

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.194 of 2024

Date of Decision:October 05,2026

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

Appellant

Versus

Poonam Singh Yadav, H. No. 736, Sector-21, Pocket-E, Gurugram

Respondent

CORAM:

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

Present: Mr. Shekhar Verma, Advocate and
Mr. Yashvir Singh Balhara, Advocate for the appellant.

Mr. Venket Rao, Advocate and
Mr. Pankaj Chandola, Advocate for the respondent.

O R D E R:

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against order dated 01.09.2023,
passed by the Authority¹. Operative part thereof reads as under:

“G. Directions of the authority

24. 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):

a. The authority hereby directs the respondent-promoter to return the amount received by it i.e. Rs.30,06,726/- with interest at the rate of 10.75% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana

¹Haryana Real Estate Regulatory Authority, Gurugram

Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the date of refund of the deposited amount.

b. The respondent is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any.

25. The complaint stands disposed of.

26. File be consigned to registry.”

2. It appears that a project in the name and style of ‘Ocus 24k’ was floated by the appellant-promoter in Sector 68, Gurugram. The respondent was allotted a unit therein vide allotment letter dated 27.04.2013. Total sale consideration of the unit was Rs.70,65,340/-, out of which, the allottee remitted an amount of Rs.30,06,726/-. Builder Buyer’s Agreement was executed between the parties on 10.07.2014. Due date of possession was 10.07.2019. As the plans were not approved, the respondent-allotteesought a refund on 27.12.2015. However, Occupation Certificate to the project was granted on 17.07.2019 and offer of possession was made to the allottee on 18.07.2019. As the allottee failed to clear the outstanding dues despite reminders, a final notice was issued by the appellant-promoter on 05.02.2020 and subsequently, the unit was cancelled on 02.03.2020. Aggrieved by this, the respondent-allottee filed a complaint before the Authority in the year 2022 seeking setting aside of the cancellation letter and refund of the paid-up amount along with interest.

3. After hearing rival contentions of the parties, the Authority disposed of the complaint videthe impugned order by giving the directions, as contained in the opening paragraph of this order.

4. Aggrieved by the aforesaid order, the appellant-promoter has preferred the instant appeal before this Tribunal.

5. The promoter primarily assailed the order on the ground that the Authority erred in granting interest to the allottee despite alleged defaults of payments on her part and further erred in granting refund without any deduction as the unit has already been offered after the receipt of Occupation Certificate.

6. On the other hand, learned counsel for the respondent-allottee contended that the building plans were unilaterally changed by the appellant-promoter without her consent at the stage of offer of possession. It was further submitted that as the construction was not completed within the promised timeline, therefore, the Authority has rightly passed the impugned order directing refund of entire deposited amount without any deduction, along with interest from the respective dates of payment.

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

8. Admittedly, due date of possession was 10.07.2019. Occupation Certificate to the project was granted on 17.07.2019 and offer of possession was made to the allottee on 18.07.2019, which constitutes a valid offer of possession. However, as per record, the allottee opted to surrender the unit on 27.12.2015, i.e. much prior to the due date of possession (10.07.2019). By that time, occupation certificate had not been granted to the project. The Authority, after considering the facts and circumstances, allowed the complete refund of the amount to the respondent-allottee along with admissible interest from the respective dates of payments.

Appeal No.194 of 2024

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 27.12.2015, however, she preferred the complaint only in the year 2022 i.e. after almost seven years from the date of surrender. Thus, while the allottee is entitled to full refund of the amount paid by her 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 seven years from the date of surrender, she shall be entitled to interest only from the date of filing of the complaint. In our considered view, this would reasonably balance the equities between the parties.

9. Appeal is hereby partly allowed in these terms.

10. The amount of pre-deposit made by the promoter, along with interest accrued thereon, be remitted to the Authority for disbursement to the parties, according to their entitlement, subject to tax liability, if any.

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

Dinesh Singh Chauhan
Member (Technical)

October 05, 2026
mk