

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

**Complaint No. 2933 of 2025
Date of Decision: 11.09.2026**

**1. Colonel Rajendra Kumar Rastogi (Retd.) and 2. Mrs. Shashi Rastogi,
both Rs/o H. No. 195, Sector-45, Faridabad, Haryana-121010.**

.....Complainant.

Versus

**M/s SS Group Pvt. Limited, Regd. Office at SS House, Plot no.77,
Sector-44, Gurugram, Haryana-122003.**

.....Respondent.

APPEARANCE

**For Complainants: Colonel Rajendra Kumar Rastogi, complainant
in person.
For Respondent: Mr. Venket Rao, Advocate.**

ORDER

1. This is a complaint filed by Colonel Rajendra Kumar Rastogi and Mrs. Shashi Rastogi, (allottees) under section 31 read with section 71 of The Real Estate (Regulation and Development) Act, 2016 (in brief The Act of 2016), against M/s SS Group Pvt. Limited (promoter/ developer).
2. Briefly stated, according to the complainants they (complainants) entered into a contractual agreement with respondent for the booking of a flat (Unit no. 7C, 7th Floor, Tower-1) in the project "The Leaf," situated at Sector 84-85, Gurugram. Despite their compliance with

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all obligations, including timely payments, the project faced significant delays beyond reasonable timelines. Due to the prolonged delay and the failure of the builder to complete the project within the stipulated timeframe, they were compelled to request for cancellation of their booking and sought a refund of the payments made, along with interest. Despite their repeated requests, personal visits and telephonic communication, the builder adamantly refused to comply with their legitimate demands.

3. That they (complainants) lodged a complaint (No. RERA-GRG-1618-2019) before the Haryana Real Estate Regulatory Authority, Gurgaon. The Authority passed an order dated 04.10.2022, mandating the builder to refund the entire amount of Rs.38,46,881/- along with prescribe rate of interest @ 10% per annum from the date of each payment till the actual date of refund of the deposited amount as per provisions of section 18 (1) of the Act read with rule 15 of the Rules 2017. However, despite the legally binding order, the builder has obstinately disregarded their obligation to refund the amount due.

4. That after waiting for about two years from the date of the order dated 04.10.2022 they filed a petition (RERA-GRG-685-2024) in 2024 seeking execution of the aforementioned order. However, the builder continued to exhibit non-compliance, further aggravating their mental

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anguish and financial distress. In the interim period, respondent filed appeals in H-REAT, Chandigarh, without informing them. It has now been over ten years since they requested the builders to refund their hard-earned money, yet justice remains elusive and they remained deprived of their rightful dues.

5. That unfortunately, during the ongoing protracted legal proceedings, he (complainant no. 1) was diagnosed with cancer of the urinary bladder in the year 2021. The treatment is still in progress due to which he feels severely weak. It becomes difficult for him to pursue the legal proceedings in Gurugram and Chandigarh. The flat allotted to them (complainants) has already been sold to another customer by the builder with still higher margin of profit. The builder/respondent got his ill-gotten money invested along with huge profit margin. But he is still illegally holding back his hard-earned money.

6. Citing facts as mentioned above, the complainants prayed for following compensations: -

- (a) Losses due to rental income @ 50000/- per month from the year 2016 to 2025 (Possession of the flat was due in the year 2015) for 15 years- $50000 \times 10 \times 12 = \text{Rs.}60,000,00/-$;
- (b) Additional accumulated difference between compounded interest @ 10% per annum and simple interest @ 10% from the year 2016 to 2025 for 10 years on the principal amount due to non-compliance of the order of Hon'ble HRERA Court dated 04.10.2022 - Rs.1,03,74,969.84/- Rounded to Rs.1,03,75,000/-;


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- (c) To award compensation amounting to Rs.2,00,00,000/- (Rs. Two Crores) for the mental agony and harassment, caused for the last 10 years due to the builder's persistent non-compliance with the HRERA order dated 04.10.2022 which has culminated in Hypertension and cancerous growth in his urinary bladder;
- (d) Appreciation of flat @ 10% per annum in real estate in Gurgaon - 10 Lacs per annum x 10 = Rs.1,00,00,000/- (Rs. One Crores);
- (e) Compensation for the cost of litigation for the last 7 years - Rs.5,00,000/- (Rs. Five Lacs);
- (f) To pass such other order as it may deem fit.

