

**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.AdC No.0109 OF 2022

Date of Institution:11.12.2022

Date of Decision:30.10.2025

1. Amandeep Singh Viridi,
2. Sukhjinder Singh, Both Residents of House No.90,
Sector 16-A, Chandigarh, Pin Code-160015.

.....Complainants.

Versus

1. TDI Infratech Ltd. SCO No.54-55, Sector 118, Mohali,
Chandigarh-Kharar Road, NH-21, TDI City, Mohali.
2. HDFC Ltd., SCO 153-154-155, Sector 8-C, Chandigarh,
Pin Code-160008.

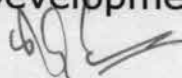
.....Respondents

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

Present: Mr.Ankit Midha Advocate, for the complainants.
Mr.Puneet Tuli Advocate, for the respondent No.1.
Mr.J.S.Kang Advocate, for respondent No.2.

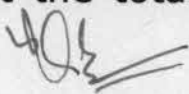
ORDER

Present complaint has been filed by the 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,



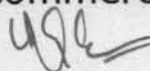
(hereinafter called as the Rules) against the respondents/promoters, seeking compensation on account of handing over lesser area of the apartment than the promised area and for delay in handing over possession of the apartment, in the project 'Connaught Residency', Mohali.

2. Brief facts of the complaint are that the complainants purchased a residential unit bearing Residency No.GF-1564, having super area of 1750 square feet, as defined in Annexure-1 of Floor Buyer Agreement on the ground floor, in the project of respondents namely 'Connaught Residency', situated at Sector 74-A, Mohali. That a provisional allotment letter was issued on 02.11.2016 and Floor Buyer Agreement was signed between the parties on 17.10.2016. As per the brochure issued by the respondents for Connaught Residency Project, the Residency was to be constructed on plot size of 33' x 68' i.e. 249.33 square yards. However, the unit area on which the residency has been constructed is 33' x 63'-10½" i.e. 234.21 square yards, which is 15.12 square yards lesser than the promised area. Even otherwise, as per conveyance deed, total carpet area allotted is 1180 square feet. That as per clause 1.7, of the Agreement, the company was to confirm the final carpet area that has been allotted, after the construction of building and occupancy certificate is granted by the competent authority. It is further averred that the total price payable



for the carpet area was to be re-calculated upon confirmation by the company and in case there was any reduction in the carpet area within the defined limit, then company was to refund the excess money paid by the allottee within 90 days with annual interest at the rate specified in the schedule. That the allotted carpet area is 1180 square feet, whereas the actual carpet area is 1172.5 square feet. That the certificate of the "Architect Parry and Associates", # 1427, Phase III-BII, Mohali in this regard is annexed as Annexure C-4. That the respondents have also made inordinate delay in handing over possession of the plot. That the provisional letter of allotment was issued on 02.11.2016 and the conveyance deed was signed on 18.12.2020. The possession was delivered thereafter. Hence, this complaint vide which complainants have sought compensation and litigation expenses from the respondents.

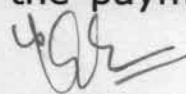
3. Upon notice, respondent No.1 put in appearance and contested this complaint, by taking preliminary objections that present complaint is not maintainable in the present form, that the complaint is based upon misrepresentation, wrong and concealment of true facts and same is liable to be dismissed, the present complaint being barred by limitation is not maintainable. That the respondent company is Real Estate Developer Reputed Company and has developed many housing and Commercial projects in



various cities of India like Gurgaon, New Delhi Agra, Moradabad, Sonapat Kundli, Panipat, Chandigarh etc. In the present case, Government of Punjab with a view to attract new investments in the State, formulated Industrial Policy, 2003 and the respondent company, under the said policy in order to set up a Mega Housing Project in village Ballomajra and Daon, with huge investment, submitted its proposal to the Directorate of Industries and Commerce Punjab and a letter of intent was issued in favour of the company on 21.12.2005. Subsequently, an agreement was signed between the company and the Government of Punjab for implementation of said Mega Housing Project, resultantly, the Government vide its notification under Section 44 of the Punjab Apartment and Property Regulation Act, 1995, exempted the Mega Housing project of the respondent company from application of provisions of PAPRA Act 1995. That many people including complainants being interested, approached the company and submitted an application form for allotment of built up floor. Copy of agreement signed between the company and Government of Punjab dated 26.05.2006 and copy of exemption under PAPRA are annexed as Annexure R-1, Annexure R-2 and Annexure R-3. That complainants approached the respondent company to purchase a residential built up floor to earn profit from the said project "Connaught Residency" by submitting an

