

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB  
SCO No. 95-98, Bank Square, P.F.C Building, Sector-17-B, Chandigarh

Subject: -

**APPEAL NO. 77 of 2023**

Mr. Pawan Kumar Verma, r/o 1<sup>st</sup> address Flat No.702, Block-D3, Maya Garden City, Zirkapur, District Sahibzada Ajit Singh Nagar (Mohali), Punjab.

2<sup>nd</sup> Address: # 37, Near Darshan Cold Drinks, Lamba Pind Road, Upkar Nagar, New Colony, Jalandhar-1.

...Appellant

Versus

1. Chandigarh Citi Centre Developers, O/o Village Bishanpura, VIP Road, Zirkapur, District Mohali, Punjab-140603.
2. Pankaj Gupta c/o Chandigarh City Centre Developers, Village Bishanpura, VIP Road, Zirkapur, District Mohali, Punjab-140603
3. Federal Bank, Hitpriya Square, Sahibzada Ajit Singh Nagar, Mohali, Punjab.

....Respondents

Memo No. R.E.A.T./2024/ 328

To,

REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1<sup>ST</sup> FLOOR,  
BLOCK B, PLOT NO.3, MADHYA MARG, SECTOR-18,  
CHANDIGARH-160018.

Whereas appeal titled and numbered as above was filed before the Real Estate Appellate Tribunal, Punjab. As required by Section 44 (4) of the Real Estate (Regulation and Development) Act, 2016, a certified copy of the order passed in aforesaid appeal is being forwarded to you and the same may be uploaded on website.

Given under my hand and the seal of the Hon'ble Tribunal this  
14<sup>th</sup> day of August, 2024.

*Dhanendra Kumar*  
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



**BEFORE THE HON'BLE REAL ESTATE APPELLATE TRIBUNAL,  
PUNJAB, AT CHANDIGARH**

APPEAL NO. 77 OF 2023

(Arising out of Complaint No. ADC NO. 00292022TR-AUTH02172022

[Date of decision: 08.08.2023]

[RECEIVED ON: 14.09.2023]

**MEMO OF PARTIES**

Mr. Pawan Kumar Verma r/o 1<sup>st</sup> address Flat no. 702 Block - D3, Maya Garden City Zirakpur, District Sahibzada Ajit Singh Nagar, Mohali, Punjab.

2<sup>nd</sup> address #37, near Darshan Cold Drinks Lamba Pind Road, Upkar Nagar, new Colony Jalandhar-1.

**Versus**

1. Chandigarh Citi Center Developers, O/O Village Bishanpura VIP Road, Zirakpur, District Mohali, Punjab - 140603.
2. Pankaj Gupta c/o Chandigarh Citi Center Developers, Village Bishanpura VIP Road, Zirakpur, District Mohali, Punjab - 140603.
3. Federal Bank r/o Hitpriya Square, Sahibzada Ajit Singh Nagar (Mohali), Punjab.



PLACE: CHANDIGARH

DATE: 30/11/2023

[ARIF QURESHI]

P-2740/2012

**ADVOCATES COUNSEL FOR THE APPELLANT**

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Email ID: ARIFQURESHI40@GMAIL.COM

**THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH**

**APPEAL NO. 77 of 2023**

Pawan Kumar Verma, Flat No.702, Block-D3, Maya Garden City,  
Zirkapur, District Sahib Zada Ajit Singh Nagar (Mohali), Punjab, Pin  
Code 140603

2<sup>nd</sup> Address:

# 37, Near Darshan Cold Drinks, Lamba Pind Road, Upkar Nagar, New  
Colony, Jalandhar-1

...Appellant

Versus

1. Citi Centre Developers, through its Director/partner, Chandigarh Citi  
Centre, Village Bishanpura, VIP Road, Zirkapur, District Sahibzada Ajit  
Singh Nagar, Mohali, Punjab Pin Code 140603
2. Pankaj Gupta, Chandigarh City Centre, Village Bishanpura, VIP Road,  
Zirkapur, District Sahibzada Ajit Singh Nagar, Mohali, Punjab Pin Code  
140603
3. Federal Bank, Hitpriya Square, Patiala Road, Zirakpur, District  
Sahibzada Ajit Singh Nagar, Mohali, Punjab Pin code 140603

....Respondent

\*\*\*

**Present: -** Mr. Arif Qureshi, Advocate for the appellant.  
Mr. Mohammad Sartaj Khan, along with Adv. Divya Jyoti, Adv.  
Mukim Ahmed, Adv. Ravneet Kaur, Advocate for Respondent  
No.1

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**QUORUM: SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.), MEMBER  
(JUDICIAL)  
DR. SIMMI GUPTA, IRS (IT), CHIEF COMMISSIONER OF  
INCOME TAX (RETD.)**

