BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.866 of 2026

Date of Decision: 28th October, 2026

Mrs. Anjana Khanna, R/o H. No. H-3/117, Vikas Puri, New Delhi-110018
... Appellant

Versus

1. Riverday Infrastructure Pvt. Ltd., Registered Office: 12th Floor, Tower-2, M3M, International Financial Centre, Sector 66, Gurugram, Haryana 122002

2. M/s Homwisor Realty Services, Registered Office: 402 &403, ILD Trade Centre, Sector-47, Sohna Road, Gurugram 122018

... Respondent

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

Present: Ms. Anavi Parnami, Advocate for the appellant.

O R D E R:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated12.12.2005 passed by the Authority[1]. Operative part thereof reads as under:

> *"17. In the absence of any documentary proof of allotment or contractual relationship between the complainant and the promoter, the complainant does not fall within the definition of an 'allottee' under section 2(d) of the Act. Therefore, the question of granting possession and awarding interest does not arise and the present relief sought by the complainant is not maintainable under section 31 of the Real Estate (Regulation and Development) Act, 2016 and the present complaint is liable to be dismissed.*

1. Haryana Real Estate Regulatory Authority, Gurugram

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

19. File be consigned to registry."

2. It appears that a project in the name and style of 'Smart World SKY ARC' was floated by the respondent-promoter in Sector 69, Gurugram. The appellant booked an apartment therein on 11.08.2024. She remitted an amount of Rs.17,50,000/- to the respondent-promoter. Admittedly, no allotment letter was issued in favour of the appellant. No BBA was executed between the parties. On 17.10.2024, the respondent-promoter refunded the entire amount to the appellant and cancelled the allotment. The appellant invoked the jurisdiction of the Authority by filing a complaint seeking direction to the respondents to issue allotment letter and execute Builder Buyer's Agreement (BBA).

3. The stand of the respondent-promoter before the Authority was that the appellant only expressed her 'Expression of Interest'. As the appellant did not come forward for execution of BBA, the allotment was cancelled and the amount was refunded to her.

4. After hearing rival contentions of the parties, the Authority disposed of the complaint with the directions as reproduced in paragraph 1 of this order.

5. Aggrieved by the impugned order, the appellant has preferred the instant appeal before this Tribunal. She has primarily challenged the impugned order on the ground that the Authority erred in dismissing the complaint, whereas the relief of possession had been specifically sought before the Authority.

6. The issue before this Bench is, whether, in the given facts, the appellant can be treated as an 'allottee' under Section 2(d) of the Act so as to invoke Section 31 of the Act for reliefs akin to specific performance of an allotment and builder-buyer agreement. Section 2(d) of the Act inherently pre-supposes a concluded and binding arrangement in respect of a specific unit, normally evidenced by an allotment letter and/or agreement for sale and supported by payment as per the agreed schedule. Mere negotiations or tentative booking without a binding contract, do not confer 'allottee' status.

7. In the instant case, the Authority has duly observed that no allotment letter was issued in favour of the appellant. Mere payment of booking amount, in the absence of allotment letter and builder-buyer agreement, does not confer the status of an 'allottee' upon the appellant. Moreover, the amount remitted by the appellant has been refunded to her by the respondent-promoter. In these circumstances, the appellant cannot be treated as an 'allottee' and Section 31 of the Act cannot be invoked to compel the respondent-promoter tocreate an allotment or enter into a contract where the foundational contractual elements are absent.

8. In view of above, we find no illegality or infirmity with the impugned order. The same is hereby upheld.

9. The appeal is dismissed.

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

11. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

28th October, 2026

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