

**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.0113 of 2024

Date of Institution: 05.09.2024

Date of Decision:09.03.2026

1. Ankit Gupta.
2. Suresh Gupta, R/o House No.7, Dhillon Colony, Near Mohindera College, Patiala, Punjab, Pin Code 147001.
.....Complainants.

Versus

1. Sushma Buildtech Limited, B-107, Ist Floor, Business Complex Elante Mall, Industrial Area Phase-1, Chandigarh, Pin Code 160002.
2. Binder Pal Mittal, Sushma Buildtech Limited, B-107, Ist Floor, Business Complex Elante Mall, Industrial Area Phase-1, Chandigarh, Pin Code 160002.
3. Prateek Mittal, Sushma Buildtech Limited, B-107, Ist Floor, Business Complex Elante Mall, Industrial Area Phase-1, Chandigarh, Pin Code 160002.
4. Bharat Mittal, Sushma Buildtech Limited, B-107, Ist Floor, Business Complex Elante Mall, Industrial Area Phase-1, Chandigarh, Pin Code 160002.
5. Pradeep Kumar, Sushma Buildtech Limited, B-107, Ist Floor, Business Complex Elante Mall, Industrial Area Phase-1, Chandigarh, Pin Code 160002.
..... Respondents.

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

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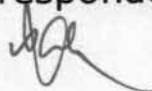


Present: Mr. Saurabh Garg Advocate, with complainants.
Mr. Vishal Singal Advocate with Mr. Aman Advocate
for respondents No.1 to 5.

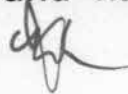
ORDER

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 respondents/promoters, seeking compensation, litigation expenses & damages.

2. As per case of the complainants, on 06.09.2020, they booked a flat with the respondents, in their project by making payment of an amount of Rs.4,49,000/-, copies of receipts dated 06.09.2020, 10.09.2020 & 14.09.2020 regarding payment of the booking amount are Annexures A-1. At the time of booking of the flat, respondents further offered to the complainants an "Assured Rental Scheme" against the apartment booked by them vide which they promised to pay an amount of Rs.13,500/- till the offer of possession of the unit to the complainants. The complainants opted for the said Scheme offered by the respondents by paying an additional amount of Rs.5,00,000/- in cash to them, copy of letter dated 15.09.2020 was given by the respondents to them,



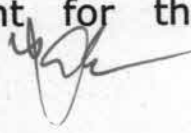
promising to pay an amount of Rs.13,500/- to them till the offer of possession of the Unit, which is Annexure A-2. Vide allotment letter dated 18.09.2020, respondents allotted a residential Unit K-302, at Sushma Crescent Phase-2, having super area 1590 square feet Type 3-BHK, on 3rd Floor in favour of the complainants for the basic sale price of Rs.44,42,300/-. As per the payment plan of the Unit annexed with the Allotment Letter, it was a construction linked payment plan. The copy of the Allotment Letter dated 18.09.2020 is Annexure A-3. On the same day i.e. 18.09.2020, an agreement for sale regarding the said Unit was also executed between the parties, detailing the terms and conditions for the allotment and sale of the Unit in favour of the complainants. Total cost of the Unit including the basic sale price, other charges & taxes, as per the Agreement for sale was Rs.44,90,000/-, copy of Agreement for sale dated 18.09.2020 is Annexure A-4. Complainants have already filed a Complaint under Section 31 of the Act before Real Estate Regularity Authority Punjab i.e. GC-257/2023 claiming interest for the delayed possession and directing the respondents to deliver possession of the Unit as per the Agreement, copy of which is Annexure A-4. In clause 5 of the above said Agreement, it has been clearly mentioned that the promoter shall abide by the time schedule for completing the project and handing over the



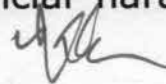
possession of the Unit to the allottee after receiving Occupancy Certification or the Completion Certificate. Further as per clause 7.1 of the agreement, promoters have agreed and assured to hand over the possession of the unit to the complainants on 20.03.2022. As per clause 7.2 of the Agreement, the promoters on obtaining the Completion/ Occupancy Certificate from the competent authority shall offer in writing the possession of the unit to the Allottee, failing which, the respondents shall pay to the allottee interest at the rate specified in the rules for every month of delay till the handing over of the possession of the unit. To purchase unit, complainants had availed housing loan from Bank of Maharashtra for amount of Rs.26.30 Lacs with monthly EMI of more than Rs.20,000/-, copy of the Loan sanction letter dated 12.10.2020 is Annexure A-5. Thereafter, as per demand letters issued by the respondents, the complainants paid an amount of Rs.5,00,000/- vide receipt No.6903 dated 05.10.2020, an amount of Rs.19,64,000/- vide receipt No.6923 dated 16.10.2020, an amount of Rs.9,00,714/- vide receipt No.6925 dated 16.10.2020, and further an amount of Rs.2,24,336/- vide receipt No.9755 dated 18.08.2023 to the respondents towards the price of the Unit, copy of which is Annexure A-6. Thus, total cost of the flat has been paid by the complainants till date, but the respondents have failed to



