

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.299 of 2020
Date of Decision: 15.03.2022

Emaar MGF Land Limited, Registered Office: 306-308, Square one,
C-2 District Centre, Saket, New Delhi-110017.

2nd Address:

Corporate Office Emaar Business Park, MG Road, Sikanderpur,
Sector 28, Gurugram-122002, Haryana.

Appellant

Versus

1. Vinay Naik, W-188, Regancy Park-II, DLF City, Phase 4,
Gurugram (Haryana).
2. Prachi Naik, W-188, Regancy Park-II, DLF City, Phase 4,
Gurugram (Haryana).

Respondents

CORAM:

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

Chairman
Member (Judicial)
Member (Technical)

Argued by: Shri Shekhar Verma, Advocate, Ld. counsel for
appellant.

Shri Tushar Bahmani, Advocate, Ld. counsel for
respondents.

[The aforesaid presence recorded through video
conferencing]

ORDER:

Anil Kumar Gupta, Member (Technical):

This appeal has been preferred by the appellant/promoter
against the order dated 04.02.2020 passed by the Ld. Haryana Real

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Estate Regulatory Authority, Gurugram (hereinafter called 'the Authority'), whereby complaint No.3534 of 2019 filed by the respondents-allottees was disposed of by issuing the following directions: -

- "i. The respondent is directed to pay the interest at the prescribed rate i.e. 10.20% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e. 07.03.2014 till the offer of possession i.e. 22.07.2019. The arrears of interest accrued so far shall be paid to the complainants within 90 days from the date of this order.*
- ii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.*
- iii. The respondent shall not charge anything from the complainants which is not part of the buyer's agreement.*
- iv. Interest on the due payments from the complainants shall be charged at the prescribed rate @10.20% by the promoter which is the same as is being granted to the complainants in case of delayed possession charges."*

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2. As per averments in the complaint filed by the respondents-allottees, they were allotted Unit No.EHF-214-J-GF-065 Ground Floor, Block/Building No.JEMMA, Emerald Floors at Emerald Hills, Sector-65, Gurugram for a total sale consideration of Rs.61,17,554/. A 'Buyer's Agreement' (hereinafter called 'the agreement') was executed between the parties on 07.06.2011. The payment plan was Construction Linked Payment Plan. The respondents-allottees have paid a total sum of Rs.65,15,314/-. As per the terms and conditions of the Agreement, the possession of the unit was to be delivered on or before 07.03.2014, which includes six months grace period. It was further pleaded that due to factual circumstances at the site of the said project, the construction work had started after much delay and that the project of the appellant was not complete at the time of filing the complaint and the appellant miserably failed to handover the actual possession of the apartment in dispute till the date of filing of the complaint. The following relief was sought in the complaint filed before the Ld. Authority :-

“(a) That this Hon’ble Authority may kindly be pleased to direct the respondent to pay delayed possession charges on the entire amount of sale consideration deposited till date with them to the complainants i.e. on Rs.65,15,314/- @ 24% interest rate from the date of handing over of the actual physical possession agreed as per the Buyer’s Agreement i.e. on

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07.03.2011 till actual handing over of physical possession of the unit in dispute after deducting the compensation credited into the statement of accounts of the unit in dispute.

(b) That this Hon'ble Authority may kindly be pleased to direct the respondent to handover the actual physical possession of the unit in dispute along with payment of delayed possession charges."

(c) That this Hon'ble Authority restrict the Respondent from charging any kind of holding charges during the pendency of the present Complaint."

3. The appellant contested the complaint on the grounds *inter alia* that the complaint pertaining to refund, compensation and interest are to be decided by the Adjudicating Officer under Section 71 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred, 'the Act') read with Rule 29 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred, the Rules) and not by the Authority. It was further pleaded that Mr. Rajesh Kumar Srivastava and Mrs. Madhu Srivastava (hereinafter referred, 'original allottees') had approached the appellant sometimes in the year 2009 for purchase of a unit in its project. The original allottees in pursuance of the application form dated 08.06.2009 were allotted an independent unit bearing

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No.EHF-214-J-GF-065 located on ground floor in the project vide allotment letter dated 11.07.2009.

