

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 788 of 2024

Date of Decision: September 08, 2026

Jai Prakash R/o Village Hayatpur, P.O Garhi Harsaru, Gurugram.

...Appellant-allottee

Versus

M/s Mascot Buildcon Private Limited having Office at: 294/1,
Viswakarma Colony, Opp ICD, MB Road, Dal Kuan New Delhi-44.

...Respondent-promoter

CORAM:

Justice Rajan Gupta
Dinesh Singh Chauhan

Chairman
Member (Technical)

Present: Mr. Rohan Moudgil, Advocate and
Mr. Sandeep Sharma, Advocate,
for the appellant.

Mr. Yash Pal Sharma, Advocate with
Mr. Abhishek Sharma, Advocate,
for the respondent.

O R D E R:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 09.10.2024
passed by the Authority¹ at Gurugram in Complaint No. 5019 of 2023.
Operative part thereof reads as under:

“15. Keeping in view the aforesaid factual and legal provisions, the respondent is liable to refund the paid-up amount of Rs.60,27,678/- after deducting 10% of the sale consideration of Rs.58,32,743/- being earnest money along with an interest @11.10% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of cancellation i.e., 11.01.2024 till actual refund of the amount. However, vide proceedings dated 09.10.2024, the counsel for the respondent/promoter along with AR Sh. B.N. Sahu stated at bar that the respondent is willing to refund of the entire amount deposited by the complainant along with interest from the date of receiving of occupation certificate i.e. 26.10.2023 till the date of order.

16. Accordingly, the respondent/promoter is directed to refund the entire amount received by it from the complainant

¹Haryana Real Estate Regulatory Authority, Gurugram.

i.e. Rs.60,27,678/- along with an interest @11.10% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of obtaining occupation certificate from the competent authority i.e. 26.10.2023 till the date of order within the timelines provided in rule 16 of the Rules, 2017.

17. The respondent is further directed not to create any third-party rights against the subject unit before full realization of the refundable amount along with interest thereon to the complainant, and even if, any transfer is initiated with respect to subject unit, the receivable shall be first utilized for clearing dues of complainant/allottee.”

2. Factual matrix of the case is that the appellant-allottee was allotted a unit bearing no. G-2 on the Ground Floor, having super area of 403.65 sq. ft., in the project of the respondent-promoter, namely, “Oodles Skywalk”, situated at Sector 83, Gurugram, vide allotment letter dated 28.03.2014. A space buyer's agreement was executed between the parties on 02.09.2015. The due date of possession was 02.09.2018. Total sale consideration of the unit was Rs. 58,32,743/-(exclusive of taxes and applicable taxes), against which, the appellant-allottee paid Rs. 60,27,678/-. Occupation Certificate was granted to the project on 26.10.2023. On 03.11.2023, the appellant-allottee filed a complaint before the Authority seeking direction to the respondent-promoter to hand over possession of the unit after deducting illegal charges, along with delay possession charges (DPC).

3. During the pendency of the complaint, possession was offered to the appellant-allottee vide letter dated 08.11.2023, subject to payment of outstanding dues of Rs.6,52,697.95. On account of the appellant-allottee's alleged default in clearing the said dues, the respondent-promoter issued a reminder letter dated 18.12.2023 and, thereafter, cancelled the allotment vide cancellation letter dated 11.01.2024.

4. The respondent-promoter justified the cancellation before the Authority on the ground of non-payment of dues by the allottee despite repeated reminders. During the proceedings held before the Authority, on 09.10.2024, the counsel for the respondent-promoter, along with its authorised representative, voluntarily offered to refund the entire amount deposited by the allottee along with interest from the date of receipt of Occupation Certificate i.e., 26.10.2023 till the date of order i.e. 09.10.2024.

5. After considering rival contentions of the parties, the Authority disposed of the complaint vide the impugned order as per offer made by the respondent-promoter, operative part whereof has been reproduced in para 1 of this order.

6. Aggrieved by the impugned order, the appellant-allottee has preferred the instant appeal before this Tribunal, contending that the Authority ought to have directed the respondent to hand over possession of the unit together with delay possession charges (DPC), as originally prayed for in the complaint, instead of directing refund of the paid-up amount.

7. On the other hand, learned counsel for the respondent-promoter supported the impugned order, submitting that it has already complied with the impugned order by refunding the amount.

8. We have heard the learned counsel for the parties and carefully examined the record of the case.

9. It is undisputed that the occupation certificate was granted to the project on 26.10.2023 and possession was duly offered on 08.11.2023 along with demand of the outstanding dues of Rs.6,52,697.95. It is evident from the record that the respondent-promoter issued a reminder letter dated 18.12.2023 to the appellant-allottee before issuing the cancellation letter dated 11.01.2024. The

Authority also observed that these letters were duly served upon the appellant-allottee, as the respondent-promoter has placed on record the delivery proofs of these letters. In these circumstances, the cancellation of the allotment is found to be valid, as the appellant-allottee failed to make requisite payment despite having received the demand letter followed by a reminder. Further, it remains uncontroverted that the refundable amount has since been remitted to the appellant-allottee.

10. Thus, no ground survives for the appellant-allottee to resile from the benefit already secured and insist upon possession instead.

11. In the light of the above discussion, we find no legal infirmity or procedural irregularity in the order passed by the Authority warranting interference. The appeal is accordingly found to be without any merit and is hereby dismissed.

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

13. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

September 08, 2026/mk