

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.549 of 2024

Date of Decision: May 29,2026

Poonam Varma wife of Sh. Praveen Varma (through Special
Power of Attorney holder Sh. Vivek Kumar Sinha

Appellant

Versus

Splendor Buildwell Private Limited (Through Director),
Registered office at: Fifth Floor, Splendor Forum Plot No.3,
Jasola District Centre, New Delhi-110025

Respondent

CORAM:

Justice Rajan GuptaChairman

Dr. Virender Parshad

Member (Judicial)

Present: Mr. Gurpreet Singh, Senior Advocate assisted by
Mr. Dhruv Walia, Advocate
Ms. Gunjan, Advocate
for the appellant.

Mr. A. R. Takkar, Senior Advocate, assisted by
Mr. Shobit Phutela, Advocate
Mr. Dushyant Rana, Advocate
Ms. Saira Tagra, Advocate
for the respondent.

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated
10.05.2023, passed by the Authority¹. Operative part thereof reads
as under:

“F. Directions of the authority

*31. Hence, the authority hereby passes this 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-promoter is directed to refund the
amount i.e. Rs.61,61,679/- after deducting 10% of the
sale consideration of the unit being earnest money as
per regulation Haryana Real Estate Regulatory*

¹Haryana Real Estate Regulatory Authority, Gurugram

Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 2018 along with an interest @ 10.70% p.a. on the refundable amount, from the date of surrender i.e. 03.09.2020 till the date of realization of payment after the Act of 2016.

ii. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.

iii. The respondents are further directed not to create any third-party rights against the subject unit before full realization of paid-up amount along with interest thereon to the complainant and even if, any transfer is initiated with respect to subject unit, the receivables shall be first utilized for clearing dues of allottee-complainant.

32. Complaint stands disposed of.

33. File be consigned to registry.

2. Learned counsel for the appellant-allottee contends that the allottee having withdrawn from the project, interest from respective dates of payment should have been granted, however, the Authority has granted interest from the date of surrender i.e. 03.09.2020. He further contends that the promoter was not entitled to deduct 10% of the basic sale price from the amount to be refunded by it.

3. Learned counsel for the respondent-promoter states that after completion of project, the promoter got Occupation Certificate on 06.09.2019. On the basis of same, it offered possession to the allottee vide communication dated 20.08.2020. The allottee decided to surrender the unit thereafter on 03.09.2020, thus, no liability can be fastened on the promoter prior to the date of surrender (i.e. 03.09.2020) for grant of interest.

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

5. It appears that a project in the name and style of 'Splender Spectrum One' was floated by the respondent-promoter in Sector 58, Gurugram. Unit No. 316, 3rd Floor, Tower-D, measuring 1000 square feet was allotted to the appellant-allottee vide allotment letter dated 21.11.2014. Total sale consideration of the unit was Rs.54,50,000/-. The allottee remitted an amount of Rs.61,16,679/-. Due date of possession was 21.11.2018. Occupation Certificate was granted to the project on 06.09.2019. The promoter is stated to have offered possession on 20.08.2020. It is thereafter that the allottee issued a legal notice to the promoter expressing her wish to surrender the unit in question. The same is dated 03.09.2020.

5. In the facts and circumstances of the case, the Authority came to the conclusion that the promoter had completed the project and got Occupation Certificate on 06.09.2019 and on the basis thereof, it offered possession on 20.08.2020, which has not been controverted by counsel for the allottee. Thus, no fault could be found on the part of the promoter beyond the date of offer of possession to the allottee. At the same time, it is well-settled that the allottee cannot be forced to take possession of the unit in question. As the allottee decided to surrender the unit vide notice dated 03.09.2020, the promoter ought to have refunded the amount forthwith. However, at that stage, the promoter did not act promptly due to which the allottee was constrained to file the instant complaint before the Authority.

6. Admittedly, Occupation Certificate was granted to the project on 06.09.2019 and the promoter made offer of possession on 20.08.2020. The allottee decided to withdraw from the project and surrendered the unit vide notice dated 03.09.2020. Thus, after examining the entire issue, the Authority directed refund of the paid-up amount after deducting 10% of the sale consideration.

7. We find no infirmity with the order. Interest was also awarded @10.70% from the date of surrender till realisation. We deem it fit to keep the same intact. The amount due, if not already remitted, be paid to the allottee within 90 days of this order, failing which it will carry further interest at the same rate i.e. 10.70% from the date of order passed by the Authority till realisation. In case of failure of the promoter to remit the amount within 90- days from uploading of this order, penal provisions of Section 64 of the Real Estate (Regulation and Development) Act, 2016 will also come into play and the promoter shall be liable to pay Rs.5,000/- per day as penalty till realisation.

8. The appeal stands disposed of.

9. Copy of this order be forwarded to the parties, their counsel and the learned Authority.

10. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

May 29,2026
mk