

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.807 of 2025 (O&M)

Date of Decision: July 16,2026

Aarcity Builders Pvt. Ltd., 552, Krishna Apra Business Square, Neta Ji Subhash Palace, Pitampura Delhi-110034

Appellant

Versus

Nitin Bansal son of Sh. Kamlesh Bansal, H. No. 22, Priti Nagar, Hisar, Haryana-125001

Respondent

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad**

**Chairman
Member (Judicial)**

Present: Mr. Kamaljeet Dahiya, Advocate for the appellant.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 08.05.2025 passed by the Authority¹, operative part whereof reads as under:

“H. Directions of the Authority:

22. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

(i) Respondent is directed to pay upfront delay interest calculated in para no. 18 to the respective complainant towards delay already caused in handing over the

¹ Haryana Real Estate Regulatory Authority, Gurugram

possession within 90 days from the date of this order. Further, monthly interest calculated in para no. 18 shall be payable by the respondent to the complainant up to the date of actual handing over of the possession after obtaining occupation certificate.

(ii) Respondent is directed to offer possession to the respective complainant within 45 days of receipt of Occupation Certificate.

(iii) Complainant will remain liable to pay balance consideration amount to the respondent at the time of possession offered to them.

(iv) The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e. 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay to the allottees.

*23. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.”*

2. The appeal is accompanied with an application seeking waiver/exemption from the pre-deposit required to be made along with the appeal in view of proviso to Section 43(5) of the Act².

3. As per report from the Registry, the appellant-promoter is required to deposit Rs.22,31,070/- towards pre-deposit.

4. The plea taken by the appellant-promoter is that due to prolonged defaults and non-payments by several allottees, it is suffering financial hardship. However, the appellant-promoter took steps to maintain continuity of the project.

5. In view of law laid down in **M/s Newtech Promoters and Developers Pvt. Ltd. v. State of UP, 2022(1) RCR (Civil) 367**, it is not

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

possible to entertain an appeal which is not accompanied by requisite pre-deposit. There is no provision for waiver or exemption of pre-deposit. Relevant paragraphs of the judgment are reproduced hereunder for ready reference:

"122. It may straightaway be noticed that Section 43(5) of the Act envisages the filing of an appeal before the appellate tribunal against the order of an authority or the adjudicating officer by any person aggrieved and where the promoter intends to appeal against an order of authority or adjudicating officer against imposition of penalty, the promoter has to deposit at least 30 per cent of the penalty amount or such higher amount as may be directed by the appellate tribunal. Where the appeal is against any other order which involves the return of the amount to the allottee, the promoter is under obligation to deposit with the appellate tribunal the total amount to be paid to the allottee, which includes interest and compensation imposed on him, if any, or with both, as the case may be, before the appeal is to be instituted."

123. The plea advanced by the learned counsel for the appellants is that substantive right of appeal against an order of authority/adjudicating officer cannot remain dependent on fulfilment of pre-deposit which is otherwise onerous on the builders alone and only the builders/promoters who are in appeal are required to make the pre-deposit to get the appeal entertained by the Appellate Tribunal is discriminatory amongst the stakeholders as defined under the provisions of the Act.

xxxx xxxx

125. The submission in the first blush appears to be attractive but is not sustainable in law for the reason that a perusal of scheme of the Act makes it clear that the limited rights and duties are provided on the shoulders of the allottees under Section 19 of the Act at a given time, several

onerous duties and obligations have been imposed on the promoters i.e. registration, duties of promoters, obligations of promoters, adherence to sanctioned plans, insurance of real estate, payment of penalty, interest and compensation, etc. under Chapters III and VIII of the Act 2016. This classification between consumers and promoters is based upon the intelligible differentia between the rights, duties and obligations cast upon the allottees/home buyers and the promoters and is in furtherance of the object and purpose of the Act to protect the interest of the consumers vis-a-viz., the promoters in the real estate sector. The promoters and allottees are distinctly identifiable, separate class of persons having been differently and separately dealt with under the various provisions of the Act."

6. We find no merit in the application. However, interest of the allottees has to be secured in view of judgment in **M/s Newtech Promoters and Developers Pvt. Ltd's case** (supra). For this reason, pre-deposit has to be made as calculated by the Registry. It also needs to be mentioned here that pre-deposit is kept in approved bank in fixed deposit and draws admissible rate of interest and is disbursed as per entitlement of the parties on final decision of the appeal. Thus, no prejudice is likely to be caused to either party.

7. In view of above, it is evident that there is no scope for hearing the appeal on merits, as the same is not maintainable due to lack of pre-deposit. The application is, thus, dismissed. Consequently, the appeal is also dismissed. However, the appellant-promoter would be at liberty to seek revival of the appeal in case it makes good the deficit in the pre-deposit within one month from today.

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

9. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

July 16,2026
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