4. It was further pleaded that right from the beginning, the original allottees defaulted in payment of instalments. They were irregular regarding the remittance of instalments on time and, therefore, the appellant-promoter was compelled to issue demand notices, reminders etc. calling upon the original allottees to make the payment of outstanding amounts payable under the payment plan opted by them. Thereafter, the respondents-allottees approached the original allottees for purchasing their rights and title of the unit in question. The original allottees acceded to the request of the respondents-allottees and agreed to transfer and convey their rights, entitlement and title of the unit in question to the respondents-allottees for a value of sale consideration of Rs.56,97,800/-. The agreement to sell was executed between the original allottees on 17.07.2011. The complainants executed an affidavit and indemnity-cum-undertaking dated 19.07.2013 whereby the complainants had consciously and voluntarily declared and affirmed that they would be bound by all the terms and conditions of the provisional allotment in favour of the original allottees. The respondents-allottees stepped into the shoes of the original allottees and, therefore, all the rights and liabilities of the original allottees were transferred to the respondents-allottees. Further it was contended that as per Clause 13(b)(v), in the event of any default or delay in payment of instalments, as per the schedule of payment

incorporated in the Agreement, the date of delivery of possession shall be extended.

5. All other pleas raised in the complaint were controverted and it was pleaded that the respondents-allottees were not entitled for any relief in the facts and circumstances of the case and thus prayed for dismissal of the complaint.

6. After hearing Ld. counsel for both the parties and appreciating the material on record, the Ld. Authority disposed of the complaint filed by the respondents-allottees vide impugned order dated 04.02.2020 issuing directions already reproduced in the upper part of this order.

7. We have heard Ld. counsel for the parties and have meticulously examined the record of the case.

8. Both the parties have filed their written arguments/submissions.

9. Initiating the arguments, Shri Shekhar Verma, Ld. counsel for the appellant contended that at the time of filing of the main appeal, the amount of Rs.36,10,069/- has been deposited by the appellant in compliance of the provisions of proviso to Section 43(5) of the Act. He further contended that an amount of Rs.15,43,899/- has been paid in excess. The justification of excess amount was submitted in the tabular form in the written arguments which is as under:-

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SN	Particulars/Head	Amount
1.	Total Amount received from the Allottee:	Rs.57,37,933.00
2.	EDC/IDC Component	Rs.2,16,931.00
3.	GST/Service Tax	Rs.1,99,404.00
4.	HVAT Amount	Rs.56,836.00
5.	Net Amount received by the Appellant Less statutory dues passed on to the statutory authorities. (1-(2+3+4)	Rs.51,49,151.00
6.	Total delayed period possession interest calculated on Rs.51,49,151.00 @ 9.3% per annum.	Rs.28,25,476.00
7.	Less the compensation already credited in the Account of the Customer as reflected in the Final Statement of Account against Entry No.43 (Page No.152 of the paper-book).	Rs.7,59,306.00
8.	Net Delay compensation	Rs.20,66,170.00
9.	Amt. deposited in compliance of Rule 43(5)	Rs.36,10,069.00
10.	Amount paid in excess (9-8)	Rs.15,43,899.00

10. He further contended that the impugned order at Page No.32 of the paper-book records that the appellant has received Rs.65,15,314/-, whereas, the actual amount received by the

appellant is Rs.57,37,933/- and the differential amount is actually Early Payment Rebate (EPR) and benefits including compensation credited in the account. The amounts under the said Heads, have not been paid by the allottees.

11. He further contended that in the present case, possession has been accepted by the respondents-allottees and, as such, they cannot claim any delayed period possession interest on the statutory dues/charges, which have been passed on to the Statutory Authorities. He further contended that deposit of the aforesaid statutory dues with the Statutory Authorities cannot be questioned, inasmuch as, occupation certificate has been issued by the competent authority and the same is not issued unless government/statutory dues are paid. The onus is upon the allottees to rebut this presumption and on record it is not even his suggested case that these dues have not been paid/forwarded to the Statutory Authority. Further, the project is registered with HRERA, Gurugram vide Memo No.H-RERA-612/2017/816 dated 29.08.2017 and status of statutory dues can also be confirmed from the Ld. Authority. He further contended that the aforesaid statutory dues are attached to the apartment and since the present case is not a case of refund, the aforesaid dues having not been retained by the appellant cannot be counted towards the calculation of alleged delayed period possession interest.

