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

Complaint No.: 1581-2025
Date of Decision: 05.11.2026

Ravi Narain Vats resident of Unit No.1002, 10th Floor of Regal Tower, Mapsko Royal Ville, Sector-82, Gurugram.

.....Complainant.

Versus

M/s Mapsko Builders Pvt. Ltd. 6th Floor, Baani The Address No.1, Golf Course Road, Sector-56, Gurugram, Haryana.

.... Respondent.

APPEARANCE

For Complainant: Mr. Sukhbir Yadav, Advocate.
For Respondent: Mr. Sumesh Malhotra, Advocate.

ORDER

This is a complaint filed by Mr. Ravi Narain Vats (allottee) under Section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016) against M/s Mapsko Builders Pvt Ltd. (promoter).

2. Briefly stated, according to complainant, on 01.09.2010, he (complainant) booked a Unit No.1001 admeasuring 1790 sq. ft. on 10th floor in Regal Tower in the project "Mapsko Royal Ville" situated in Sector-82,

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Gurugram, being developed by the respondent under down payment plan for a total sale consideration of Rs.56,00,953/- and paid Rs.4 lakhs as booking amount. On 01.05.2011, a Builder Buyer's Agreement (BBA) was executed between the parties. Due date of handing over of possession was agreed as 01.11.2014.

3. That he (complainant) paid a substantial amount of Rs.59,63,510/-, which exceeds 100% of the total sale consideration responding to the respondent's intermittent demands. That he (complainant) repeatedly asked the respondent about the possession of his unit, but received no response. That after a lapse of three years from the stipulated due date of possession, the respondent issued an offer of possession on 21.07.2017. However, this offer of possession was conditional, rendering it unacceptable to him (complainant).

4. That on inspection of the unit, he (complainant) discovered that the unit in question was uninhabitable, rendering it unfits for occupation. That after receiving more than 100% of the total cost of the unit, the respondent did not hand over the physical possession of his (complainant) unit nor paid any delayed possession charges for the delayed period.

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5. That being aggrieved with acts of the respondent, he (complainant) filed a complaint before the NCDRC, which was withdrawn by him (complainant). Therefore, he filed a complaint before the Haryana Real Estate Regulatory Authority (in brief "The Authority") against the respondent. The Authority vide order dated 31.08.2023 directed the respondent to pay the delayed possession interest at the prescribed rate i.e. 10.75% per annum for every month of delay on the amount paid by him (complainant) from the due date of possession i.e. 01.11.2014 till offer of possession (21.07.2017) plus two months after obtaining occupation certificate i.e. up to 21.09.2017.

6. That the respondent went in appeal against the aforesaid order dated 31.08.2023 passed by the Authority. Since the respondent did not comply with the order of the Authority, he (complainant) filed an execution petition. That following order dated 29.01.2024 in the aforesaid execution petition, the respondent sent a letter to hand over possession of the unit in question. However, upon visiting the project site, he (complainant) noticed several deficiencies in the unit. Despite requesting the respondent to rectify these issues on multiple occasions, no action was taken. Ultimately, the physical possession of the subject unit was handed over vide letter dated

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22.01.2025, but it was not habitable and there were several defects in the unit.

7. That on 01.02.2025, he (complainant) made payment of Rs.2,51,219/- under protest on account of CAM charges, Club charges, late penalty fee and interest on delayed payments as demanded by the respondent. That on 22.01.2025, he (complainant) brought to the notice of the respondent about the deficiencies at the project site, but no action was taken. That he (complainant) has repeatedly requested for an updated statement of account and execution and registration of the conveyance deed for his unit even sending a follow-up email to the respondent on 03.03.2025, which remains unaddressed.

8. That the respondent deprived him (complainant) of his unit for more than 10 years. He (complainant) has been bearing the rental loss since the due date of possession. That there were clear unfair trade practices and breach of contract and deficiency in the services of the respondent, therefore, it is liable to compensate him (complainant).

