

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Date of Decision: July 10,2026

(1) Appeal No. 155 of 2025

ATS Real Estate Builders Private Limited, Registered Office at 711/92, Deepali, Nehru Place, New Delhi 110019 through its authorized representative/signatory Mohit Singh, aged about 30 years son of Sh. Dinesh Kumar Singh, Resident of House NO. 587, Gali No. 6, Govind Puri, Kalkaji, Delhi 110019

Appellant

Versus

1. Sudeep Taneja son of Sh. O.P. Lalit Taneja, resident of # 204, Mariner Homes, Plot 36D, Sector 56, Gurugram
2. Shalini Taneja wife of Sh. Sudeep Taneja, resident of #204, Mariner Homes, Plot 36 D, Sector 56, Gurugram

Respondents

(1) Appeal No. 157 of 2025

ATS Real Estate Builders Private Limited, Registered Office at 711/92, Deepali, Nehru Place, New Delhi 110019 through its authorized representative/signatory Mohit Singh, aged about 30 years son of Sh. Dinesh Kumar Singh, Resident of House NO. 587, Gali No. 6, Govind Puri, Kalkaji, Delhi 110019

Appellant

Versus

1. Sanjay Kumar Khaneja son of Sh. Ram Prakash Khaneja, resident of House No. 5130, Mohalla, Topchiwara, near Mehta Gurudwara, Rewari, Haryana-123401
2. Sonia Khaneja wife of Sh. Sanjay Kumar Khaneja, resident of House No. 5130, Mohalla, Topchiwara, near Mehta Gurudwara, Rewari, Haryana-123401

CORAM:

**Justice Rajan GuptaChairman
Dinesh Singh Chauhan**

Member (Technical)

Present: Mr. Kamalajeet Dahiya, Advocate for the appellant.

Mr. Neeraj Goel, Advocate for the respondents.

RAJAN GUPTA, CHAIRMAN

This order shall dispose of above-mentioned two appeals, as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 155 of 2025.

2. Present appeal is directed against order dated 08.11.2024, passed by the Authority¹, whereby the application filed by the respondent-allottees for amendment in the relief sought was allowed.

3. It appears that a project in the name and style of 'ATS Marigold' was floated by the appellant-promoter in Sector 89A, Gurugram. The allottees booked an apartment in the said project on 03.08.2013 for a total sale consideration of Rs.1,49,93,750/-. They paid Rs.10,00,000/- at the time of booking. Allotment letter dated 07.10.2014 was issued in favour of the allottees. Apartment Buyer's Agreement was executed between the parties on 07.10.2014. The allottees paid a sum of Rs.1,41,09,281/-. The due date of possession was 09.12.2019. As there was delay in handing over the possession, the allottees preferred the complaint before the Authority seeking refund of the amount along with interest.

4. During the pendency of the complaint, the allottees moved an application seeking amendment in the relief clause, from refund of the amount along with interest to that of delivery of possession of the unit along with Delay Possession Charges.

5. After hearing rival contentions of the parties, the Authority allowed the application vide the impugned order. The same is under challenge before the Tribunal.

1. Haryana Real Estate Regulatory Authority, Gurugram

6. Learned counsel for the appellant-promoter has assailed the order on the ground that it is non-speaking in nature and does not assign any reason. He submitted that prayer for amendment was allowed after more than three years of filing of the complaint.

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

8. Admittedly, the complaint was filed on 24.03.2021 by the allottees seeking refund of the amount remitted by them to the promoter. This would practically amount to surrender of the unit. It appears that the case made much headway thereafter. On 20.02.2024, an application for amendment was moved by the allottees seeking possession, which was allowed by the Authority by a short and cryptic order, which reads as under:

“In the present complaint on 20.02.2024 the complainant has filed an application for amendment in relief sought. The complainant was seeking refund of the amount paid by the complainant and now seeks the possession of the said unit along with delay possession charges along with other relief. The reply by respondent of the said amendment application has been filed on 04.10.2024.

Application for amendment of relief filed by the complainant is allowed. Matter to come up on 10.01.2025 for further proceedings.”

9. A perusal of the aforesaid order shows that neither any reasons have been assigned therein for allowing the amendment nor any law has been discussed. Counsel for the respondent has placed reliance on the judgment in **Dinesh Goyal @ Pappu v. Suman Aggarwal (Bindal) and others**, 2024 INSC 726. However, the said judgment has been delivered keeping in view the principles governing Order VI Rule 17 CPC.

RERA being a special enactment, it has to be kept in mind that filing of complaint by an allottee seeking refund amounts to

surrender of the unit. Merely because the complaint remains pending thereafter and the project shows some kind of development, the allottee cannot change his mind and ask the Authority to consider his claim for possession. This would not only change cause of action but also nature of the proceedings. Besides, the order of the Authority is absolutely cryptic and does not take into consideration all these aspects. Thus, the impugned order deserves to be set aside. Ordered accordingly.

10. The appeals are allowed.

11. Copy of this order be forwarded to the parties, their counsel and the Authority below.

12. Files be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

July 10, 2026
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