

**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.0018 of 2022

Date of Institution:11.04.2022

Date of Decision:20.05.2026

Mrs.Raj Kumari, Resident of Surya Niwas, Cemetery Road,
Sanjauli Shimla, Himachal Pradesh Pin Code 171006.

.....Complainant

Versus

1. Bajwa Developers Limited, Sunny Business Center, 5th Floor, New Sunny Enclave, Greater Mohali, SAS Nagar (Mohali), Punjab-140301.
2. Er. Krishan Dass Sharma, 2188, Sunny Enclave, Sector 125, Greater Mohali, SAS Nagar (Mohali), Punjab-140301.

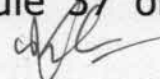
..... Respondents.

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

Present: Mr. Rajesh Sharma Authorized Representative for
the complainant.
Mr. Vipul Mogna Advocate, for respondent No.1.
Respondent No.2 Ex-parte vide order
Dt.08.08.2022.

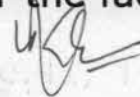
ORDER

Present complaint has been filed by the complainant, 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 alongwith litigation expenses.

2. As per case of the complainant, earlier she had purchased a Plot No.41, T-block in Sector 124 in the year 2012, from the respondents. She made full payment with the condition that park facing plot will be provided to her. For this purpose, she paid some premium to K.D Sharma, agent of respondent-company i.e premium amounting to Rs.1,80,000/- vide Cheque No.093366 dated 02.03.2012, extra premium for facing park amounting to Rs.5,60,000/- vide cheque No.093369 dated 24.03.2012 and lastly a premium for service, i.e Rs.59,000 vide cheque No. 093376 dated 29.05.2012 of PNB Bank. In 2017, Bajwa Developers Ltd. lost the court case with the farmers. Then Plot # 38, T-Block, Sector-123 was allotted to the complainant, which was not facing park instead of Plot No.41, T-Block, Sector 124. She asked the agent of respondent-company to return her money which was given for purchasing the park facing plot. He replied that the respondent-developer has lost case in the court, so he will return the money to her, received in this regard. Till date, complainant has not received any such money from the respondents. In this way, the agent has taken total amount of Rs.7,99,000/- for the facing park plot.



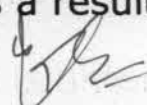
She also served legal notice twice upon Krishan Dass Sharma agent/respondent No.2, through an Advocate of Shimla on 16.11.2019 through registered post, but he did not respond. That the respondent-company neither has given possession of the plot, nor has executed sale deed of her plot No.38, deliberately. She wrote so many letters to the Manager and Director of respondent-company regarding the possession and sale deed of the plot in question, but all in vain. That she is also paying maintenance charges of the plot in dispute, regularly. The respondent-developer has also charged processing fee/money of sale deed, but he did not get the sale deed of the plot executed. The demarcation of the plot in question was also done and complainant has put barbed wire across the plot. She further averred that in this way, both the developer and his agent, have cheated her. Now complainant apprehends that respondent-company might have sold plot No.38 to some other person, at a higher price, without her permission. It is further in the complaint that the complainant has paid total amount of Rs.35,70,000/- for the plot, whereas the said agent of respondent No.1 has taken Rs.7,99,000/- for providing park facing plot. That even after the expiry of 10 years, the respondent-developer is not performing his duty to execute the sale deed of the plot in favour of the complainant. So, through this complaint she has sought compensation with



18% interest and interest for the delayed period. It is further her prayer that any other penalty, as per the provisions of the Act and Rules, may be imposed upon both the respondents. Hence, this complaint.

3. Upon notice, respondent No.1 appeared and filed reply taking preliminary objections that the present complaint is an abuse of the process of law. No cause of action has accrued to the complainant to file this complaint. That it is settled preposition of law that seeking relief of compensation, complaint is only maintainable before the Adjudicating Officer under Form-N and complaint seeking relief of interest is only maintainable before the Hon'ble Authority under Form-M. Reference in this regard, can be made to the judgment of Hon'ble Apex Court in **M/s New Tech and Promoters Pvt. Ltd. Vs. State of UP, 2022 (1) RCR (Civil) 357**. That the complaint filed this Bench, besides being misconceived, erroneous and is untenable also in the eyes of law. That complainant has sought 18% interest and interest on the delayed period, which is beyond the jurisdiction of this Bench. Denying entire claim of the complainant, a prayer has been made for dismissal of this complaint, with costs.