9. Contending all this, he (complainant) has prayed for the following reliefs: -

i. to get compensation for the rental cost/loss of Rs. 55,35,000/- accrued from 01.11.2014 (due date of possession as per order of the Authority) till 21.01.2025 (date of possession hand over) as the minimum rental value of a flat in the same project and location of the project is Rs. 45,000/- per month.

ii. to get compensation on account of depreciation of Rs.11,48,195/-.

iii. to get a compensation for loss of interest to be paid on DPC for every month of delay of Rs. 16,51,077/-;

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

v. to get the litigation cost of Rs. 2,00,000/- (Rs. 50,000/- for complaint No. 4023 of 2020, Rs. 50,000/- for appearing in appeal 746 of 2023, Rs.50,000/- for execution petition No.5613 of 2023 and Rs.50,000/- for the present complaint).

10. The respondent contested claim of complainant by filing a written reply. It is averred that the complainant has already been granted compensation for delay in granting possession by the Authority, therefore, he has no ground for seeking the relief sought in the present complaint. The delay in handing over possession occurred due to force majeure events beyond its control. Further, on receipt of OC on 20.07.2017, the possession

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of the apartment was offered to the complainant on 21.07.2017, but the complainant refused to take possession citing frivolous reasons.

11. That on 18.02.2019, during the proceedings before the Hon'ble NCDRC, it (respondent) had offered possession to the complainant, on which, the complainant sought refund with compensation instead of possession, which shows that the complainant never intended to take possession of the unit.

12. That as per agreement and contents of offer of possession letter, the complainant was required to pay 5% of the sale consideration along with other charges. Thus, vide offer of possession letter dated 21.07.2017 requested the complainant to make payment of Rs.4,55,254.15P pursuant to which possession was to be handed over to the complainant. However, in order to avoid his liability towards payment of maintenance charges and making payments as per final demand, the complainant deliberately delayed taking over of possession and completion of possession formalities.

13. That the possession was handed over to the complainant on 22.01.2025 after lot of persuasion and efforts, in terms of the order dated

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10.01.2025. Further, duly registered and executed conveyance deed was handed over to the complainant on 14.04.2025.

14. Contending all this, respondent has prayed for dismissal of complaint.

15. Both of the parties filed affidavits in support of their claims. I have heard learned counsels appearing for both of parties and perused the record.

16. Admittedly, the complainant had approached the Authority seeking delayed possession charges by filing a complaint no.4023 of 2020. Said complaint was allowed by the Authority vide order dated 31.08.2023 and the respondent has been directed to pay delayed possession interest at the prescribed rate i.e. 10.75% p.a. for every month of delay on the amount paid by the complainant from due date of possession i.e. 01.11.2014 till offer of possession (21.07.2017) plus two months after obtaining occupation certificate i.e. up to 21.09.2017 as per proviso to section 18(1) of the Act read with rule 15 of the rules.

17. It is contended by learned counsel for the complainant that despite said order of the Authority, it is for the Adjudicating Officer to allow compensation for delay in handing over possession, in view of section 72 of

Act of 2016. Learned counsel reminded that this Forum (AO) has jurisdiction to allow compensation in view of Sections 12, 14, 18 and 19 of said Act. Section 18 (3) prescribes for liability of promoter to pay compensation to the allottees, if same (promoter) fails to discharge any other obligation imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale. Learned counsel claims that respondent (promoter) failed to discharge its obligation of handing over possession, in agreed time as per terms and conditions of BBA and hence, liable to pay compensation.

18. Respondent filed an appeal against the order of the Authority before the Appellate Tribunal and the Appellate Tribunal disposed of same after some modification.

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 complainant 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 were 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 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. When complainant has already been allowed delayed possession compensation by the Authority for delay in handing over possession of allotted unit, there is no reason to allow separate compensation for same cause of action i.e. delay in delivering of possession. Complaint in hands is thus dismissed.

23. File be consigned to record room.

Announced in open court today i.e. on 05.11.2026.

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

Present: Mr. Sukhbir Yadav, Advocate for complainant.
Mr. Sumesh Malhotra, Advocate for respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.

(Rajender Kumar)
Adjudicating Officer,
05.11.2026