

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.1594 of 2025

Date of Decision: October 05,2026

Suraj Bhan R/o House No. 118B, Udhan Rana, Near
Gen.Chopal Village, Kanjhawla, New Delhi-110081

Appellant.

Versus

1. M/s Nimai Developers Pvt. Ltd.,
2. M/s Y. B. Builders Private Limited
SCO-304, 2nd Floor, Sector 29, Gurugram, Haryana-122002

Respondents

CORAM:

Justice Rajan Gupta
Dinesh Singh Chauhan

Chairman
Member (Technical)

Present: Mr. Rohit Sangam, Advocate and
Mr. Nikhil Hooda, Advocate for the appellant.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated
21.05.2025, passed by the Authority¹. Operative part thereof
reads as under:

“H. Directions of the authority

*25. Hence, the authority hereby passes this order
and issue the following directions under section 37 of
the Act to ensure compliance of obligations cast upon
the promoter as the function entrusted to the
authority under section 34(f):*

*i. The respondent/promoter is directed to refund the
paid-up amount of Rs.13,31,755/- after deducting
10% of the sale consideration of Rs.70,96,008/-
being earnest money along with an interest @
11.10% p.a. on the refundable amount from the date*

¹ Haryana Real Estate Regulatory Authority, Gurugram

of filing of complaint by the allottee i.e. 24.07.2024 till actual date of refund of the amount.

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

26. This decision shall mutatis mutandis apply to both the complaints.

27. Complaint stands disposed of.

28. File be consigned to registry.”

2. It appears that a project in the name and style of 'Nimai Place' was floated by the respondent-promoter in Sector 114, Gurugram. The appellant was allotted a unit therein vide allotment letter dated 02.07.2013. Total sale consideration of the unit was 70,96,008/-, out of which, the appellant-allottee remitted an amount of Rs.13,31,755/-. No builder buyer's agreement was executed between the parties. Calculated from the date of allotment, due date of possession was 02.07.2016. As BBA was not executed, the appellant-allottee opted to exit from the project and surrendered the unit vide letter dated 10.4.2016. However, he preferred a complaint before the Authority only in the year 2024 seeking refund of the entire paid-up amount along with interest.

3. Stand of the respondent-promoter before the Authority was that despite letters/reminders issued by it to the appellant-allottee to clear outstanding dues, he did not make the payment. The respondent-promoter completed the project in May, 2022 and sent intimation of possession on 04.05.2022 asking the appellant-allottee to clear the dues.

4. After hearing rival contentions of the parties, the Authority disposed of the complaint with the directions, as contained in the opening paragraph of this order.

5. Aggrieved by the aforesaid order, the appellant-allottee has preferred the instant appeal.

6. Learned counsel for the appellant-allottee assailed the impugned order by contending that the Authority erred in directing refund of the paid-up amount of Rs.13,31,755/- after deducting 10% of the sale consideration of Rs.70,96,008/-.

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

8. It is evident that out of total sale consideration of Rs.70,96,008/-, the appellant-allottee remitted an amount of Rs.13,31,755/-. The unit was allotted to the appellant on 02.07.2013. Calculated from that date, due date of possession was 02.07.2016. Occupation Certificate was granted to the project on 10.2.2023. It appears that the project was considerably delayed. However, the appellant-allottee opted to surrender the unit on 10.04.2016, i.e. prior to the due date of possession but invoked the jurisdiction of the Authority in 2024 i.e., after a lapse of more than eight years from the date of surrender.

9. Law is well settled that the allottee has unqualified right to claim refund of the amount paid by him before a valid offer of possession is made. In the present case, the allottee had surrendered the unit 10.04.2016, however, he preferred the complaint only in the year 2024 i.e. after almost eight years from the date of surrender. Thus, while the allottee is entitled

to complete refund of the amount paid by him to the promoter, but keeping in view the peculiar facts and circumstances of the case, particularly the fact that the complaint was filed after almost eight years from the date of surrender, he shall be entitled to interest only from the date of filing of complaint. In our considered view, this would reasonably balance the equities between the parties.

10. The appeal is partly allowed.

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

12. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

October 05,2026
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