

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.472 of 2019

Date of Decision: April 16,2026

M/s TDI Infrastructure Ltd., through its authorized signatory, registered office at: 10, Shaheed Bhagat Singh Marg, New Delhi-110001

Appellant.

Versus

Manoj Suneja, C/o 291, Second Floor, Vikas Puri, New Delhi

Respondent

CORAM:

Justice Rajan GuptaChairman

Dr. Virender Parshad

Dinesh Singh Chauhan

Member (Judicial)

Member (Technical)

Present: Mr. Shubnit Hans, Advocate with
Mr. Anjanpreet Singh, Advocate and
Ms. Samriti Bagga, Advocate for the appellant.

Respondent in person with
Mr. Jagan Nath Bhandari, Advocate

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RAJAN GUPTA, CHAIRMAN:

Challenge in the present appeal is to order dated 20.12.2018, passed by the Authority¹. Operative part thereof reads as under:

“(i) First of all the respondent has challenged the jurisdiction of this Authority because their project has neither been registered nor is register-able with the Authority for the reason of already having received part completion certificate dated 18.11.2013. This objection is hereby rejected in view of the law laid down by this authority in Complainant Case No. 144 of 2018-Sajnu Jain v. TDI Infrastructure Ltd. The

¹Real Estate Regulatory Authority, Panchkula

reasoning given in that case is fully applicable on facts of this matter as well.

(ii) Admittedly, the plot in question was allotted in the year 2005. Even though it changed hands a few times, the builder-buyer agreement was executed after an inordinate delay of nearly 10 years on 16.10.2015. This delay was caused despite the fact that almost entire consideration amount inclusive of basic sale price, EDC, IDC and taxes etc. had been paid by the complainant by the year 2006. Admittedly, the actual offer of possession was made in January, 2017, therefore, the respondents have caused an exceptional delay in handing over the possession of the plot. Regardless of any provision in the agreement, in a plotted colony it is expected that offer of possession shall be made within a period of about 2-3 years. The respondents have no right to demand entire consideration almost 11 years before the actual offer of possession. For having caused such a huge delay the complainants are entitled to compensation as provided for under Rule 15 of the HRERA Rules. Keeping in view the conduct of the respondents, they will not be entitled to the benefit as ordered by the undersigned in Complaint Case No. 49 of 2018- Parkash Chand Arohi v. Pivotal Infrastructure Pvt. Ltd.

(iii) The request of the complainant for refund of money cannot be accepted for the reason that the respondents have developed the colony and have obtained a part completion certificate and have offered the possession to the complainants. When the possession is offered, the complainant cannot be allowed refund but they shall be entitled to compensation for the period of delay.

(iv) It has also been complained that the respondents have charged 18% for the delays

caused by the complainants in making payment of some instalments in 2005-2006. The penal interest of 18% for such delays unconscionable. The respondents shall charge @ 9% for the delay caused by the complainants in making payment of the instalments.

(v) The respondents are hereby directed to prepare a fresh statement of accounts clearly stating therein the amounts to be paid by the complainants to the respondents in accordance with the principles laid down above and also the amount to be paid by the respondents to the complainants by way of compensation for delayed offer of possession. The accounts between the complainant and the respondent shall be settled in accordance with aforesaid principles laid down in this order.

Disposed of. Orders be uploaded on the website of the Authority and file be consigned to the record room.”

2. It appears that the allottee-respondent purchased a residential plot No. L-819 in TDI City, Kundli from subsequent allottee, namely, Mohammad Yusuf on 10.12.2011. Originally, the plot was allotted to Raj Kumar on 31.08.2005. The transfer of plot in favour of the respondent-allottee was confirmed by the appellant-promoter in 2011. BBA was executed between the parties on 16.10.2015. Total sale consideration of the plot was Rs.23,53,125/-, which was remitted to the appellant-promoter. Offer of possession was made to the respondent-allottee on 14.01.2017. As the respondent-allottee claims that plot was not developed and infrastructure facilities were not provided, he filed the complaint before the Authority seeking refund of the amount along with interest.

3. After hearing rival contentions of the parties, the authority disposed of the complaint with the directions, as contained in the opening paragraph of the judgment.

4. Feeling aggrieved, the appellant-promoter has filed the present appeal.

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

6. The appellant-promoter has raised the plea that part completion certificate was granted to it on 18.11.2013. In view of Section 2(o) of the Act², the project cannot be considered as 'on-going project'. The Authority has gravely erred in ignoring this plea of the appellant-promoter.

7. Counsel for the respondent-allottee has, however, rebutted all the pleas raised by the appellant-promoter.

8. A perusal of the impugned order shows that the plea raised by the appellant-promoter that the project in question is pre-RERA and not an 'on-going project' has not been dealt with by the Authority below. The question needs to be considered in light of documents on record and provisions of the Act. No finding whatsoever has been recorded by the Authority on this issue. Therefore, this Bench feels that the matter needs to be remitted to the same Authority for decision afresh after affording opportunity of hearing to the parties. Ordered accordingly.

²The Real Estate (Regulation & Development) Act, 2016

9. Parties are directed to appear before the Authority below on 04.05.2026.

10. The amount of pre-deposit made by the promoter-appellant, along with interest accrued thereon, be remitted to the Authority to be retained by it for disbursement to the parties according to their entitlement after conclusion of proceedings, subject to tax liability, if any.

11. The Authority would endeavour to conclude the proceedings at the earliest, in any case, not later than four months.

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

13. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

April 16, 2026
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