

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 624 of 2022

Date of Decision: July 24,2026

Emaar India Limited (formerly known as Emaar MGF Land Limited), 306-308, 3rd Floor, Square One, C-2, District Centre, Saket, New Delhi-110017, also at Emaar Business Park, MG Road, Sikanderpur Chowk, Sector-28, Gurugram-122002, Haryana through its authorized representative Sayantan Mondal S/o S. N. Mondal

Appellant

Versus

1.Pankaj Sarin

2. Kanika Sarin

Both R/o Tower A, Flat No. 1502, Pioneer, Presidia CRPF Road, Sector-62, Gurugram-122101

Respondents

CORAM:

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

Present: Ms. Ankita Chaudhary, Advocate for the appellant.
None for the respondents.

O R D E R:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 07.04.2022 passed by the Adjudicating Officer of the Authority¹, whereby the appellant-promoter has been directed to pay Rs. 50,000/- for delay to start construction of the flat; Rs.1,00,000/- for harassment and mental agony as compensation and Rs.50,000/- as litigation expenses within 30

¹ Haryana Real Estate Regulatory Authority, Gurugram

days of the order. In case of failure, the appellant-promoter was also liable to pay interest @ 9.3% per annum till realization.

2. The respondent-allottees were applicants in a group housing project, namely, 'The Palm Terraces Select' in Sector 66, Gurugram. They were allotted a unit measuring 2410 square feet. Total sale consideration for the unit was Rs.1,81,83,056/-. The respondent-allottees remitted the entire amount. Due date of possession was 13.08.2015. Thereafter, they invoked jurisdiction of the Authority for grant of delay possession interest in handing over the possession of the unit. Their claim was resisted by appellant-promoter. The Authority adjudicated upon the matter and gave the following directions vide order dated 21.12.2021:

"H. Directions of the authority

66. Hence, the authority hereby passes the order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

i. The respondent is directed to pay the interest at the prescribed rate i.e. 9.30% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e. 13.08.2015 till 16.10.2019 i.e. expiry of 2 months from the date of offer of possession (16.08.2019). 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.

ii. Also, the amount of Rs.8,68,788/- so paid by the respondent towards compensation for delay in handing over possession shall be adjusted towards

the delay possession charges to be paid by the respondent in terms of proviso to section 18(1) of the Act.

iii. The complainants are entitled for refund of Rs.4,72,000/- paid for allotment of third car parking space on account of failure of the respondent to make available third parking as per the requirement of the complainants.

iv. The service tax/GST upto the due date of offer of possession shall be demanded by the promoter and will be paid by the complainants and not thereafter.

v. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement. The respondent is also not entitled to claim holding charges from the complainants/allottees at any point of time even after being part of the buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.

67. Complaint stands disposed of.

68. File be consigned to registry."

3. Thereafter, the respondent-allottees filed a complaint before the Adjudicating Officer seeking compensation on account of delay caused by the promoter and other harassment caused to them. This claim was also resisted by appellant-promoter. However, the Adjudicating Officer vide impugned order dated 07.04.2022 disposed of the complaint by issuing directions, as reproduced in opening paragraph of this judgment.

4. The aforesaid order has been challenged on the ground that as the allottees are persons, who stayed in the

project and have possession as well as Conveyance Deed in their favour, thus, they are estopped from invoking jurisdiction of the Adjudicating Officer for additional compensation.

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

6 As per Section 18(1) of the Act², the matters in which the project is not completed by the promoter within the stipulated period as per terms and conditions settled between the parties, the allottee has the option of withdrawing from the project and seek relief of refund of the paid-up amount along with interest. However, if the allottee chooses to remain in the project, then the only remedy provided for the default of the promoter in completion of the project, is to get delay possession interest on the paid-up amount from the due date of possession till actual delivery of possession. (*See- Appeal No. 70 of 2023- Greater Noida Industrial Development Authority v. Ranjan Misra*, decided on 20.04.2023).

7. In the present case, the allottees have already availed the remedy of delay possession charges. Keeping in view the facts and circumstances of the case coupled with Section 18(1) of the Act, since the allottees opted not to withdraw from the project, they are not entitled for any additional compensation

8. In view of above, the appeal is allowed.

9. The amount of pre-deposit made by the appellant-promoter along with interest accrued thereon, be

² Real Estate (Regulation and Development) Act, 2016

remitted to the Authority for disbursement to the parties, according to their entitlement, subject to tax liability, if any.

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

11. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

July 24, 2026
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