

**BEFORE SH.R.S.RAI, ADJUDICATING OFFICER, THE
REAL ESTATE REGULATORY AUTHORITY, PUNJAB
PLOT NO.3, BLOCK-B, FIRST FLOOR, SECTOR 18A,
MADHYA MARG, CHANDIGARH.**

Complaint No.RERA/AdCNo.0062 OF 2021UR

Date of Institution:09.04.2021

Date of Decision:24.09.2025

1. Aman Sethi, Resident of Flat No.2, Type-3, Tower-1, CIAB-NABI Campus, Sector-81, Sahibzada Ajit Singh Nagar (Mohali), Punjab. Pin Code 140306
2. Rakesh Kumari, Resident of Flat No.5 Akali Market, Desumajra, Sector 125, Kharar, Sahibzada Ajit Singh Nagar (Mohali), Punjab. Pin Code 140301

.....Complainants

Versus

M/s Dara Buildtech & Developers Ltd, SCO 3&4, Surya Enclave, Adj. Yes Bank, Kharar Landran Road, Sector-115, Mohali, Sahibzada Ajit Singh Nagar (Mohali), Punjab, Pin Code 140301.

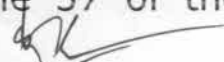
.....Respondent

Complaint under Section 31 of the Real Estate (Regulation and Development) Act 2016.

Present: Mr.Aman Sethi complainant in person.
Ms.Manju Goyal Advocate representative for the respondent.

ORDER

The present complaint had been filed by complainants under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) read with Rule 37 of the Punjab




State Real Estate (Regulation and Development) Rules, 2017, (hereinafter called as the Rules) seeking refund, interest and compensation etc. against the respondent/promoter M/s Dara Buildtech & Developers Pvt. Ltd.

2. Brief facts as pleaded in the complaint, are that complainants Aman Sethi and his mother Mrs. Rakesh Kumari had applied for a 2 BHK Flat at Dara Affordable Homes, Khunimajra, Sector-115, Mohali promoted by M/s Dara Buildtech & Developers Limited (CIN No. U45209CH2014LC03511, PAN-AAFCC7279R) having registered & corporate office SCO 3&4, Surya Enclave Adj. Yes Bank, Kharar Landran road, Sector-115, Mohali, represented by its authorized signatory Rahul Mehra (Aadhar No. 827063595115). It is averred that an amount of Rs.5,92,000/- was paid to the builder/ promoter for purchase of said 2BHK Flat. Accordingly, an agreement for sale to this effect was signed between them on 05.06.2018, at sale consideration of Rs.12,85,000/-. Allotment Letter No.DAH/06/B/006 dated 18.06.2018 for the same was issued to them. After that, the builder requested the complainants to proceed for bank loan and accordingly a tripartite agreement was signed between complainants, Dara Buildtech & Developers Limited, and Housing Development Finance Corporation (HDFC) Limited for

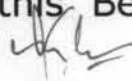


disbursement of balance amount of Rs.6,93,000/- as loan out of the total sale consideration. The builder repeatedly called for disbursement of loan. Since there was no progress on the site and complainants had already paid approximate 45% of the sale price, so they did not get the loan disbursed. As on date, status quo has been maintained at the site and from the nearby people, it has also been heard that the land is under litigation. It is further submitted that as per clause 7 of the agreement for sale, it has been stated that the promoter would hand over possession of the apartment on or before fifteen months from the date of signing of the agreement i.e. upto 04.09.2019. Further, it is submitted that more than twenty months have elapsed from the said date, but no communication for possession has been received from the builder. It is also submitted that the following provisions of the RERA Act, Rules & Regulations have been violated by M/s Dara Buildtech & Developers Limited, (i) as per Section 3 of Chapter II of THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016, the promoter has failed to get the project registered with the authority before advertising, booking of the flats in the said project.(ii) The builder/promoter has failed to complete or give possession of the flat booked and as per Section 18 of the Act, 2016, the respondent is liable to return the amount received by him in