12. He further contended that the possession of the unit had been offered on 22.07.2019 and the present complaint has been filed on 26.08.2019 and therefore, the appellant is entitled to charging of holding charges and CAM charges etc. from the date of offer of possession which is in consonance with the direction of the Authority.

13. He further contended that the provisions of Act nowhere explain or provide for the mode and manner for offering possession by a promoter or acceptance of possession by an allottee. The appellant contended that Clause 4.10(2) of Haryana Building Code, 2017 (hereinafter referred, 'the Code') also provides that no owner shall occupy or allow any other person to occupy new building or part of a new building or any portion whatsoever until such building or part thereof has been certified by the competent authority having been completed in accordance with the permission granted and an occupation certificate has been issued in accordance with law.

14. He further contended that the occupation certificate issued in the aforesaid terms, presumption in law would be that the appellant is in a position to offer valid possession to an allottee and an offer of possession after obtaining the occupation certificate would satisfy the mandate of proviso to Section 18(1) of the Act.

15. He further contended that as per Clause 7.1 of the Model Agreement for sale attached to the Rules as Annexure 'A' would also support the opinion of the appellant that if the promoter assures to

handover the possession, as per the agreed terms and conditions and further, Clause 7.2 (A) & (B) of the Model Agreement for sale provides that upon receipt of statutory permission/occupation certificate possession is just to be offered to an allottee and in case, there is failure on the part of the allottee to accept possession after receiving intimation of offer of possession, he shall be liable to pay maintenance charges and holding charges.

16. He further contended that the appellant is entitled to levy holding charges @ Rs 10/- per square feet of the super area in terms of the Clause 16 of the Agreement at Page 104 of the paper-book. He further contended that the aforesaid charges shall be recovered by the appellant from the respondents-allottees from the date of offer of possession and these amounts will be adjusted at the time of final calculation before execution of conveyance deed as these charges are recurring in nature. The respondents-allottees have accepted the order and the direction passed therein by the Ld. Authority.

17. He further contended that the time of delivery of possession was never the essence of the contract. He also referred to Clause 13 of the Agreement reproduced at para Nos.101-102 of the paper-book. He contended that there is no delay in offer of possession and Ld. Authority has wrongly inferred that the time was the essence of the contract. He further contended that the respondents-allottees continued to pay sale consideration and other charges till 04.12.2013 and as the parties clearly understood that

the payment plan is construction linked. The claim of the respondents-allottees that due date of possession was 07.03.2014 is an erroneous assumption in law and the view taken by the Ld. Authority in this regard is absolutely illegal. In fact, on record what had been agreed between parties was that only timely payment shall be the essence of the contract.

18. He further contended that it is only in the case of time linked payment plan, as plea as regards “time is the essence of the contract” is available and that, too, when the entire payment is made within the agreed time frame.

19. He further contended that as per various provisions of the Act, the Ld. Authority did not have the jurisdiction to adjudicate and decide the complaint. Further, the interpretation of the Rules is still pending before the Hon’ble Supreme Court of India. He further contended that while rendering judgment in **M/s Newtech Promoters and Developers Pvt. Ltd. v. State of UP & others 2021 SCC Online SC 1044**, the Hon’ble Supreme Court had no occasion to deal with Section 31 in the context of Rules 28 & 29 of the Rules.

20. With these pleas, he contended that the appeal may be accepted and the complaint filed by the respondents-allottees be dismissed being bad in the eyes of law.

21. Per contra, Ld. counsel for the respondents-allottees has defended the impugned order on the ground that as per Clause 13(i)

of the said Buyer's Agreement, the time of delivery of possession of the booked independent floor/Unit was mentioned within 27+6 months from the date of execution of Buyer's Agreement which was 07.06.2011. Therefore, as per the Clause 13(i) the actual date of delivery of possession of the booked independent floor/Unit was 07.03.2014. But the appellant deliberately failed to insert possession date in the Buyer's Agreement and only mentioned that the possession will be delivered within 27 months from the date of execution of the Agreement with 6 months of grace period.

22. He contended that the appellant had obtained substantial amount of the total sale considerations from the respondents-allottees but till date the possession has still not been handed over to respondents-allottees. He further contended that said amount paid by respondents-allottees has been unconditionally accepted and acknowledged by the appellant in letter of offer of possession dated 22.07.2019 and therefore *Doctrine of Estoppel* comes in play.

