BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: July 10,2026

Appeal No. 681 of 2023

Ocus Skyscrapers Realty Private Limited (Formerly known as Ocus Skyscrapers Realty Ltd.) having office at 6th Floor, Ocus Technopolis Building, Golf Course Road, Sector 54, Gurugram Haryana-122001

... Appellant-promoter

Versus

Shiny Chopra and Seema Chopra, Both R/o C-902, Great Value Sharnam, Sector 107, Noida

... Respondent-allottees

Appeal No. 650 of 2023

Shiny Chopra and Seema Chopra, Both R/o C-902, Great Value Sharnam, Sector 107, Noida

... Appellant-allottees

Versus

Ocus Skyscrapers Realty Private Limited (Formerly known as Ocus Skyscrapers Realty Ltd.) having office at 6th Floor, Ocus Technopolis Building, Golf Course Road, Sector 54, Gurugram Haryana-122001

...Respondent-promoter

Appeal No. 680 of 2023

Ocus Skyscrapers Realty Private Limited (Formerly known as Ocus Skyscrapers Realty Ltd.) having office at 6th Floor, Ocus Technopolis Building, Golf Course Road, Sector 54, Gurugram Haryana-122001

... Appellant-promoter

Versus

Sunil Bhalla and Manchilla Bhalla, Both R/o D-13, First Floor, South Extension 1, New Delhi

... Respondent-allottees

Appeal No. 677 of 2023

Sunil Bhalla and Manchilla Bhalla, Both R/o D-13, First Floor, South Extension 1, New Delhi

... Appellant-allottees

Versus

Ocus Skyscrapers Realty Private Limited (Formerly known as Ocus Skyscrapers Realty Ltd.) having office at 6th Floor, Ocus Technopolis Building, Golf Course Road, Sector 54, Gurugram Haryana-122001

...Respondent-promoter

CORAM:

Justice Rajan Gupta **Chairman**
Mr. Dinesh Singh Chauhan **Member (Technical)**

Present: Mr. Harpreet Singh Arora, Advocate,
for the allottees.

Mr. Lokesh Bhola, Advocate with
Mr. Yashvir Singh Balhara, Advocate,
for the promoter.

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. 681 of 2023.

2. Present appeal is directed against the order dated 12.07.2023, passed by the Authority[1]. The operative part thereof reads as follows:

> *"20. 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 functions entrusted to the authority under section 34(f):*
> *i. The respondent is directed to refund the paid-up amount of Rs.24,28,934/- after deducting 10% of the basic sale consideration of Rs.58,11,290/- with interest at the prescribed rate i.e., 10.70% p.a. on such balance amount, from the date of cancellation i.e., 18.04.2020 till the actual date of refund.*
> *ii. A period of 90 days is given to the respondent to comply with the directions in this order and failing which legal consequences would follow."*

3. Factual matrix of the case is that the complainants were allotted a unit no. 617 measuring 701 sq. ft. on the 6th Floor of the commercial project, namely, 'Ocus 24K', Main Sohna Road, Sector-68,

[1] Haryana Real Estate Regulatory Authority, Gurugram

Gurugram, under a construction-linked payment plan. Total sale consideration for the unit was Rs. 58,11,290/-, out of which, complainants had paid Rs. 24,28,934/-. Buyer-Builder Agreement (BBA) was executed between the parties on 20.02.2015.

4. As per the agreement, the due date of possession was 20.02.2020, subject to force majeure and compliances by the allottees. Occupation Certificate to the project was granted on 17.07.2019 and offer of possession was made to the allottees on 08.08.2019, followed by reminder letters in September 2019, October 2019 and February 2020, requiring the complainant-allottees to clear the outstanding dues and take possession. However, due to failure on the part of the allottees to clear the outstanding dues, promoter cancelled the allotment on 18.04.2020. Thereafter, allottees approached the Authority by filing a complaint on 11.02.2021, alleging that construction was not carried out in accordance with the promised pace and thus, sought refund of entire paid-up amount along with interest and compensation.

5. Stand of the promoter before the Authority was that the project was completed on time and possession had been offered after grant of occupation certificate. It further asserted that cancellation of the unit was due to default on the part of the allottees; therefore, it opposed refund beyond what it considered permissible under the agreement.

6. Upon hearing both parties and perusal of the record, the Authority issued the directions vide order dated 12.07.2023, already reproduced in para 1 of this order.

7. Aggrieved thereby, both parties have filed cross-appeals before this Tribunal, raising various contentions. The promoter primarily assailed the order on the ground that the Authority erred in granting interest to the allottees despite default on their part leading to cancellation, and further erred in granting refund with only 10%

deduction, whereas statutory dues and taxes paid to the government ought to have been considered for additional deductions.

8. On the other hand, allottees have also preferred an appeal against the impugned order. Ld. Counsel for the allottees contended that the unit originally allotted to the allottees was unilaterally changed by the promoter at the stage of offer of possession and, therefore they have sought full refund without any deduction along with interest from the respective dates of payment. Per contra, learned counsel for the promoter submitted that the unit allotted to the allottees was only tentative in terms of the agreement and was expressly subject to change.

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

10. Admittedly, the due date for delivery of possession was 20.02.2020, whereas Occupation Certificate was granted to the project much prior from due date i.e. on 17.07.2019 and possession was duly offered to the allottees on 08.08.2019, followed by reminders to pay the balance dues. However, the allottees failed to clear the dues, resulting in the cancellation of the allotment on 18.04.2020.

11. Insofar as the claim of the allottees for full refund without deduction is concerned, the same cannot be accepted. The record clearly establishes that possession was offered after receipt of Occupation Certificate and the cancellation occurred on account of non-payment of dues by the allottees. In such circumstances, some reasonable deduction is justified. The deduction of 10% of the basic sale consideration, as granted by the Authority, is neither arbitrary nor excessive and is in consonance with the settled principles governing forfeiture.

12. The plea of the allottees seeking interest from the respective dates of payments is also liable to be rejected. In the present case, the project stood completed within the stipulated period and possession was duly offered prior to the due date. The cause for refund arose only upon cancellation of the allotment on 18.04.2020 due to default on the part of the allottees. Therefore, the liability of the promoter to refund crystallized only from the date of cancellation and not from the respective dates of payments. The Authority has, thus, rightly awarded interest from the date of cancellation and no interference is warranted on this aspect.

13. The contention of the promoter that no interest ought to have been awarded, is equally untenable. Even after cancellation of the allotment on 18.04.2020, the promoter retained the amount paid by the allottees. Such retention cannot be justified, and the allottees are entitled to reasonable interest on the refundable amount. The rate of interest awarded by the Authority is as per the prescribed rate and calls for no interference.

14. The further plea of the promoter seeking additional deductions towards statutory dues and taxes is also devoid of merit, as no cogent evidence has been placed on record to substantiate such claim or to establish that the same are non-refundable or contractually deductible.

15. In view of the above, this Tribunal finds that the Authority has rightly balanced the equities between the parties by allowing refund with a reasonable deduction and interest from the date of cancellation. No illegality or perversity is found in the impugned order.

16. Accordingly, the appeals filed by the promoter as well as the allottees are dismissed.

17. The amount deposited by the promoter with this Tribunal in Appeal Nos. 680 and 681 of 2023, 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, Gurugram for disbursement to the parties as per their entitlement in accordance with law and Rules.

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

19. Files be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

July 10, 2026/mk