

**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.0081 of 2024

Date of Institution:12.06.2024

Date of Decision:11.05.2026

1. Neetu Khattar.

2. Sanjeev Kumar Khattar, Residents of Flat No.25 GF, B2 Block, Savitry Enclave, VIP Road, SAS Nagar (Mohali), Punjab Pin Code-140603.

.....Complainants.

Versus

Hermitage Infra Developers, Through their Director Mr. Ashish Arora, Near Maya Garden, Phase-3, VIP Road, Zirakpur, SAS Nagar (Mohali), Punjab Pin Code-140603.

.....Respondent.

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

\*\*\*\*\*

Present: Complainants in person.

Ms.Khushboo Arora 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.

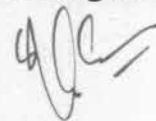


2. As per case of the complainants, they had booked a flat i.e Unit No.501, 5<sup>th</sup> Floor, Tower C3 in the project "Hermitage Centralis" of the respondent and agreement to sell was executed between the parties, in this regard. Date for completion of the project of the respondent was fixed as 01st November, 2023. But till date, possession of the flat in question, has not been given to the complainants, by the respondent. That respondent is unable to provide final date of completion of the project to the complainants. On the basis of commitment of the respondent and agreement, the complainants had planned to finish housing loan of their residential set-up and to move in the newly constructed flat at Hermitage, where they had booked their flat. That due to delay in delivery of possession of the said flat, they are unable to sell or rent out their existing residential set-up and still are paying additional interest for housing loan of their existing residential set-up to HDFC Bank and are unable to earn rental income from the said house w.e.f. 01st November, 2023. On the basis of demand letters, till date they have paid following amount of Rs.41,64,992/- (including GST) to the respondent, detail of which is as under:-

Amount Paid to Hermitage Infra by Neetu Khattar and Sanjeev Kumar Khattar.						
S.No.	Date of Payment	Basic Amt Paid	GST Paid	Total Amt Paid	Bank Ref. No.	Drawn By
1	13.03.2021	6,79,415	-	6,79,415	Chq No. 000025	HDFC Bank Ltd.
2	28.07.2021	3,99,022	19,951	4,18,973	Online	Thru HDFC Home Loan A/c.

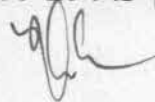
3.	21.09.2021	1,02,709	5,135	1,07,844	Online	Thru HDFC Home Loan A/c.
4.	04.10.2021	2,15,689	10,784	2,26,473	Online	Thru HDFC Home Loan A/c.
5.	10.01.2023	5,13,542	25,677	5,39,219	Online	Thru HDFC Home Loan A/c.
6.	06.02.2023	5,39,218	26,961	5,66,179	Online	Thru HDFC Home Loan A/c.
7.	16.02.2023	5,39,218	26,961	5,66,179	Online	Thru HDFC Home Loan A/c.
8.	06.03.2023	54,636	2732	57,368	Online	HDFC Bank Ltd.
9.	09.03.2023	1,19,174	5,959	1,25,133	Online	Thru HDFC Home Loan A/c.
10.	09.03.2023	1,90,476	9524	2,00,000	Online	HDFC Bank Ltd.
11.	14.03.2023	1,90,476	9524	2,00,000	Online	HDFC Bank Ltd.
12.	15.03.2023	47,619	2,381	50,000	Online	HDFC Bank Ltd.
13.	03.05.2023	4,07,818	20,391	4,28,209	Online	Thru HDFC Home Loan A/c.
	TOTAL	39,99,012	1,65,980	41,64,992		

Complainants further pleaded that they approached the respondent-developer to pay rental amount alongwith interest on the delayed period w.e.f. 01.11.2023, but the respondent did not do so. That they have been harassed due to non delivery of possession for more than 6 months. The complainants have sought compensation of Rs.5,00,000/- alongwith litigation

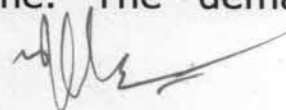


expenses of Rs.30,000/- for delayed possession. Hence, this complaint.

3. Upon notice, respondent appeared and filed written reply taking preliminary objections that the present complaint is not maintainable as primary issue regarding delay of possession has already been settled between the parties, as a result of which the complainants have withdrawn their complaint in this regard, pending before the Hon'ble Authority (RERA) vide order dated 11.02.2025. That complainants have accepted the physical possession of the unit in question on 20.01.2025 and have received due interest for the delay in possession in accordance with the Act. The complainants have not demonstrated any breach of Sections 12, 14 or 18 of the Act, which are pre-requisites for any compensation claim under Section 71. The allegations regarding harassment and litigation charges are vague, misconceived and devoid of any merit. That complainants have accepted possession and received interest, for delay without protest, so they are estopped from raising further claim on the same subject matter. It is cardinal principle that a party who with full knowledge of its rights, voluntarily accepts performance and benefits under a contract or settlement, is deemed to have waived all objections. That an agreement to sell was executed on 27.03.2021 in respect of unit No.501, 5<sup>th</sup> Floor, Tower C3 in the project 'Hermitage Centralis,' for a total consideration of Rs.45,57,250/-, copy of which is Annexure R-1. As per clause 7.1



