**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

**Appeal No. 405 of 2025**

**Date of Decision: July 16,2026**

M/s. St. Patricks Realty Private Limited having Registered Office at The Median, Central Park Resorts, Off Sohna Road, Sector - 48, Gurugram, Haryana - 122018.

Appellant.

Versus

Divya Rajput R/o Sarkari Farm, Udham Singh Nagar, Post Kelakhera, Gadarpur, Uttarakhand-263152.

Respondent.

**CORAM:**

**Justice Rajan Gupta** — **Chairman**
**Dinesh Singh Chauhan** — **Member (Technical)**

Present: Mr. Naveen S Bhardwaj, Advocate for the appellant.

Mr. Chandan Singh, Advocate for the respondent.

**O R D E R:**

**RAJAN GUPTA, CHAIRMAN**

Present appeal is directed against order dated 08.01.2025 passed by the Authority at Gurugram[1]. Operative part thereof reads as under:

> *"**H. Directions of the Authority:***
> *32. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance with obligations cast upon the promoters as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016.*
> *I. Cancellation letter dated 11.11.2022 is set aside. The respondent is directed to reinstate the allotment of the complainant. Furthermore, in case third-party rights have been established with respect to the said unit, the respondent is directed to allot an alternative unit of equivalent dimensions within the same project and at the original price agreed with the complainant followed by execution of builder buyer*

[1] Haryana Real Estate Regulatory Authority, Gurugram

*agreement between the parties. Further, the possession of the unit shall be handed over to the complainant after obtaining of occupation certificate/CC/part CC from the competent authority as per obligations under Section 11(4) (b) read with Section 17 of the Act, 2016 and thereafter, the complainants are obligated to take the possession within 2 months as per Section 19 (10) of the Act, 2016.*

*II. The respondent is directed to pay delay possession charges to the complainant against the paid-up amount at the prescribed rate i.e., 11.10% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e., 30.01.2023 till expiry of 2 months from the date of offer of possession or actual handover, whichever is earlier as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, ibid. The arrears of interest accrued so far shall be paid to the complainants within 90 days from the date of this order as per rule 16(2) of the Rules, ibid.*

*III. The rate of interest chargeable from the allottee 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 the allottee in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.*

*IV. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement."*

2. Factual matrix of the case is that the respondent-allottee booked a residential unit No. G-156/FF, situated on the 1st floor, measuring 1093 sq. ft. in the project namely "Flamingo Floors" in Central Park Flower Valley, located in Sector-29, 30 and 32, Village Dhundela and Berka, Tehsil Sohna, Gurugram floated by the appellant-promoter, by paying a sum of Rs. 7,50,000/- on 14.03.2018. Builder Buyer Agreement was executed between the parties on 07.04.2022. Due date of possession was 30.01.2023. The respondent-allottee paid only Rs. 11,96,063/- against the total sale consideration of Rs. 76,19,759/-. The appellant-promoter issued reminders on several occasions and a final reminder letter dated 01.10.2022, calling upon the respondent-allottee to clearthe outstanding dues amounting to Rs. 56,80,731/-. However, the respondent-allottee failed to comply with the said demand.

Consequently, the allotment was cancelled vide letter dated 11.11.2022. Thereafter, a forfeiture letter dated 18.01.2023 was issued by the promoter and a cheque for an amount of Rs. 9,02,875/- was tendered along with said letter, after deduction of Rs. 2,93,188/- towards government taxes and brokerage, which constrained the respondent-allottee to approach the Authority seeking restoration of allotmentand possession along with delay possession charges.

3. The appellant-promoter contended before the Authority that after booking and allotment, the respondent-allottee delayed execution of the agreement despite repeated reminders dated 13.11.2021, 06.12.2021, as well as email communications exchanged in January 2022. It was further contended that the respondent-allottee remained in persistent default of the agreed payment schedule, and despite issuance of the final reminder dated 01.10.2022, failed to clear the outstanding dues. Accordingly, the unit was cancelled on 11.11.2022 strictly in terms of the Builder Buyer Agreement.

4. After considering rival contentions of the parties, the Authority disposed of the complaint vide impugned order, operative part whereof has been reproduced in para 1 of this order.

5. Aggrieved by the impugned order, the appellant-promoter has preferred the instant appeal before this Tribunal. It is primarily contended that the Authority erred in quashing the cancellation despite admitted payment defaults on the part of the respondent-allottee, and further erred in directing reinstatement of allotment and grant of delay possession charges even though the respondent-allottee had failed to comply with the payment obligations under the

agreement. It was further contended that multiple reminders were issued to the respondent-allottee during 2021 and 2022 for the execution of the Builder Buyer Agreement (BBA) and for payment of the outstanding dues.

