

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

**Complaint No. 3061 of 2024
Date of Decision: 08.09.2026**

**Gagan Joshi and Lata Joshi, residents of E-2/A, Vrindavan
Garden, Pranami Mandir Road, Siliguri, West Bengal- 734008.**

Complainants.

Versus

**BPTP Limited & Countrywide Promoters Pvt. Ltd., Registered
Office at OT-14, 3rd Floor, Next Door Parklands, Sector-76,
Faridabad, Haryana.**

Respondents.

APPEARANCE

**For Complainants: Mr. Sukhbir Yadav, Advocate.
For Respondents: Mr. Venket Rao, Advocate.**

ORDER

This is a complaint filed by Mr. Gagan Joshi and Ms. Lata Joshi, (allottees), under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in brief The Act of 2016) against BPTP & M/s Countrywide Promoters Pvt. Ltd. (promoters/ developers).



2. Briefly stated, according to the complainants, on 23.04.2010 being impressed by the representation and assurances given by the respondents, they (complainants) purchased a 4 BHK Flat admeasuring 2764 sq. ft. bearing no. MA4-1203 in Tower No. MA4 in the project "Mansions Park Prime", Sector-66, Gurgaon being developed by the respondents and paid Rs.7,86,358/- towards the booking amount and signed a pre-printed application form. The Flat was purchased under the construction-linked Plan for a sale consideration of Rs.1,09,46,639/-.

3. That on 27.05.2010, respondent no. 1 issued an allotment letter cum demand letter by allotting aforesaid Flat/unit in their name and further raised a demand of Rs.7,86,496/- in said letter.

4. That on 21.10.2010, a pre-printed, arbitrary, one-sided and ex-facie Flat Buyer's Agreement (hereinafter called "FBA"), was executed between them (complainants) and the respondents. As per Clause 3.1 of the said FBA, respondents were obliged to give the possession of the complainant's flat within a period of 36 months from the date of booking/registration of the

Flat and shall be entitled to a grace period of 180 days (6 months) after the expiry of 36 months for applying & obtaining occupation certificate. The Unit was booked on 23.04.2010 inter alia the due date of possession was 23.10.2013 (with 6 months grace period).

5. That the respondents kept on raising the demands as per the stage of construction and the complainants paid all the demands and till 25.11.2014, the complainants have been paid Rs.1,06,55,431/- i.e. more than 97% of total sale consideration.

6. That on 05.03.2020, the respondents issued a letter of offer of possession of the unit and a demand of Rs.43,36,357/- was raised in said letter. The said offer of possession letter contains several unreasonable demands under different heads such as Rs.18,65,972/- under the head of "Cost Escalation" and Rs.2,48,086/- under the head of "Electrification and STP Charges". As per the BBA, the Cost of Electrification charges + Firefighting + Power back-up charges are Rs.50/- per sq. ft., hence demand under the same head is completely unreasonable. Moreover, the respondent increased the super area of the complainant's unit by 280 sq. ft. without any justification and prior intimation (original

super area was 2764 sq. ft. - revised super area 3044 sq. ft.). Moreover, a demand of Rs.8,38,600/- was raised on account of increased area. Without prejudice if the super area of the complainant's unit is 3044 Sq. Ft., then also the total cost of the flat would be Rs.1,19,84,869/-.

7. That the respondents did not provide the correct calculation of cost. A certificate from a cost accountant must be required to ascertain the actual cost of construction and its price index. On 09.05.2020 complainants sent a grievance letter to the respondents but the respondents did not pay any heed.

8. That despite them (complainants) having paid more than 100% of the actual amounts of flats but the respondents have failed to deliver the possession of the flat as per specification and amenities shown in the brochure and BBA.

9. Citing facts as described above, the complainants have sought following compensations/reliefs: -

i. To grant compensation for the rental cost/loss of Rs.15384376/- from April 2013 (due date of possession) to May 2024. Justification: the minimum

rental value of a flat in the same location of the project is Rs.115672/- per month.

ii. To grant compensation on account of depreciation of Rs.2656642/-.

iii. To grant compensation of Rs.1372320/- on account of loss of interest.

iv. To grant the compensation of Rs.10,00,000/- for causing mental agony.

v. To grant a compensation of Rs.1,00,000/- for travel expenses and loss of work as the complainants had to appear before the Hon'ble Authority (for complaint and execution) for about 20 times on their working days.

vi. To grant the litigation cost of Rs.1,65,000/-.

vii. To grant an additional compensation of Rs.10,000/- per month for causing financial loss and mental agony from 25.07.2022 till the actual handover of the possession of the unit and execution of the conveyance deed.

viii. Any other relief/direction that the Adjudicating Officer deems fit and proper in the facts and circumstances of the present complaint.

10. The respondents contested the claim of complainants by filing a written reply. It is averred that the instant complaint is

untenable both in facts and law. The contractual relationship between the complainants and the respondents is governed by the terms and conditions of the said agreement. Hence the complainants are bound by the terms and conditions incorporated in the said agreement in respect of said unit.