respect of the flat booked, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under the Act. It is also stated that complainant is living in a rented accommodation in Mohali paying approximately Rs.8000/- per month as rent and that his mother is residing with his father in a rented accommodation in Kharar, paying Rs.8000/- per month as rent & other charges. It is also stated that had the builder given the possession in time, the complainants could have saved this amount and paid towards the EMI of the home loan. Further, stated that the whole amount of Rs.5,92,000/- is the hard earned money of the complainants, which was received on the retirement of complainant No.2. It is further submitted that the builder may be directed to refund the amount paid by the complainants i.e. Rs.5,92,000/- till date, along with interest from the date of payments, an amount of Rs.3,00,000/- towards payment made by the complainant and his mother as rent from October, 2019 to till date, compensation for harassment alongwith litigation expenses.

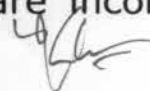
In view of the findings of the Hon'ble Supreme Court in **Civil Appeal No.6745-6749 of 2021 titled M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP and others etc.** alongwith connected appeals decided on 11.11.2021, vide order of this Bench dated



07.01.2022, the present complaint was ordered to be segregated and one set of paper-book was ordered to be sent to the Hon'ble Regulatory Authority (RERA) Pb, regarding the claim of refund and interest sought by the complainants and qua relief of compensation etc. case is before this Bench. Hence, this complaint.

It is further pertinent to mention here that this complaint was dismissed by this Bench vide order dated 07.02.2022 on the ground that the same having been filed under Section 31 of the Act, in relation to the ongoing project, which was not registered with the Authority (RERA) Punjab, is not maintainable. Said order was challenged before the Hon'ble Real Estate Appellate Tribunal, Punjab. While disposing of the said appeal alongwith other appeals vide common order dated 25.04.2022, the Hon'ble Appellate Tribunal set aside the above said order dated 07.02.2022 and remanded the case back to this Bench for its disposal as per provisions of the relevant law. Accordingly, the present complaint was restored and now relief of compensation, litigation expenses etc. sought by the complainants, is to be considered and adjudicated by this Bench.

3. Respondent appeared and contested the complaint by taking preliminary objections to the effect that the reliefs claimed by the complainants are incorrect and



there is no cause of action in favour of the complainants against the respondent, the complainants have no locus standi to file the present complaint and it is not maintainable being afterthought of the complainants in order to abuse the process of law, the complainants have not approached this Bench with clean hands and have suppressed the material facts, the complainants have failed to make payments as per payment plan. That the respondent has already made the construction as per the payment made by the complainants. The respondent is still ready to hand over possession to them, after receiving full payment. On merits, it is submitted that the complainants themselves failed to make the payment as per the payment plan and now by filing the present complaint they are trying to get the compensation from the respondent, on false grounds. Further, it is averred that complainants have not placed on record any cogent and convincing evidence to show that the land is under litigation. Allegations of the complainants with regard to any controversy qua the project/land in question are false, oral and incorrect, without any evidence. That the complainants at their own, stopped making payment to the respondent, after getting loan from the bank. Denying rest of the averments of the complaint and allegations of the complainants, a prayer has been made for dismissal of the complaint.

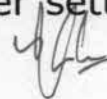


4. Rejoinder to the written statement was filed by the complainants reiterating the contents of the complaint and denying those of the written statement, filed by the respondent.

5. The violations and contraventions contained in the complaint were put to the representative for the respondent, to which he denied and did not plead guilty and then the complaint was proceeded for further enquiry.

6. I have heard complainant Aman Sethi, authorized representative of the respondent, who have addressed the arguments on the lines of their pleadings as contained the earlier part of this order. Complainants have also placed on record written arguments, which have also been considered. I have paid a considerable thought to the submissions of both parties, their pleadings and have perused the whole record of this case, with their able assistance.

