

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

Complaint No. :4292-2024

Date of Decision: 06.04.2026

1. Mrs. Sunita Saini wife of Mr. Inder Paul Singh Saini,
2. Mr. Inder Paul Singh Saini son of Rajinder Singh Saini,
both residents of Rashi Apartment, Flat No.10, Plot No.3,
Sector-7, Dwarka Phase-I, New Delhi-110075.

.... Complainants.

Versus

M/s. Neo Developers Private Limited, 1205, Tower-B, Signature
Tower, South City-I, NH-8, Gurugram, Haryana-122001.

Also, at: 32b, Pusa Road, Delhi-110005.

.... Respondent

APPEARANCE

For Complainants:

Ms. Priyanka Aggarwal, Advocate

For Respondents:

Mr. Venket Rao, Advocate.

ORDER

This is a complaint filed by Mrs. Sunita Saini & Mr. Inder
Paul Singh (allottees), under Section 31 read with Section 71 of The

Real Estate (Regulation and Development) Act, 2016 (in brief The Act of 2016) read with Rule 36(1) of The Haryana Real Estate (Regulation and Development) Rules, 2017 against M/s Neo Developers Private Limited. (promoter).

2. The brief facts of the complainants' case are that on 20.05.2013, they (complainants) booked a commercial shop in the project "Neo Square" in Sector-109, Gurugram and issued a cheque amounting to Rs. 10,16,322/-. Thereafter, the respondent allotted unit No. 36 on ground floor admeasuring 565 Sq. fit to them (complainants) vide Allotment Letter dated 19.08.2013. They (complainants) paid a sum of Rs. 31,67,264/- well before signing of the Buyer's Agreement on 10th November, 2016.

3. That as per BBA entered between the parties, the total cost of the said unit was Rs. 66,26,134/- inclusive of taxes, out of which Rs. 63,48,338/- was paid by them (complainants) from 20.05.2013 to 20.07.2018. Despite paying such huge amount, the project is still incomplete and existence of their unit is still in doubt. The respondent was liable to handover possession of their shop before 09.11.2019, as per Buyer's Agreement, but the respondent

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failed to complete the project and to obtain the occupancy certificate for the unit in question, due to which, they (complainants) have suffered a great financial loss, mental trauma and harassment.

4. That being aggrieved with the acts of the respondent, they (complainants) filed a complaint bearing no. 7535 of 2022 before the Haryana Real Estate Regulatory Authority seeking refund of amount paid by them along with interest, which was allowed vide order dated 08.02.2024. The Authority directed the respondent to refund the amount, i.e., Rs.63,48,338/- received by it (respondent) along with interest at the rate of 10.85% per annum from the date of each payment till the date of actual refund.

5. Contending all this, the complainants have prayed for following reliefs: -

- I. to direct the respondent to provide compensation of Rs.2,44,48,866/- towards loss on account of early redemption of FDs.
- ii. to direct the respondent to provide compensation of Rs.2,54,98,450/- towards loss of opportunity cost as

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the current rate of the unit in question has been escalated steeply in the last 12 years.

- iii. to direct the respondent to provide the total rental dues of Rs.57,76,438.36/- that has been incurred by the complainants due to the delay in possession of the unit by the respondent, along with all other facilities, amenities and services as mentioned under the brochure and Builder Buyer Agreement and assured at the time of booking;
- iv. to direct the respondent to provide the total loss on interest to the tune of Rs.14,45,900.64/- that has been incurred to the complainants.
- v. to direct the respondent to provide the compensation of Rs. 5,00,000/- towards the legal costs incurred.
- vi. to direct the respondent to provide compensation of Rs.50,00,000/- for continuous harassment of the complainants due to their non-compliance of the Judgment dated 08.02.2024 of the Authority.

6. The respondent contested the complaint by filing a written reply. It is averred by the respondent that when the Application Form was submitted by the complainants for allotment of unit in the project, they were very well aware and acknowledged that the building plans for the said project were not sanctioned by

the Competent Authority. Even in the allotment letter, it was clearly mentioned that the allotment of the unit is only provisional.

7. That the complainants have failed to comply with the schedule of payments. The respondent, after cancellation of the unit in its project "Neo Square" requested the complainants to handover the original documents pertaining to the unit and to collect the refund amount as per terms and conditions of agreement dated 10.11.2016. However, the complainants did not pay any heed to the request of the respondent.

8. That the complainants have paid only Rs.63,68,340/- against the dues of Rs.73,68,749/- including interest on delayed payment. Since the complainants failed to pay the total sale consideration, the respondent cancelled their unit on 16.12.2018 after making repetitive reminders to the complainants.

9. That aggrieved by the action of cancelling the unit by the respondent, the complainants preferred a complaint bearing No.7535 of 2022 against the respondent before the Haryana Real Estate Regulatory Authority and the Authority vide its order dated

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08.02.2024 directed the respondent to refund Rs.63,48,338/- along with interest at the rate of 10.85% per annum.

10. Denying all averments of the complaint, the respondent has prayed for dismissal of it (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.

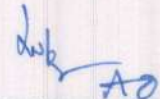
12. Factual matrix i.e. allotment of unit (commercial shop) admeasuring 565 square feet in project "Neo Square" Sector-109, Gurugram by the respondent to the complainants on total cost of Rs.66,26,134/- (inclusive of taxes). Said shop was to be handed over to the allottees/complainants before 09.11.2019 and that the respondent failed to complete the project, are not disputed during deliberations. The claim of the complainants that layout plan showing unit of the complainants was never approved, is also not denied. The plea raised by the respondent in this regard is that the complainants were aware and acknowledged that the building plans of said project were not sanctioned by the competent authority.