of the Agreement, possession was to be delivered by 01.11.2023 extendable by grace period of 6 months i.e till 01.05.2024. Due to unexpected factors, the impact of the COVID-19 pandemic and disruption of supply chain, Occupation Certificate was obtained on 27.08.2024 and possession was offered immediately thereafter, vide letter dated 30.08.2024, copy of which is Annexure RF-2. The complainants accepted possession on 29.01.2025. The possession letter and key handing over letter is Annexure R-3. Further, it is averred that interest for the delayed period i.e 02.05.2024 to 29.08.2024 at the rate of 11.1% per annum (SBI MCLR+ 2%) amounting to Rs.1,49,374/- was duly paid via cheque No.784522, which was cleared on 12.02.2025. The calculation sheet certified by CA is Annexure R-4 and copy of the cheque is Annexure R-5. The delay of approximately 3 months in delivery of possession was due to the reason beyond the respondent's control and qualified as "force majeure" under the Agreement and applicable legal principles. The respondent has duly discharged its obligation by compensating the complainants with statutory interest for the delayed period. The allegation of harassment is vague and unsubstantiated and unfounded. The respondent at all times acted bonafidely, in good faith and strictly in accordance with contractual obligations and statutory compliance. That respondent has always remained cooperative and provided necessary documentation including the Occupancy Certificate and Possession Letter in time. The demand of



complainants for a sum of Rs.5,30,000/- towards harassment and litigation charges is untenable and not supported by any provision of the Act or the Agreement to sell. The Hon'ble Authority vide order dated 11.02.2025 dismissed their complaint as withdrawn post-settlement, is final and binding upon both the parties. The complainants are thus barred from seeking any further relief arising from the same dispute. The copy of said order is Annexure R-6. Further, it is averred that no breach of Sections 12,14 or 18 of the Act has been demonstrated. In the absence of such violations, no claim for compensation under Section 71 can be entertained. The compensation under Section 71 requires proven breach of statutory provisions. Mere dissatisfaction or general grievances are insufficient to grant compensation. At last, a prayer has been made for dismissal of this complaint being frivolous and vexatious, with costs.

4. Rejoinder to the written reply was filed by the complainants, reiterating the contents of their complaint and denying those of the written reply, filed by the respondent.

5. Violations and contraventions contained in the complaint were put to the representative for the respondent. He totally denied all of them, including allegations of the complainants. Thereafter, the complaint was proceeded for further enquiry.

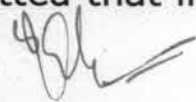
6. I have heard the representatives of the parties, who addressed the arguments on the lines of their



pleadings/submissions, as summarised in the earlier part of this order. I have also carefully gone through the case file, with their able assistance.

Admittedly, an Agreement to sell was executed on 27.03.2021 between the parties, in respect of Flat No.501, Tower C3, Hermitgae Centralis, Zirakpur for a total sale consideration of Rs.45,57,250/-. As per complaint, possession of the flat was to be delivered by November, 2023 and it was delivered on 29.01.2025 after a delay of 15 months. It is the further plea of the complainants that respondent himself cannot take the benefit of "force majeure condition", as the same has not been proved on record. It is case of the complainants that due to delay of delivery of possession of the flat, they have suffered financial loss, harassment etc., for which respondent is responsible. So they have claimed the compensation alongwith litigation expenses from the respondent, as per prayer of their complaint.

On the other hand, it is the stand of the respondent that the complainants have already been compensated for delay in delivery of possession, as they have been paid amount of Rs.1,49,374/- through Cheque No.784522 , as a result of which their complaint bearing No.(GC0233/2024) was dismissed as withdrawn before the Hon'ble Authority (RERA) vide order dated 11.02.2025, on the basis of mutual settlement between the parties and copy of this order has already been placed on record. Ld. counsel for the respondent further submitted that in this way,



the complainants cannot claim compensation etc. under Section 18(1) of the Act, as they have not withdrawn from the project, rather they have accepted possession of the flat in dispute on 29.01.2025 and they have been compensated with adequate amount of interest on the ground of delay in possession.

Keeping in view the pleadings and above submissions of both the parties, main dispute is with regard to the maintainability of this complaint, as per the provisions 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. In that situation, 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. They have also taken possession of the flat in dispute. Copy of order dated 11.02.2025 passed by the Hon'ble Authority (RERA) in Complaint No.(GC No.0233/2024) is available on the record of this case as Annexure R6, from which is crystal clear that the matter between the parties, pending before the Hon'ble Authority, was mutually settled and accordingly said complaint was dismissed as withdrawn. As per said settlement, amount of Rs.1,49,374/- through cheque No.784522 has been paid by the respondent to the complainants, in the shape of interest, on the ground of delay in delivery of the possession of the flat. There is nothing on

record to suggest that no such order was passed in the presence of the parties or the above said amount in the shape of interest has not been paid to the complainants. Rather, this order has become final. Meaning thereby, complainants have accepted the possession of the flat and amount of interest from the respondent, on the ground of delay. As is clear from above said Section 18(1) of the Act, the complainants were only entitled for interest on the plea of delay of possession and not compensation etc. 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 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. So no case is made out in their favour for granting any relief to them, through the complaint in hand. Accordingly, 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. 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:11.05.2026**

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