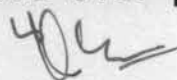


application form and they were allotted residency No.GF-1564, copy of provisional letter of allotment dated 02.11.2016 annexed as Annexure R-4. That subsequently, a Buyer's Agreement dated 17.10.2016 in respect of above said floor was also executed between the company and the complainants stipulating the terms and conditions of said transaction for governing the legal relationship between the parties, copy of Buyer's Agreement is annexed as Annexure R-5. That the Occupancy Certificate for the plot No.GF-1564 was received on 10.12.2019, copy of which annexed as Annexure R-6. That as per clause 9 of Buyer's Agreement dated 17.10.2016, the promised date of possession was 15.06.2020. That if complainants failed to make the payment as per demands by the company as per payment plan, then the allottees were liable to pay interest to the company on the unpaid amount as specified in the rules. That complainants are not entitled to compensation claimed by them in view of the payment clause i.e price of the floor was never deposited within the periods as agreed upon vide Buyer's Agreement dated 17.10.2016 executed between the parties. That possession of the floor is linked with the price payment. Further, payment made by complainants includes the amount of taxes i.e EDC, Service Tax, GST and the same were deposited by the company to the government. That the complainants had agreed to pay as per the payment plan,



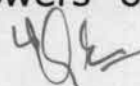
but they had defaulted in paying the said amount on time. They were requested time to time to deposit the amount for completion of the work, but they never deposited the requisite amount within time, which affected the progress of work and respondent company could not deliver the said unit in time to complainants. That the offer of possession was made to complainants on 03.10.2020 and subsequently, the possession was handed over to them and a sale deed was also executed accordingly. Copy of offer of possession dated 03.10.2020 is annexed as Annexure R-7. That this complaint has been filed in total disregard to the terms of Buyer's Agreement executed between the parties, which amounts breach of terms of the Agreement. That the complainants are seeking amendments in the Agreement, which is barred by law. The Hon'ble Supreme Court in case titled as Bharti Knitting Company Vs. DHL Worldwide Courier 1996 4 SCC 704 has observed that a person who signs a document containing contractual terms, is normally bound by them even though he has not read them.

On merits, it is averred that complainants had made defaults in making the payments as agreed vide agreement. That they have not come with clean hands and have suppressed material facts from this Bench, therefore, the present complaint is liable to be dismissed on this score. That the respondent company has handed over possession

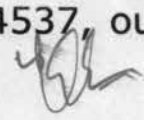


of units to many customers on time, but due to the restrictions imposed from time to time by the Government, due to Pandemic of Corona Virus, the possession of the unit in question, could not be delivered to the complainants. That the complainants have not suffered, but it is the respondent company, which has suffered loss, due to defaults of complainants in making payments. After denying the other averments and claim of the complainants, a prayer for dismissal of the complaint, has been made.

4. Upon notice, respondent No.2 appeared and contested this complaint, by taking preliminary objections that during pendency of the present proceeding, HDFC Ltd, has undergone the scheme of amalgamation and it has been merged with HDFC Bank, Limited. The scheme of amalgamation has been approved by the Hon'ble National Bank Law Company Tribunal Bench, Code (II) vide Company's Scheme Petition No.243 of 2022, decided on 17.03.2023. The aforesaid scheme of amalgamation was held to be applicable w.e.f 01.07.2023. That there is no allegations against HDFC Bank Limited, with regard to the deficiency of service as such, the complaint is not maintainable against it. That the grievances of the complainants are against the developer/promoter and nothing substantial has been stated against HDFC Bank Limited. That complainants are borrowers of respondent



