

Amrish Lakhanpal vs. M/s Ninaniya Estates Ltd.

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

Complaint No. 280-2024

Date of Decision: 17.04.2026

Amrish Lakhanpal R/o H. No. 1109, Sector-70, Mohali, Punjab-160071.

.....Complainant

Versus

M/s Ninaniya Estates Limited, Registered office: 278/3, Old Delhi Road, Opposite Ajit Cinema, Gurugram, Haryana- 122001.

..... Respondent

APPEARANCE

**For Complainant:
For Respondent**

**Mr. Kanish Bangia, Advocate
None (exparte).**

ORDER

1. This is a complaint, filed by Mr. Amrish Lakhanpal, (allottee), under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016) against Ansal Housing and Construction Limited (promoter).
2. Briefly stated, according to complainant, he booked a Unit/Plot No. 117, 1st floor, measuring 550 sq. ft. area in the respondents'

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project namely, "Prism Portico" Executive Suite and Commercial Complex by respondent, Sector-89, Gurugram- Pataudi Road on 5.05 acres of land, on 09.06.2009 and same was allotted on 07.08.2013. The builder's buyer agreement (BBA) was executed between the parties on 24.09.2013. The due date of possession as per BBA, was 24.09.2013. The total sale consideration was agreed as Rs.32,54,350/-, out of which he (complainant) paid Rs.31,81,859. The delay in handing over possession till date of filing complaint remained more than 6 years.

3. That the respondent is in violation of Section 11 (4) of the Act. The respondent 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 has failed to provide requisite facilities, amenities and services as agreed at the time of booking. The respondent by using its dominant position is dictating its unreasonable demands to the complainant without showcasing any proficient progress. The respondent had substantially failed to discharge its obligations imposed upon them under the Act and rules and regulations made thereunder.

4. Citing the facts as mentioned above, the complainant has prayed for following reliefs: -



- I. To award compensation towards mental agony, physical torture and pain suffered by the complainant at the hands of the respondent, to the tune of Rs.5,00,000/-.
 - II. To award compensation towards legal fee and expenses for prosecution, to the tune of Rs.3,00,000/-.
 - III. To award compensation for the loss incurred by the complainant due to loss of rate appreciation in he said property, to the tune of Rs.18,45,650/-.
 - IV. To pass any other order/reliefs as it may deem fit.
5. The respondent did not contest the claim and it was proceeded exparte and its defence was struck off, vide order dated 28.05.2024.
6. Complainant filed affidavit in support of his claim.
7. I have heard learned counsel for complainant and perused the record.
8. According to learned counsel for complainant, due date of possession as per BBA was 16.04.2019 but respondent failed to deliver possession at agreed time, causing loss to his client i.e. complainant. During deliberations, it is disclosed by learned counsel for complainant that his client approached the Authority seeking delay possession compensation for delay of delivery of the possession and that complaint

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has been allowed by the Authority vide order dated 25.01.2024, copy of which has been put on file. The respondent in that case has been directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.85% per annum for every month of delay from the due date of possession i.e. 16.04.2019 till the actual handing over of possession or valid offer of possession plus two months after obtaining occupation certificate from the competent authority, whichever is earlier, apart from some other reliefs.

9. 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. 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.


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10. 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.

11. In this way, when the complainant claims² that promoter/respondent fails in this case to discharge its obligations under Builder Buyer Agreement, the Adjudicating Officer gets jurisdiction to adjudge compensation but as it was mandated by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited***, it is for the Authority to entertain the complaint seeking DPC. Relevant portion of the Apex Court order is reproduced here as under: -

86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory Authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of

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interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory Authority which has the power to examine and determine the outcome of a complaint.

12. Further, 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.

13. 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,


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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."

14. 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.

15. File be consigned to record room.

Announced in open court today i.e. on **17.04.2026**.


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

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Present: Mr. Kanish Bangia, Advocate for complainant.
None for respondent (exparte).

Complaint is disposed of, vide separate order today.

File be consigned to record room.



(Rajender Kumar)
Adjudicating Officer,
17.04.2026