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

Complaint No. :6257-2025
Date of Decision: 11.11.2026

Mohammad Akil Ahmad, resident of Plot No.35, Flat No.401, Zakir Nagar West, New Delhi-110025.

.... **Complainant.**

Versus

M/s Sepset Properties Pvt. Ltd. through its Managing Director and other Directors, registered office at 11th floor, Paras Twin Towers (Tower-B) Sector-54, Golf Course Road, Gurugram, Haryana-122002.

.... **Respondent.**

APPEARANCE

For Complainant: Mr. Gaurav Bhardwaj, Advocate.
For Respondent: Mr. Dhruv Rohatgi, Advocate.

ORDER

This is a complaint filed by Mohammad Akil Ahmad (allottee) under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief "Act of 2016") against M/s Sepset Properties Pvt. Ltd (promoter).

2. Briefly stated, according to complainant on 29.12.2012, he booked a unit in the project namely "Paras Dew's," located at village Daultabad, Sector-106, Gurugram, being developed by the

respondent and paid an amount of Rs.7,50,000/- as booking amount. He (complainant) purchased the said unit from its erstwhile owner Mr. Sudhanshu Malhotra. Subsequent to the said purchase, an endorsement has been made in his (complainant) favour by the respondent and he (complainant) has stepped into the shoes of the previous buyer. That on 10.01.2013, the respondent sent an allotment letter allotting flat No.1805, Tower-C, 18th floor measuring 1760 sq.ft. at a basic price of Rs.5250/- per sq. ft. A Builder Buyer's Agreement (BBA) was executed between the parties on 26.09.2013. Due date of handing over of possession was agreed as 06.09.2017.

3. That he (complainant) took a loan of Rs.30 lakhs from HDFC bank in order to make the payment of total sale consideration of the said unit. A Tripartite Agreement took place among the complainant, respondent and HDFC bank on 20.01.2021. That believing on the respondent representation, he (complainant) kept on making payments as and when demanded by the respondent. He (complainant) paid a total sum of Rs.1,19,42,707/- towards the unit in question against a total sale consideration of Rs.1,07,87,400/-. That despite obtaining Occupation Certificate in respect of the unit in question, physical and lawful possession was not handed over to him (complainant) till August 2021.

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4. That he (complainant) contacted the respondent on several occasions regarding development of the project and the date of delivery. However, no satisfactory answer was received from the respondent. That after the lapse of nearly eight years from the date of execution of the Builder Buyer Agreement 26.09.2013, the respondent issued possession letter in respect of the flat in question on 13.08.2021. When he (complainant) approached the respondent to take physical possession of the flat, the project was found incomplete and unfit for occupation and till December 2022, the respondent failed to make the said project habitable.

5. That the respondent wrongfully and illegally levied and collected maintenance charges for the period from 2019 up to August 2021, even though he (complainant) was neither in possession of the unit nor in a position to use or enjoy the same. That as per buyer's agreement, the respondent proposed to handover the possession of the unit in question within a period of 42 months within an extended period of 6 months i.e. by 09.08.2011. However, the respondent failed to hand over possession in accordance with the said agreement. That the aforesaid arbitrary and unlawful acts on the part of the respondent have resulted into extreme kind of

AO

financial hardship, mental distress, pain and agony to him(complainant).

6. That the complaint filed by the complainant bearing No.4084 of 2023, has been allowed by the Authority vide judgment dated 11.09.2025. The Authority has granted delay possession charges at the prescribed rate of 10.85% per annum on the paid-up amount for every month of delay from 26.09.2017 until 24.03.2019.

7. Contending all this, the complainant has sought following reliefs: -

(i) to direct the respondent to give Rs.25 lakhs as compensation on account of loss/injury as well as mental agony suffered by the complainant; and

ii) to direct the respondent to pay litigation charges to the tune of Rs.1,10,000/-.

8. The respondent contested claim of complainant by filing a written reply. It is averred that it (respondent) duly completed the development of the project and received the occupation certificate of the tower, in which the unit of the complainant was situated, on 15.01.2019. Offer of possession was issued on 24.01.2019 and the possession was taken by the complainant on 13.08.2021. Conveyance Deed of the unit was executed on 13.08.2021.

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9. That the instant complaint is barred by limitation. The complainant has received the offer of possession on 24.10.2019. The present complaint has been filed on 02.12.2025, after a delay of almost seven years from the date of offer of possession and 4 years from the date of handover of possession and execution of the conveyance deed. That pursuant to the pronouncement of the final order dated 11.09.2025, passed by the Authority, it (respondent) and the complainant out of their own accord and on mutually agreed terms and conditions, entered into a settlement agreement dated 24.09.2025. That it (respondent) has not breached any terms of the settlement agreement dated 24.09.2025 and has paid the full and final settlement amount to the complainant. As such, the present complaint is not maintainable.

10. Denying all averments of the complaint, the respondent prayed for dismissal of the instant complaint.

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

12. Admittedly, the complainant had approached the Authority seeking delayed possession compensation (DPC) by filing a complaint no.4084 of 2023. Said complaint was allowed by the

AO

Authority vide order dated 11.09.2025 and the respondent has been directed to pay delay possession charges to the complainant against the paid-up amount at the prescribed rate i.e. 10.85% per annum for every month of delay from the due date of possession i.e.26.09.2017 till the date of offer of possession i.e. 24.01.2019 plus two months i.e. 24.03.2019, apart from some other reliefs.

13. It is submitted 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.

14. 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.**

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15. It is worth mentioning here that the 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.

16. 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 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***

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legislature was to provide Compensation only to those Allottees who exit the project and not to those who tends to stay in the project."

17. 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.

18. When the 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.

19. Apart from delay in handing over possession, the complainant has alleged that the project continued to suffer from serious infrastructural deficiencies with respect to access and connectivity. The Club House, which was one of the key amenities promised by the respondent in the project brochure and Builder Buyer Agreement, has no proper entry or exit, rendering it completely non-functional and unusable. Furthermore, there is no proper road connectivity causing severe inconvenience and safety concerns for residents. The absence of a defined approach road and

AO

accessible entry/exit points constitute a gross deficiency in service and a clear breach of the respondent's obligations under the agreement and the provisions of The Act of 2016.

20. It is contended by learned counsel for the respondent that in his complaint filed before the Authority as referred above, the complainant did not take any plea about deficiencies in service. In this way, claim of complainant cannot be entertained in view of Sections 28&29 of The Haryana Real Estate (Regulation and Development) Rules, 2017 (in brief "Rules of 2017").

21. It is not disputed on behalf of the complainant that the latter did not take plea of these deficiencies in his complaint filed before the Authority. Copy of order of the Authority is on the record. Apparently, the Authority did not mention about any such plea having taken by the complainant. No finding was given in this regard. As per Rule 29(1) of Rules of 2017, any aggrieved person may file an application/complaint with the adjudicating officer for adjudging quantum of compensation....., **where violation by the promoter has been established by the Authority, in an inquiry under section 35 in form CAO or in such form as specified in the regulations.**

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22. When the Authority has not given finding on any such violation by the promotor/respondent, present complaint seeking compensation for violations allegedly done by the respondent (described above), cannot be entertained. On basis of facts discussed above, complaint in hands is thus dismissed.

File be consigned to the record room.

Announced in open Court.
today i.e. **on 11.11.2026.**

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

Present: Mr. Gaurav Bhardwaj, Advocate for the complainant.
Mr. Dhruv Rohatgi, Advocate for the respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.

(Rajender Kumar)
Adjudicating Officer,
11.11.2026