

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.430 of 2026

Date of Decision: August 14, 2026

Skytech Estates Pvt. Ltd. through its Authorized Representative,
385, 2nd Floor, Kohat Enclave, Pitampura, Delhi – 110 034.

---Appellant

Versus

1. Rajni Katyal,

2. Subhash Chander Katyal,

Both residents of House No. 1363, Sector 8, Faridabad, Haryana.

---Respondents

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad**

**Chairman
Member (Judicial)**

Present : Mr. Harsh Sharma, Advocate,
for the appellant.

ORDER:

VIRENDER PARSHAD, MEMBER (JUDICIAL)

The appellant-promoter has filed this appeal under Section 44 of the Real Estate (Regulation and Development) Act, 2016 against the impugned order dated 20.03.2026 passed by the Authority¹, vide which, its application under Order 9 Rule 13 of the Code of Civil Procedure filed in Complaint No. 3158 of 2022 was dismissed.

2. Brief background of the case is that the appellant-promoter floated one project, namely, 'Merion Sky Mall' in Sector 3, Rohtak, Hayana. The respondents-allottees had booked one shop measuring 392 sq. feet, bearing Shop No. FF-

¹ Haryana Real Estate Regulatory Authority, Panchkula

101 for a basic sale consideration of Rs.18,94,500/- and paid Rs. 18,98,695/-. In addition to that, the respondents-allottees had also paid certain amounts in terms of the MOU dated 22.12.2012. However, the appellant-promoter failed to hand over physical possession of the unit. In the compelling circumstances, the respondents-allottees had filed the complaint bearing No. 3158 of 2022 seeking refund of the amount with compoundable interest @ 18%.

3. Upon notice, the appellant-promoter appeared before the Authority and filed an application under Order 7 Rule 11 of the CPC. Thereafter, the appellant-promoter did not appear on several dates, therefore, the matter was proceeded ex-parte on 28.11.2025 and finally, the complaint was decided vide order dated 09.01.2026 ex-parte.

4. Feeling aggrieved by the ex-parte order dated 09.01.2026 passed by the Authority, an application under Order 9 Rule 13 of the CPC was filed for setting aside the impugned order.

5. The Authority, vide the impugned order dated 20.03.2026, dismissed the application, holding that the appellant-promoter has right to file an appeal under Sections 43 and 44 of the Real Estate (Regulation and Development) Act, 2016.

6. Notice of the appeal was issued to the respondents-allottees. The respondent-allottees appeared and contested the appeal.

7. We have heard arguments of learned counsel for both the parties at length and examined the record in between

the lines. The findings of the Tribunal with reasons thereof, are as under :

8. Admittedly, the respondents-allottees had filed Complaint bearing No. 3158 of 2022 before the Authority. Notice of the said complaint was issued by the Authority to the appellant for 14.02.2023. The appellant appeared before the Authority and filed an application under Order 7 Rule 11 of the CPC for rejection of the complaint on the ground of lack of jurisdiction. Thereafter, the appellant, in the capacity of the respondent, had appeared several times before the Authority and remained part and parcel of the proceedings. However, subsequently, the appellant-promoter and its counsel did not appear before the Authority. The Authority, vide order dated 28.11.2025 proceeded against the appellant *ex-parte*. Finally, the complaint was heard on merits and decided vide *ex-parte* order dated 09.01.2026.

9. The above-mentioned admitted position available on the record clearly and precisely indicates that it is not a case where the appellant was not served properly before being proceeded *ex-parte*. Furthermore, the appellant was also represented by an Advocate before the Authority. All these circumstances clearly establish that the absence of the appellant was not bonafide.

10. There is yet another aspect of the matter. Admittedly, one round of litigation was also pending before the Consumer Disputes Redressal Commission, Faridabad. The appellant pleads that its non-appearance before the Authority was also due to the pending proceedings before the Consumer Disputes Redressal Commission. When all the circumstances are examined in tandem, it is evident that the appellant,

despite having full knowledge of the pending proceedings before the Authority, opted to remain absent during the proceedings.

11. Further, perusal of the order dated 09.01.2026 passed by the Authority vide which, the complaint of the respondents-allottees was decided, clearly shows that the defence of the promoter was struck off on 28.11.2025. The Authority, while deciding the complaint, issued the following directions to the promoter :

“32. i. Respondent is directed to refund the amount of Rs.18,83,751/- with interest of Rs.29,89,266/- to the complainants i.e. Rs.48,73,017/- in total within 90 days from the date of passing of this order. It is further clarified that respondent will remain liable to pay interest to the complainants till the actual realization of the amount.

ii. The respondent-promoter is directed to comply with all the directions issued in this order within a period of 90 days from the date of receipt of this order, as provided under Rule 16 of the Haryana Real Estate (Regulation & Development) Rules, 2017.”

12. It is evident from the record that the absence of the appellant before the Authority was not bonafide. However, the appellant had opted to file the application under Order 9 Rule 13 of the CPC for setting aside the ex-parte order dated 09.01.2026. An order of dismissal thereof is appealable under Order 43 Rule 1 of the CPC. Another option with the appellant is to file an appeal under Sections 43 and 44 of the Real Estate (Regulation & Development) Act, 2016. Similarly, a first appeal under Section 96(2) read with Order 41 of the CPC against an order passed under Order 9 Rule 13 of the CPC would lie before the competent Court under Code of Civil Procedure.

13. The present case pertains to an order passed under the special enactment where provision for appeal in such a situation already exists. The admitted position is that the ex-parte order dated 09.01.2026 is appealable before this Tribunal in view of the provisions contained under Sections 43 and 44 of the Real Estate (Regulation & Development) Act, 2016. The Parliament, in its wisdom, has made the provision that every order passed by the Authority is challengeable before the Tribunal. It appears that application under Order 9 Rule 13 of the CPC was filed by the appellant just with a view to avoid the pre-deposit as envisaged under Section 43(5) of the RERA Act in compliance of the ex-parte order dated 09.01.2026 vide which, the complaint was finally decided. If the appellant is of the view that its rights have been prejudiced due to non-adhering of the principles of natural justice and the Authority failed to appreciate the record relied upon by the complainants in right perspective and true sense, then the appellant can very well challenge the order dated 09.01.2026 by way of filing the appeal. If any such appeal is filed before the Tribunal, it shall be considered on its merits.

14. In view of above, the appeal is dismissed.

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

16. File be consigned to the records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

August 14, 2026
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