BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA REAL ESTATE REGULATORY AUHORITY, GURUGRAM.

Complaint No. 2712 of 2024
Date of Decision: 08.10.2026

Pawan Kumar & Anjali Prabha, residents of Sushila Sadan, Indrapuri Ratu Road No. 2, Ranchi, Hehal, Jharkhand-834005.

....Complainants.

Versus

BPTP Limited & Countrywide Promoters Pvt. Ltd., Registered Office at OT-14, 3rd Floor, Next Door Parklands, Sector-76, Faridabad- 121004, Corporate Office: 28, ECE House, First Floor, K. G. Marg New Delhi- 110001.

....Respondents.

APPEARANCE

For Complainants: **Mr. Sukhbir Yadav, Advocate.**
For Respondents: **Mr. Venket Rao, Advocate.**

ORDER

This is a complaint filed by Mr. Pawan Kumar & Ms. Anjali Prabha, (allottees), under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in brief The Act of 2016) against BPTP & M/s Countrywide Promoters Pvt. Ltd. (promoters/ developers).

2. Briefly stated, according to the complainants, on 13.08.2010 being relied upon representation and assurances of the office bearers and marketing staff of the respondents, Mr. Sonu Saxena booked a residential Flat/Apartment bearing no. N-1706, on the 17th Floor, Tower- N, measuring 1000 Sq. Ft. in the respondent's project "Park Spacio", situated at Sector-37D, Gurugram. The Flat was purchased under construction link payment plan for a sale consideration of Rs.32,41,250/- including IDC, EDC, Club membership charges, car parking charges etc. and paid Rs.2,52,500/- as booking amount.

3. That on 24.07.2017 with due permission of the respondents, they (complainants) purchased aforesaid apartment from the original allottee i.e. Mr. Sonu Saxena. The respondents issued an acknowledgment of the ownership transfer letter vide Ref. No.-12664 in favour of the complainants and acknowledged that Unit No. N-1706 has been transferred to them (complainants). At the time of endorsement of the unit, the respondents assured that the possession will be handed over by December 2016.

4. That on 29.01.2018, a pre-printed, arbitrary, one-sided and ex-facie Flat Buyer Agreement (FBA), was executed inter-se them (complainants) and respondents. As per clause no. 7.1 of the said FBA, respondents have to give possession of the unit to the purchasers within the commitment period, with a grace period of 180 days from the expiry of the said commitment period. As per clause no. 2.8 of said FBA, commitment period shall mean, a period of 60 months from the date of booking of the unit. The Flat was booked on 13.08.2010 inter alia the due date of possession was 13.02.2016 (with 6 months grace period), however, in present complaint, 20.04.2017 is being considered as the due date of possession (Ref: Order dated 26.04.2022 in CRN 3126 of 2020). The original allottee had executed an Apartment Buyer Agreement with the respondents, but at the time of endorsement, the respondents forced the complainants to execute another agreement.

5. That on 20.09.2019 the respondents received an Occupation Certificate from the Town & Country Planning Department. The project did not have adequate provision of water

supply and disposal of sewerage and storm water etc., moreover, there is no supply of electricity in the project from DHBVNL. On 04.02.2020, the respondents sent a consolidated statement of account, which shows that the total cost of the flat was Rs.33,41,250/-.

6. That on 20.08.2020, respondents issued an offer of possession letter to the complainants for Apartment No. N-1706 and the said letter includes various unreasonable demands under various heads such as Cost Escalation of Rs.6,34,452/-, Electrification and STP Charges of Rs.86,320/-. Moreover, the respondent increased the super area of the unit by 79 sq. ft. without any justification (original super area 1000 sq. ft. and revised super area 1079 sq. ft.). The said offer letter also includes an undertaking cum indemnity format for taking possession, the said undertaking cum indemnity format has a plethora of clauses, which include various unjust and unreasonable terms.

7. That on 28.08.2020, the respondents issued a Tax invoice to the complainants and raised a demand of Rs.62,355.92/- under the heads of Admin, Charges and

Maintenance Charges from (19.12.2020- 18.12.2021), which are unjust and unreasonable demands. The complainants have paid Rs.32,67,401/-, however, the said statement of account reflects less amount than the actual amount paid by the complainants i.e. Rs.32,08,064/-.

8. That the respondents have not completed the project as per the specifications mentioned in the BBA. The main grievance of the complainants is that the project is still incomplete after a lapse of 4 years from the due date of possession. The respondents failed to offer the possession of the flat till 06.03.2024.

9. Citing facts as described above, the complainants have sought following compensations/reliefs: -

i. To grant compensation for the rental cost/loss of Rs.25,20,000/- from April 2017 (due date of possession) to March 2024 (date of handover of possession). Justification: the minimum rental value of a flat in the same location of the project is Rs.28000-30,000/- per month.

ii. To grant compensation on account of depreciation of Rs.6,32,219/-.

iii. To grant compensation of Rs.1,09,721/- on account of loss of interest.

iv. To grant the compensation of Rs.10,00,000/- for causing mental agony.

v. To grant a compensation of Rs.1,00,000/- for travel expenses and loss of work as the complainants had to appear before the Hon'ble Authority (for complaint and execution) for about 20 times on their working days.

vi. To grant the litigation cost of Rs.2,25,000/-.

vii. Any other relief/direction that the Adjudicating Officer deems fit and proper in the facts and circumstances of the present complaint.

