

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

**Complaint No. 475-2024**

**Date of Decision: 25.03.2026**

Sunita Sharma, R/o H. No. K3/104, DLF Phase-2, Gurugram, Haryana.

**..... Complainant**

**Versus**

Parsvnath Developers Ltd. & Parsvnath Hessa Developers Pvt. Ltd.  
Registered Office at: Parsvnath Tower, near Shahdara Metro Station,  
Shahadara, Delhi- 110032.

**..... Respondent**

**APPEARANCE**

**For Complainant:**

**Mr. Sukhbir Yadav, Advocate.**

**For Respondent:**

**Mr. Akshat Jain, Advocate.**

**ORDER**

1. This is a complaint, filed by Ms. Sunita Sharma (allottee) for claim for compensation under sections 18 (3) and 19 of The Real Estate (Regulation and Development) Act, 2016 (in brief The Act of 2016) against M/s. Parsvnath Developers Ltd. & Parsvnath Hessa Developers Pvt. Ltd. (promoter), as per section 2(zk) of Act 2016.
2. According to complainant, she is a law-abiding person. The respondents no. 1 and 2 have joint as well as several liabilities towards the

complainant. Based on the representation and assurance of office bearers of respondents, the complainant/allottee purchased one 3 BHK flat admeasuring 2810 sq. ft. bearing Flat No. D5-404 from the open market.

3. That the said flat was initially booked by M/s Multi Agro Pvt. Ltd. on 07.10.2004 under the Construction Link Payment Plan for a sale consideration of Rs.73,76,250/-. On 24.03.2006 a pre-printed, arbitrary, unilateral Flat Buyer Agreement (FBA) was executed between M/s Multi Agro Pvt. Ltd. and Parsvnath Developers Limited. As per clause no. 10 (a) of the said FBA, respondents have to give possession of the flat within 36 months of commencement of construction of particular Block in which the unit in question is located with a grace period of 6 months. The construction of the said tower was started on 15.04.2006 (refer to instalment no.2 and statement of account), inter alia due date of possession was 15.04.2009 and with a grace period, the due date of possession was 15.10.2009.

4. That on 26.03.2010 the original allottee M/s Multi Agro Pvt. Ltd. sold the said flat to Mrs. Uma Bansal with the permission of the respondents and the respondents endorsed the name of Mrs. Uma Bansal in their records and FBA as a subsequent allottee. On 30.03.2012 the subsequent allottee Mrs. Uma Bansal sold the said flat to Mrs. Sunita

lvb  
AO

Sharma (the complainant) with the consent of the respondents and the respondents endorsed the name of Mrs. Sunita Sharma (complainant) in their records and FBA as well.

5. That since April 2012 the complainant has been regularly visiting the office of the respondents as well as the construction site and she made several efforts to get possession of her allotted flat but all in vain. The main grievance of the complainant in the present complaint is that despite the complainant having paid more than 100% of the actual purchase consideration of the flat as per the agreement, the respondents have failed to deliver the possession of the flat to the complainant.

6. That on 10.02.2015 the respondents sent a statement of account of the unit in question which reflects that till 01.04.2011, the complainant has paid a sum of Rs.74,35,613/- i.e. more than 100% of total sale consideration. After a long follow-up and struggle of the complainant on 12.03.2015, the respondent (s) sent a latter for "Offer for Fit Outs" to the complainant and offered that "If you wish to carry out the finishing work like Air Conditioners, Wooden Flooring, Internal Painting, Kitchen, AC Piping, False ceiling, China Ware, C.P. Fitting and Electric wire & Switches yourself, we offer you a rebate of Rs,6,25,000/- being the cost to be incurred for the balance work". Furthermore, it is important to note

here that the respondents in the said letter have increased the area of the complainant's unit without any prior intimation and justification by 85 Sq. Ft.

7. That being aggrieved by the act and misconduct of the respondents and on their failure to give possession of the unit in question to her, the complainant filed a complaint against the respondents before the Hon'ble Haryana Real Estate Regulatory Authority, Gurugram vide CRN No. 6177 of 2019 and the Hon'ble HRERA, Gurugram disposed the said complaint vide order dated 16.10.2020 against the respondents while giving directions to the respondents. Thereafter, the respondents party did not comply with the order of the Hon'ble Authority, therefore in 2021 the complainant filed an execution petition before this Court vide CRN-E-2224/2021/6177/2019 and the same is pending before this Court for adjudication.

8. That on 30.11.2022 the respondent got the Occupation Certificate from the concerned department. After receipt of the knowledge about the grant of O.C. for Tower-D5, the complainant contacted the respondents and visited the office of the respondents for the execution of the conveyance deed and asked for a valid offer of possession but all went in vain. As per the statement of account dated 03.12.2019 issued by

respondent the complainant has paid full sale consideration and also, has a credit balance of Rs.27,392/-.

9. Contending all this, the complainant prayed for compensation of Rs.2,25,72,000/- for rental cost/loss, Rs.21,02,232/- on account of depreciation, Rs.10,14,985/- on account of loss of interest, Rs.10,00,000/- for causing mental agony, Rs.1,00,000/- for travel expenses and loss of work, Rs.2,00,000/- for litigation cost.

10. The respondent contested the complaint by filing a written reply. It is submitted that the averments made in the complaint under reply may be considered to have been specifically denied and controverted, unless specifically admitted hereinafter. The Hon'ble Supreme Court of India in catena of Judgment has held that the interest awarded is to be treated as compensation towards the loss suffered by the allottee for the delay in handing over possession of the unit.

11. It is further plea of the respondent that once complainant has been awarded interest on the amount paid by her, such interest on the deposited amount is nothing but compensation to the complainant in lieu of delay in handing over possession, loss of opportunity and loss of rent etc. Therefore, the complaint under reply is in direct infringement of principal of Res-Judicata. As complainant has already been granted

206  
AO

compensation in lieu of delay in handing over possession of the unit. Thus, allowing the complaint under reply would lead to double jeopardy and violation of Article 20 of The Constitution of India.

12. Contending all this, respondent prayed for dismissal of complaint.

13. Both of the parties filed affidavits in support of their claims.

14. I have heard learned counsels appearing for both of parties and perused the record.

15. According to learned counsel for complainant, due date of possession as per BBA was 15.10.2009 but respondent failed to deliver possession at agreed time, causing loss to his client i.e. complainant. During deliberations, it is agreed by learned counsel for complainant 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 16.10.2020, copy of which has been put on file. The respondent in that case has been directed to pay interest at the prescribed rate of interest i.e. @ 9.30% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 15.10.2009 till offer of possession, apart from some other reliefs.

AO

16. It is contended by learned counsel for the complainant 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 respondent (promoter) failed to discharge its obligation of handing over possession, in agreed time as per terms and conditions of BBA and hence, liable to pay compensation.

17. 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

Sub  
AO

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.**

18. It is worth mentioning here that complainant 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.

19. 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 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."*

20. When complainant has 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. Complaint in hands is thus dismissed.

21. File be consigned to record room.

Announced in open court today i.e. on 25.03.2026.

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