

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

Complaint No. : 5761-2025

Date of Decision: 09.09.2026

1. Ms. Pallavi Sharma,
2. Mr. Vikas Nautiyal, both residents of Apartment No.A-2004, Purva Eternity Apartments, Kakkanad-Pallikara Road, Kakkanad, Ernakulam District Kochi, Kerla-682030.

..... Complainants.

Versus

M/s Chintels India Pvt. Ltd., 1st Floor, Chintels Corporate Park, Sector-114, Palam Vihar, Gurugram.

..... Respondent.

APPEARANCE

For Complainants:

Mr. Mohd. Imran, Advocate.

For Respondent:

Mr. Shubham Dayma, Advocate.

ORDER

This is a complaint filed by Ms. Pallavi Sharma & Mr. Vikas Nautiyal (allottees), under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief "Act of 2016") against M/s Chintels India Pvt. Ltd.(promoter).

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2. Briefly stated, according to the complainants, in 2014, they booked a residential unit in the project "Chintels Serenity Phase-II" at Sector-109, Gurugram, being developed by the respondent. On 19.11.2014, the respondent issued a provisional allotment letter in favour of the complainants whereby Unit No.J-1801, situated on the 18th Floor of Tower-J admeasuring a super area of 2925 sq. ft. was allotted to them.

3. That pursuant to a unilateral modification in the sanctioned plan, Tower-J came to be renamed as T-9. Total sale consideration was agreed as Rs.2,42,46,250/-including preferential location charges, external development charges, internal development charges, interest free maintenance security, club membership charges and covered car parking charges. After collecting an amount of Rs.25,62,642/- from them (complainants), an Apartment Buyer's Agreement (ABA) between the parties was executed on 12.02.2015.

4. That they (complainants) availed a loan amount of Rs.1,81,84,000/- from the State Bank of India (SBI). A Tripartite Agreement dated 25.03.2015 was executed among them (complainants), respondent and the SBI. That up to April 2015, the respondent received substantial amount of Rs.91,00,377/- from them (complainants), but it (respondent)

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has failed to complete the construction of the project within the stipulated period.

5. That in the year 2019, the respondent unilaterally and without taking the written consent of 2/3rd allottees in the project, amended the site plan of the project and renamed the unit as T9-1801. On 01.04.2019, the respondent issued a letter regarding revised possession of the unit and as such revised the date of possession to 31.12.2023, delaying the possession by 5 years from the actual date of possession. That after a period of more than 3 years from the actual due date of possession, they (complainants) received a demand letter dated 24.09.2021 from the respondent requesting payment towards the completion of the superstructure, to which they (complainants) protested and raised objections concerning the compensation for the inordinate delay caused.

6. That being aggrieved by the aforesaid acts, omissions, defaults and unfair trade practices of the respondent, they (complainants) filed a complaint before the Authority and the Authority vide its judgment/order dated 20.08.2025 observed that as regarding the change in the layout plan of the building plans and decreasing the number of floors from 20th to 18th

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is concerned, they (complainants) are entitled to compensation and may claim so before the Adjudicating Officer.

7. Citing facts as mentioned above, the complainants have prayed for following reliefs: -

- a). to direct the respondent to pay compensation of Rs.97,20,000/- to the complainants towards losses suffered on account of payment of rent and EMIs for the period from 15.10.2016 to October 2025 (108 months), calculated at Rs. 90,000/- per month arising due to the respondent's failure to deliver possession of the said unit within the stipulated time;
- b) to direct the respondent to continue compensating the complainants at the rate of Rs. 90,000/- from November 2025 onwards till the actual date of handing over of possession of the said unit, towards continued loss suffered on account of rent and EMIS;
- c) to direct the respondent to pay a sum of Rs. 10,00,000/- to the complainants for causing mental agony and harassment;
- d) to direct the respondent to pay a sum of Rs. 10,00,000/- to the complainants as just and reasonable compensation for the loss, damage, injury, and prejudice suffered by the complainants on account of the unilateral, unauthorized, and arbitrary change in the sanctioned layout plan and the material alteration resulting in the reduction in the number of floors from the 20th floor to the 18th floor, whereby the unit originally allotted to the complainants, which was specifically chosen and situated two floors below the top floor to avoid excessive heat exposure during summer months, has now been converted into the topmost floor of Tower No. 9, thereby fundamentally altering the nature, character, and desirability of the unit and causing

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substantial inconvenience, discomfort, and diminution in the value and utility of the said unit to the complainants;

- (e) to direct the respondent to pay Rs.1,00,000/- towards the litigation expenses incurred on filing the present complaint.

8. The respondent contested the complaint by filing a written reply. It is averred that approval of the building plan was finalized around February 2017. Thereafter, the complainants expressed reservations with respect to the unit allotted to them as they were not willing to take the topmost floor of the tower. Around April 2019, it (respondent) offered the complainants a ready to move in flat in Tower-3 of Phase-I of the said project in lieu of the unit allotted to them (complainants).

