

**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.0114 OF 2022

Date of Institution:27.12.2022

Date of Decision:19.03.2026

1. Supriya Sharma.
 2. Sarla Devi, Both Residents of House No.1136, Ist Floor,
Sector-18 Chandigarh, Pin Code 160018.
-Complainants.

Versus

Address Infrastructures Private Limited,The Address, Sector
17, Pr-4, Near International Cricket Stadium, New
Chandigarh, SAS Nagar (Mohali) Punjab, Pin Code 160014.
.....Respondent

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

Present: Mr. Ripudaman Singh Advocate, for the
complainants.
Mr. Mohammad Sartaj Khan 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 alongwith
litigation expenses.

2. Brief facts of the complaint are that complainants booked a 3BHK apartment No.303 (3rd Floor, TowerD), measuring 1150 square feet of super area in the project namely 'The Address', situated at village Togan, New Chandigarh, District SAS Nagar (Mohali). Total sale consideration was fixed as Rs.46,17,250/- inclusive of all charges & power back up charges of Rs.75,000/-, club membership charges of Rs.75,000/-, IFMS of Rs.17,250/- & Car Parking charges of Rs.75,000/-. Apart from the said total sale consideration, only applicable tax was payable by the complainants. Said apartment was allotted to the complainants vide allotment letter dated 20.01.2021 and an agreement of sale in respect of said apartment was executed between the complainants & respondent on 21.01.2021. A payment plan was duly incorporated in the said agreement. As per clause 7.1 of the said agreement, the respondent was bound to deliver the possession of the said apartment on or before November, 2021. The complainants also availed loan from HDFC bank to pay the sale consideration. The respondent vide its letters dated 20.8.2021 & 26.11.2021 waived off the charges of Club membership, Power Back-up & Car Parking. Thus, the total sale consideration inclusive of all charges was reduced from Rs.46,17,250/- to Rs.43,92,250/-. Till date, the complainants have paid the entire demanded amount of Rs.39,37,500/- to the



respondent. The respondent has failed to complete the construction & consequently has failed to handover the possession within the time frame as mentioned in the buyer's agreement with proper services agreed upon. The complainants had planned to shift into said apartment in November 2021, but due to delay in possession, they could not do so. Complainants along with their family members are living in a rented accommodation. Complainants besides suffering the monetary loss, have also suffered a lot mentally & physically. They has to engage the lawyer before the RERA Authority for claiming delayed period interest and the instant complaint for claiming compensation before this Bench. Complainants have sought compensation to the tune of Rs.10,00,000/- towards financial loss, physical & mental hardship caused to them alongwith litigation expenses to the tune of Rs.50,000/-. Hence, this complaint.

3. Upon service, respondent appeared and contested this complaint, by taking preliminary objections that the present complaint is not maintainable being based upon vague, misconceived facts. The present complaint is wholly misconceived and is liable to be dismissed. The complainants have no cause of action to file the present complaint. Further, complainants have not come to this Bench with clean hands and have concealed material facts and they cannot take advantage of their own wrongs and misdeeds.



That in March 2020, due to the outbreak of COVID-19 in the country, the Government had invoked "Force Majeure" and the builder was given extension for 6 months for completing the project. Thereafter, due to second and third wave of COVID in the country, the project could not be completed due to shortage of manpower, which was beyond the control of the respondent. The present case filed by the complainants is premature in nature and due to the above stated reasons, the competent authority extended the time for completion of all the projects from time to time. Further, it is averred that complainants booked 3BHK apartment No.303, 3rd Floor of Tower D, which was allotted to them for total sale consideration of Rs.46,17,250/-, agreement to sell dated 20.01.2021 was also executed between the parties. An amount of Rs.24,00,000/- was paid by the complainants to the respondent as part payment at the time of application. As per agreement, possession of the unit was to be delivered on or before November 2021, unless there is delay or failure due to war, flood, draughts or any other calamity affecting the regular development of the real estate project" Force Majeure". That the respondent, out of his own goodwill and due to the delay has already adjusted an amount of Rs.2,25,000/- (waived of club membership charges of Rs.75,000/-, car parking charges of Rs.75,000/- & power backup charges of Rs.75,000/- from the total sale

YDK

consideration. Denying rest of the averments of the complaint, a prayer has been made for dismissal of the complaint.

4. Rejoinder to the written reply was not filed by the complainants, however, they reiterated contents of their 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 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.

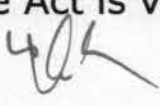
Admitted facts need not to prove. Booking of the apartment in question, allotment, agreement, payment are not disputed. Main plea of the complainants is that possession of the apartment was not delivered within the prescribed time by the respondent, due to which they have suffered monetary loss, harassment mentally and physically. So they have claimed compensation and litigation expenses through this complaint. On the other hand, as pleaded in written reply of the respondent, Ld. Representative of the



respondent submitted that delay in question was beyond the control of the respondent, there being 'Force Majeure" and Covid-19 circumstances in the country. That complainants were compensated with huge amount i.e club membership charges, car parking charges, power backup charges etc. Even vide order dated 14.01.2025, passed by the Hon'ble Authority (RERA) Pb. in Complaint GC No.0595 of 2022, they have already been compensated with interest, for the delayed period, on the deposited amount, as per requirement of Section 18(1) of the Act, in view of which, the complainants deserve no relief through the complaint in hand, as they cannot be compensated twice for the same ground. That the complainants have not withdrawn from the project as per requirement of Section 18(1) of the Act, so they do not deserve any compensation or litigation expenses under the said provisions of the Act. He lastly prayed for dismissal of this complaint with costs.

7. I have considered the submissions, pleadings, documents of the parties and have also gone through the order dated 14.01.2025 passed by the Hon'ble Authority (RERA) Pb.with their able assistance.

Complainants have sought relief under Section 18(1) of the Act, so 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."


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

YGL

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.

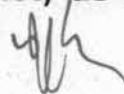
8. Now coming to the case in hand, admittedly, the complainants have not withdrawn from the project, rather, they have availed the remedy of interest on the paid amount for the delayed period, before the Hon'ble Authority, vide order dated 14.01.2025, copy of which is available on record of this complaint. In view of the 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 appeals, 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 the Adjudicating Officer. Para No.86 of **M/s Newtech Promoters and Developers (supra)** is very much clear on this point, which is reproduced as under:-

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the Regulatory Authority and Adjudicating Officer; what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and



*'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that **when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the Regulatory Authority which has the power to examine and determine the outcome of a complaint.** At the same time, **when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the Adjudicating Officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act.** If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the Adjudicating Officer as prayed, that, in our view, may intend to expand the ambit and scope of the powers and functions of the Adjudicating Officer under Section 71 and that would be against the mandate of the Act 2016."*

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 the possession, at such rate as may be prescribed. This remedy lies with the Hon'ble Authority as per above said Para No. 86 of the judgment **M/s New Tech Promoters & Developers (supra)**.

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. So no case is made out in their favour for granting any relief to them. Accordingly, this complaint deserves dismissal.

9. As a result of my above discussion, this complaint stands dismissed and disposed of, 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:19.03.2026


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