BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.207 of 2026

Date of Decision: 28th October, 2026

1. Shalini Tyagi
2. Kunal Tyagi
Both R/o House No. 3486, Raja Park, New Delhi-110034

... Appellants

Versus

M/s Adhikaansh Realtors Private Limited through its authorised representative(s) having its office at: SB/C/2L/OFFICE/017A, M3M Urbana Sector 67, Gurugram Manesar Urban Complex, Gurugram, Haryana-122102

... Respondent

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

Present: Mr. Sunil Kumar, Advocate for the appellants.

O R D E R:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 31.10.2025 passed by the Authority[1]. Operative part thereof reads as under:

> *"18. Moreover, the unit was already cancelled on 15.10.2024. The complainants have stated that they have made a payment of Rs.10,67,250/- on booking of the unit to the respondent. The respondent has already refunded the paid up amount to the complainants on 15.10.2024.*
>
> *19. Complaint as well as applications, if any, stands disposed off accordingly.*
>
> *20. File be consigned to registry."*

1. Haryana Real Estate Regulatory Authority, Gurugram

2. It appears that a project in the name and style of 'Smart World Gems' was floated by the respondent-promoter in Sector 89, Gurugram. The appellants booked an apartment therein on 07.01.2022 by paying booking amount of Rs.3,00,000/-. They also issued post-dated cheque amounting to Rs.7,67,250/- in favour of the respondent-promoter. Admittedly, no allotment letter was issued in favour of the appellants. No BBA was executed between the parties. On 15.20.2024, the respondent refunded the amount of Rs.10,67,250/- to the appellants. The appellants invoked the jurisdiction of the Authority by filing a complaint seeking direction to the respondent to offer legal and valid possession and execution of BBA.

3. The stand of the respondent-promoter before the Authority was that as the appellants failed to complete all booking formalities and execute requisite documents, the entire amount deposited by the appellants was returned to them on 15.10.2024. Third party rights were also created on the unit in question on 24.02.2025.

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 appellants have preferred the instant appeal before this Tribunal. They have primarily challenged the impugned order on the ground that the Authority erred in disposing of 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 appellants can be treated as ‘allottee(s)’ 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 appellants. 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 appellants. Moreover, the amount remitted by the appellants has been refunded to them by the respondent-promoter and third-party rights have been created on the unit in question. In these circumstances, the appellants cannot be treated as ‘allottees’ 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