complete the Unit and to handover possession of same to them. The complainants sent multiple e-mails and even called the respondents for the delivery of the possession of the Unit, but of no use, copy of which is Annexure A-7. The copy of the photographs of the site, taken to check the progress of construction, substantiating the lack of progress, including water logging during rains, rusted TMT bars, the absence of completed elements like elevators, basements etc., is Annexure A-8. The complainants are residents of Patiala and due to his Job, complainant No.1 has to come to Chandigarh and for that reason he had purchased the said unit for staying at Zirakpur for its proximity to his workplace and moreover the respondents had promised to deliver possession within 1½ year. On account of failure of the respondents to deliver timely possession of the Unit, the complainants had to take another apartment at Zirakpur on monthly rent @ Rs.21,000/- since November 2022 till November 2023 and thereafter the monthly rent was increased to Rs.23,100/- per month. This rent significantly exceeds the amount of Rs.13,500/- promised by the respondents under the rental scheme, which the respondents fraudulently stopped paying since April 2024. But after December 2023, the complainants shifted back to Patiala as their landlord refused to extend the tenancy any further, copy of the rent agreement for the rented

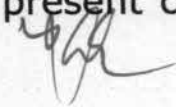


apartment, rent receipts and e-mail regarding termination of tenancy is Annexure A-9. However, the respondents have intentionally and deceitfully breached the agreement/commitment by stopping the payments of rent since April 2024 and not even a single penny has been paid to the complainants since then, copy of e-mails to substantiate this fact is Annexure A-10. That complainants never defaulted in the payment of due installment to the respondents as per the agreement and despite having paid a substantial amount of Rs.40,38,050/- to the respondents, after availing loan facility from the bank. The possession of the unit has not even been offered to the complainants till date and the same has already been delayed for about 2½ years. The complainants are not being paid the agreed rent as per the Assured Rental Scheme, nor monthly interest as per RERA Rule 16 and agreement Clauses 7.6 and 9.2, is being paid to them and the respondents have been enjoying benefits of the hard earned money of the complainants, with no progress in the project on the spot. The medical record of the Applicant no.2 who is a senior citizen and has been diagnosed with wet AMD disease due to which she needs an injection of Rs.50,000/- into each of her eyes, every three months, clearly proves the stress aggravated by the act of the respondents. The complainants sought compensation of Rs.8,00,000/- for mental agony, financial harassment and



loss caused by the respondents, Rs.1,00,000/- towards litigation expenses. Hence the present complaint.

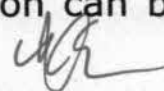
3. Respondents appeared, filed written reply taking preliminary objections that present complaint is not maintainable and reliefs claimed cannot be awarded to complainants. In March 2020, there was pandemic of Covid-19 and Ministry of Finance declared Covid-19 as Pandemic period was termed as covered under "Force Majeure Clause" vide circular dated 19.02.2020. Under certificate of Registration, revised/extended/completion date was on or after 15th March 2020, was extended by 6 months and even in the present complaint date of offer of possession i.e 20.03.2022, which was deemed to be extended by 6 months i.e 20.09.2022. That even the registration of project Sushma Crescent was valid till January 2023 and was extended till January 2025 and approached till January, 2026 recently by RERA Punjab. The complainants have sought assured rent amount from the respondents on the amount to be paid by them towards purchase of unit in question i.e Tower K-Unit No.302, 3rd Floor, Sushma Crescent (Phase-2), Zikrakpur, Punjab. The complainants are receiving Rs.13,500/- per month as assured rent against the amount paid by them towards price of the unit and till date a sum of Rs.5,60,032/- has already been paid by respondents. The complainants have miserably failed to show how the present complaint is



