



## Real Estate Regulatory Authority, Punjab

First Floor, Block-B, Plot No. 3, Sector-18 A, Madhya Marg, Chandigarh - 160018  
Before the Bench of Sh. Rakesh Kumar Goyal, Chairman.

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| 1. Complaint No.                                   | :- GC No. 0479/2021  |
| 2. Name & Address of the complainant (s)/ Allottee | :- 1. Sh. Gurjit Singh s/o Sh. Ranbir Singh<br>2. Ms. Rashpal Kaur w/o Sh. Gurjit Singh<br>(Both r/o House No. 2462, Sector 40-C, Chandigarh - 160036) |
| 3. Name & Address of the respondent (s)/ Promoter  | :- Ansal Properties and Infrastructure Ltd.,<br>SCO 183-184, 1 <sup>st</sup> Floor,<br>Sector 9-C, Madhya Marg, Chandigarh - 160009.                   |
| 4. Date of filing of complaint                     | :- 08.12.2021  |
| 5. Name of the Project                             | :- Golfink-II, Sector 116, Mohali, Distt. SAS Nagar.   |
| 6. RERA Registration No.                           | :- PBRERA-SAS80-PR0271   |
| 7. Name of Counsel for the complainant, if any.    | :- Sh. Himanshu Raj, Advocate  |
| 8. Name of Counsel for the respondent, if any.     | :- Sh. Prateek Garg, Advocate for the respondent.  |
| 9. Section and Rules under which order is passed   | :- Section 63 of the RERD Act, 2016.   |
| 10. Date of Hearing/Date of Order                  | :- 24.02.2025  |

### Order u/s. 63 of the Real Estate (Regulation & Development) Act, 2016

An order dated 13.10.2021 under section 31 of the Real Estate (Regulation and Development) Act, 2016 (herein after referred as the **Act** for the sake of convenience and brevity) was passed by this Authority in the case of **Gurjit Singh & Anr. Vs. Ansal Properties and Infrastructure Ltd. vide GC No. 1565/2020**. The respondent has not filed any appeal before the Hon'ble Real Estate Appellate Tribunal, Punjab or any other court against the order passed u/s. 31 of the RERD Act, 2016.

2. The brief gist of the complaint is that the complainants entered into an Agreement to Sell with the respondent for a unit in the respondent's real estate project, wherein the respondent was contractually obligated to deliver possession within a stipulated timeframe. However, the respondent failed to complete construction and hand over possession as agreed, leading the complainants to file **Gurjit Singh & Anr. Vs. Ansal Properties and Infrastructure Ltd. vide GC No. 1565/2020** before this Authority. After considering the facts and submissions, the Authority, vide order dated 13.10.2021 under Section 31 of the Real Estate (Regulation and Development) Act, 2016, directed the respondent to pay interest to the complainants for the delay in possession, in accordance with Rule 16 of the Punjab RERA Rules, 2017, with such interest payable for each month





of delay starting from 27.01.2015 until a valid offer of possession is made. For ready reference, relevant extract of the order dated 13.10.2021 is reproduced hereunder:-

*"6. We have considered the rival contentions carefully. The main point of issue in this matter is the validity of offer of possession allegedly made by the respondent in January, 2016. Admittedly, there was no CC available for the project at that time. The respondents contention that it was not required to obtain a CC has been examined, and we hold that any exemption granted under the 'mega project agreement' ceased to operate after the issue of notification No. 4966/CTP(Pb)/SP-458 dated 02.09.2014. This notification makes it clear that mega projects are also required to obtain a CC. Therefore, it has to be held that the offer of possession dated 12.01.2016 was not a valid one since the respondent had not obtain a CC till that date. Once that is so, there is no escaping a conclusion that there has been delay in deliver of possession to the complainants. Under the Agreement a total period of 42 months was allowed to the respondent from 28.07.2011. The delay therefore has to be reckoned from 27.01.2015. The respondent is liable to pay interest from this date till a valid offer of possession is made.*

*7. This complaint is accordingly accepted and the respondent is directed to pay interest as prescribed under Rule 16 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 for every month of delay from 27.01.2015 till a valid offer of possession is made to the complainants. Further, since the initial payment was made way back in the year 2009 it is directed that the interest accrued till date shall be paid within a period of 3 months. The rest of the interest be adjusted at the time of delivery of valid possession."*