Admittedly, the flat in question was allotted to the complainants and in this regard, agreement dated 05.06.2018 was signed by the parties. As per clause 7.1 of the said agreement, possession of the flat was to be delivered on or before 04.09.2019, which was not given by the respondent. Receipt of payment of Rs.5,92,000/- from the complainant is also not disputed by the respondent. However, stand of the respondent is that the complainants had failed to make the payments as per settled terms and



conditions of the agreement. That they have concealed the material facts from this Bench, nor their complaint is maintainable. That the respondent is still ready to deliver possession of the said flat to the complainants. Copy of order dated 31.05.2024 passed by the Hon'ble Authority (RERA), Punjab is available on the record of this case, from which it is clear that on account of non delivery of possession as promised, the complainants have been found entitled to refund of the amount of Rs.5,92,000/- alongwith interest. There is nothing on record shown by the respondent that the said order of the Hon'ble Authority has been challenged by it, before the competent authority. Meaning thereby, it has become final and it also stands proved on record that complainants have withdrawn from the project of the respondent. Keeping in view all these facts and circumstances, it stands proved that the delay in delivering possession of the flat is attributed to the respondent. Therefore, his conduct falls within the mischief of Section 18(1) of the RERA Act, which runs as under:-

"18. (1) If the promoter fails to complete or is 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; or

(b) xxxx xxxx

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, 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

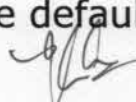
Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed”.

The complainants therefore are entitled to compensation, because of causing long delay in delivering the possession of the flat in question, by the respondent.

7. In my considered opinion, compensation can be granted under the heads pecuniary and non-pecuniary. Though compensation has not been defined under the RERA Act; however, Section 72 of the Act mentions about the factors to be taken into consideration for determination of the quantum of compensation. Section 72 of the Act runs as under:

72. Factors to be taken into account by the adjudicating officer: while adjudging the quantum of compensation or interest, as the case may be, under section 71, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default:

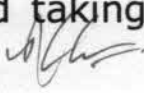


(c) the repetitive nature of the default;

(d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.

Section 72 has given scope of considering other factors, which are considered necessary in furtherance of justice. Since the complainants have not been able to get possession of the unit in question, we have to consider psyche of the Indian Society, in this regard. Normally, Indians are emotionally attached to own a property. They are prepared to spend major share of their life time earning and also ready to obtain loans from the financial institutions in the hope of getting property. Since the complainants, without their fault, have not been able to get possession of the flat in question for a long time and had to seek the remedy under existing law and for that have to suffer harassment, mental agony and have to incur expenses to initiate this litigation for claiming their rights, so they are certainly entitled for compensation and litigation expenses. However, no tangible evidence has been brought on record by them to show the rent amount paid by them, as alleged in the complaint. The complainants even could not mention the name of the landlords etc. So, their this plea cannot be taken to be true and cannot be considered, from any angle.


Keeping in view the entire facts and circumstances narrated above and taking into account the



amount paid by the complainants with regard to the purchase of the flat in dispute and the duration for which the possession has been delayed, amount of Rs.1,00,000/- is assessed as compensation in lump sum by approximation. Apart from this, the complainants had to pursue this litigation by spending some amount and spending considerable time from their busy schedule, for attending the proceedings of this case, so they are also entitled for litigation expenses to the tune of Rs.25,000/-. Accordingly, this application deserves to be allowed upto that extent.

8 As a result of my above discussion, this complaint stands partly allowed and disposed of. Complainants Aman Sethi and Rakesh Kumari are held entitled to recover the total compensation to the tune of Rs.1,25,000/- (Rs.1,00,000/- + Rs.25,000/-) from the respondent. Accordingly, respondent is directed to pay the amount of compensation to the complainants within 90 days from the date of this order. Copy of this order be sent to the parties, free of cost, under rules. File be consigned to the record room, after necessary compliance under rules.

Pronounced
Dated: 24.09.2025


(R.S.Raii) 24/9/2025
Adjudicating Officer,
RERA, Punjab