BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: August 07,2026

Appeal No.512of 2022

1. Dr. Seema Jain
2. Vivek Sheel Jain,
Both R/o H. No. 347, Sector-16A, Faridabad 121002

...Appellant-allottees

Versus

1. M/s Omaxe Ltd.having Office at 7, Kalkaji, New Delhi-19
2. Robust Buildwell Pvt. Ltd. having Office at World Street, Sector-79 O, Omaxe City Centre Faridabad (Haryana) 121004

... Respondent-promoters

Appeal No. 574of 2022

1. M/s Omaxe Ltd.having Office at 7, LSC, Kalkaji, New Delhi
2. Robust Buildwell Pvt. Ltd. having Office at 632, Sector-21A, Faridabad (Haryana)

... Appellant-promoters

Versus

1. Dr. Seema Jain
2. Vivek Sheel Jain,
Both R/o H. No. 347, Sector-16A, Faridabad 121002

...Respondent-allottees

CORAM:

Justice Rajan Gupta Chairman
Dr. Virender ParshadMember (Judicial)

Present: Mr. Brahma Prakash, Advocate,
for the allottees.

Mr. Munish Gupta, Advocate with
Mr. Ankit Kumar, Advocate,
for the promoters.

O R D E R:

RAJAN GUPTA, CHAIRMAN

This order shall dispose of above-mentioned appeals, as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 512 of 2022.

2. Present appeal is directed against the order dated 12.01.2022, passed by the Authority[1] in Complaint No. 387 of 2019, whereby promoters were directed to allot and handover possession of similar unit in phase 3 or 4 of the project, at the same allotment price as originally agreed between the parties along with delay possession charges from the due date of possession i.e. 03.08.2014 till offer of possessionis made by the promoter. It was further ordered that allottee is liable to pay outstanding dues upon receipt of offer.

3. Factual matrix of the case is that the original booking of a commercial property was made on 03.02.2011 by Mrs. Raj Rani Mittal in the project “Omaxe City Centre, Faridabad” upon payment of Rs. 10,00,000/-. The booking rights were subsequently transferred multiple times- first to Shikhar Reality Services Ltd., then to Paras Land Developers Pvt. Ltd., and finally to the complainants in the year 2013. The promoters acknowledged this transfer in June 2013. The complainants thereafter paid an additional Rs. 10,00,000/- in instalments during 2013, making the total payment of Rs. 20,00,000/-.

4. Although no formal builder-buyer agreement was executed and no specific unit number was allotted, the promoters’ own records reflected a 200 sq. yard plot in the said project with a total consideration of Rs. 64.22 lakhs. Despite retaining the amount, the promoters neither allotted a specific unit nor delivered possession within a reasonable period, which was determined as 03.08.2014.

5. Feeling aggrieved, the complainants approached the Authority by way of filing of a complaint. They consistently claimed that they were interested in possession of the property and not in refund. It was argued that the promoters had accepted Rs. 20,00,000

[1]Haryana Real Estate Regulatory Authority, Panchkula.

towards allotment, issued receipts, and maintained records identifying the property. They also contended that the demand for Rs. 8,00,000/- for prioritisation was arbitrary and made without disclosing any unit details. They expressed willingness to accept allotment even in later phases i.e., phase 3 or 4 of the project.

6. The promoters, on the other hand, argued that no allotment or agreement for sale existed and, therefore, no promoter-allottee relationship was established under the Act. They claimed the payments were merely investments and that the complainants were only applicants in the project holding a client code. It was also argued that the complainants failed to comply with the demand for prioritisation and that all units had already been sold. According to them, the complainantswere only entitled to refund, if at all.

7. Upon hearing both the parties and perusal of the record, the Authority issued the directions vide order dated 12.01.2022 as recorded in para 2 of this order.

8. Aggrieved thereby, both parties have filed cross-appeals before this Tribunal, raising various contentions.The promoters have contended that in the absence of identification of a specific unit, the only permissible relief, if any, could be refund of the amount deposited, and not a direction for possession or allotment. On the other hand, the allottees have also challenged the impugned order, asserting that the complainants had consistently sought possession in Phase I or Phase II of the project, and that the findings recorded by the Authority unequivocally establish their entitlement to allotment of a suitable unit within the project. It has further been contended that in the event allotment is made in Phase III or Phase IV, the same must be accompanied by compensation towards the market price differential, quantified at Rs. 2 crores.

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

10. Admittedly, the promoters had accepted a sum of Rs. 20,00,000/- from the complainants and duly acknowledged the same in their records in relation to the project. Even though no formal agreement or specific unit number was assigned, the conduct of the promoters in retaining the amount and reflecting the transaction against a defined plot size and consideration establishes a valid promoter-allottee relationship. The promoters cannot avoid their responsibility merely on the ground that no formal allotment was made, especially when such omission is attributable to their own actions. Therefore, the direction of the Authority to allot a similar unit and pay delay possession charges is justified and meets the ends of justice.

11. At the same time, the complainants' demand for allotment in earlier phases or for additional compensation on account of increase in market price is not sustainable. Since no specific unit was ever identified in Phase I or II, and the available record indicates that such inventory is no longer available, the direction to allot a comparable unit in Phase III or IV is reasonable and fair. Further, once allotment is being granted at the original price along with delay compensation, any additional claim based on market escalation would be excessive and beyond the scope of relief contemplated under the Act.

12. In view of the above, this Tribunal finds no ground to interfere with the order passed by the Authority. The directions issued strike a fair balance between the rights of both parties. Accordingly, both the appeals, filed by the promoters as well as the allottees, are hereby dismissed.

13. The amount deposited by the promoters with this Tribunal in Appeal No.574 of 2022, along with accrued interest thereon, in order to comply with the provisions of Section 43(5) of the Act, be remitted to the Haryana Real Estate Regulatory Authority, Panchkula for disbursement to the parties, according to their entitlement, subject to tax liability, if any.

14. Copy of this order be sent to the parties/their counsel and the Authority for compliance.

15. Files be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

August 07 , 2026/mk