

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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**Appeal No.04 of 2020  
Date of Decision: 18.02.2022**

Naresh Kumar Bansal, H.No.40/8, Chandni Chowk, Old Subzi  
Mandi Kaithal.

Appellant

Versus

M/s Shree Vardhman Township Pvt. Ltd., 301, 3<sup>rd</sup> Floor,  
Inderparkash Building, 21-Barakhamba Road, New Delhi-110001.

Respondent

**CORAM:**

Justice Darshan Singh (Retd),  
Shri Inderjeet Mehta,  
Shri Anil Kumar Gupta,

Chairman  
Member (Judicial)  
Member (Technical)

**Present:** Shri Sanjiv Kumar Aggarwal, Advocate, learned  
counsel for the appellant.

Shri Dharamveer Singh, Advocate, learned counsel  
for the respondent.

[Through video conferencing]

**ORDER:**

**JUSTICE DARSHAN SINGH (RETD.) CHAIRMAN:**

The present appeal has been preferred against the order dated 10.10.2019 passed by the learned Haryana Real Estate Regulatory Authority, Panchkula (hereinafter called 'the Authority'), whereby complaint filed by the appellant was disposed of with the following observations:-

*“5. In view of above discussion, Authority while rejecting the plea of respondent to consider the period during which zoning plan remained pending for correction as force*

*majeure condition, further directs respondent to complete the project within six months and hand over possession of units to complainants, failing which complainants will be at liberty to file fresh complaint for grant of refund. Respondent at the time of sending offer of possession shall also send a statement disclosing all the amounts payable by the complainants towards remaining dues and receivable by them as interest on the already paid amount for delay in handing over possession. Such interest shall be calculated at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+2% from the deemed date of possession till the possession is actually handed over.”*

2. Learned counsel for the appellant has contended that the respondent/builder has not been able to deliver the possession within six months, as ordered by the learned Authority. So, the appellant is entitled for refund of the amount along with interest at the prescribed rate.

3. This prayer of learned counsel for the appellant has been resisted by learned counsel for the respondent on the ground that the learned Authority has not taken into consideration the period spent in correcting the zonal plan etc. while counting the delayed period in delivery of possession.

4. We have duly considered the aforesaid contentions.

5. The learned Authority has rejected the plea of the respondent/builder to consider the period during which the zonal plan remained pending for correction as a condition of force majeure. These observations of the learned Authority have not been

challenged by the respondent/builder as no appeal filed by the respondent/builder against these observations is pending before this Tribunal.

6. Learned Authority had categorically directed the respondent/builder to complete the project within six months and hand over the possession of the unit to the appellant/complainant, failing which, the appellant/complainant will be at liberty to file fresh complaint for grant of refund.

7. We have perused the copy of the complaint filed by the appellant/complainant. The relief sought in the complaint reads as under:-

**“5. COMPENSATION SOUGHT:**

*IN VIEW OF THE FACTS MENTIONED ABOVE, THE COMPLAINANT PRAYS FOR THE FOLLOWING RELIEF:*

*Refund of the payments made as stated in Clause 1 above along with interest @ 18% per annum (interests rate as levied by the respondent) from date of payment till realization.*

*Compensation of Rs.5 lakhs on account of harassment, damages, mental agony etc.*

*Costs of litigation to the tune of Rs.2 lakhs.”*

8. In the complaint filed by the appellant, the appellant has clearly claimed the refund of the payments made along with interest. Thus, as the prayer of refund along with interest is very much there even in the complaint, so the liberty granted by the learned Authority to direct the appellant/complainant to file fresh complaint

for grant of refund will un-necessarily initiate one more round of litigation, which is totally avoidable. Once the respondent/builder has failed to comply with the direction of the learned Authority to hand over possession within six months, the appellant/complainant has become entitled for refund of the amount along with interest at the prescribed rate.

9. Thus, keeping in view our aforesaid discussion, the present appeal is hereby allowed.

10. The respondent/builder is directed to refund the total amount of Rs.32,73,369/- to the appellant/complainant along with prescribed rate of interest as per Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. 9.3% per annum prevailing as on today. The interest shall be calculated from the date the appellant/promoter received the amount till the date of its realization as provided in section 2(za) of the Act.

11. Copy of this order be communicated to learned counsel for the parties/parties and the learned Authority for compliance.

12. File be consigned to the record.

Announced:  
February 18, 2022

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)