Respondent No.2 was personally served, but he did not appear to contest this complaint, as a result of which



he was proceeded against ex-parte vide order dated 08.08.2022.

4. Rejoinder to the written reply was filed by the complainant, reiterating the contents of her complaint and denying those of the written reply, filed by the respondent No.1.

5. Violations and contraventions contained in the complaint, were put to the representative for the respondent No.1. He totally denied all of them, including allegations of the complainant. Thereafter, the complaint was proceeded for further enquiry.

6. I have heard the representatives of the parties, who addressed the arguments on the basis of their pleadings/submissions, as summarised in the earlier part of this order. I have also carefully gone through the case file, with their able assistance.

Learned representative of the complainant has reiterated the facts of the complaint as detailed in Para No.2 of this order with regard to the purchase of plot in question, qua payment made by the complainant to the respondents. It is specific case of the complainant that earlier Plot No.41, T- Block in Sector 124 Mohali, was allotted to her and thereafter instead of said plot, she was given Plot No.38 T Block, Sector 123 Mohali. Extra amount was paid by her at the initial stage, for purchasing a park facing plot, but the



second plot given to her was not park facing. That neither the extra amount paid by her for purchasing park facing plot has been returned to her, nor sale deed of the plot has been executed in her favour. Now she apprehends that respondents might have sold the Plot No.38, to someone else at a higher rate, without her consent. So she has sought compensation with interest, interest on the delayed period alongwith litigation expenses etc., through this complaint.

On the other hand, respondent No.1 has filed vague reply to the complaint and has failed to admit or deny the fact if any such plot was purchased/allotted in favour of the complainant. Further, respondent No.1 did not disclose if the amount mentioned in the complaint was received by him. He has touched only legal part of the complaint to the effect that same is abuse of the process of the law and the complainant has no cause of action. That this complaint is not maintainable, in the eyes of law, as detailed in Para No.3 of this order. Prayer has been made for dismissal of this complaint, with costs.

7. I have considered the submissions, pleadings and documents of the parties. Issue of maintainability is involved in this complaint, in the eyes of law. Complainant has sought compensation, interest, alongwith litigation expenses from this Bench, through this complaint, as per provisions of

not maintainable, in the eyes of law, as detailed in Para no.3

Section 18 (1) of the Act. Keeping in view all these things and 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) 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."*

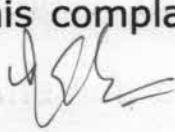
It is admitted case of the complainant that respondent/developer is not ready to execute sale deed of the allotted plot in her favour. Meaning thereby, complaint and pleadings of the complainant show that she has not

withdrawn from the project of the respondent. As per Section 18(1) of the Act, if allottee withdraws from the project, he/she has the option of seeking 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.

8. Now coming to the case in hand, admittedly, the complainant has not withdrawn from the project of the respondent and is still hopeful of execution of the sale deed of the plot in question, at the hands of the promoter. She has also taken possession of the plot in dispute and as per her case she has put barbed wire across the plot. But her grievance is that the sale deed has not been executed qua this plot in her favour by the respondent-promoter. So she is neither entitled for compensation as per Section 18(1) of the Act, nor her complaint seeking interest on her deposited amount, for delayed period, is maintainable before this Bench, because this remedy is available to the allottee before the Hon'ble Authority, RERA. 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

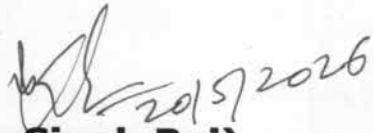
neither entitled for compensation as per Section 18(1) of the Act, nor her complaint seeking interest on her deposited

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 complainant has chosen to continue with the project, so she 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/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 the possession, at such rate as may be prescribed and this remedy is available to her, only before the Hon'ble Authority (RERA). 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 she is not entitled for compensation with interest, as claimed by her through this complaint. Her complaint seeking interest for the delayed period is not maintainable before this Bench. Resultantly, she is also not entitled for litigation expenses. Accordingly no case is made out in her favour, for granting any relief to her by this Bench, through this complaint. So, this complaint deserves dismissal.



9. As a result of my above discussion, this complaint stands dismissed and disposed of being not maintainable before this Bench, with no order as to costs. 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:20.05.2026


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

9. As a result of my above discussion, this complaint stands dismissed and disposed of being not maintainable before this Bench, with no order as to costs. 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:20.05.2026

(Rajinder Singh Rai)
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