3. Following the pronouncement of the order, the complainants approached the respondent and requested compliance in good faith. It is important to note that the respondent has been duly communicated with the contents of the order passed dated 13.10.2021 and is fully aware of its obligations under the same. Nevertheless, the respondent failed to abide by the said directions. Accordingly, The applicant / complainant filed an application that as per section 63 of the RERD Act if any promoter who fails to comply with the orders of the Authority shall be liable to a penalty which may extend upto 5% estimated cost of the project, for every day for which such default continues. Hence, the applicant / complainant submitted that a penalty under section 63 be imposed on the respondent / judgment debtor for non-compliance of the orders of the Authority.

4. The provisions of Section 63 of the RERD Act reads as under:-

**"63. Penalty for failure to comply with orders of Authority by promoter.** If any promoter, who fails to comply with, or





*contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent., of the estimated cost of the real estate project as determined by the Authority."*

5. The complainant has not filed any application u/s 40(1) of the Act, 2016 (although requested orally today itself, for issuing a Debt Recovery certificate in favour of complainant as Decree Holder), as per the practice, being followed by the Authority. In all cases, a Debt Recovery Certificate is issued grading the payment to be calculated as "Land Revenue" u/s 40(1) of the RERD Act either on the application of the complainant in whose favour the order of payment has been passed u/s 31 of the RERD Act or a composite order is passed by determining the amount payable with a direction to calculate it as "Land Revenue" as per provision of sub-rule (1) of section 40 and asking the Secretary to issue "Debt Recovery Certificate" after 90 days of the order.

6. The respondent has submitted that in this case, an order u/s 40(1) of the RERD Act for execution of the order has not been passed so far for the recovery of the land revenue. It is a proper procedure for recovery of land revenue and the method of recovery. Initiation of penalty proceedings without decree of recovery at this stage is premature to impose penalty u/s 63 of the RERD Act. Further, the respondent has submitted that the present application is liable to be dismissed as provisions of Section 63 of RERA Act can be invoked only in cases of general orders / directions of the Authority and the same has nothing to do with the execution of the decree passed by the Authority. The submissions of the respondent have been considered. There is a proper procedure / process prescribed under Chapter "Recovery of Arrears" of the Punjab Land Revenue Rules, 1909. There are provisions for enforcement of recovery including arrest, detention of defaulters, dispose and sale of moveable property, attachment of estate or holding etc. in Rules and Chapter VI of the Punjab Land Revenue Act, 1887. It is held that once there is proper procedure and process for collection, officers and State machinery to enforce recovery of land revenue under a Special Act and the amount of interest, penalty or refund is recoverable as Land Recovery, then imposing penalty u/s 63 of the RERD Act, 2016 is premature to be invoked at this juncture without passing an order u/s 40(1) of the RERD Act, 2016 and without considering the enforcement firstly under the Punjab Land Revenue Act, 1887. Therefore, the present complaint vide GC No. 0479/2021 filed for initiation of




proceedings under Section 63 of the Real Estate (Regulation and Development) Act, 2016 for not complying with the direction issued on 13.10.2021 is hereby **dismissed**. File be consigned to record room.

7. A copy of this order be supplied to both the parties under Rules and file be consigned to record room.


Chandigarh  
Dated: 24.02.2025



  
(Rakesh Kumar Goyal),  
Chairman,  
RERA, Punjab.

A copy of the above order may be sent by the Registry of this Authority to the followings:-

1. Sh. Gurjit Singh s/o Sh. Ranbir Singh
2. Ms. Rashpal Kaur w/o Sh. Gurjit Singh  
(Both r/o House No. 2462, Sector 40-C, Chandigarh - 160036)
3. Ansal Properties and Infrastructure Ltd., SCO 183-184, 1<sup>st</sup> Floor, Sector 9-C, Madhya Marg, Chandigarh - 160009.
- ✓ 4. The Complaint File.
5. The Master File.

  
(Sawan Kumar),  
P.A. to Chairman,  
RERA, Punjab.