**JUDGMENT: DR. SIMMI GUPTA, IRS (IT), CHIEF  
COMMISSIONER OF INCOME TAX (RETD.) (ORAL)**



**ISSUE IN DEFAULT**

1. The contentious issue in this case is the date on which the possession was handed over by the Developer to the purchaser. The issue is whether the possession was actually handed over on 07.11.2019. The alleged date i.e. 07.11.2019 is as per the accompanying documents showing claim of offer of possession, which are signed by the complainant and mention that the keys of the unit have been handed over and the attached affidavit-cum-declaration, stating that the complainant has received clear vacant and undisputed possession of the property, in accordance with commitment and representations. The issue thus is whether on the basis of these documents the actual date of handing over is 07.11.2019 or not.

**ARGUMENTS OF THE APPELLANT**

1. Only documentary possession was handed over on 07.11.2019 and actual physical possession was still with the developer.
2. Annexure C8, is a mail dated 16.08.2021 from the Developer to the Appellant stating that the unit in contention i.e. INSTA Office IO-83, 13<sup>th</sup> Floor, Block D&E, Chandigarh City Centre, Village Bishanpura, VIP Road, Zirakpur, District Mohali, Punjab, shall be ready for possession by 30.10.2021. Thus, the mail shows that the actual physical possession of the unit was still with the developer and had not been handed over to the appellant on 07.11.2019.
3. Enclosure-D, placed at Page No.149 to 151 of the Appeal, which states that the key has been handed over along with the physical possession and fitting and fixtures in perfect condition and has been taken over by the Appellant. These documents are dated 03.11.2023. This shows that the possession has been actually handed over on 03.11.2023.
4. Page No. 150-151 of the Appeal are photographs showing the handing over of the keys of the Unit on 03.11.2023 and are annexed to the key hand over letter.



5. On the basis of the above, the counsel of the appellant has argued that the photographs shows that the actual date of handing over is 03.11.2023. The order of the RERA, Punjab along with interest upto 07.11.2019 therefore, needs to be partly set aside and interest be allowed till the actual date of possession i.e. 03.11.2023.

**ARGUMENTS OF THE RESPONDENT**

1. The Respondent has relied upon the original handing over offer of possession along with the affidavit and stating that the actual physical possession was given on 07.11.2019. The Respondent has also relied upon the decision of the Authority as per which the only thing missing in the possession handed over on 07.11.2019 were the furnishings which were handed over by the Respondent No.1, at a later date.

**DECISION**

1. The respondent has been unable to explain the photographs placed at Page No.150-151, which clearly shows the handing over of the keys of the alleged unit on 03.11.2023. Further, the mail of the Developer does not in any way shows that only the furniture's and the fixtures were yet to be handed over and the actual physical possession had already been given on 07.11.2019. The respondent has also not brought out any evidence to support his argument that the unit had already been handed over on 07.11.2019. He has been unable to explain why the mail mentions that the unit would be ready for possession on 20.10.2021 if it had already been handed over. The claim of the Respondent that the mail was for handing over the furniture and fixture is not supported in any way, by the language of the mail or by any document. On the other hand the claim of the appellant is supported by "key hand over letter" dated 03.11.2023, the photographs showing handing over of the keys and the mail dated 16.08.2021 sent by the Developer to the Appellant stating that the unit could be ready for possession by 20.10.2021.



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2. Keeping in view, this irrefutable evidence in favour of the Appellant showing actual physical handing over on 03.11.2023, the date of handing over is to be taken as 03.11.2023 and not as 07.11.2019 stated by the promoter and decided by RERA Authority. Therefore, the Respondent No.1 is directed to pay interest upto the actual date of handing over i.e. 03.11.2023, as per State Bank of India marginal cost of lending rate plus 2% in view of the provision of Section 18(1) read with the Rule 16 of the Rules with effect from 31.12.2018 to 07.11.2019. The amount is to be paid within 90 days from the date of this order.
3. Having regard to the facts referred above, the appeal is accepted and the impugned order dated 08.08.2023, decided by the Authority is amended to the above extent. Rest is confirmed.



*Sd/-*  
**S.K. GARG, D & S. JUDGE (RETD.)**  
**MEMBER (JUDICIAL)**

*Sd/-*  
**DR. SIMMI GUPTA, IRS (IT)**  
**CHIEF COMMISSIONER OF INCOME TAX (RETD.)**  
**MEMBER (TECH./ADMN.)**

**Certified To Be True Copy**

*Shananda Kaur*  
Registrar  
State Appellate Tribunal Punjab  
*Shananda Kaur*  
14/8/2024

August 8, 2024  
SR