No.2 and their inter-se obligations are governed by loan agreement and tripartite agreement. That consequences of default in repayment of loan are governed by terms and conditions of the loan agreement, which are not in dispute. That the default in complying with terms and conditions of loan agreement entitles HDFC Bank Ltd., to recover its due in accordance with law, true copy Loan Agreements dated 07.01.2017 & 22.02.2017 and Tripartite Agreement dated 17.12.2016 are annexed as Annexure R-1(Colly) & Annexure R-2. Further, in case of cancellation of unit or in the contingency of termination of the Floor Buyer's Agreement, the HDFC Limited has first charge/right to seek apportionment of the dues under the agreements executed between the parties. It is settled law that obligation to repay the loan is only of complainants/borrowers, which is independent of any other agreement/understanding/dispute amongst the builder/developer and allottee. Further, it is averred that it has been specifically agreed between the parties in case of default on part of the developer/promoter of its obligations towards the allottee/ borrower/ complainant, the liability of complainants would continue towards HDFC Bank Limited and complainants shall be liable to repay the loan. That complainants have availed housing loan of Rs.50,00,000/-vide loan Account No.621864901 and Rs.51,101/- vide Loan Account No.624224537, out of which

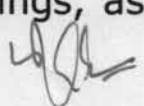


HDFC Bank Limited has disbursed the amount of Rs.50,00,000/- towards the sale consideration of the flat and Rs.51,101/- towards funding of insurance premium. That the loan account No.621864901 of complainants is regular and loan account No.624224537 stood prepaid, account statements are annexed as Annexure R-3(colly) and the answering respondent reserves its right to proceed in accordance with the terms of the Loan Agreement. A prayer has been made to dismiss the complaint qua respondent No.2.

5. Rejoinder to the written reply was not filed by the complainants. However, they reiterated the contents of their complaint and denied those of the written reply filed by the respondents, at every stage of the proceedings in this case.

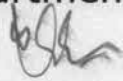
6. Violations and contraventions contained in the complaint were put to the representative of the respondent company, to which he denied and did not accept the allegations. Then the complaint was proceeded for further enquiry.

7. I have heard learned authorized representatives of the respective parties and have gone through the record of this case carefully, with their able assistance. Each party argued his case on the lines of his pleadings, as detailed in earlier part of this order.



Booking of the apartment in question, having super area of 1750 square feet, payments made by the complainants, delivery of possession are admitted between the parties. However, the fact regarding handing over of lesser area of the apartment in question, is not admitted by the respondents. Admittedly, possession of the apartment was delayed and on this ground the complainants have been allowed interest under Section 18 (1) of the Act by the Hon'ble Authority (RERA) vide order dated 07.04.2025 in Complaint No.0564 of 2022, copy of which is available on the record of this case. In the case in hand, claimants are seeking compensation, from the respondents under Section 18 of the Act. On the other hand, it is stand of the respondents that neither this complaint is maintainable in the eyes of law under Section 18 of the Act, nor the claimants have been able to prove their allegations on record. That report relied upon by complainants, allegedly prepared by some Architect, showing that lesser area of the apartment was handed over to the complainants, cannot be relied upon, being totally vague. Keeping in view the submissions of the parties, coupled with their pleadings and documents, perusal of Section 18 of the Act is necessary, which is reproduced as under:-

(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) due to discontinuance of his business as the developer on account of suspension or revocation of the registration under this Act or for any other reason, 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.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this sub-section shall not be barred by limitation provided under any law for the time being in force.

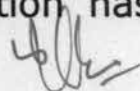
(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such

compensation to the allottees, in the manner as provided under this Act.