9. That as per the payment plan, it (respondent) raised the demand on the complaints upon completion of the Superstructure in 2021. However, they (complainants) failed to pay the outstanding dues as per payment plan agreed by them. Thereafter, for convenience of the complainants, it (respondent) offered unit T9-1601 to the complainants, but they again chose not to exercise any option and neither agreed to cancel their unit, which was originally allotted to them nor agreed to take the alternative unit T9-1601 offered to them by it (respondent).

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10. That after obtaining Occupation Certificate on 28.08.2024, it (respondent) made final offer of possession to the complainants with respect to the unit originally allotted to them on 04.01.2025. That despite sending multiple reminders, they (complainants) failed to pay the outstanding dues to it (respondent). They (complainants) also failed to exercise various alternative options provided to them by it (respondent).
11. That due to inaction of the complainants, it (respondent) has been compelled to reserve not only one but two units i.e. the unit originally allotted to the them and also the unit which was alternatively offered to them. Then, it (respondent) issued a show cause notice in terms of the ABA to the complainants on 29.01.2025. The complainants were in default in making payments and as such they cannot be entitled to stay against the cancellation of allotment of said unit in terms of show cause notice dated 29.01.2025.
12. That around November 2016, the building plan was changed by it (respondent) following all the due process of law and taking necessary sanctions for the same. Further, the instant complaint filed by the complainants is hopelessly time barred. The building plan was changed by it (respondent) around 2016, whereas the instant complaint has been filed

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by the complainants in the year 2025. Further, the claimants have failed to adduce any documentary proof whatsoever to substantiate the claim for further compensation.

13. That the complainants, who themselves were in default to pay full consideration amount in accordance with the agreed payment schedule despite repeated reminders and opportunities granted by the respondent, which constitutes a clear breach of the terms of the Agreement for sale as well as their statutory obligations under the Act of 2016.

14. Contending all this, the respondent prayed for dismissal of present complaint.

15. 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.

16. Factual matrix i.e. allotment of unit No.J-1801 measuring 2925 sq. ft. in the project developed by the respondent namely "Chintels Serenity Phase-II", Sector-109, Gurugram, for a total sale consideration of Rs.2,42,46,250/- including PLC, EDC, IDC etc. and payment of Rs.25,62,642/- done by the complainants against said unit are not disputed on behalf of the respondent. Admittedly, the complainants approached the

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Real Estate Regulatory Authority, Gurugram (in brief "the Authority") by filing a complaint No.2188 of 2025. The Authority allowed said complaint and directed the respondent to pay interest at the prescribed rate i.e. 10.85% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e. 15.10.2016 till offer of possession plus two months or actual handing over of possession after obtaining Occupation Certificate, whichever is earlier. The respondent was also directed to handover subject unit to the complainants within 30 days of the order, on payment of outstanding dues, if any. Again, the respondent was asked to execute Conveyance Deed in favour of the complainants on payment of stamp duty and registration charges etc. within 30 days after clearing the outstanding dues and handing over of possession.

17. As described above, the complainants have sought compensation of Rs.97,20,000/- for losses suffered by them on account of payment of rent and EMIs for the period from 15.10.2016 to October 2025 (108 months) arising due to the respondent's failure to deliver possession within the stipulated time and again compensation at the rate of Rs.90,000/- per month from November 2025 till actual date of handing over of possession. It is contended by learned counsel the respondent that when the

complainants have already been allowed delay possession charges, same cannot claim further compensation in the name of delay in handing over possession.

18. According to Section 18(1) of the Act of 2016, if the promoter fails to complete or is unable to give possession of an apartment/plot or building in accordance with the terms of agreement for sale, an allottee has two options, either to claim interest i.e. delay possession compensation, in case same wishes to withdraw from the project or if an allottee does not intend to withdraw from the project, the same is entitled for interest for every month of delay, till the handing over of the possession.

19. The proviso added here clarifies 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 the handing over of possession, in contrast to the allottee, who wishes to withdraw from the project, same is entitled for refund of the amount as well as compensation. The complainants in this case did not opt to withdraw from the project rather claimed delay possession compensation. In such a circumstance, same were entitled to interest only and not compensation. It is well settled that payment of interest amounts compensation also, as according to Rule 15 of

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The Haryana Real Estate (Regulation and Development) Rule, 2017, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%. In this way, award of interest 2% more than the highest marginal cost of lending rate of State Bank of India is nothing, but to compensate an allottee.

20. No reason to allow any compensation either for loss allegedly suffered on account of payment of rent or payment of EMIs by the complainants. Request in this regard is declined.

21. The complainants further requested for compensation of Rs.10 lakhs for loss, damage, injury and prejudice suffered by them on account of unilateral, unauthorized and arbitrary change in the sanctioned layout plan.