maintainable and how they are entitled for delayed interest and the complaint is liable to be dismissed. Further, in case this Bench comes to the conclusion that interest for delay has to be paid to complainants, then the amount already paid to them by way of assured rent requires to be deducted from the amount granted by this Bench. The present complaint has been filed without any cause of action accruing in favour of complainants. There is no default on the part of the respondents and the project got delayed due to "Force Majeure" circumstances due to Covid-19 and RERA Punjab extended the period for completion of projects and thus complaint being premature is not maintainable. Further, it is averred that the rent deed is unregistered and cannot be relied upon and moreover the address mentioned in complaint by complainants is of Patiala, whereas the alleged rent deed relied upon by the complainants, is of some flat at Zirakpur and as such, plea of said rent deed and rent paid by complainants is baseless and has been created just to mislead this Bench. The complainants wanted that they should be granted higher assured rent and considering their request sympathetically and on their asking, respondents agreed to raise assured rent to Rs.15,000/- per month till offer of possession. The complainants wanted exorbitant increase in assured rent and refused to sign the agreement for increase of rent and filed the present



complaint, without any justification and without seeking deduction of amount of Rs.13,500/- being paid to them every month. The respondents have placed reliance upon documents, Buyer Agreement, statement of account, copy of tripartite agreement, copy of assured rental letter, copy of demand letter dated 03.07.2023, copy of reminder letter dated 25.07.2022, copy of reminder letter dated 09.08.2022, Extension of Registration of Project letter, copy of registration certificate, copy of documents showing assured rent paid are Annexures R-1 to R-10. Further, it is averred that complainants have also delayed the payments as per payment plan, interest for delay was also payable by them. The complainants had availed loan from bank, however, they have not made the bank as a party to the present complaint and same is liable to be dismissed on this ground. This Bench has already held in catena of judgments that in case, where the allottee has chosen not to opt out of agreement and has chosen to accept possession of plot/unit, the said allottee would only be entitled to the relief of interest for the period of delay and no compensation can be granted and complaints in such cases have been dismissed by this Bench. Respondents have referred to Section 18 & Section 72 of the Act, with regard to the above said averments. That complaint is liable to be dismissed being devoid of any merit and no compensation can be awarded.



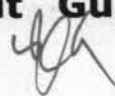
Lastly, after denying entire claim of the complainants, a prayer has been made for dismissal of this complaint.

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 respondents.

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

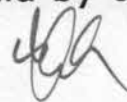
6. I have heard the representatives of the parties, who addressed the arguments on the basis of their pleadings/submissions, as summarised in the earlier part of this order. I have also carefully gone through the case file, with their able assistance.

Admitted facts need not to prove. Booking of the flat, payments made by complainants, Agreement of sale, Allotment letter are admitted by the parties. Since possession of the flat in question was not delivered within prescribed time, so the complainants have filed this complaint seeking compensation, litigation expenses etc. as detailed at the end of Para No.2 of this order. Apart from that complainants had also filed another complaint in Form "M" before the Hon'ble Authority (RERA) (**Complaint No.0257 of 2023, titled as Ankit Gupta etc., Vs**



Sushma Buildtech Ltd.), seeking possession of the allotted unit and interest for the period of delay till handing over valid possession. This complaint was decided by the Hon'ble Authority vide order dated 08.07.2025 and the complainants were allowed interest @ 11.10% w.e.f 20.03.2022 till the date of said order and also interest at the same rate from the date of that order till date of delivery of legal/valid possession of the apartment in dispute. Amount of Rs.5,26,500/- which was paid to the complainants by the respondents towards "assured rent scheme" was ordered to be set off from the awarded interest. Respondents were also directed to hand over physical possession of the said apartment within a period of two months of the Occupancy Certificate issued for the said apartment. Hon'ble Authority had held that there was delay in delivering the possession of the flat, at the hands of the respondents.

Relying upon the pleadings/documents of the complainants, their representative submitted that this complaint deserves to be allowed as per its prayer made in the relief clause, because the Hon'ble Authority has also accepted all the pleas of the complainants, while granting relief to them vide order dated 08.07.2025. That the complainants have suffered mentally, physically, financially due to non delivery of possession of the said flat. Even huge amount in the shape of rent has been paid by them, and for



all these things, respondents are liable to pay compensation and litigation expenses to the complainants. On the other hand, Ld. representative of the respondents vehemently opposed the submissions of the representative of the complainants and also submitted that the complainants have already been compensated on the ground of delayed possession, by the Hon'ble Authority vide order dated 08.07.2025, so as per Section 18 (1) of the Act, they cannot be compensated again for the same ground, by this Bench. He further submitted that when the complainants are not entitled for compensation and litigation expenses, so their pleas of delay, harassment physically, mentally and financially etc. cannot be considered by this Bench. He prayed for dismissal of this complaint.