7. The respondent contested the claim of complainant by filing a written reply. It (respondent) denied all the averments, submissions and contentions raised by the complainants. It is averred that the instant complaint is not maintainable in the eyes of the law and is devoid of merits. It is fit to be dismissed in limine.

8. That the complaint is liable to be dismissed on the ground that the complainants are levying baseless allegations against the Hon'ble Chairperson of the Appellate Tribunal. The complaint is barred by the law of limitation. No satisfaction of ingredients as mentioned under section 72 Act of 2016 for being eligible for grant of compensation. No evidence/proof with respect to the payment of litigation cost and alleged mental agony, harassment caused to the complainants etc. The complainants are not entitled to claim financial loss, loss of rental value,

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damages, appreciation in property etc. under the scheme of the Act of 2016.

9. Contending all this, the respondent prayed to dismiss the complaint.

10. Both parties filed affidavits in support of their claims. I have heard complainant Rajendra Kumar Rastogi (in person) and learned counsel appearing on behalf of respondent and perused the record on file.

11. Factual matrix i.e. allotment of flat (Unit 7C) in the project developed by the respondent i.e. The Leaf, situated at Sector 84-85, Gurugram and out of total sale consideration they (complainants) paid Rs.38,46,881/-, are not disputed on behalf of respondent. Admittedly, present complainants filed a complaint before the Authority i.e. Complaint No. 1618 of 2019, which was allowed by the Authority vide order dated 04.10.2022. The respondent/promoter has been directed to refund the entire amount of Rs.38,46,881/- paid by the complainants along with interest @ 10% per annum from the date of each payment till the actual date of refund of the deposited amount.

12. While deciding said complaint, the Authority noted that due date of possession as per agreement for sale between the parties was 24.09.2016 and there remained delay of 2 years 7 months and 12 days on the date of filing of complaint. Observing that the complainants sought


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refund of their amount prior to due date of completion of project i.e. 24.09.2016, the Authority found fault with the respondent and allowed refund of amount along with interest as stated above. It was observed by the Authority that the complainants had been making efforts for refund of the paid-up amount due to medical exigencies and the construction of the project was not going as per schedule viz-a-vis the payments received by the respondent. Even as per clause 9.2 of model buyers' agreement, the complainants were right in stopping further payments against the allotted unit.

13. The respondent challenged even maintainability of the present complaint alleging that same is highly time barred. According to it (respondent), complaint is barred by law of limitation being delayed by approximately 10 years from the date of default and over 8 years and 8 months from the possession deadline. All these allegations are refuted by the complainant (Col. Rajendra Kumar Rastogi). According to the latter, he as well as his wife (Mrs. Shashi Rastogi), both are senior citizens, aged about 70 years. He (complainant Col. Rajendra Kumar Rastogi) is suffering with cancer, for which he has been undergoing treatment. Again, no time limit has been prescribed by Act of 2016, to file a complaint seeking compensation.

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14. I find weight in aforesaid submissions of the complainant. No time period has been prescribed by Act of 2016 within which a complaint seeking compensation can be filed. Public policy requires that a case, (complaint or civil suit) should be filed within reasonable time. As mentioned above, complainants approached the Authority seeking refund of their amount and said complaint was decided by the Authority on 04.10.2022 and present was filed on 12.06.2025. The complainants had sought compensation from the Authority in said complaint but the Authority observed that complainants can approach Adjudicating Officer, if want relief of compensation. In this way, having been filed within 3 years from the date of order of the Authority, I do not think that present complaint is unreasonably delayed, particularly, seeing the circumstances of complaints, as noted above. No reason to dismiss the complaint on this ground.

15. It is further plea of learned counsel for respondent that when Authority has already allowed interest on the amount to be refunded to the complainants, no further compensation can be awarded by the A.O. In his opinion, payment of interest is nothing but to compensate the complainants.