11. That the respondents duly completed the development of the Project and offered the possession of the Unit to the complainants on 05.03.2020 after having received the occupation certificate on 14.02.2020. At the time of offer of possession, the respondents had credited a compensation for Rs.2,87,122/- in favour of the complainants, however, the complainants being aggrieved with the quantum of compensation already credited, approached the Authority through complaint bearing no. 3001 of 2020. After adjudicating the matter, the reliefs were granted by the Authority vide order dated 25.07.2022.

12. That out of the total sale consideration of Rs.1,50,99,622.22/-, the complainants have only paid a sum of Rs.1,07,63,264.27/-. Due to the non-payment by the complainants, the unit was previously terminated, as noted in the

aforementioned complaint, however, the same was set aside and the rates were revised, as noted above. The complainants have miserably defaulted in making the complete payment against the Unit and hence stand in sheer violation of Section 19 (6) of the Real Estate (Regulation and Development) Act, 2016.

13. The after the passing of the aforementioned order, the respondent had rightly and in complete compliance of the aforementioned order, made the payment of Rs.33,27,684/- to the complainant, in compliance of the order, as is evident from the order dated 10.05.2023 passed by the executing forum under Execution Petition no. 1223 of 2023. After having received the said payment, all the grievances of the complainant are deemed to have been settled. That additionally, recovery certificate has also been issued by the executing forum and the physical possession has also been rightly taken by the complainant.

14. That with the handover of the cheques, the respondents have been asking the complainant to come forward and take the possession after completion of necessary formalities.

The entire allegations of the complainant revolve around the delay

in the development of the Unit, alleged depreciation and the alleged loss. However, the complainant has miserably failed to take into account the compensation/delay interest already credited to the complainants, as noted above.

15. That the grant of delay possession charges is already in the form of compensation and no additional compensation can be paid. No compensation can be claimed by an allottee who intends to stay in the project and only delay possession charges can be claimed under the Real Estate (Regulation and Development) Act, 2016.

16. Contending all this, the respondents have prayed to dismiss the complaint.

17. Both parties filed affidavits in support of their claims. I have heard learned counsels appearing on behalf of both of parties and perused the record on file.

18. Admittedly, the complainants approached Authority seeking reliefs of setting aside termination of allotment etc. by filing a complaint no. 3001-2020. Allowing said complaint vide order dated 25.07.2022 the Authority held that the termination of

allotment of unit was not sustainable and hence set aside. At the same time, respondents were directed to pay interest at the prescribed rate of 9.80% per annum for every month of delay from the due date of possession i.e. 23.04.2013 till the date of offer of possession i.e. 05.03.2020 plus two months i.e. 05.05.2020 to the complainants as per Section 19 (10) of the Act. According to learned counsel for respondents, when the complainants have already been allowed DPC, same are not entitled for any compensation.

19. As per Section 18 (1) of Act of 2016, if promoter fails to complete or unable to give possession of an apartment, plot or building,

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-----, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot or building, as the case may be, with interest at such rate as may be prescribed in this behalf **including compensation, in the manner as provided under this Act.**

20. It is worth mentioning here that the complainants did not wish to withdraw from the project but prayed for delayed possession compensation, by filing a complaint with the Authority. The said complaint has already been allowed. Proviso added to sub section (1) of section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid by the promoter interest for every month of delay till handing over of possession, at such rate as may be prescribed. The parliament did not intend to provide compensation other than DPC in case allottee does not intend to withdraw from the project.

21. Upholding that the claim of compensation and interest can be allowed only in case the allottee seeks to withdraw from the project as per Section 18 (1) of Act of 2016, following was held by Uttar Pradesh Real Estate Appellate Tribunal in case **"Greater Noida Industrial Development Authority vs. Ranjan Misra"** Appeal No. 70 of 2023 decided on 20.04.2023-----;

"13.9. If we closely examine the above two provisions, it comes out that in a case where the Allottee exists the projects, the Act expressly provides INTEREST AND COMPENSATION both, but

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in cases where the Allottee tends to stay in the project the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to provide Compensation only to those Allottees who exit the project and not to those who tends to stay in the project."

22. Similar was finding of Haryana Real Estate Appellate Tribunal in case "TATA Housing Development Company Limited vs. Nitin Singhal & Surendra Kumar Singhal, Appeal No.737 of 2023 decided on February 17,2026.

23. Considering all this, there is no reason to allow compensation for rental loss, depreciation, loss of interest and for causing financial loss for delay in handing over possession of subject unit. Request in this regard is declined.

24. The complainants have further prayed for compensation for travel expenses and loss of work.

25. The compensation in the name of travel expenses is promptly connected to this case. Personal appearance of complainants was not required particularly when they were

represented by an Advocate. No reason to allow any compensation in this regard.

26. On the same reason, I do not think it proper to allow any compensation in the name of litigation cost or mental agony.

27. Complaint in hands is thus dismissed. File be consigned to the record room.

Announced in open Court.
today i.e. **on 08.09.2026.**


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

Present: Mr. Sukhbir Yadav, Advocate for complainants.
Mr. Venket Rao, Advocate for respondents.

Complaint is disposed of, vide separate order today.

File be consigned to record room.

(Rajender Kumar)
Adjudicating Officer,
08.09.2026