

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: August 14, 2026
Appeal No. 1601of 2025

- 1. Pankaj Aggarwal
- 2. Neeraj Aggarwal

Both residents of 29, Green Avenue Colony, Jasran, Fatehgarh Sahib
Punjab, 147301

... Appellant–allottees

Versus

Shree Vardhman Infrahome Private Limited having office at 301, 3rd
Floor, Indraparkash Building, 21 Barakhamba Road, New Delhi

... Respondent–promoter

CORAM:

Justice Rajan Gupta
Dinesh Singh Chauhan

Chairman
Member (Technical)

Present: Mr. Yashvir Singh Balhara, Advocate,
for the appellants.

O R D E R:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 11.09.2025,
passed by the Authority¹at Gurugram in Complaint No.4277 of
2024filed by the appellant-allottees, whereby the respondent-
promoter was directed to execute conveyance deed of the subject
unit within 3 months, while the other reliefs sought by the appellant-
allottees pertaining to withdrawal of demands raised on account of
GST, escalation charges and increase in area were rejected by relying
on Order 2 Rule 2 of the CPC, on the ground that the subsequent
complaint is barred being based on the same cause of action.

2. Factual matrix of the case is that the appellant-allottees
booked a unit bearing No. 803 in Tower B3 in the project of the
respondent-promoter, namely, “Shree Vardhman Flora” situated at
Village Badshapur, Sector-90, Gurugram. Flat Buyer Agreement was

¹Haryana Real Estate Regulatory Authority, Gurugram

executed between the parties on 02.02.2012. As per Clause 14(a) of the agreement, due date of possession of the unit was 14.05.2015. Appellant-allottees paid Rs. 58,18,086/- against the total sale consideration of the unit i.e., Rs.64,93,989/-. Since the respondent-promoter failed to deliver possession even after lapse of five years from the due date, the appellant-allottees were constrained to file a complaint in 2020 bearing No. 125 of 2020, before the Authority seeking relief of possession along with delay possession charges. The said complaint was allowed by the Authority vide order dated 08.10.2021, wherein the Authority directed delay possession charges @ 9.30% p.a. from the due date of possession till valid offer plus two months or handing over of possession, whichever is earlier. The Authority also directed that the promoter shall not charge anything from the allottees which is not part of the agreement. Thereafter, the appellant-allottees filed execution petition bearing No. 647 of 2022 before the Executing Court for execution of order dated 08.10.2021. Occupation Certificate to the project was granted on 02.02.2022 and subsequently, the respondent-promoter made an offer of possession on 11.04.2022 along with various demands on account of GST, increase in area, escalation charges, EDC/IDC. During the pendency of the execution proceedings, the respondent-promoter handed over the keys of the unit to the appellant-allottees before the Executing Court. The execution proceedings were disposed of by the executing court on the basis that an amount of Rs. 47,93,394/- towards delay possession charges was recovered through recovery proceedings initiated against the respondent-promoter. Thereafter, the appellant-allottees filed Complaint No. 4277 of 2024 before the Authority, challenging the demands raised with the offer of possession dated 11.04.2022 and seeking withdrawal of the alleged illegal demands raised on account of GST, increase in area, escalation charges,

EDC/IDC and also sought directions to the respondent-promoter to execute the conveyance deed of the subject unit.

3. Stand of the respondent-promoter before the Authority was that possession had already been handed over, and delay possession charges had also been paid to the appellant-allottees during the execution proceedings arising from the earlier order passed in the previous complaint. It was contended that the demands raised were in accordance with the agreement and that the appellant-allottees had not paid the amount due from them.

4. After considering the rival contentions of the parties, the Authority disposed of the complaint by the impugned order as stated in para 1 of this order.

5. Aggrieved by the impugned order, the appellant-allottees have preferred the instant appeal before this Tribunal. They primarily challenged the impugned order on the ground that the Authority erred in rejecting the relief sought by the appellant-allottees by relying on Order 2 Rule 2 of the CPC by holding that the subsequent complaint on the same cause of action is barred. They contended that previous complaint No. 125 of 2020 was disposed of vide order dated 08.10.2021, whereas cause of action in the present complaint arose on 11.04.2022, when respondent-promoter issued offer of possession along with illegal demands. It was also argued that the impugned order is silent on the legality of the demands raised by the respondent-promoter and does not record any finding on those issues.

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

7. The principal question, which arises for consideration is, whether the subsequent complaint filed by the appellant-allottees is barred under Order 2 Rule 2 of the CPC merely because the parties had earlier litigated in respect of the same unit and the earlier

complaint had been allowed. Order 2 Rule 2 of the CPC provides that a plaintiff must claim whole of the relief arising from the same cause of action in one suit. If the plaintiff omits or intentionally relinquishes any part of the claim or any relief, a subsequent suit for the omitted claim or relief is barred. The object of the provision is to prevent multiplicity of litigation and splitting of the claims.

8. The cause of action in the first complaint arose on the respondent-promoter's failure to deliver possession within the stipulated period, and the relief sought therein was confined to possession and payment of delay possession charges. At the time of filing and adjudication of the said complaint, the disputed demands towards GST, escalation charges and increase in area etc. had not been raised. The said demands were raised for the first time along with the offer of possession dated 11.04.2022, after disposal of the earlier complaint vide order dated 08.10.2021. The appellant-allottees, therefore, could not have claimed relief against such demands in the earlier complaint.

9. The subsequent issuance of the offer of possession along with demands towards GST, escalation charges, EDC/IDC and increase in area constituted a distinct and subsequent event. The right of the appellant-allottees to question the legality of those demands arose only when these demands were raised.

10. It is, therefore, evident that the reliefs claimed in the present complaint were not available to the appellant-allottees at the time of filing of the earlier complaint. There was consequently no omission or intentional relinquishment of any relief within the meaning of Order 2 Rule 2 of the CPC. The subsequent complaint, insofar as it relates to the demands raised with the offer of possession dated 11.04.2022, cannot be held to be barred under the said provision.

11. We are, therefore, of the considered view that the Authority has erred in rejecting the appellant-allottees' claims solely by invoking Order 2 Rule 2 of the CPC. In particular, the impugned order does not record any finding on the legality of the demands raised towards GST, escalation charges, EDC/IDC and increase in area. The legality of the demands and the consequential reliefs sought by the appellant-allottees constitute independent issues requiring adjudication.

12. Since the Authority has not recorded findings on the merits of the disputed demands, it would not be appropriate for this Tribunal to examine those issues for the first time in appeal.

13. In view of the observations made above, this Bench deems it fit to remit the matter to the Authority to consider the matter afresh after affording opportunity of hearing to the parties. It shall pass a fresh order at the earliest, in any case, not later than three months after affording such opportunity and perusal of the entire record.

14. The parties are directed to appear before the Authority on 29.09.2026.

15. Appeal is allowed in the aforesaid terms.

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

17. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

August 14, 2026/mk