23. He further contended that the Buyer's Agreement was signed on 07.06.2011. The basic sale consideration was Rs.56,97,800/- which was exclusive of the charges towards the exclusive/dedicated car parking space, EDC, IDC and includes applicable PLC, if any, the appellant is holding and withholding the amount paid by the respondents-allottees for considerable long period, that, too, without interest.

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24. The Ld. counsel of the respondents-allottees very fairly conceded that an amount of Rs.7,59,306/- has been credited in the Account of the respondents-allottees in the Final Statement of Account. He further contended that the Clause 15(a) of the Buyer's Agreement dated 07.06.2011 specifies that in the event of the appellant fails to deliver the possession of the Unit to the respondents-allottees within the stipulated time period and as per the terms and conditions of the Buyer's Agreement, then the appellant shall pay to the respondents-allottees, compensation at the rate of Rs.10/- per sq. ft. per month of the super area of the Unit (3400 Sq. ft.) till the date of notice of possession under the provision of clause 14(a) which is procedure for taking the possession of the Apartment. He contended that though the notice of possession was issued by the appellant on 22.07.2019, the document itself is conditional and thereby bad in law by way of the said notice of possession, followed by actual possession, amounts to releasing and relinquishing the various rights of respondents-allottees such as the right to get delayed charges, from valid notice of possession and other rights, provided in agreement dated 07.06.2011 and also rights provided under the Act.

25. He further contended that as per the Agreement dated 07.06.2011, the appellant was required to offer and hand over the actual physical possession of the mentioned Unit No. EHF-214-J-GF-065 on or before 07.03.2014 which includes the additional 6 months grace period. But due to the factual circumstances at the

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site of the said project, the construction work has started after much delay and that the project of the Appellant is yet to be completed and the Appellant had miserably failed to hand over the actual physical possession of the Apartment in dispute till date.

26. He further contended that the respondents-allottees were not handed over the possession of the unit booked as per the terms and conditions of the Buyer's Agreement and the respondents preferred the complaint before HRERA, Gurugram seeking rightful possession of the unit along with the charges on delayed possession. He contended that the Complaint was rightfully adjudicated by the Ld. Authority, Gurugram and grant of interest on delayed possession vide impugned order is correct.

27. He further contended that the appellant has wrongly calculated interest of delayed possession @ 9.3% per annum in the written submissions whereas as per impugned order interest @ 10.20% per annum for every month of delay has been granted. He further contended that the entire calculations on corresponding para 2 of the written submissions of the appellant are wrong and misleading. The date of offer of possession and the percentage i.e 10.20% per annum and time frame have been rightly observed by the appellant.

28. He further contended that the appellant has filed the appeal only to delay the execution of the impugned order and has deliberately misused the process of law. The appellant is liable to

pay interest further commencing from 05.05.2020 (completion of 90 days from Order) as mandated by Ld. Authority, Gurugram.

29. He further contended that the appellant cannot take advantage of its own wrongs and delays. The respondents are being deprived of peaceful possession and rightful charges on delayed possession as per impugned order. The respondents-allottees are also liable to get hardship charges, as they are paying average rent Rs.42,000/- from March, 2014 as they have not received desired possession, as promised by the Appellant.

30. With these above prayers, he contended that the impugned order passed by the Ld. Authority is perfectly legal and valid and prayed for dismissal of the present appeal.

31. We have duly considered the aforesaid contentions. Ld. counsel for the appellant has challenged the impugned order on the ground of jurisdiction and contended that the Ld. Authority did not have the jurisdiction to adjudicate and decide the complaint filed by the respondents-allottees. The respondents-allottees had sought possession of the unit along with delayed possession charges. The Hon'ble Apex Court in **M/s Newtech Promoters' (supra)** has laid down as under:-

“86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like ‘refund’,

‘interest’, ‘penalty’ and ‘compensation’, a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016.”

32. The aforesaid findings of the Hon’ble Apex Court are a complete answer to the contentions raised by Ld. counsel for the appellant. The Hon’ble Apex Court has categorically laid down that it is the regulatory authority which has power to examine and determine the outcome of a complaint with respect to refund and interest.