7. Keeping in view the pleadings and submissions of both the parties and 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***

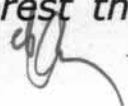


withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this 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."

8. Order dated 08.07.2025 passed by the Hon'ble Authority, vide which relief of interest etc. has been granted to the complainants for the delayed period, is not disputed and the same has become final, so parties are bound by the same. In Para 86 of the judgment delivered by the **Hon'ble Apex Court in Civil Appeal No.(s) 6745-6749 of 2021 titled as M/s New Tech Promoters and Developers Pvt. Ltd. Vs. State of U.P & Ors., decided on 11.11.2021** is also very important to be considered here, 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 expression 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."

Perusal of above said Para, nowhere speaks that the allottee who does not withdraw from the project is also entitled for compensation or that in such a case, Adjudicating Officer has the power to grant compensation/interest. Rather, this Para shows that the jurisdiction to grant interest for delayed delivery of possession, lies with the Authority (RERA). The complainants of this case have already availed this remedy.

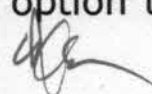
9. Even Bench of Adjudicating Officer, Haryana Real Estate Regulatory Authority Gurugram, has held in **Navneet Kumar @ Suman Choudhary Vs. BPTP Limited & Countrywide Promoters Pvt. Ltd. (Complaint No.2400 of 2023) vide order dated 29.07.2025** that award of interest in favour of the complainant by the Authority under Section 18(1) of the Act, on the ground of delay in delivery of the possession, was in the form of compensation. He further held that claim of compensation and interest can be

allowed only in case the allottee seeks to withdraw from the project. In support of his opinion, the learned Bench relied upon judgment of the **Hon'ble Real Estate Appellate Tribunal Uttar Pradesh titled as "Greater Noida Industrial Development Authority Vs. Ranjan Misra", Appeal 70 of 2023, decided on 20.04.2023 as under:-**

"13.09. If we closely examine the above two provisions, it comes out that in a case where the Allottee exits the project, the Act expressly provides INTEREST AND COMPENSATION both, but in cases where the Allottee tends to stay in the project, the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to provide Compensation only to those who exit the project and not to those who tend to stay in the project."

Keeping in view all these facts and circumstances, it was held that when the complainant has already been compensated on the ground of delay in delivering the possession by the Authority, so for the same cause of action, there is no reason to allow separate compensation for delay in completion of construction by the promoter. In that case, complaint of the complainant **Navneet Kumar etc. (supra)** was dismissed.

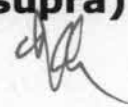
10. Apart from that, a close scrutiny of Section 18(1) of the Act, leaves no manner of doubt that this section deals with the matters where the project is not completed by the promoter within the stipulated period as per settled terms and conditions, then the allottee has the option to withdraw



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 and wants to seek the relief of possession, then the only remedy provided for the default of the promoter in completion of the project, is to get the delayed interest on the paid amount from the stipulated date of possession till the actual date of possession, as per proviso of Section 18(1) of the Act, which runs as under: -

"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."


11. In the case in hand, the complainants have not withdrawn from the project. Rather, because of the default of the promoter in completion of the project, they have chosen to seek the relief of delayed interest and possession, which has already been allowed to them by the Hon'ble Authority (RERA) in Complaint bearing **No.257 of 2023, titled as Ankit Gupta etc. Vs Sushma Buildtech Pvt. Ltd.**, under Section 18 (1) of the Act, vide order dated 08.07.2025. By operation of proviso of Section 18(1) of the Act, the complainant is not entitled to relief of compensation, if he has not opted to withdraw from the project and wants to remain in the project. Our Hon'ble Supreme Court in **M/s New Tech case (supra)** has clearly



held in Para No.86 of the judgment that it is the Regulatory Authority, which has the power to deal with the matter qua payment of interest for delayed delivery of possession. Admittedly, this relief has already been availed by the complainants of the present case, so for the same plea/ground they cannot be compensated twice. Keeping in view all these facts and circumstances of the matter in hand, no case is made out for grant of any relief to the complainants, as claimed in the present complaint. So this complaint deserves dismissal.

12. As a result of the above discussion, present complaint filed by the complainants stands dismissed and disposed of, with no order to costs. Copy of this order be sent to the parties, free of cost, under rules. File be consigned to the record room, after necessary compliance, under rules.

Pronounced
Dated:09.03.2026


(Rajinder Singh Rai)
Adjudicating Officer
RERA, Punjab

09/3/2026