

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

**Complaint No. :5787-2023**  
**Date of Decision: 30.03.2026**

1. Mr. Sanjay Vanjani son of late Vanjani Narayan,
  2. Mrs. Jaya Vanjani wife of Mr. Sanjay Vanjani,
- both residents of B-2/112, Paschim Vihar, New Delhi-110063, through power of attorney holder Sh. Anil Vanjani son of late Vanjani Narayan, resident of B-2/112, Paschim Vihar, New Delhi-110063.

.....**Complainants.**

**Versus**

1. M/s. Vatika Limited, registered office at A-002, INXT City Centre, Ground Floor, Block-A, Sector-83, Vatika India Next, Gurugram, Haryana-122012.
2. M/s India Bulls Housing Finance Ltd. registered office at M-62 & 63, First Floor, Connaught Place, New Delhi-110001.

.....**Respondents.**

**APPEARANCE**

**For Complainants:**  
**For Respondents:**

**Mr. Kuldeep Kumar Kohli, Advocate.**  
**Mr. Pankaj Chandola, Advocate.**

**ORDER**

1. This is a complaint filed by Mr. Sanjay Vanjani and Mrs. Jaya

**Vanjani (allottees), under Section 31 of The Real Estate (Regulation and**

**An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016**

**Act No. 16 of 2016 Passed by the Parliament of India**

**भू.संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण**

**भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16**

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Development), Act 2016 (in brief Act of 2016) against M/s. Vatika Limited and M/s India Bulls Housing Finance Ltd. (promoters) as per section 2(zk) of Act 2016.

2. According to complainants, they approached the respondent No.1 for booking of Unit/Plot No. 1/240/Simplex/ST-82 D1-9, measuring 240 sq. yds. in the Project 'Vatika India Next Signature 2 Villas, Sector-82, Gurugram, Haryana, on 01.09.2009. The respondent No.1 allotted the said unit to them (complainants) on 01.09.2009. A Builder Buyer Agreement (BBA) was executed between the parties on 12.05.2010. The due date of possession as per BBA was 12.05.2013. The total sale consideration of the said unit was Rs.91,90,500/-. The total amount paid by the complainants till date was Rs.49,29,001/-. The delay in handing over possession till date of filing complaint is 9 years.

3. That the respondent No.1 took the money from them(complainants) but utilized the same for some other purposes/ making investments in some other properties but not executing the project for which the money was collected from the allottees. This has caused them(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 and torture of not staying in their own dream house. 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 one.

4. That the respondent No.1 is in violation of Section 11 (4) of the Act. The respondent No.1 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. The respondent No.1 has failed to provide the requisite facilities, amenities and services as agreed at the time of booking. The respondent No.1 by using dominant position is dictating unreasonable demands to the complainants without show causing any proficient progress. The respondent No.1 had substantially failed to discharge its obligations, imposed upon it under the Act of 2016 and rules and regulations made thereunder.

5. Citing the facts as mentioned above, the complainants prayed for following relief: -

- I. to award compensation towards mental agony, physical torture and emotional pain suffered by the complainants at the hands of the respondent No.1, to the tune of Rs.5,00,000/-.
- II. to award compensation towards legal fees and expenses for prosecution, to the tune of Rs.3,00,000/-.
- III. to award compensation towards the loss of rent for a period of Rs.44,10,000.00.

IV. to pass any other order/reliefs as it may deem fit.

6. The respondent No.1 contested the complaint by filing a written reply. It is averred that the present complaint is false and the contents of the same are denied in toto unless specifically admitted therein. Nothing contained in the preliminary objections and in the reply on merits below may, unless otherwise specifically admitted, be deemed to be direct and tacit admission of any of the averments/allegations.

7. That on 12.05.2010, it (respondent No.1) for execution of BBA sent two copies of its draft to the complainants for signing of the agreement, which was to be returned to it (respondent No.1) within 30 days of dispatch of the said draft. It (respondent No.1) vide invitation for offer of re-allotment dated 20.01.2012, requested the complainants to be present on 30.01.2012 for allotment of unit in the project. It (respondent No.1) vide allotment letter dated 20.01.2012, allotted Unit No.63/240/simplex/BR admeasuring 1527 sq. ft. built up area and 240 sq. yards super area to the complainants.

8. That on 09.03.2012 a tripartite agreement was executed among the complainants, Vatika Limited and India Bulls Housing Finance Limited. The respondent No.1 had proposed to promote and sell the units in association with the IHFL. The borrower approached IHFL for a loan of Rs.66,00,000/- towards payment of the sale/purchase consideration of the

residential apartment in the project. Out of the total sale consideration, the complainants have only paid an amount of Rs.30,70,803/- till date.

9. That as per Clause 1.1 of the Agreement, the due date for handing over of possession was within 36 months from the date of execution of the agreement, subject to delay caused due to reasons beyond the control of respondent No.1. Accordingly, possession was supposed to be given by 12.05.2013, subject to clause 12.1, 12.2 and 12.3 (delay due to reasons beyond control of Developer) & 38 (force Majure) of the Agreement.

10. That the development of the project was obstructed due to reason beyond its control. As per order dated 01.08.2023, the complainants have already been allowed to get interest for every month of the delay from the due date of possession i.e. 12.05.2013 till the actual handing over of the possession or offer of possession plus 2 months whichever is earlier. Therefore, the interest awarded by the Authority in the complaint no. 4291 of 2022, will amount compensatory in nature. Therefore, awarding compensation and interest on the same transaction shall be injustice towards it (respondent No.1). The complainants' relief of refund is outside the jurisdiction of this Court. The complainants have voluntarily determined the loss due to property appreciation etc.

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

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. During deliberations, it is pointed out by learned counsel for the complainants that his clients approached the Authority seeking delay possession compensation for delay of delivery of the possession and that complaint has been allowed by the Authority vide order dated 01.08.2023, copy of which has been put on file. The respondent No.1 in that case has been directed to pay interest at the prescribed rate of 10.75% per annum for every month of delay from the due date of possession i.e. 12.05.2013 till the actual handing over of possession or offer of possession apart from some other reliefs.

14. 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 (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.

15. True, as per section 71, the Adjudicating Officer has been appointed for the purpose of adjudging compensation under Sections 12, 14, 18 and 19 of the Act. There is no denial that in case, promoter fails to discharge his obligation imposed upon him under this Act or rule & regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he is liable to pay compensation to the allottee as prescribed under this Act.

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

kvj  
AO

17. 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 were 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 provide Compensation only to those Allottees who exit the project and not to those who tends to stay in the project.”*

18. Even as per complainants, the unit in question was purchased by them from respondent No.1 (M/s Vatika Limited) and amount of sale consideration was received by same (respondent No.1). Respondent No.2 was not privy of contract of agreement to sell with them and no amount of sale consideration was received by it. Simply being a party in tripartite agreement, the same cannot be held liable. No relief can be allowed against respondent No.2. The case of complainants against said respondent No.2 is thus dismissed.

19. 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 by respondent No.1. Complaint in hands against both of respondents is thus dismissed. File be consigned to record room.

Announced in open court  
today i.e. on **30.03.2026**.



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