33. In view of the aforesaid authoritative pronouncement of the Hon'ble Apex Court, we cannot find any fault with the jurisdiction exercised by the Ld. Authority.

34. Regarding the contention of the Ld. counsel for the appellant that the interpretation of the Rules is still pending before the Hon'ble Supreme Court of India and the Apex Court had no occasion to deal with the Section 31 in context of Rules 28 and 29 of the Rules, it is suffice to say that the aforesaid contention stood settled by the Division Bench of Hon'ble Punjab and Haryana High Court in "**Ramprastha Promoter and Developers Pvt. Ltd. Versus Union of India and others Law Finder Doc Id#1936807**". The relevant paras of the above said judgment reads as under:-

"23) The Supreme Court has already decided on the issue pertaining to the competence/power of the Authority to direct refund of the amount, interest on the refund amount and/or directing payment of interest for delayed delivery of possession or penalty and interest thereupon being within the jurisdiction of the Authority under Section 31 of the 2016 Act. Hence any provision to the contrary under the Rules would be inconsequential. The Supreme Court having ruled on the competence of the Authority and maintainability of the complaint before the Authority under Section 31 of the Act, there is, thus, no occasion

to enter into the scope of submission of the complaint under Rule 28 and/or Rule 29 of the Rules of 2017.

24) *The substantive provision of the Act having been interpreted by the Supreme Court, the Rules have to be in tandem with the substantive Act.*

25) *In light of the pronouncement of the Supreme Court in the matter of M/s Newtech Promoters (supra), the submission of the petitioner to await outcome of the SLP filed against the judgment in CWP No.38144 of 2018, passed by this Court, fails to impress upon us. The counsel representing the parties very fairly concede that the issue in question has already been decided by the Supreme Court. The prayer made in the complaint as extracted in the impugned orders by the Real Estate Regulatory Authority fall within the relief pertaining to refund of the amount; interest on the refund amount, or directing payment of interest for delayed delivery of possession. The power of adjudication and determination for the said relief is conferred upon the Regulatory Authority itself and not upon the Adjudicating Officer.*

26) *Hence, in view of the authoritative pronouncement of the Supreme Court in the matter of **M/s NewTech Promoters and Developers Private Limited Vs. State of UP And Others etc.**, as recorded in Para 86*

thereof, the Authority would have the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount as well as for payment of interest on delayed delivery of possession and/or penalty and interest thereon. The jurisdiction in such matters would not be with the Adjudicating Officer.”

35. Thus, with the aforesaid findings of the Hon'ble High Court of Punjab and Haryana the pendency of the Haryana matters will not affect the powers of the Ld. Authority to deal with the complaint of possession of unit along with interest on account of delayed delivery of possession.

36. Ld. counsel for the appellant has also contended that the appellant/promoter cannot be burdened with interest on the amount of external development charges and Goods & Service Tax and GST/VAT etc. This plea raised by Ld. counsel for the appellant deserves outright rejection on the ground that no such plea has been taken by the appellant either in the reply to the complaint or in the grounds of appeal. Moreover, there is no material on record to show as to how demand for external development charges was raised by the government, how much development charges were actually deposited by the appellant, when the said amount of external development charges was collected from the respondents-allottees and when the said amount was further deposited with the government. Similar is the position with respect to the VAT/Goods

and Service Tax. Furthermore, if the project would have been completed within the stipulated period as per the terms and conditions of the agreement, there was no question of imposition of GST as the GST was levied w.e.f. 01.07.2017.

37. Ld. counsel for the appellant has also contended that the valid offer of possession of the unit was made on 22.07.2019 and the present complaint has been filed on 26.08.2019, therefore, the appellant is entitled to charging of holding charges and CAM charges etc. from the date of offer of possession and this is in consonance with the direction of Ld. Authority. Whereas, the Ld. counsel of the respondents-allottees contended that though the respondents-allottees have made substantial amount of the total sale consideration as demanded by the appellant, the actual possession has still not handed over to them. The offer of possession dated 22.07.2019 is not a valid offer of possession as it is loaded with illegal demands. This matter has not been adjudicated by the Ld. Authority as no such pleas have been taken by the appellant either in reply to the complaint or in grounds of appeal. However, in the relief sought in this appeal, the appellant has prayed that respondents-allottees be directed to take possession on payment of all dues as per the statement of accounts including delayed payment charges and holding charges, maintenance charges, etc. accrued till date of taking over possession.