6. The respondent-allottee contended that though booking had been made in 2018, the agreement was executed only on 07.04.2022 and the delay in execution thereof was attributable to the appellant-promoter. It was further contended that she had opted for a subvention plan, applied for loan from Canara Bank, and the loan could not be disbursed in June 2022 because the appellant-promoter failed to furnish necessary documents to the bank which was finally sanctioned on 21.12.2022.

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

8. It is undisputed that the respondent-allottee booked the subject unit in the year 2018, whereas the Builder Buyer Agreement came to be executed only on 07.04.2022. The said inordinate delay is wholly attributable to the respondent-allottee. The record unequivocally reflects that the appellant-promoter had been persistently calling upon the respondent-allottee to execute the agreement, including through specific reminders dated 13.11.2021 and 06.12.2021. The e-mail correspondence placed on record further reinforces this position, as it shows that the respondent-allottee had been repeatedly seeking extensions on personal grounds, including Covid-related issues and hospitalisation, and that such requests were duly responded to by the authorised representatives of the appellant-promoter. These communications demonstrate that the appellant-promoter was actively facilitating and assisting the respondent-

allottee for expeditious execution of the agreement. Despite such consistent follow-ups and assistance, the respondent-allottee failed to act with due diligence, thereby prolonging the execution of the Builder Buyer Agreement.

9. It is further not in dispute that the respondent-allottee had opted for a subvention scheme, under which, a substantial portion of the sale consideration was to be financed through a housing loan. The same e-mail correspondence also clearly records that the respondent-allottee was specifically informed that upon execution of the Builder Buyer Agreement, it was incumbent upon her to furnish the requisite documents to the concerned bank for processing and disbursal of the loan. However, the respondent-allottee failed to adhere to her financial obligations under the said arrangement. The appellant-promoter was constrained to issue multiple demand-cum-reminder letters dated 04.09.2021, 22.11.2021, and 19.01.2022, calling upon her to clear the outstanding dues, yet she remained in persistent default.

10. Even after the belated execution of the Builder Buyer Agreement, the respondent-allottee continued to exhibit a negligent and non-compliant approach. As per the agreed payment plan, 75% of the total consideration was to be arranged through bank subvention; however, the respondent-allottee failed to timely complete the requisite documentation and formalities for loan processing, despite having been clearly advised in this regard. The record clearly demonstrates the delay in sanction of the loan, eventually granted only on 21.12.2022, i.e., after an inordinate delay of approximately seven months from the date of execution of the agreement and even

subsequent to the cancellation of allotment on 11.11.2022, was solely on account of the respondent-allottee's own inaction.

11. The contention of the respondent-allottee that the loan could not be disbursed due to alleged non-furnishing of documents by the appellant-promoter is not borne out from the record. On the contrary, the contemporaneous correspondence and timeline clearly belie such a claim. The fact that the loan was sanctioned only after cancellation, establishes that the respondent-allottee failed to arrange finances within the stipulated period. It is a settled position of law that the obligation to make timely payments squarely rests upon the allottee and any internal arrangement for financing including under a subvention scheme, does not dilute such contractual responsibility.

12. The cumulative conduct of the respondent-allottee, marked by delayed execution of the agreement, repeated requests for extensions, failure to clear outstanding dues and inability to arrange finances within time, clearly establishes a consistent pattern of default. In these circumstances, the cancellation of the allotment by the appellant-promoter cannot be termed arbitrary or contrary to the provisions of the Act.

13. The Authority, while passing the impugned order, failed to appreciate the aforesaid material facts and erroneously set aside the cancellation while directing reinstatement of the allotment along with grant of delay possession charges. Such relief in favour of an allottee who was herself in breach of fundamental contractual obligations, is wholly unsustainable and contrary to the settled legal principles. The impugned order, therefore, deserves to be set aside.

14. In view of the foregoing discussion, the appeal is allowed. The impugned order dated 08.01.2025 passed by the Authority is

hereby set aside and the cancellation of the allotment is upheld. As per the record, the appellant-promoter has already tendered a cheque of Rs. 9,02,875/- to the respondent-allottee towards refund consequent upon cancellation. In the event the said cheque has not been encashed by the respondent-allottee, she shall be entitled to the same and the appellant-promoter shall ensure compliance within a period of 90 days from the date of uploading of this order.

15. The amount deposited by the appellant-promoter with this Tribunal as pre-deposit in order to comply with the provisions of Section 43(5) of the Actalong with accrued interest thereon, be remitted to the Haryana Real Estate Regulatory Authority, Gurugram for disbursement to the appellant-promoter in accordance with law and Rules.

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

17. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

July 16,2026/mk