

**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/AdC No.0038 OF 2023

Date of Institution:31.05.2023

Date of Decision:19.11.2025

1. Gagandeep Kaur,
2. Col.Harmanjit Singh, Both Residents of E-1303,Tower-E
13th Floor, Gillco Park Hills, Sector 126, SAS Nagar,
(Mohali), Punjab Pin Code 160071.

.....Complainants.

Versus

Gillco Developers & Builders Pvt. Ltd. Regd. Office SCO
No.53-54, Chandigarh- Kharar Highway, Gillco Valley, Sector
126, Kharar SAS Nagar (Mohali), Punjab, Pin Code 140307.

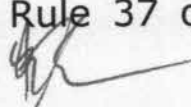
.....Respondent.

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

Present: Ms Jasneet Mehra Advocate, for the complainants.
Mr.Manpreet Singh Longia Advocate, for the
respondent.

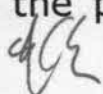
ORDER

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 respondent/promoter, seeking compensation and litigation expenses, on account of non delivery of possession of Flat in the project "Royal Meridian".

2. Brief facts of the complaint are that complainants booked an apartment with respondent located at, E1303, Tower-E, on 13th Floor, measuring 1075 square feet at Gillco Park Hills, Sector 126, SAS Nagar Mohali. The basic price of the said apartment was Rs.47,03,000/- (which included club membership, IFMS, Power Backup). Complainants have paid the whole amount as per demand of respondent. Allotment letter of the said flat was issued and ultimately Apartment Buyer's Agreement was executed on 30.12.2016, copy of which is Annexure C-1. That as per clause 6.1 of the Buyer's Agreement, possession of the said apartment was to be handed over within two years from the date of execution of the said Buyer's Agreement with grace period of 3 months i.e. 30.12.2016 to 28.02.2019. As per condition No.9 of the Agreement, if the builder delays in handing over possession, he shall pay compensation @ Rs.5 per square feet for every month delay and as per the clause No.6.1, this amount shall be adjusted at the time of the calculation of the final bill. That complainants visited many times the site to watch the progress, but every time they

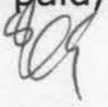


were turned away with false assurance that construction shall be commenced soon. They were harassed by the respondent by not constructing and delivering the possession of the flat even after the dead line, mentioned in the agreement. But due to delay in getting the possession, complainants were forced to pay the rent against the accommodation, where they were residing at their own expenses. Despite the fact that complainants have already paid the whole amount of the flat in question, possession of the same was not handed over to them in time, which forced them to reside in a rental accommodation and to pay huge amount as rent. In this way, they have spent about Rs.4,92,000/- (i.e. $41 \times 12000 = 4,92,000$) in lump sum. That a letter (Annexure C-2) was served upon the respondent to handover the apartment as early as possible and pay interest of Rs.10 lacs to complainants, which was paid to PNBHFL for the loan amount disbursed to borrower as per applicable provisions of MOU, for the subvention period, but of no use. Thus, respondent has made themselves liable for deficiency in service and adopting unfair trade practice. Finally, possession of the said flat was handed over to complainants with delay of 41 months on 28.07.2022. Hence, this complaint through which complainants have sought compensation of Rs.10,00,000/- for causing mental agony and physical harassment, interest




of Rs.10 lacs paid to the bank for the loan amount borrowed by them and litigation expenses of Rs.1,00,000/-.

3. Upon service, respondent put in appearance and contested this complaint, by taking preliminary objections that the instant complaint deserves to be dismissed as no cause of action has arisen in favour of complainants. The complainants have tried to mislead this Bench by making incorrect, false averments and incomplete facts. The complainants have not pointed out even a single violation of the provisions of the RERD Act, therefore, the present complaint is not maintainable under the provisions of the Act. The respondent has relied upon the provisions of Section 31 read with Section 71 of the Act and alleged that the jurisdiction of this Bench can only be invoked for any violation or contravention of the provisions of the Act or the Rule & Regulations made there under. That without pointing out any contravention of the Act or Rules, complainants are seeking compensation for mental harassment. Apart from averments, complainants have not placed on record any evidence to quantify the compensation claimed by them. The present complaint is bad for non-joinder and mis-joinder of necessary parties, as complainants intentionally did not implead the bank as party to show that they had purchased the apartment under the Subvention scheme, under which the interest has been paid, therefore, claim of complainants




seeking interest falls flat. That the sale deed of the apartment has been executed in the name of complainant No.1 alone because complainant No.2 has given all his rights to her, in respect of apartment, therefore, the present joint complaint is not maintainable and is liable to be dismissed. Further, it is averred that in the present complaint, complainants are harassing the respondent and they have already been paid compensation to the tune of Rs.5 lacs, but they have failed to mention this fact. As per complainants, the delay was of 41 months and if this delay is calculated in the terms of clause 9 of the Agreement, then the amount of compensation comes to Rs.2,20,375/- only, whereas they have been paid an amount of Rs.5 lacs. All the accounts under all the points were settled between the parties and only thereafter the apartment was taken over by complainants and then sale deed was executed. The complainants have intentionally not appended the letter qua handing over/taking over the apartment, wherein it has been certified that all accounts in respect of sale and purchase of the flat, have been settled and no payment is outstanding against either of the parties. The complainants have also intentionally tried to mislead this Bench by not appending sale deed on record. Further, it is averred that complainants were paying rent @ 12,000/- per month for 41 months which amounts to Rs.4,92,000/- and they are



