

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.632 of 2023

Date of Decision: September 08,2026

(i) Satya N Poddar
(ii) Shakuntala Poddar
Both R/o K-26, Mahaveer Nagar, Tonk Road, Jaipur,
Rajasthan

Appellants

Versus

Fantasy Buildwell Pvt. Ltd., Room No. 205, Welcome Plaza,
S-551, School Block-II, Shakarpur, New Delhi-110092

Respondent

CORAM:

Justice Rajan GuptaChairman
Dinesh Singh Chauhan **Member (Technical)**

Present: Mr. Arun Sharma, Advocate for the appellants.
Mr. Arjun Sharma, Advocate for the respondent.

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against the order dated
18.07.2023, passed by the Authority¹. Operative part thereof reads
as under:

“H. Directions of the authority

*64. Hence, the authority hereby passes this order and
issues the following directions under section 37 of the
Act to ensure compliance of obligations cast upon the
promoter as per the function entrusted to the authority
under Section 34(f):*

*i. The respondent is directed to refund to the
complainants the paid-up amount of Rs.4,86,83,773/-
after deducting 10% as earnest money of the basic sale
consideration of Rs.4,95,92,000/- with interest at the
prescribed rate i.e. 10.75% is allowed, from the date of
filing of complaint i.e. 23.12.2021 till the date of
realization of payment.*

¹Haryana Real Estate Regulatory Authority, Gurugram

ii. The respondents are directed to pay that amount within 90 days from the date of order of this order as per rule 16(2) of the rules.

65. Complaint stands disposed of.

66. File be consigned to registry.”

2. It appears that a project in the name and style of “Paras Quartier” was floated by the respondent-promoter in Sector 2, Village Gwal Pahari, District Gurugram. The appellant-allottees booked a unit therein for a total sale consideration of Rs.4,95,92,000/-. They were allotted a unit measuring 5,350 square feet, bearing No. PL-1/03 02 therein. The appellant-allottees remitted an amount of Rs.4,86,83,773/-. BBA² was executed between the parties on 20.02.2013. According to the agreement, due date of possession was 12.07.2017. Occupation Certificate to the project was granted on 04.06.2018. Offer of possession was made to the appellant-allottees on 19.07.2018. As there was delay in handing over possession, the allottees sought to withdraw from the project. They filed a complaint before the Authority on 23.12.2021 and claimed refund along with interest.

3. The Authority, after considering rival contentions of the parties, directed the respondent-promoter to refund Rs.4,86,83,773/- after deducting 10% of the basic sale consideration along with interest @ 10.75% p.a. on the refundable amount from the date of filing of complaint i.e. 23.12.2021 till realization of the amount.

4. Aggrieved by the order of the Authority, the allottees have preferred the instant appeal.

5. Counsel for the appellant-allottees submitted that the impugned order, in so far as, it directs the deduction of 10% of the basic sale consideration out of the amount to be refunded to the

²Builder Buyer's Agreement

appellant-allottees, is erroneous in nature for the reason that there was no default on the part of the appellant-allottees. He further submitted that 'interest' has been granted by the Authority from the date of filing of the complaint and not from the date of respective dates of payments.

6. On the other hand, counsel for the respondent-promoter defended the impugned order by contending that the Authority was justified in directing deduction of 10% of basic sale consideration from the refundable amount.

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

8. It appears that the promoter had completed the project and got Occupation Certificate on 04.06.2018 and on the basis thereof, it offered possession to the appellant-allottees on 19.07.2018. Thus, it appears to be a valid offer of possession. However, the allottees decided to surrender the unit by filing the complaint after valid offer of possession made by the promoter.

9. Though the appellant-allottees cannot be compelled to take possession of the unit, their complaint to seek refund after valid offer of possession cannot be attributed to any continuing default on the part of the promoter. In such circumstances, the promoter is entitled to deduct 10% of the basic sale price from the refundable amount.

10. After examining the entire issue, the Authority directed the promoter to refund the paid-up amount after deducting 10% of the basic sale consideration along with interest from the date of filing of complaint i.e. date of surrender, i.e. 23.12.2021 till realization.

11. Further, the stand of the appellants for grant of interest from respective date of payment is mis-conceived. A

perusal of the record reveals that the allottees filed the complaint on 23.12.2021. The Authority has treated the date of filing of the complaint i.e. 23.12.2021 as the date of surrender of the unit and 2granted interest to the allottees from the said date till realization. We find no legal infirmity in the impugned order, warranting interference.

12. The appeal is dismissed.

13. Copy of this order be forwarded to the parties/their counsel and the Authority.

14. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

September 08 ,2026
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