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13. Admittedly, present complainants filed a complaint before the Authority i.e. complaint No.7535 of 2002, which was allowed by the Authority vide order dated 08.02.2024. The Authority in its order referred clause 5.1 of BBA, which mentions about the company (respondent) having been authorised by the allottees to carry out construction as per design finalised by the management of the company.....the company at its discretion without any prior approval from the allottees may carry out such additions, alterations, deletions and modifications in the layout and building plans.....the allottees agree that no future consent of the allottees shall be required for this purpose.

14. Referring said provision of the BBA, learned counsel for the respondent claimed that having agreed to these terms, the complainants cannot claim compensation alleging that the respondent could not get approval from the competent authority to get layout plan of the project in question sanctioned or modification in the layout plan.

15. I do not find much weight in this contention of learned counsel for the respondent. Even if there was any such covenant in



the agreement, same being contrary to law, cannot be enforced. Trite it to mention here that Section 14 of the Act of 2016 obliges the promoter to adhere to sanctioned plans and project specifications. The same cannot make any addition or alteration in the sanctioned plans, layout plans and specifications without previous consent of the allottees. What to say of addition and alteration in the layout plan, no layout plan of the project in question ^{showing subject unit} was ever sanctioned.

16. Similarly, I am not in consonance with learned counsel for the respondent claiming that the complainants are not entitled to any compensation as they did not adhere to payment plan. Admittedly, payments were to be made, when the respondent was ready to complete the construction as per BBA. Even layout plans were not sanctioned. All this verifies 'violation of agreement' on the part of the promoter. Even otherwise, even if any default was made by the allottees in making payment, the promoter had remedy to recover the amount, as per BBA.

17. The Authority while allowing complaint No.7535 of 2022 filed by same complainants was of the opinion that due date

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of possession came out to be 10.05.2020 and the promoter/respondent failed to complete the project and hence, liable to refund the amount.

18. According to Section 18(1) of the Act of 2016, if promoter fails to complete or is unable to give possession of an apartment/plot or building-

(a) In accordance with the terms of agreement for sale or, as the case may be, duly completed by the date specified therein: or

(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----- including compensation in the manner as provided under this Act.

19. When the respondent failed to complete the project and to handover the possession in time, the complainants are thus entitled for refund of their amount as well as compensation.

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20. Section 72 of the Act of 2016 prescribes the factors which are to be taken into account by the Adjudicating Officer, while adjudging quantum of compensation and the same are: -

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default;
- (d) Such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.

21. Admittedly, the respondent received major part of sale consideration, but did not start construction even. Same (respondent) gained unfair advantage causing consequential loss to the complainants.

22. The complainants have prayed for compensation of Rs.2,54,98,450/- towards loss of opportunity costs due to escalation in rates of the properties. The complainants have put on file copy of a sale deed of a commercial shop in Sector-109, Gurugram i.e. same sector in which the unit in question was allotted

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by the respondent, in favour of the complainants and again the latter have referred some screenshots of a Real Estate Site i.e. 99 acre.com.

23. These screenshots of 99 acre.com are not reliable evidence. Same can be stated 'offer for sale' and hence not conclusive evidence, about the prevalent prices. Genuineness of sale deed, copy of which is put on file, is not disputed during arguments on behalf of the respondent. If same is taken as true, a commercial shop like shop in question and situated in same vicinity was sold for a price of Rs.one Crore, in other words at the rate of Rs.20,000/- per square feet. If calculated at the rate of Rs.20,000/- per square feet, the price of unit in question (if completed) comes out to be Rs.1,13,00,000/-. Admittedly, out of total sale consideration of Rs.66,26,134/-, the complainants paid a sum of Rs.63,48,338/- only i.e. approximately 95.80% of total sale consideration. Counting in this way, if the amount of Rs.63,48,338/- was invested in similar unit, the same would have been appreciated to Rs.1,08,25400/- (95.80% of Rs.1,13,00,000/-).

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24. Admittedly, the respondent has already been directed by the Authority to refund the amount of Rs.63,48,338/- to the complainants vide order dated 08.12.2024, the complainants are thus allowed compensation of Rs.44,77,062/- for loss of appreciation in the price of shop.
25. When the complainants have already been allowed the compensation for loss of appreciation in price, no reason to allow any compensation in the name of loss on account of early redemption of FDs or compensation in the name of rental dues and again compensation for loss of interest. Requests in this regard are declined.
26. The complainants have prayed for a sum of Rs.50 lakhs on account of continuous harassment due to non-compliance of judgment passed by the Authority. Even if, order passed by the Authority has not been complied with by the respondent, the complainants have remedy to file execution. There is no reason to allow any compensation in this regard.
27. The complainants further requested for compensation of Rs.5 lakhs towards legal costs. No court fee is required to be paid

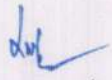
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to the Authority, while filing such complaint. Even then, it is evident that the complainants were represented by a lawyer during proceedings of this case, same are allowed a sum of Rs.50,000/- as litigation expenses.

28. The respondent is directed to pay aforesaid amounts of compensation to the complainant along with interest at rate of 10.85% per annum from the date of this order, till realization of amounts.

29. Complaint is thus disposed of. File be consigned to the record room.

Announced in open court today i.e. on **06.04.2026**.


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