entitled for compensation on this ground, but this story is totally false. Complainants were posted at Bhopal and they shifted back after retirement on 31.08.2021, so they put forth false and concocted story qua residing in rented accommodation. The present complaint is liable to be dismissed as complainants have not approached this Bench with clean hands. It is incumbent upon this Bench to adjudicate upon disputes arising out of agreement in terms of the agreement itself. Further, complainants have not booked the unit in question for their personal need, but as an investment to make profits. The complainants cannot invoke jurisdiction of this Bench in respect of unit allotted to them, especially when there is an arbitration clause in the Allotment Letter, all or any dispute arising out of terms of the Allotment Letter is to be settled amicably through Arbitration. Once the parties have agreed to have adjudication carried out by an Alternative Dispute Redressal Forum, so invoking jurisdiction of this Bench is misconceived, erroneous and misplaced. Denying rest of the averments of the complaint, a prayer has been made for its dismissal.

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



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

6. 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.

Admittedly, the flat in question, was got booked by the complainants, with the respondent and agreement in this regard was executed on 30.12.2016. Its sale price was settled as Rs.47,03,000/-, and this amount was paid to the respondent, as per pleadings of the complainants. Since there was delay of 41 months in delivering the possession of the flat, so the complainants have sought compensation to the tune of Rs.10 lacs for causing mental agony, physical harassment, alongwith litigation expenses to the tune of Rs.1 lac and interest of Rs.10 lacs paid to the bank on the loan amount borrowed by them. On the other hand, it is stand of the respondent that the complainants have already been compensated with the amount of Rs.5 lacs as compensation, so the present complaint is not maintainable. That there is no proof qua the amount of rent paid by complainants, as alleged in the complaint. It is further stand



of the respondent that present complaint has been filed under Section 18 of the Act, which is not maintainable and the same cannot be entertained, as the possession of the flat in question has already been handed over to the complainant party. It is lastly prayed that complainants deserve no relief in this case, rather their complaint deserves dismissal with cost.


Keeping in view the pleadings, documents and submissions of both the parties, for proper and effective disposal of this complaint, reference of Section 18 of the Act, is very important, which is reproduced 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."*

A close scrutiny of the aforesaid Section 18(1) of the Act leaves no manner of doubt that this Section deals with the matters in which the project of the case is not completed by the promoter, within the stipulated period as per terms and conditions settled between the parties, then the allottee has the option of withdrawing from the project and seek the relief of refund of the paid amount alongwith interest, as per rules and also compensation. However, if the complainant chooses to remain in the project, then the only remedy provided for the default of the promoter in completion of the project, is to get interest on the paid amount from the stipulated date of possession, till the actual date of delivery of possession.

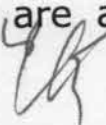
7. Now coming to the case in hand, admittedly, the complainants have not withdrawn from the project, rather, they have taken possession of the said flat. So as per Section 18 of the Act, remedy available to the complainant party was of claiming interest on the paid amount for the delayed period, before the Hon'ble Authority. In view of findings of our Hon'ble Supreme Court in **Civil Appeal 6745-6749 of 2021, titled M/s Newtech Promoters**



and Developers Pvt. Ltd. Vs State of UP and others


etc., alongwith connected appeal decided on 11.11.2021, remedy seeking relief of Interest, Refund Amount, lies with the Hon'ble Regulatory Authority (RERA), whereas remedy qua compensation lies with this Bench. In the case in hand, admittedly the complainants have chosen to continue with the project, so they are not entitled to seek compensation under the Act, as is clear from above mentioned Section 18 (1) of the Act. Wording of this provision of the Act, makes it crystal clear that allottee/complainant can only seek compensation, if he/she withdraws from the project. Otherwise, if he/she does not intend to withdraw from the project, he/she shall be paid only interest for every month of delay, till handing over of the possession, at such rate as may be prescribed. Keeping in view all these facts and circumstances, coupled with Section 18 of the Act, since the complainants have not withdrawn from the project, so they are not entitled for compensation, as claimed by them through this complaint, Resultantly, they are also not entitled for litigation expenses. Accordingly, no case is made out in their favour for granting any relief as claimed in their complaint by them. So, this complaint deserves dismissal.

8. As a result of my above discussion, this complaint stands dismissed and disposed of, with no order as to costs. However, complainants are at liberty to avail appropriate



remedy qua relief of interest, as per law, before the competent authority. A copy of this order be sent to both the parties, free of costs, under rules. File be consigned to the record room, after necessary compliance under rules.

Pronounced
Dated:19.11.2025


(Rajinder Singh Rai)
Adjudicating Officer,
RERA, Punjab.

19/11/2025