

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Date of Decision: April 06, 2026**

**(1) Appeal No.50 of 2023**

Vikas Chandra, resident of S-240, First Floor, Greater Kailash-II, New Delhi.

Appellant-Allottee.

Versus

1. M/s Puri Construction Pvt. Ltd. having registered office at 4-7B, Ground Floor, Tolstoy House, 15 & 17 Tolstoy Marg, New Delhi.

Respondent No. 1-Promoter.

2. SBI Bank Limited having office at Retail Assets Central Processing Centre, Ground Floor, A-Block, DAO Building, II Sansad Marg, New Delhi-110001

Respondent No. 2-Bank.

**(2) Appeal No.55 of 2023**

Puri Construction Pvt. Ltd. having registered office at 4-7B, Ground Floor, Tolstoy House, 15 & 17 Tolstoy Marg, New Delhi, 110001.

Appellant-Promoter.

Versus

1. Vikas Chandra, resident of S-240, GK-II, New Delhi-110048.

Respondent No. 1-Allottee.

2. State Bank of India having office at RACPC, Ground Floor, A Block, DAO Building II, Sansad Marg, New Delhi-110001.

Respondent No. 2-Bank.

**CORAM:**

**Justice Rajan Gupta**  
**Dinesh Singh Chauhan**

**Chairman**  
**Member (Technical)**

**Present:** Mr. Archit Rana, Advocate,  
for the promoter.

Mr. Vaibhav Tyagi, Advocate,  
for the allottee.

Respondent No. 2-Bank already *ex-parte*.

**ORDER:****RAJAN GUPTA, CHAIRMAN**

This order shall dispose of above-mentioned appeals, as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 55 of 2023.

2. Present appeal is directed against order dated 01.12.2022, passed by the Authority<sup>1</sup> in Complaint No.4846 of 2022 filed by the allottee.

Operative part thereof is reproduced hereunder: -

***“F. Directions of the authority***

*22. The authority observes that the cancellation of the allotted unit by the promoter held to be valid as discussed above. 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 function entrusted to the authority under section 34(f):*

*i. The respondent no. 1 is directed to refund the paid up amount i.e. Rs.1,58,18,592/- after deducting 10% of the sale consideration of the unit being earnest money as per regulation Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 2018 along with an interest @ 10.35% p.a. on the refundable amount, from the date of cancellation i.e., 20.03.2015 till the date of realization of payment.*

*ii. The respondent no. 1 is entitled for deduction of amount already paid to the bank as per “permission to mortgage letter dated 08.05.2014” from the refundable amount as per (i) above direction.*

*iii. 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.*

*23. Complaint stands disposed of.*

*24. File be consigned to registry.”*

3. Factual matrix of the case is that a residential project, namely, “Diplomatic Greens” was floated by the promoter in Sector 110A and 111, Gurugram, wherein unit No. 901, 9<sup>th</sup> floor, Block/Tower No. C-2 measuring 2950 sq. ft. was booked by the original allottees, Mr. Sanjeev Bhatiani and Mrs. Sunita Bhatiani. A Builder–Buyer Agreement was executed on

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<sup>1</sup> Haryana Real Estate Regulatory Authority, Gurugram

26.05.2012 between the promoter and the original allottees. Total sale consideration of the unit was Rs.2,53,02,221/-, against which the allottees paid a sum of Rs.1,58,18,592/-. Subsequently, the allotment was transferred in favour of the present allottee, Mr. Vikas Chandra, on 26.06.2013. As per agreement, the due date of possession was 42 months from the date of execution of the agreement which comes out to be 26.11.2015. However, the allottee failed to make timely payments of the outstanding dues in accordance with the agreed payment plan as a consequence of which the promoter cancelled the allotment on 20.03.2015 after issuing various reminders.

4. Thereafter, the allottee filed a complaint on 18.07.2022, after a lapse of more than seven years from the date of cancellation, seeking possession of the unit along with delay possession charges.

