

**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.0097 OF 2024  
Date of Institution:09.07.2024  
Dated of Decision:09.09.2025

Jagjit Singh Nain, R/O D2/83, Sector-10, District Faridabad,  
Haryana Pin Code 121006.

.....Complainant

Versus

1. Omaxe Chandigarh Extension Developers Pvt. Ltd.  
Through its Director/Authorized Representative, Near  
Mullanpur, Ist Floor, India Trader Tower Madhya Marg  
Extn. Road, New Chandigarh, District & State Sahibzada  
Ajit Singh Nagar (Mohali), Punjab Pin Code 140901.
2. Bhupendra Singh, Director OMAXE, Omaxe Chandigarh  
Extension Developers Pvt., Ist Floor, Ist Floor, India  
Trader Tower Madhya Marg Extn. Road, New  
Chandigarh, District & State Sahibzada Ajit Singh Nagar  
(Mohali), Punjab Pin Code 140901.

.....Respondents

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

\*\*\*\*\*

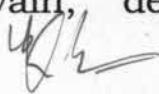
Present: Mr. Jatinder Nagpal Advocate, representative  
for the complainant  
Mr. Saurav Duvedi Advocate, representative for  
the respondents.

**ORDER**

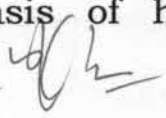
The present complaint had been filed by  
complainant under Section 31 of the Real Estate (Regulation

and Development) Act, 2016 (hereinafter referred to as the Act) against the respondents/promoters seeking compensation on account of delay in handing over possession of apartment in the project "The Lake" Project situated at Omaxe, New Chandigarh.

2. Brief facts of the complaint are that the complainant got booked a residential property bearing No.TLC/ISBELLA-A/THIRD/302 in **"The Lake" Project situated at Omaxe, New Chandigarh** on 15.07.2019 and Allotment/Agreement Executed Letter dated 18.07.2019 was issued after entering into Agreement to sell dated 15.07.2019 and also got registered the same in the Office of Sub-Registrar after paying the requisite Govt. fee. Further, it is averred that complainant deposited 100% upfront payment against receipts excluding parking charges and date of possession of the above said flat was fixed on or before 31.07.2021. Till date, delivery of physical possession of the said property has not been offered, thus the respondents have violated the terms and conditions of builder/promoter-buyer agreement and have failed to deliver possession of the flat, despite collecting huge amount from the complainant on the assurance/pretext of delivering the possession of the above flat soon. It is also averred that as the project got delayed, complainant visited the builder office since August, 2021 and several times thereafter requested to hand over the physical possession in the terms of the agreement, but all in vain, despite assurance. The



complainant was forced to live in rented accommodation. That the respondents/builders had deliberately and willfully indulged themselves in undue enrichment, by cheating the complainant, besides being guilty of indulging in unfair trade practices and deficiency in services. That the project is not complete and possession thereof has not been offered to the complainant, who is seeking possession and interest for delayed period alongwith other reliefs. It is also averred that in Para No.16 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 has prescribed that the rate of interest is "STATE BANK OF INDIA highest Marginal Cost of Lending Rate plus two percent". As such, the complainant is entitled to interest on the entire amount for the delayed period till possession, rent and other expenses paid while arranging rental accommodation, compensation and other necessary expenses, as the long delay since July, 2021 is not legally justified, for which the respondents are also liable to reimburse the rental amount. The complainant prayed that due to delayed possession of the property as promised to be delivered by 31 July, 2021, almost three years have passed and complainant has been victimized and discriminated and is facing hardship, which has already caused huge financial loss and mental harassment to him. Hence, this complaint in which the complainant has sought Rs.5,00,000/- as compensation on the basis of his mental and physical

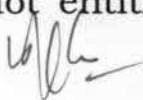


harassment, alongwith litigation expenses, interest etc as per provisions of the Act/Rules.

3. Respondents, put in appearance and contested this complaint, by taking preliminary objections that the present complaint is liable to be dismissed on the ground of mis-joinder and non-joinder of necessary parties. Complainant has wrongly arrayed Bhupendra Singh, Director of Omaxe Chandigarh Extension Developers Pvt. Ltd. as a party in the present complaint. That complaint filed by complainant before this Bench is misconceived, erroneous and is untenable in the eyes of law. Further claims as alleged cannot be said to be maintainable, so they are liable to be rejected. As per agreement for sale dated 15<sup>th</sup> July 2019, complainant was allotted Unit No.TLC/ISABELLA-A/Third/302, in Residential Project, namely, 'The Lake' situated in New Chandigarh, District SAS Nagar, Punjab. Complainant has claimed the following reliefs:-

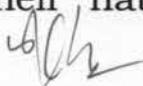
- a. Interest from July 2021 onwards till date of actual hand over of physical possession.
- b. Compensation of Rs.5 lacs and
- c. Litigation expenses.