Regarding holding charges, the Hon'ble National Consumer Disputes Redressal Commission, New Delhi (for short,

‘NCDRC’) in Consumer Case No.351 of 2015, **Capital Greens Flat Buyer Associations and others vs. DLF Universal Ltd. and another** has held as under:

“As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. Therefore, the holding charges will not be payable to the developer. Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, the developer shall not be entitled to any holding charges through it would be entitled to interest for the period the payment is delayed.”

The Hon’ble Supreme Court of India in Civil Appeal Nos.3864-3889 of 2020 titled as **“DLF Home Developers Ltd. (Earlier Known as DLF Universal Ltd) and another vs. Capital Greens Flat Buyers Association Etc. Etc.”** has upheld that above said findings regarding holding charges of the Hon’ble NCDRC.

In view of the above the appellant is not entitled to any holding charges. However, the appellant is allowed to charge maintenance charges in accordance with provisions in the agreement and as per law. In case of any dispute regarding maintenance charges, either party is at liberty to claim relief by filing a fresh complaint.

38. Ld. counsel for the appellant contended that the impugned order at Page No.32 of the paper-book records that the appellant has received Rs.65,15,314/-, whereas, the actual amount received by the appellant is less as an amount of Rs.7,59,306/- stood credited to the account of the respondents-allottees as compensation for delay in possession of the unit and this amount of Rs.7,59,306/- also stood mentioned in the final statement of account against Entry No.43 mentioned at Page No.152 of the paper-book. This fact that an amount of Rs.7,59,306/- stood credited to the respondents-allottees as compensation for delay in handing over the possession has been very fairly admitted by the Ld. counsel for the respondents-allottees. The delayed possession interest is not payable on compensation already credited in the account of the respondent-allottee. This plea of the appellant is correct and logical. Therefore, in view of the aforesaid discussions, it is held that the appellant is liable to pay the interest as delayed possession charges on the amount i.e. (Rs.65,15,314/- minus Rs.7,59,306/ = (Rs.57,56,008/-) paid by the respondents-allottees from the due date of possession i.e. 07.03.2014 up to the date of offer of possession i.e. 22.07.2019.

39. Thus, keeping in view our aforesaid discussion, the appeal filed by the appellant is partly allowed as per the above said observations and the impugned order of Authority is modified to the extent that the appellant shall pay the delayed possession interest @ 10.20% per annum on the amount of Rs.57,56,008/- to

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respondents-allottees from the due date of possession i.e. 07.03.2014 upto the date of offer of possession i.e. 22.07.2019. The interest on the amount, if any, which has been paid after due date of possession i.e. 07.03.2014 shall be payable from the date on which the amount has been paid till the date of offer of possession i.e. 22.07.2019.

40. The amount deposited by the appellant/promoter i.e. Rs.36,10,069/- with this Tribunal, along with accrued interest, in order to comply with the provisions of Section 43(5) of the Act be remitted to the Ld. Haryana Real Estate Regulatory Authority, Gurugram for disbursement to the respondents/allottees in accordance with law and Rules. The balance, if any, may be disbursed to the appellant as per law.

41. The copy of this order be communicated to parties/Ld. counsel for the parties and the Ld. Authority for compliance.

42. File be consigned to the records.

Announced:
March 15th, 2022

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

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

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Present: None.

Vide our separate detailed order of the even date, the appeal is partly allowed as per the observations made in our separate detailed order and the impugned order of the Ld. Authority is modified to the extent that the appellant shall pay the delayed possession interest @ 10.20% per annum on the amount of Rs.57,56,008/- to respondents-allottees from the due date of possession i.e. 07.03.2014 upto the date of offer of possession i.e. 22.07.2019. The interest on the amount, if any, which has been paid after due date of possession i.e. 07.03.2014 shall be payable from the date on which the amount has been paid till the date of offer of possession i.e. 22.07.2019.

Copy of the detailed order be communicated to the parties/learned counsel for the parties and the learned Haryana Real Estate Regulatory Authority, Gurugram.

File be consigned to the records.

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

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

15.03.2022
Manoj Rana