

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 643 of 2024 (O&M)

Date of Decision: September 16, 2026

Emaar India Limited (formerly known as Emaar MGF Land Limited), 306-308, 3rd Floor, Square One, C-2, District Centre, Saket, New Delhi-110017, Also at Emaar Business Park, MG Road, Sikanderpur Chowk, Sector-28, Gurugram-122002, Haryana through its Authorized Representative Manish Mahajan, Aged 35 years S/o Anil Kumar.

Appellant-Promoter.

Versus

- 1. Mr. Aniket Mathews
- 2. Mrs. Chumsang Choki Bhutia

Both R/o Flat No. 1202, Tower 8, Gurgaon Greens, Sector 102, Gurugram, Haryana-122505.

Respondent-Allottees.

CORAM:

Justice Rajan Gupta
Dinesh Singh Chauhan

Chairman
Member (Technical)

Present: Ms. Ankita Chaudhary, Advocate,
for the appellant-promoter.

Mr. Jagdeep Kumar, Advocate
for the respondent-allottees.

O R D E R:

RAJAN GUPTA, CHAIRMAN (ORAL)

Present appeal is directed against order dated 09.08.2024 passed by the Authority¹ at Gurugram in bunch of complaints with lead **complaint no. 5456 of 2022 titled as Kiran Gupta and Anil Jindal vs. Emaar MGF Land Limited.**

Operative part thereof reads as under:

“G. Directions of the authority

¹ Haryana Real Estate Regulatory Authority, Gurugram.

59. The authority hereby passes this order and issues the following directions under section 37 of the Act in respect of all matters dealt jointly to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the Authority under section 34(f):

(i) The respondent shall pay interest at the prescribed rate i.e. 11% per annum for every month of delay on the amount paid by the complainant after deduction of amount which has already been given by the respondent as credit compensation from due date of possession i.e. 14.11.2016 till the date of offer of possession plus two months or the date of handing over, whichever is earlier, as per proviso to section 18(1) of the Act read with rule 15 of the Rules.

(ii) The rate of interest chargeable from the allottees by the promoter, in case of default, shall be charged at the prescribed rate i.e. 11% by the respondent promoter, which is the same rate of interest which the promoter shall be liable to pay the allottees in case of default i.e. the delayed possession charges as per section 2(z a) of the Act.

(iii) The respondent is directed to pay arrears of interest accrued, if any, after adjustment in statement of account, within 90 days from the date of this order as per rule 16(2) of the Rules.

60. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.

61. Complaints stand disposed of.

62. Files be consigned to registry.”

2. Factual matrix of the case is that the respondent allottees had booked a residential unit bearing No. GGN-07-1202 on 12th floor in Tower No. 07 in the project, namely, “Gurgaon Greens” situated in Sector 102, Gurugram, being developed by appellant-promoter. Builder buyer’s agreement was executed between the parties on 07.12.2018. Due date of possession as determined by the Authority was 31.12.2018.

Occupation certificate for the tower in which the unit in question is situated was granted on 05.12.2018 and possession was offered on 24.05.2019, physical handover took place on 06.07.2019, and a conveyance deed was executed on 23.06.2021. Thereafter, the respondent-allottees filed a complaint No. 5409 of 2022 before the Authority seeking delayed possession charges and ancillary monetary reliefs.

3. Stand of the promoter before the Authority was that the unit was offered to the allottees after the grant of Occupation Certificate. The allottees were in possession and a conveyance deed had already been executed, concluding the transaction and barring further claims. Thus, there was no default on part of the promoter warranting delayed possession charges after the execution of conveyance deed.

4. After considering rival contentions of the parties, the Authority disposed of the complaint vide impugned order disposing bunch of complaints, granting the delay possession charges from due date of possession till the date of offer of possession plus 2 months or the date of handing over of possession whichever is earlier.

5. Aggrieved by the impugned order, the appellant-promoter has filed the present appeal before this Tribunal. The appellant's principal grievance is that the Authority erroneously directed payment of delayed possession charges from 31.12.2018, the contractual possession due date as determined by the Authority instead of from 31.12.2019, which the appellant-promoter contends is the correct due date after granting a one-year extension to the project's completion date. Accordingly, the appellant seeks modification of the impugned

order to the extent of recomputing the delayed possession charges from the correct due date of 31.12.2019, in accordance with clause 7(a) of the agreement.

6. On the other hand, learned counsel for the respondent-allottees supported the impugned order and submitted that the appeal is devoid of merit and liable to be dismissed.

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

8. It is not in dispute that, as per clause 7(a) of the builder buyer's agreement dated 07.12.2018, the promoter committed to offer possession on or before 31.12.2018, "or such time as may be extended by the competent authority". The Authority, after examining the record held that the delay possession charges be awarded from the contractual due date of possession which is 31.12.2018 in the present case and computed delayed possession interest from that date till the date of valid offer of possession plus two months or actual handover, whichever is earlier, which comes out to be 06.07.2019.

9. The appellant's sole grievance is that the Authority ought to have treated 31.12.2019 as the due date of possession for computing delayed possession charges. It is pleaded that the completion timeline of the project was extended by the Authority by one year, and that, in view of clause 7(a) of the builder buyer's agreement which provides for possession "on or before 31.12.2018 or such time as may be extended by the competent authority", the contractual due date must be read as automatically standing extended to 31.12.2019. This plea, however, is untenable. Any such extension does not, by itself,

alter the specific due date of possession stipulated in the agreement unless the same is expressly incorporated by way of a valid amendment or supplementary agreement, or unless the extension order specifically revises the possession date for the allotted unit. In the absence of any such incorporation or specific revision, the contractual due date of 31.12.2018 continues to govern the liability of the promoter under section 18 of the Act. The appellant's attempt to substitute the agreed due date with an alleged "project extension" therefore cannot be accepted.

10. In view of the foregoing discussion, the impugned order dated 09.08.2024 passed by the Authority with respect to complaint no. 5456 of 2022 is upheld.

11. The appeal is thus disposed of.

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

13. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

September 16, 2026/
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