

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

**Complaint No. :2436-2025
Date of Decision: 25.08.2026**

Mahesh Sharga C/o Pratap Krishna Sharga, resident of S-90 Pallavpuram,
Phase-II, Modipuram, Meerut-250110.

..... Complainant.

Versus

M/s Sunrays Heights Private Limited, 211, 2nd Floor, Ansal Bhawan, 16
Kasturba Gandhi Marg, New Delhi-110001.

..... Respondent.

APPEARANCE

**For Complainant:
For Respondent:**

**Mr. Vijay Pratap Singh, Advocate.
Ms. Riya, Advocate.**

ORDER

This is a complaint filed by Mr. Mahesh Sharga (allottee), under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief "Act of 2016") against M/s Sunrays Heights Pvt. Ltd. (promoter).

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2. Briefly stated, according to the complainant, he booked a Unit in the project "Sixty-Three Gold Drive" situated at Sector-63A, Gurugram, being developed by the respondent. He (complainant) was allotted a flat No. B-63 at Tower-B having carpet area of 604.83 sq. ft and balcony area of 95.10 sq. ft on 19.06.2017. Total sale consideration was agreed as Rs.14,82,480/- A one-sided Builder Buyer Agreement (BBA) was executed between the parties on 09.02.2016. Total sale consideration of the flat along with applicable tax was Rs.24,66,870/, out of which an amount of Rs.19,22,833/- was paid by him (complainant). The possession of the unit was within 4 years from the date of commencement of project i.e. by 15.03.2021.
3. That the respondent was threatening him (complainant) either to pay the interest and balance amount else they shall cancel their flat. Though the Occupancy Certificate was received by the respondent on 31.12.2024, yet it did not hand over possession of the flat. He (complainant) was left with no option but to file a complaint before the Authority. The same was decided in his favour vide order dated 08.05.2024.
4. Citing facts as mentioned above, the complainant has prayed for following reliefs: -

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- i. to direct the respondent to pay Rs.18,12,000/- as compensation towards financial burden of excess rent with effect from due date of possession i.e. 16.03.2021 till date.
- ii. to direct the respondent to pay Rs.50,000/- towards mental agony and harassment as the complainant had not been able to get the possession of his flat;
- iii. to direct the respondent to pay Rs.50,000/- as litigation cost towards filing and fighting two cases;
- iv. to direct the respondent to pay Rs.20,000/- towards the travelling cost incurred on visits to respondent's office and site for resolution;

5. The respondent contested the complaint by filing a written reply. It is averred that the delay of 422 days in the seamless execution of the project was due to genuine force majeure circumstances. That despite there being several defaulters in the project, it (respondent) had to infuse funds into the project and have diligently developed the project in question. It (respondent) got a loan from SWAMIH of Rs.44.30 Crores to complete the project and has already invested Rs.35 Crores from the said loan amount towards the project and was bearing interest on such amount.

6. That the complainant has also failed to make any payment of the installment due within 36 months from due date of allotment. That the

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project is nearly completed. With these submissions, the respondent prayed for dismissal of present complaint.

7. Both of the parties filed affidavits in support of their claims. I have heard learned counsels appearing for both of parties of case and perused the record.

8. Admittedly, the complainant had approached the Authority seeking delayed possession compensation (DPC) by filing a complaint no.2677 of 2023. Said complaint was allowed by the Authority vide order dated 08.05.2024 and the respondent has been directed to pay interest on the amount paid by the complainant at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e. 16.03.2021 till the actual handing over of possession or offer of possession plus 2 months, whichever is earlier.

9. It is contended by learned counsel for the complainant that despite said order of the Authority, it is for the Adjudicating Officer to allow compensation for delay in handing over possession, in view of section 72 of Act of 2016.

10. 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,


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(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.**

11. It is worth mentioning here that the complainant 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.

12. Upholding that the claim of compensation and interest can be allowed only in case the allottee seeks to withdraw from the project as per

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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."

13. 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.

14. When complainant has already been allowed delayed possession compensation by the Authority for delay in handing over

possession of allotted unit, there is no reason to allow separate compensation for same cause of action i.e. delay in delivering of possession.

15. Complaint in hands is thus dismissed. File be consigned to the record room.

Announced in open Court
today i.e. on **25.08.2026**.


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

Present: Mr. Vijay Pratap Singh, Advocate for the complainant.
Ms. Riya, Advocate for the respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
25.08.2026