

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.415 of 2023

Date of Decision: March 25,2026

Landmark Apartments Private Limited through its authorized signatory, Jatin Sharma, Plot No. 65, Sector 44, Gurugram, Haryana

Appellant.

Versus

1. Varun Sharma,
2. Priyanka Sharma,
Both R/o 22, First Floor, Coral Block, Emaar Emerald Hills,
Sector 65, Gurugram

Respondents

CORAM:

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

Present : Mr. Yashpal Sharma, Advocate for the appellant.
Mr. Birinder Pal, Advocate for
Mr. Charanbir Singh Advocate for the respondents.

ORDER:

RAJAN GUPTA, CHAIRMAN:

Present appeal is directed against order dated 14.02.2023 passed by the Authority¹. The operative part thereof reads as under:

“G. Directions of the Authority:

29. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:

i. The respondent/promoter is directed to refund the paid-up amount of Rs.15,34,527/- to complainants

¹ Haryana Real Estate Regulatory Authority, Gurugram

after deducting 10% as earnest money of the basic sale consideration of Rs.62,53,500/- with interest at the prescribed rate i.e. 10.60% on such balance amount from the date of surrender i.e. 15.07.2013 till the date of realization.

ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

30. Complaint stands disposed of.

31. File be consigned to the registry.”

2. It appears that a project in the name and style of 'Landmark- The Residency' was floated by the appellant-promoter in Sector 103, Gurugram. The respondent-allottees booked a unit measuring 1350 sq. feet therein. Total sale consideration of the unit was Rs.73,04,000/-, out of which the allottees remitted an amount of Rs.15,34,527/-. Due date of possession was 09.09.2015. No BBA was executed between the parties. On 15.10.2013, the promoter sent final letter to the allottees to pay the outstanding dues. As the same were not paid, the unit was cancelled on 29.10.2013. After more than seven years thereafter, i.e., on 30.09.2021, the allottees preferred the complaint before the Authority seeking refund of the paid-up amount along with interest and compensation.

3. After hearing rival contentions of the parties, the Authority, vide impugned order, issued the directions as contained in paragraph No. 1 of this order.

4. The promoter has assailed the impugned order by contending that as the allottees did not make the outstanding amount and were at fault, they are not entitled to any refund.

5. On the other hand, counsel for the allottees submitted that as the construction did not make much headway, they made a request for surrender on 15.07.2013, i.e., before due date of possession (09.09.2015).

6. We have heard learned counsel for the parties and given careful thought to the facts of the case.

7. Primarily, the factual issue that arises before this Bench is, whether the allottees defaulted in making timely payments or the promoter was able to raise construction as per schedule.

8. Admittedly, no Occupation Certificate has been granted to the project, meaning thereby the construction did not make much headway. The allottees decided to surrender the unit vide letter dated 15.07.2013. Once the allottees decided to surrender the unit, the promoter ought to have refunded the amount forthwith. However, the promoter failed to act promptly, due to which the allottees were constrained to file the complaint before the Authority. On the other hand, it is also clear that despite reminder by the promoter, the allottees failed to pay the outstanding amount which constrained the promoter to cancel the unit on 29.10.2013. After examining the entire issue, the Authority directed refund of the paid-up amount along with interest from date of surrender, i.e. 15.07.2013 till realization, after deducting 10% of the basic sale consideration.

9. We find no infirmity with the order passed by the Authority.

10. The appeal is without any merit and is hereby dismissed.

11. Copy of this order be sent to the parties/their counsel and the Authority.

12. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

March 25,2026
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