

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 648 of 2024

Date of Decision: September 08, 2026

Aditya Beri, A-1, Ansal Villa, Satbari, Chattarpur, Delhi-110074

Appellant

Versus

Suposhaa Realcon Private Limited, 12A Floor, Tower 2, M3M International Finance Centre, Sector 66, Gurugram-122002

Respondent

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

Argued by: Mr. Ramandeep Singh, Advocate for the appellant.

Mr. A. R. Takkar, Senior Advocate assisted by Mr. Aman Arora, Mr. Archit Rana, Ms. Astha Tyagi and Mr. Dushyant Rana, Advocates for the respondent

ORDER:

RAJANGUPTA, CHAIRMAN:

Present appeal is directed against order dated 12.07.2024, passed by the Authority¹. Operative part thereof reads as under:

“22. Further, Section 19(6) and Section 19(7) of the Act of 2016 casts an obligation on the allottee to make necessary payments in a timely manner. The respondent has given sufficient opportunities to the complainants and finally cancelled the allotted unit of the complainant vide letter dated 23.11.2022. Hence, cancellation of the unit in view of the terms and conditions of the buyer’s agreement dated 23.11.2022 is held to be valid.

23. Keeping in view the above-mentioned facts the

¹Haryana Real Estate Regulatory Authority, Gurugram

promoter has already refunded the amount paid i.e. Rs.18,56,000/- (during the pendency of the case) after adjustment of coupon amount (given at the time of booking) to the complainants through RTGS on 30.05.2023 and the same has been accepted by him. Hence, cancellation is deemed to have been accepted by the complainants.”

2. It appears that a project in the name and style of ‘Smart World Orchard’ was floated by the respondent-promoter in Sector 61, Gurugram. The appellant was allotted a unit therein vide allotment letter dated 28.09.2022. Total sale consideration of the unit was Rs.1,89,06,043/-, out of which, the appellant-allottee remitted an amount of Rs.18,91,000/-. Agreement for sale was executed between the parties on 27.10.2022. As per agreement, due date of possession was 31.12.2024. Admittedly, no Occupation Certificate has been granted to the project. As the appellant-allottee failed to adhere to the payment schedule, the respondent-promoter sent pre-cancellation notice dated 11.11.2022 to the appellant-allottee to make payment of outstanding amount. The allottee failed to make payment even after receipt of final reminder letter. The unit was cancelled by the promoter vide letter dated 23.11.2022. The appellant-allottee preferred a complaint before the Authority seeking setting aside of the cancellation and demand letter dated 30.09.2022.

3. The stand of the promoter before the Authority was that as the allottee failed to make balance payment as per schedule, despite letters and reminders, pre-cancellation letter dated 11.11.2022 was issued to him to clear the arrears. As the allottee failed to pay the same, vide letter dated 23.11.2022, the unit was cancelled.

4. Upon hearing both parties and perusal of the record, the Authority issued the directions vide the

impugned order dated 12.07.2024, already reproduced in para 1 of this order.

5. Aggrieved by the order of the Authority, the appellant-allottee has preferred the instant appeal.

6. Learned counsel for the appellant-allottee submitted that the Authority had passed an earlier order dated 01.03.2024 directing the promoter to give possession of the unit or alternative similar unit to him as per specifications in the Builder-Buyer Agreement dated 27.10.2022. As per him, the Authority had no power to review its own order. The subsequent order passed by the Authority is unsustainable.

7. Learned counsel for the respondent-promoter submitted that as the appellant-allottee failed to adhere to the payment schedule, the unit was cancelled.

8. We have heard learned counsel for the parties and given careful thought to the facts of the case.

9. It needs to be mentioned that after passing of order dated 01.03.2024, the respondent-promoter moved an application seeking clarification of the aforesaid order. Vide impugned order, the Authority held the cancellation of the unit to be valid.

10. Order dated 01.03.2024 passed by the Authority is reproduced below for ready reference:

“The cancellation of the subject unit is hereby ordered to be set aside and the respondent is liable to handover the possession of the alternative similar situated floor to the complainant as per specifications of original BBA dated 27.10.2022 at the same rate at which the unit was earlier purchased and on a similar location after obtaining of Occupation

Certificate/CC/part CC from the competent authority as per obligations under section 11(4)(b) read with section 17 of the Act, 2016 and thereafter, the complainant is obligated to take the possession within 2 months as per section 19(10) of the Act, 2016.

Matter stands disposed off. Detailed orders will follow.”

11. It appears that the promoter moved an application for clarification thereafter, whereupon the impugned order as detailed in para no.1 of this order was passed. There is no provision of law under which the order passed earlier can be reviewed. The origin of the application seeking clarification can only be traced under Section 39 of the Act. However, scope of clarification under Section 39 of the Act is very limited wherein only clerical/typographical errors can be corrected. There is absolutely no scope for re-writing the order or change the nature of the relief already granted.

12. It is inexplicable why in the instant case, the Authority has acted in a manner that it has not only changed the complexion of the order passed earlier but the entire purport thereof while maintaining the same number of complaint i.e., Complaint No.2317 of 2023. It has, in fact, passed another order in the same complaint. It appears that in these circumstances, Chairman of the Authority needs to be given liberty to hold appropriate enquiry into the matter. Ordered accordingly

13. In view of the above, the orders dated 01.03.2024 and 12.07.2024 passed by the Authority are,thus, held to be unsustainable and are hereby set aside. The matter is remanded to the Authority for decision afresh expeditiously, in any case, not later than 3 months.

14. The appeal is disposed of accordingly.

15. Parties to appear before the Authority below on 01.10.2026.

16. Copy of this order be sent to the parties, their counsel and the Authority below.

17. Copy of this order be also forwarded to Additional Chief Secretary, Town & Country Planning Department, Haryana.

18. File be consigned to the records.

Justice Rajan Gupta
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

September 08, 2026
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