Further it is averred that so far as relief (a) is concerned the same can only be granted by the Authority and therefore on this ground itself, present complaint deserves dismissal. That since the complainant has chosen to continue with the project, so he is not entitled to seek compensation




under the Act and the agreement for sale executed between the parties. Under the Act as well as agreement for sale, the allottee can seek compensation only if he or she wishes to withdraw from the project. In case the allottee does not intend to withdraw from the project, all he or she is entitled to, is interest at the prescribed rate, for every month of delay, till handing over the possession as per Section 18 of the Act. Complainant has filed present complaint primarily on the ground of delay in handing over possession of the unit in question. In view of clause 7.1 of the Agreement for sale, it was settled that possession of the unit in question would be handed over on or before 31st July 2021, unless the delay or failure is caused due to war, flood, draught, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure").

Perusal of above clause 7.1 of the agreement for sale reveals that it was agreed between the parties that possession of unit in question would be handed over on or before 31st July, 2021 unless the delay is caused due to Force Majeure Events. However, before the due date for handing over possession of unit, pandemic of Covid-19 hit the world and as a safeguard, the Government of India declared lockdown in the country from 22<sup>nd</sup> March 2020 onwards. Further, Government of India realizing difficulties faced by real estate sector, migration of laborers to their native places and break in





supply of construction material, issued an advisory dated 13<sup>th</sup> May 2020 by invoking the provision of 'Force Majeure' under the provisions of the Act. Further, complainant has not paid the installments on time that had fallen due. Resultantly, the respondent had to suffer immense losses on account of delayed payments made by the complainant. Further, as per section 19(6) of the Act, every allottee is responsible to make necessary payments in time as specified in the agreement. Further, as per section 19(7) of the Act, if the allottee delays in making payment on time, then he/she is liable to pay interest, at such rate as may be prescribed. That complainant cannot raise any issue regarding delay in possession, because he is also defaulter to make payment as per payment plan. Complainant has also alleged that he wanted to take possession by 31<sup>st</sup> July, 2021. The same is blatant lie on the face of it, as no document has been attached with complaint to substantiate that complainant ever raised such issue regarding delay with the respondent for settling the matter in terms of clause 33 of the Agreement. Clause 33 of the Agreement clearly mentions that *'All or any dispute arising out or touching upon or in relation to the terms and conditions of the agreement, including interpretation and validity of the terms thereof and the respective rights and obligations to the parties, shall be settled amicably by mutual discussion, failing which the same shall be settled by the Adjudicating Officer under the Act or through process of Arbitration at the joint option of the*



*parties.*" Further, respondent averred that agreed clauses of contract are binding on the parties and the courts shall not interfere with the terms and conditions agreed between the parties.

Further, it is averred that complainant has made a vague attempt to seek compensation by allegedly mentioning that due to delay in offering the possession, he has been forced to live in rented accommodation. But no lease/rent deed has been annexed with the present complaint to substantiate the said claim. That complainant is a resident of Faridabad, Haryana and the unit in question has been purchased by him for investment purposes only. Further, the respondent in order to complete the project has spent hundreds of crores of rupees in mobilizing resources, generating and creating infrastructure, manpower, building material, electrical equipments, sewerage systems, water pipelines and other amenities to make living of the allottees in the project. Denying rest of the averments of the complaint, a prayer has been made for dismissal of the complaint.

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

5. Violations and contraventions contained in the complaint were put to the representative of the respondents, 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 complainant with the respondents and agreement in this regard was executed on 15.07.2019. Possession of the flat was to be delivered on or before 31.07.2021. Possession could not be delivered as per the said agreement, nor the complainant has withdrawn from the project. He has sought reliefs of interest, compensation, litigation expenses, rent, through this complaint.

On the other hand, it is specific case of the respondents that relief of interest, rent cannot be given by this Bench, whereas as per Section 18 of the Act, the complainant does not deserve even the compensation and litigation expenses etc. Keeping in view the pleadings and submissions of both the parties, for proper and effective disposal of this complaint, perusal 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) 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.

405

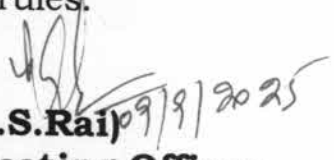
(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under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

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, remedy seeking relief of Interest, Rent amount, lies with the Hon'ble Regulatory Authority (RERA), whereas remedy qua compensation lies with this Bench. In the case in hand, admittedly the complainant has chosen to continue with the project, so he is 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 withdraws from the project. Otherwise, if he does not intend to withdraw from the project, he shall be paid only interest only 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 complainant has not withdrawn from the project, so he is not entitled for compensation, as claimed by him through this complaint, resultantly he is also not entitled for litigation

expenses. So no case is made out in his favour for granting him any relief as per prayer of the complainant. Accordingly this complaint deserves dismissal.

7 As a result of my above discussion, this complaint stands dismissed and disposed of. 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:09.09.2025**

  
**(R.S.Rai)**  
**Adjudicating Officer**  
**RERA, Punjab**