
22. The complainant has prayed a sum of Rs.10 lakhs from each of the respondents for causing mental pain, agony, financial losses and loss of credit score. As stated above, despite making payment of Rs. 81,02,824/-,

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the respondent No.1 did not fulfil its promise. The complainant did not get his dream house. Apparently, same suffered mental agony and harassment. However, Rs.10 lakhs appear to be excessive, the complainant is allowed a sum of Rs.one lakh on this count.

23. The complainant has prayed for a sum of Rs.10 lakhs from respondents No.1&2 each for litigation expenses. No court fee is required to be paid to the Authority, while filing such complaint. Even then, it is evident that the complainant was represented by a lawyer during the proceedings of this case, same is allowed a sum of Rs.50,000/- as litigation expenses to be paid by respondent No.1.

24. Respondent No.2 is stated to be a Financial Institution. It sanctioned loan in favour of the complainant through tripartite agreement. Neither respondent No.2 nor respondent No.3 received amount of sale consideration from the complainant. None of them can be termed as 'promoter' within the meaning of Section 2 (zk) of Act of 2016. None of them is liable to pay any compensation to the complainant. According to complainant, respondent no.2 was connived with respondent no.1 to cheat him (complainant), all this (if true) was a criminal offence. The complainant can approach proper Forum, if same has any grievance in this regard. No



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reason to allow any compensation from respondents nos.2&3. Prayer of the complainant in this regard is declined.

25. The respondent No.1 is directed to pay said amounts of compensation along with interest at the rate of 11% per annum from the date of this order, till realization of amount.

26. This complaint stands disposed of accordingly. File be consigned to the record room.

Announced in open court today i.e. **on 23.04.2026**


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


Mr. Subhas Chandra Vs. Imperia Structures Ltd.& Ors.
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Present:

Ms. Nirmal Chawla, Advocate for the complainant.
Ms. Priya Sharma, AR for respondent No.1.
Mr. Ajay Singh, Advocate for the respondent No.2.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
23.04.2026