

Babu Lal Gupta etc. & New Look Builders & Developers Pvt. Ltd.

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

Complaint No. : 1664-2024

Date of Decision: 30.04.2026

1. Babu Lal Gupta 2. Smt. Madhu Gupta, both residents of H. No. 268/14,
Jacabpura, near Krishna Mandir, Gururam-122003, Haryana.

.....**Complainants.**

Versus

M/s New Look Builders and Developers Pvt. Ltd. (Formerly known as
Ansal Phalak Infrastructure Pvt. Ltd.), registered office at First Floor,
Great Eastern Centre 70, Nehru Place behind IFCI Tower, New Delhi-
110019.

.....**Respondent.**

APPEARANCE

For Complainants: Mr. Kanish Bangia, Advocate.
For Respondent: Mr. Yatharth Chugh, Advocate.

ORDER

This is a complaint filed by Mr. Babu Lal Gupta and Ms.
Madhu Gupta (allottees) under Section 31 of The Real Estate (Regulation
and Development), Act 2016 (in brief Act of 2016), against ^{m/s} New Look
Builders and Developers Pvt. Ltd. (Formerly known as Ansal Phalak
Infrastructure Pvt. Ltd.) (promoter).

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2. Briefly stated, according to complainants, they (complainants) booked a Unit/Plot No. E2179 Ground Floor, measuring 2491 sq. ft. area in the respondents' project namely, "Esencia" located in Sector-67, Gurugram and it was allotted to them on 14.05.2011. A Builder Buyer Agreement (BBA) was executed between the parties on 23.08.2011. The due date of possession as per BBA was 31.12.2015. The total sale consideration of the said unit was agreed at Rs.1,29,48,159/-. The total amount paid by the complainants was Rs.1,07,69,140.

3. That the respondent took the money from the complainants and utilized the same for some other purposes/making investments in some other properties but not in completing the project, for which the money was collected from the allottee². This has caused the complainants and their family members, physical torture, mental stress, pain and anxiety issues because of the uncertainty in the delivery of the Unit, emotional trauma and pain to the entire family, the torture of not staying in their own dream house.

4. That the offer of possession has not been given even till date nor has an alternate plot been given to the complainants even on date and hence the cause of action is a continuous cause of action. There has been a delay of more than 10 years as on date and the delay is a continuous process.

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5. That the respondent is in violation of Section 11 (4) of the Act, it (respondent company) has resorted to unfair practices by way of making incorrect, false and misleading statements over the possession and thereby violated provisions of Section 12 of the Act. It (respondent) has failed to provide requisite facilities, amenities and services as agreed at the time of booking. It (respondent) by using its dominant position is dictating its unreasonable demands to the complainants without showcasing any proficient progress. It (respondent) has substantially failed to discharge its obligations imposed upon them under the Act and rules and regulations made thereunder.

6. That from Section 71 of Act of 2016 it is clear that an adjudicating officer is empowered to adjudge compensation under section 12, 14, 18 & 19 of the Act. As per section 18 (3), if the promoter fails to discharge any other obligation imposed on him under this Act or the Rules or Regulations made thereunder or in accordance with the terms and conditions of the Agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

7. Citing the facts as mentioned above, the complainants have prayed for following reliefs: -

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- I. to award compensation towards mental agony, physical torture and pain suffered by the complainants at the hands of the respondent, to the tune of Rs.5,00,000/-.
- II. to award compensation towards legal fee and expenses for prosecution, to the tune of Rs.3,00,000/-.
- III. to award compensation towards the loss of rent, to the tune of Rs.1,00,88,550.00/-.
- IV. to pass any other order/reliefs as it may deem fit.

8. The respondent contested the claim of complainants by filing a written reply. It is averred that captioned claim is false, frivolous and vexatious in nature and has been filed as an afterthought to malign the reputation and to wrongfully gain at the cost of respondent company.

9. That during the course of proceedings in first complaint, the Authority observed that possession was duly offered by the respondent to the complainants through letter dated 05.06.2016. In terms of Clause 5.1 of FBA, the due date of handing over the possession of unit is 31.12.2015. The occupancy certificate of the unit was obtained on 04.01.2017. Since the occupancy certificate was received on 04.01.2017, it was the duty of complainants to take the possession of unit within a period of 2 months from the date of obtaining the possession of the unit, as per Section 19 (10) of the Act. During consideration on an application before the Authority, the complainants outrightly refused to accept the

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possession of unit. Moreover, after the final order was passed, the respondent had issued letter dated 01.05.2024 to the complainants to take the possession of the unit without any conditions. However, the complainants did not come forward to take the possession of unit after receipt of letter dated 01.05.2024.

10. Stating all this, respondent prayed for dismissal of complaint.

11. 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.

12. It is admitted by learned counsel for the complainants that his clients i.e. the complainants approached the Authority seeking delayed possession charges by filing a complaint (No.5768 of 2022). Said complaint was allowed by the Authority vide order dated 21.03.2024. The respondent has been directed to pay interest at the prescribed rate i.e.10.85 % per annum for every month of delay on the amount paid by the complainants from due date of possession i.e. 31.12.2015 till obtaining the occupation certificate i.e. 04.01.2017.

13. It is contended by learned counsel for the complainants that despite said order of the Authority, it is for the Adjudicating Officer to allow compensation for delay in handing over possession, in view of section 72 of Act of 2016. Learned counsel reminded that this Forum


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(AO) has jurisdiction to allow compensation in view of Sections 12, 14, 18 and 19 of said Act. Section 18 (3) prescribes for liability of promoter to pay compensation to the allottees, if same (promoter) fails to discharge any other obligation imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale. Learned counsel claims that where the respondent (promoter) failed to discharge its obligation of handing over possession in agreed time, as per terms and conditions of BBA, same is liable to pay compensation.

14. As per Section 18 (1) of Act of 2016, if promoter fails to complete or unable to give possession of an apartment, plot or building, (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-----, 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 in respect of that apartment, plot or building, as the case may be, with interest at such rate as may be prescribed in this behalf **including compensation, in the manner as provided under this Act.**

15. It is worth mentioning here that the complainants did not wish to withdraw from the project but prayed for delayed possession

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compensation, by filing a complaint with the Authority. The said complaint has already been allowed. Proviso added to sub section (1) of section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid by the promoter interest for every month of delay till handing over of possession, at such rate as may be prescribed. The parliament did not intend to provide compensation other than DPC in case allottee does not intend to withdraw from the project.

16. Upholding that the claim of compensation and interest can be allowed only in case the allottee seeks to withdraw from the project as per Section 18 (1) of Act of 2016, following was held by Uttar Pradesh Real Estate Appellate Tribunal in case **“Greater Noida Industrial Development Authority vs. Ranjan Misra” Appeal No. 70 of 2023 decided on 20.04.2023-----;**

“13.9. If we closely examine the above two provisions, it comes out that in a case where the Allottee exists the projects, the Act expressly provides INTEREST AND COMPENSATION both, but in cases where the Allottee tends to stay in the project the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to

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
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provide Compensation only to those Allottees who exit the project and not to those who tends to stay in the project."

17. When complainants have already been allowed delayed possession compensation by the Authority for delay in handing over possession of allotted unit, there is no reason to allow separate compensation for same cause of action i.e. delay in delivering of possession.

18. Complaint in hands is thus dismissed. File be consigned to the record room.

Announced in open Court
today i.e. on **30.04.2026**.

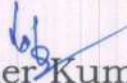

(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory,
Gurugram.

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Present: Mr. Kanish Bangia, Advocate for the complainants.
Mr. Yatharth Chugh, Advocate for the respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
30.04.2026