BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 554 of 2026

Date of Decision: October 13, 2026

Ashish Gupta, through his attorney & brother-in-law Dr. Sanjeev Mittal, R/o C-597, Saraswati Vihar, Delhi-110034

...Appellant-allottee.

Versus

M/s Neo Developers Pvt. Ltd. R/o 32, Pusa Road, New Delhi - 110005; Also at: Unit No. G-02 & 03, Neo Square, Sector - 109, Palam Vihar, Gurugram - 122017.

...Respondent-promoter.

CORAM:

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

Present: Mr. Nitin Garg, Advocate,
for the appellant.

O R D E R:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 13.02.2026 passed by the Authority[1] at Gurugram. Operative part thereof reads as under:

> ***"F. Directions of the Authority***
>
> *23. 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) of the Act of 2016:*
>
> *i. The respondent/promoter is directed to refund the paid-up amount of Rs. 84,50,925/- after deducting 10% of the sale consideration being earnest money along with an interest @10.80% p.a. (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 Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of surrender/filing of the complaint i.e., 22.08.2025 till*

[1]Haryana Real Estate Regulatory Authority, Gurugram.

actual refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

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.

24. Complaint as well as applications, if any, stands disposed off accordingly.

25. File be consigned to registry."

2. Factual matrix of the case is that the appellant-allottee booked a commercial unit in the respondent-promoter's project, namely, "Neo Square" situated in Sector 109, Gurugram, by paying an amount of Rs. 5,91,700/-. Vide allotment letter dated 12.06.2012, unit No. 67 on the ground floor, measuring 610 sq. ft., was allotted to him for a total consideration of Rs. 74,59,486/- under a construction-linked payment plan. A buyer's agreement was executed between the parties on 15.11.2012, wherein the area of the unit was stated to be 565 sq. ft. and its basic sale consideration was fixed at Rs. 69,16,762/-. Due date for handing over possession was 15.11.2015. According to the appellant, he made payments as and when demanded and paid a total amount of Rs. 84,50,925/-. The respondent issued a demand letter and an offer of fit-out dated 10.04.2024. Occupation certificate to the project was granted on 14.08.2024 and possession of unit No. G-12A (changed by the promoter), measuring 593.91 sq. ft., was offered on 22.10.2024 against a total sale consideration of Rs. 84,50,926/-. Besides a demand of Rs. 11,63,928/- was raised towards interest. Alleging unilateral change in the number and area of the unit, excessive demands and delay in offering possession, the appellant-allottee sought refund for the first time through legal notice dated 05.05.2025. Thereafter, on 22.08.2025, he filed a complaint before the Authority seeking refund of Rs. 84,50,925/- with interest from the respective dates of payments and compensation.

3. Despite due service and several opportunities granted on different dates of hearing, the respondent-promoter neither appeared nor filed a reply before the Authority. Consequently, it was proceeded against ex parte.

4. After considering the contentions advanced by the appellant-allottee, the Authority disposed of the complaint vide the impugned order, operative part whereof has been reproduced in para 1 of this order.

5. Aggrieved by the impugned order, the appellant-allottee has preferred the instant appeal before this Tribunal. He primarily assailed the impugned order on the grounds that the Authority erred in permitting the deduction of 10% of the sale consideration from the refundable amount and in awarding interest only from 22.08.2025, instead of from the respective dates of payments.

6. We have heardlearned counsel for the appellant-allottee and carefully examined the record of the case.

7. It is not in dispute that the due date for possession was 15.11.2015, whereas the Occupation Certificate was granted to the project on 14.08.2024 and possession was offered to the appellant-allottee on 22.10.2024. Although there was considerable delay in completing the project and offering possession, the appellant-allottee neither objected to the delay nor sought withdrawal or refund before the offer of possession. Rather, he continued with the project.

8. Significantly, the appellant-allottee made a further payment on 29.10.2024 pursuant to the demand raised along with the offer of possession dated 22.10.2024. This affirmative conduct clearly demonstrated his intention to continue with the allotment even after possession had been offered. It was only thereafter that he filed the complaint seeking refund on 22.08.2025. Thus, his claim for refund,

raised after the grant of the Occupation Certificate and the offer of possession, cannot, therefore, be treated as withdrawal on account of the promoter's failure or inability to complete the project.

9. In these circumstances, the Authority rightly treated his belated request as surrender after a valid offer of possession and directed refund of the paid-up amount after deducting 10% of the sale consideration along with interest from the date of filing of the complaint till realisation.

10. In light of the foregoing discussion, we find no legal infirmity or procedural irregularity in the order passed by the Authority warranting interference by this Tribunal. The appeal is, therefore, found to be devoid of merit and is hereby dismissed.

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 13, 2026/mk