5. The promoter contested the complaint by challenging its maintainability before the Authority on the ground of limitation, as the allotment had been cancelled on 20.03.2015 due to the allottee's defaults in payment, whereas the complaint was filed more than seven years later, in 2022. It was further pleaded that a one-time settlement was offered to the complainant-allottee in the year 2018; however, the complainant-allottee did not come forward to accept the same. Subsequently, an amount of Rs. 98,19,809/- was paid to SBI in compliance with the demand notice dated 27.07.2022 issued by the said bank towards the loan facility availed by the complainant-allottee, and a cheque dated 28.07.2022 for Rs. 33,30,880/- was issued towards the remaining amount in favour of the allottee. The promoter also contended that the Occupation Certificate for the project was issued by the competent authority on 29.08.2016, much prior to the enactment and enforcement of the Real Estate (Regulation and Development) Act, 2016, and that the complaint, therefore, related to a pre-RERA project and was non-maintainable.

6. Upon consideration of the pleadings and material on record, the Authority held the promoter's cancellation to be valid and directed refund of the deposited amount after deducting 10% of the sale consideration, along with interest in accordance with law, after adjusting the amount already paid to the bank.

7. Aggrieved by the said order, promoter has assailed it primarily on the ground that the Authority lacked jurisdiction to entertain the complaint in respect of the pre-RERA project. On the other hand, allottee preferred an appeal against the same impugned order, insisting on possession along with delay-compensation charges.

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

9. The questions which arise for consideration before this Bench are whether the Authority had jurisdiction to entertain the complaint; and whether the allottee is entitled to possession and delay compensation.

10. It is on record that allotment was cancelled on 20.03.2015 and the Occupation Certificate to the project was granted on 29.08.2016. However, the allottee approached the Authority on 18.07.2022 i.e. after more than seven years from the date of cancellation without any cogent reason for such a huge delay in filing the complaint.

11. The plea of the promoter that the Authority lacked jurisdiction on the ground that the project is pre-RERA, with the Occupation Certificate having been granted on 29.08.2016 and the allotment of the unit having been cancelled on 20.03.2015, is untenable as the communications were duly exchanged between the parties regarding a one-time settlement even after enactment of the RERA Act, and thus, the Authority appears to have entertained the complaint. It would have been in the fitness of things if a one-time settlement had been arrived at between the parties, however, same did not fructify. Consequently, Authority proceeded to decide the complaint

on merits with directions as reproduced in para 1 of this judgement. However, the complainant-allottee has challenged the impugned order and pressed for relief of possession along with delay possession charges.

12. Admittedly, the allotment of the unit stood cancelled on 20.03.2015 due to default on the part of the allottee in complying with the payment obligations under the Builder-Buyer Agreement. Such cancellation, being in accordance with the terms of the agreement, brings the contractual relationship between the parties to an end. It is well settled that a party who is in breach of essential contractual obligations is not entitled to seek enforcement of reciprocal rights under the same contract.

13. The material on record further reveals that a substantial portion of the deposited amount i.e., Rs. 98,19,809/- was adjusted by the promoter towards the allottee's loan account, and the balance amount of Rs. 33,30,880/- was offered to complainant-allottee in the year 2022 by issuance of cheque dated 28.07.2022, which was not accepted. Therefore, the Authority has rightly confined relief to refund of the deposited amount after deduction of 10% of the sale consideration and the amount already paid to the bank, which warrants no interference by this Tribunal.

14. However, in the peculiar facts and circumstances of the case, where some ambiguity exists regarding maintainability coupled with the unexplained and inordinate delay in approaching the Authority, the grant of interest on the refundable amount from the date of cancellation cannot be sustained.

15. In view of the foregoing discussion, this Bench is of the considered view that the ends of justice would be met if interest is awarded from the date of filing of the complaint i.e. 18.07.2022 till realization, thereby adequately safeguarding the interest of the allottee.

16. Consequently, the appeals are disposed of in the aforesaid terms.

Appeal No. 50 of 2023 & connected appeal

17. The amount deposited by the promoter in Appeal No. 55 of 2023 with this Tribunal, along with accrued interest thereon, in order to comply with the provisions of Section 43(5) of the Act be remitted to the Haryana Real Estate Regulatory Authority, Gurugram for disbursement to the parties as per their entitlement in accordance with law and Rules, subject to tax liability, if any.

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

19. Files be consigned to records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan  
Member  
(Technical)

April 06,2026/mk