

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 810 of 2022

Date of Decision: June 02, 2026

M/s DSS Buildtech Pvt. Ltd. through its Authorized Representative Mr. Ram Hari Sharma, Office at: 506, 5th Floor, Time Square Building, B-Block, Sushant Lok, Phase-1, Gurugram, Haryana.

Appellant

Versus

1. Mrs. Ruchi Chauhan
2. Mr. Vikram Singh Mandhotra

Both having Office at: C-1103, Sispal Vihar, AWHO Complex, Sector 49, Sohna Road, Gurugram.

Respondents

Coram:

Justice Rajan Gupta

Chairman

Dr. Virender Parshad

Member (Judicial)

Present: Mr. Pranjal P. Chaudhary, Advocate,
for the appellant.
Mr. Rishab Jain, Advocate with
Mr. Harsh Sharma, Advocate,
for the respondents.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 19.05.2022 passed by the Authority¹ at Gurugram in Complaint No. 313 of 2022. Operative part thereof reads as under:

“H. Directions of the authority

36. 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 is directed to pay interest at the prescribed rate of 9.50% p.a. for every month of delay from the due date of possession i.e. 22.06.2020 till the offer of possession of the subject unit after obtaining occupation certificate from the competent authority + 2 months to the complainants as per section 19(10) of the Act.

ii. The arrears of such interest accrued from 22.06.2020 till the date of offer of possession shall be paid by the promoter to the allottees

¹ Haryana Real Estate Regulatory Authority, Gurugram.

within a period of 90 days from date of this order as per rule 16(2) of the rules.

iii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

iv. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 9.50% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

v. The respondent shall not charge anything from the complainants which is not the part of the agreement. However, holding charges shall also not be charged by the promoter at any point of time even after being part of agreement as per law settled by the Hon'ble Supreme Court in civil appeal no. 3864-3889/2020 dated 14.12.2020.

37. Complaint stands disposed of.

38. File be consigned to registry.”

2. Factual matrix of the case is that the respondent–allottees booked a residential apartment No. E-1002 on 10th floor, measuring 1750 sq. ft. in the project “The Melia”, Sector-35, Sohna, Gurugram, Haryana, developed by the appellant–promoter. An Allotment Letter was issued on 27.11.2015 and thereafter, an Apartment Buyer’s Agreement was executed between the parties on 22.12.2015 on a construction-linked payment plan basis. Total sale consideration of the unit was Rs. 99,39,625/- out of which, the allottees had paid Rs. 81,52,904/-. The allottees approached the Authority by filing a complaint on 09.02.2022 alleging that despite having paid substantial amounts, the appellant–promoter failed to complete the unit and hand over possession and thus, sought possession of the unit and delay possession charges. Same was decided vide order dated 19.05.2022. Relying on Clause 14 of the agreement, the Authority computed the due date of possession as 22.06.2020 including the grace period of 180 days. No occupation certificate had been placed on record and no offer of possession (actual or even constructive) stood issued to the allottees in respect of the subject unit on the date of the Authority’s order.

3. Stand of the respondent-promoter before the Authority was that the allottees were themselves defaulters in timely payment of instalments under the construction-linked plan. It was asserted that in an earlier complaint filed by the promoter (RERA-GRG-3854-2020), the Authority had already directed the allottees to clear the outstanding dues with interest. However, the

promoter stated that instead of paying the outstanding dues, allottees filed the instant complaint.

4. After considering rival contentions of the parties, the Authority disposed of the complaint vide impugned order, operative part whereof has been reproduced in para 1 of this order.

5. Aggrieved by the impugned order, the appellant-promoter filed the present appeal before this Tribunal. The appellant primarily challenged the impugned order on the ground that the Authority erred in computing the due date of possession as 48 months +180 days grace period, from the date of execution of the agreement, instead of strictly adhering to the language of Clause 14, which ties the possession period to “the date of receiving the last of approvals required for commencement of construction” and to the time taken in obtaining fire approvals and occupation certificate. It was further stated that the occupation certificate has been granted to the project on 10.12.2024 i.e., during the pendency of the present appeal.

6. On the other hand, learned counsel for allottees supported the impugned order and stated that Authority has rightly computed the due date of possession as 22.06.2020 for awarding the delay possession charges.

7. We have heard learned counsel for both the parties and carefully examined the record of the case.

8. There is no dispute that Clause 14 of the ABA is the contractual provision governing completion and possession of the apartment inter-se the parties. Indeed, the entire challenge of the promoter is premised on the said clause which is reproduced thereunder:

“14. Completion and possession of the apartment

Subject to the terms hereof and to the buyer having complied with all the terms and conditions of this agreement, the company proposes to hand over possession of the apartment within a period of 48(forty eight) months from the date of receiving the last of approvals required for commencement of construction of the project from the Competent Authority and or the date of signing the agreement whichever is later and to this period to be added for the time taken in getting Fire Approvals and Occupation Certificate and other approvals required before handing over the possession of the apartment

or for such other requirements/conditions as may be directed by the DGTCP. The resultant period will be called as "Commitment Period". However this Committed Period will automatically stand extended by for a further grace period of 180 days for issuing the possession notice and completing other required formalities ("Due Date of Possession")."

9. Perusal of Clause 14 shows that time for handing over possession was meant to be reasonably certain and predictable for the allottee, not indefinite. If the promoter's present argument is accepted to calculate due date of possession from the date of last approval, then expressions like "Commitment Period" and "Due Date of Possession" become empty words, because the promoter could always keep saying that some approval or process is pending and thus keep extending the date without any limit. Such an interpretation would defeat both, the text of Clause 14 and the reasonable expectations of the allottees and, therefore, the Authority was justified in fixing 22.06.2020 as the due date of possession i.e., 48 months from the date of executing agreement along with 180 days grace period for calculating delay possession charges.

10. In view of the above discussion, we find no legal infirmity in the order passed by the Authority. No ground for interference is thus made out.

11. Consequently, the present appeal, being devoid of merit, is hereby dismissed. The impugned order dated 19.05.2022 passed by the Authority is upheld.

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

13. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

June 02, 2026/mk