10. The respondents contested the claim of complainants by filing a written reply. It is averred that the instant complaint is untenable both in facts and law. The Project is being developed by respondent no. 1 and the respondent no. 2 is a mere licensee and has no agreement with the complainants. The respondent no. 2 is a stranger to the present unit, project and the complainants. The name of the respondent no. 2 should be deleted from the array of parties.

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11. That the complainants were the subsequent allottees. However, a separate buyer's agreement was executed with the complainants. The contractual relationship between the complainants and the respondent is governed by the terms and conditions of the said agreement. Hence the complainants are bound by the terms and conditions of the said agreement in respect of said unit.

12. That the respondent duly completed the development of the Project and offered the possession of the Unit to the complainants on 29.01.2021 after having received the occupation certificate on 15.01.2021. The offer of possession shows that the compensation of Rs.3,69,494/- has already been credited to the complainants. The complainants being aggrieved with the quantum of compensation already credited, approached the Authority through complaint bearing no. 3126 of 2020. After adjudicating the matter, the reliefs were granted by the Authority vide order dated 26.04.2022.

13. That the grant of delay possession charges is already in the form of compensation and no additional compensation can

be paid. No compensation can be claimed by an allottee who intends to stay in the project and only delay possession charges can be claimed under the Real Estate (Regulation and Development) Act, 2016.

14. Contending all this, the respondents have prayed to dismiss the complaint.

15. Both parties filed affidavits in support of their claims. I have heard learned counsels appearing on behalf of both of parties and perused the record on file.

16. Admittedly, the complainants approached Authority seeking reliefs of delay (interest) on paid amount etc. by filing a complaint no. 3126-2020. Allowing said complaint vide order dated 26.04.2022 the Authority directed the respondents to pay interest at the prescribed rate of 9.30% per annum for every month of delay from the date of admissibility as has been mentioned in column no. 8 of table in para 52 of said order till the offer of possession plus 2 months or the date of actual handing over of the possession of the subject flat to the complainants, whichever is earlier.

17. According to learned counsel for respondents, when the complainants have already been allowed DPC (interest), same are not entitled for any compensation. It is pointed out that complainants had already sold unit in question on 04.04.2024 while complaint in hand was filed on 04.06.2024.

18. As per Section 18 (1) of Act of 2016, if promoter fails to complete or unable to give possession of an apartment, plot or building,

> (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-------, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot or building, as the case may be, with interest at such rate as may be prescribed in this behalf **including compensation, in the manner as provided under this Act**.

19. It is worth mentioning here that the complainants did not wish to withdraw from the project but prayed for delayed possession compensation, by filing a complaint with the Authority.

The said complaint has already been allowed. Proviso added to sub section (1) of section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid by the promoter interest for every month of delay till handing over of possession, at such rate as may be prescribed. The parliament did not intend to provide compensation other than DPC in case allottee does not intend to withdraw from the project.

20. Upholding that the claim of compensation and interest can be allowed only in case the allottee seeks to withdraw from the project as per Section 18 (1) of Act of 2016, following was held by Uttar Pradesh Real Estate Appellate Tribunal in case **"Greater Noida Industrial Development Authority vs. Ranjan Misra" Appeal No. 70 of 2023 decided on 20.04.2023----------;**

> ***"13.9. If we closely examine the above two provisions, it comes out that in a case where the Allottee exists the projects, the Act expressly provides INTEREST AND COMPENSATION both, but in cases where the Allottee tends to stay in the project the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to provide***

Compensation only to those Allottees who exit the project and not to those who tends to stay in the project."

21. Similar was finding of Haryana Real Estate Appellate Tribunal in case "TATA Housing Development Company Limited vs. Nitin Singhal & Surendra Kumar Singhal, Appeal No.737 of 2023 decided on February 17,2026.

22. Considering all this, there is no reason to allow compensation for rental loss, depreciation, loss of interest and for causing financial loss for delay in handing over possession of subject unit. Request in this regard is declined.

23. The complainants have further prayed for compensation for travel expenses and loss of work.

24. The compensation in the name of travel expenses is remotely connected to this case. Personal appearance of complainants was not required particularly when they were represented by an Advocate. No reason to allow any compensation in this regard.

25. For the same reasons, I do not think it proper to allow any compensation in the name of litigation cost or mental agony. Complaint in hands is dismissed. File be consigned to the record room.

Announced in open Court.
today i.e. **on 08.10.2026.**

(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory,
Gurugram.

Present: Mr. Sukhbir Yadav, Advocate for complainants.
Mr. Venket Rao, Advocate for respondents.

Complaint is disposed of, vide separate order today.

File be consigned to record room.

(Rajender Kumar)
Adjudicating Officer,
08.10.2026