22. According to the complainants, the respondent unilaterally changed the layout plan of its project as well as unit allotted to them. Learned counsel for them explained that his clients i.e. the complainants were allotted subject unit i.e. J-1801, which was situated on 18th floor of Tower-J having total 20 floors, but the respondent without their consent or information modified sanctioned plan and reduced total floor to 18th in place of 20th. In this way, the unit of the complainants became top floor of the

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building. Learned counsel submits that top floor is not a preferred floor, being at the top of building, it attracts more heat in summer season.

23. The fact that the layout plan of the building was changed by the respondent, is not denied on behalf of latter. It is claimed by learned counsel for it (respondent) that layout plan was changed after due permission from Director, Town and Country Planning (DTCP). A public notice was issued in this regard and after being satisfied, DTCP allowed change in layout plan. It is further contended by learned counsel that his client i.e. the respondent offered another unit to the complainants i.e. Unit No. T9-1601 because of change of layout plan, which was two units below the top floor, but the complainants did not choose to exercise this option.

24. Section 14 of Act of 2016 obliges the promoter to develop his project and complete it in accordance with the sanctioned plan, layout plan and specifications as approved by the competent authority. Admittedly, the respondent changed layout plan, after the unit in question was duly allotted in favour of the complainants. Sub Section 2(i) of Section 14 of Act of 2016 prescribes that the promoter shall not make any additions and alterations in the sanctioned plans, layout plans and specifications, without previous consent of that person i.e. the allottee. It is not plea of the

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respondent that 'previous consent' of the allottees i.e. the complainants was received by it. According to learned counsel for the respondent a public notice was issued in this regard. Some of the allottees sent their response and after considering the same, DTCP allowed the change in layout plan. Even if this fact was true, a public notice was not substitute for "previous consent" of the allottees and hence it amounts clear violation of Section 14 of the Act of 2016. The respondent is thus liable to compensate the complainants and consequently, the complainants are entitled to get compensation.

25. While disposing of complaint No.2188 of 2025 filed by same complainants, the Authority opined that the respondent had forwarded a specimen of an "Addendum to the Apartment Buyer's Agreement to the complainants in the year 2024, whereby the respondent had offered new unit two floors below the topmost floor i.e. unit No. T9-1601. However, a bare perusal of the said Addendum reveals that the respondent has deliberately and blatantly omitted to mention the consideration amount therein. The Authority was satisfied that the respondent was in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. Even if any such new

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proposal was given to the complainants, admittedly, all this was done in the year 2019 while according to the Authority, due date of possession was 15.10.2016 i.e. after about three years of due date of possession. There is no denial that this offer was not acceptable to the complainants.

26. It is not clarified by the claimants as how they quantify Rs.10 lakhs as compensation. Despite all this, when the complainants are found entitled for compensation, their claim cannot be thrown away merely for want of conclusive evidence in this regard. This forum is obliged to adjudge amount of compensation keeping in mind Section 72 of the Act as well as the facts and circumstances of case.

27. Section 72 of the Act prescribes the factors which are to be taken into account by the Adjudicating Officer, while adjudging quantum of compensation and the same are: -

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default;
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.


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28. Apparently, when the unit of the complainants was changed without their permission, making their unit on top floor, which is not a preferred location, the complainants suffered loss for devaluation of their unit in the market. A judicial notice can be taken of the fact that top floor in a house at Gurugram has a lesser price than the other higher floors. As per Google (AI overview), the topmost floors can sometimes dip slightly in demand, if there are heat-gain concerns, but premium high-rises with uncompromised skyline views or terrace rights price these units at a peak premium. It is worth mentioning here that the complainants were not given terrace rights by the respondent.

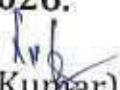
29. According to AI overview, in Gurugram's independent building floors, the price difference between specific floors ranges from 8% to 15% per level, driven by functional preferences and terrace/lawn rights. Keeping in view the facts and circumstances of this case, I am of view that the value of unit allotted to the complainants, after change to top floor is reduced to at least 8%. Undisputedly, total sale consideration of subject unit was Rs.2,42,46,250/-. The complainants are thus allowed compensation of Rs.19,39,700/- for depreciation in market value of their unit, due to change in layout plan.

30. When the complainants did not get their dream unit, despite making payment of sale consideration, rather it was changed without their consent, all this apparently caused mental harassment and agony to them (complainants). Same are allowed a sum of Rs.1,00,000/- as compensation for mental agony and harassment. Amount of Rs.10,00,000/- as claimed by the complainants appears to be excessive. No court fee is required to be paid to the Authority, while filing a complaint. It is apparent from record that the complainants were represented by an advocate during proceedings of this case, same are thus allowed a sum of Rs.50,000/- as cost of litigation. Rs.One lakh appears to be some excessive.

31. The respondent is directed to pay said amounts of compensation along with interest at the rate of 11% per annum from the date of this order, till realization of amount.

32. This complaint stands disposed of accordingly. File be consigned to the record room.

Announced in open court today i.e. on 09.09.2026.


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