8. Section 18(1) of the Act deals with the matters in which project of the case has not been completed by the promoter within the stipulated period as per terms and conditions settled between the parties. As per this provision, of the Act, allottee has the option of withdrawing from the project and to seek the relief of refund of the paid amount along with interest, as per rules and also compensation. However, if the allottee chooses to remain in the project and wants to seek the relief of possession, then the only remedy provided for the default of the promoter in completion of the project, is to get the interest on the paid amount from the stipulated date of possession, till the actual date of delivery of possession, as per proviso of Section 18(1) of the Act, which runs as under:-

*"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."*

9. By operation of proviso of Section 18 of the RERA Act quoted above, the complainants of the case in hand are not entitled to relief of compensation on the ground of delay in delivering the possession of the apartment in question, because they have not opted to withdraw from the project and possession of the apartment in question has already



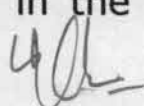
been handed over to them and on the ground of delay in delivery of possession, they have been allowed interest under Section 18 (1) of the Act by the Hon'ble Authority (RERA) vide order dated 07.04.2025 through complaint No.0564 of 2022. Meaning thereby, present complaint seeking compensation on the ground of delay in delivery of possession, is not maintainable.

10. Learned counsel for complainants, further argued that case of the complainants for compensation on the ground of delivering lesser area of the apartment, than the promised area, is covered under Section 18(3) of the Act, because the promoter has failed to discharge his obligation, to deliver complete total area of the apartment in question, to the complainants, as per terms and conditions of their agreement. Section 18(3) of the Act runs as under:

"18. (1) xxxx XXXX

"18(2) xxxx xxXX

"18 (3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

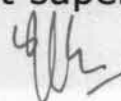


11. A plain reading of Section 18(3) of the Act, indicates that it relates to other obligations, which are not covered within the provisions of Section 18(1) of the Act. So this part of the relief sought by complainants, deserves to be considered under this provision. The person who comes to the Court for seeking relief, has to stand on his own legs. He has to prove his case with sufficient, cogent and convincing evidence. Now coming to the case in hand, to prove that they have been handed over the apartment of lesser area, than the promised area, complainants have relied upon report of some Architect Annexure 4. The said report is reproduced as under:-

"The following areas are calculated as per plan & dimension given in the brochure. Front & rear courtyard measurements have been taken at site.

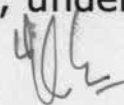
- Plot area= **63'-10 ½' x33'-0" = 234.21 sq.yds.**
- Covered area of flat (ground floor)= **1467.87 sq.ft**
- Super area of flat= **1746.71 sq.ft**
- Carpet Area = **1172.5sq.ft.**"

This report is a photostat copy, attested by the Advocate. Although, it has been prepared on the letter pad of "Parry & Associate Architecture & Interiors", Office # 1427 Phase 3B2 Mohali, but the seal affixed on it, is not legible nor it is clear as to who has signed it or who has prepared it. This report does not indicate as to which particular area of the apartment, is lesser in dimensions, than the promised area. As per this report super area of the



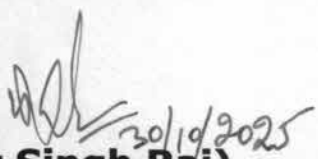
apartment at the spot is 1746.71 square feet, instead of 1750 square feet area, whereas carpet area at the spot is 1172.5 square feet instead of 1180 square feet area. Perusal of agreement Annexure 1 executed between the parties shows that super area of the apartment would be approximate 1750 square feet. Meaning thereby, at the final stage, some reasonable change could be there in the measurement of the apartment, because the area stated above and in the agreement has been shown to be approximate area. Both parties signed the agreement and admitted that the area of the apartment would be approximate area. Even in prayer of the complaint, no relief has been sought by the claimants with regard to the alleged lesser area of the apartment. Keeping in view all these facts and circumstances, report Annexure A4 relied upon by the complainants cannot be considered and believed. Accordingly, no case is made out to grant any compensation to the complainants on the said ground, under Section 18(3) of the Act. Resultantly, they are also not entitled for litigation expenses. Accordingly, this complaint deserves dismissal.

12. As a result of the above discussion, present complaint filed by the complainants is dismissed and disposed of, with no order as to costs. A copy of this order be sent to both the parties, free of cost, under rules. File be



consigned to the record room, after necessary compliance under rules.

Pronounced
Dated:30.10.2025


(Rajinder Singh Rai)
Adjudicating Officer
RERA, Punjab