16. Perhaps learned counsel has misconstrued the provision of law. According to Section 18 (1) of The Act of 2016, when promoter fails to


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complete the project/unit in agreed time and the allottee intends to withdraw from the project, the promoter is liable to refund the interest along with interest **as well as compensation**. When Authority has allowed refund of amount along with interest, same does not bar an allottee from claiming further compensation. Complainants are thus entitled for compensation, as the Authority has found fault with the respondent for delay in completion of project/unit of complainants. Said findings have been upheld by the Appellate Tribunal.

17. Section 72 of The Act of 2016 provides following factors to be taken into account by the Adjudicating Officer, in adjudging quantum of compensation: -

- (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.

18. Complainant (Colonel Rajendra Kumar Rastogi) submits that he has been suffering with Cancer. Having no other sufficient means, he required money for his treatment. They (complainants) were fed up with the respondent for not completing construction of their dream unit within agreed time but the respondent despite their requests again and again did


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not refund their amount. According to him (complainant Colonel Rajendra Kumar Rastogi), if respondent had delivered possession in time, unit allotted to them (complainants) would have appreciated at-least 10% p.a. which could have resulted in lots of profit to them (complainants). The complainants have prayed for a compensation of Rs. One crore, due to loss of appreciation in the price.

19. However, complainants did not adduce any conclusive evidence to prove their claim that the price of their flat would have appreciated 10% per annum. When complainants are found entitled for compensation, their case cannot be thrown away, for want of conclusive evidence. This forum is obliged to adjudge amount of compensation keeping in mind factors as provided in Section 72 of The Act of 2016 as well as facts and circumstances of the case.

20. The plea of complainants that after order of refund passed by the Authority, the respondent sold unit in question to someone else and that on higher price, is not controverted on behalf of respondent. Evidently, prices of residential houses have been appreciated substantially. All this caused gains to the respondent and consequential loss to the complainants. According to google (AI Overview), residential property prices in Sector 84 and 85 of Gurgaon experienced a relatively flat to modest growth phase between May 2015 and 2019, followed by a steady


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upward trend leading up to October 2022 as infrastructure like the Dwarka Expressway progressed. Property values in new Gurgaon sectors (including 84 and 85) remained largely range-bound, averaging around Rs.4,500 to Rs.5,500 per square foot, due to an oversupply of residential inventory and delayed infrastructure. It shows growth of 22.2%.

21. No evidence is adduced in this case to verify as till when, the complainants had paid Rs.38,46,881/- to the respondent. It has been noted by the Appellate Tribunal while deciding appeal filed by present respondent that last payment was made by the allottees way back in the year 2015 (27.05.2015) and the Authority allowed refund of the amount vide order dated 04.10.2022. Therefore, period from May, 2015 to October, 2022 is taken into account, to assess the appreciation in prices of residential houses in the area, where unit in question is situated. Admittedly complainants had paid a sum of Rs.38,46,881/-. 22.2% of which comes to Rs.8,54,007/-. The complainants are thus allowed a compensation of Rs,8,54,000/- (rounded up), to be paid by the respondent.

22. Apparently, when complainants paid substantial amount of sale consideration but did not receive possession of their dream unit, it caused mental agony and harassment to them. Same are allowed a sum of


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Rs.2,00,000/- on this count. Compensation in the name of mental agony and harassment, amounting to Rs.2,00,00,000/- appears highly excessive.

23. Similarly, compensation in the name of litigation expenses amounting to Rs.5,00,000/- is excessive. No court fee is required to be paid to the Authority, while filing such a complaint. Although, complainant no. 1 (Colonel Rajendra Kumar) pursued this case personally, even then according to him, he had consulted some advocates as how to draft the complaint or to contest it. Considering all this, complainants are allowed a sum of Rs.50,000/- as cost of litigation.

24. The complaint is thus allowed. The respondent is directed to pay amounts of compensation detailed above, along with interest at rate of 11% per annum from the date of this order, till realization of amounts.

25. File be consigned to the record room.

Announced in open court today i.e. on 11.09.2026.


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

Present: Complainant no. 1 (Colonel Rajendra Kumar) in person.
Mr. Venket Rao, Advocate for respondents.

Complaint is disposed of vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
11.09.2026