

**BEFORE THE REAL ESTATE REGULATORY AUTHORITY,
PUNJAB
PLOT NO.3, BLOCK-B, FIRST FLOOR, SECTOR 18A,
MADHYA MARG, CHANDIGARH.**

GC No.0345 of 2022UR
Date of filing: 29.06.2022
Date of Decision: 13.10.2025

Amit Kumar son of Ramesh Kumar, resident of Flat No.C-4, Marvel Homes, Barewal Road, Ludhiana

...Complainant

Versus

1. M/s Marvel Homes Construction Pvt. Ltd., Barewal Road, Backside Gurdev Hospital, Ludhiana through its Managing Director/ Director,
2. Municipal Corporation, Zone-D, Ludhiana, Sarabha Nagar, Zone-D Office, Ludhiana through its Commissioner,
3. Department of Local Government, Municipal Bhawan, Plot No.3, Dakshin Marg, Sector 35-A, Chandigarh through its Principal Secretary,
4. Real Estate Regulatory Authority, Punjab, First Floor, Block-B, Plot no.3, Sector 18A (Near Govt. Press UT), Madhya Marg, Chandigarh through its Chairperson.

...Respondents

Present: Mr. Indresh Upadhaya Advocate representative for the complainant
Mr. Jatin Bansal Advocate representative for respondents no.1 & 2
None for respondent no.4

ORDER

 The present complaint has been filed by complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) against the respondents seeking possession of the unit purchased by him in the project namely "Motia Marvel Homes" complete in all aspects, providing all amenities alongwith interest for delayed possession.


 2. As per allegations contained in the complaint, the complainant being a subsequent purchaser of the apartment in question, vide an agreement to sell dated 07.06.2016 became a subsequent allottee and had thus stepped into the shoes of his

predecessor/ seller since thereafter title stood transferred in his name. It was further alleged by the complainant that he was assured by the respondent of having all the sufficient approvals and about the clear ownership of their project. The said assurance by the respondent/ promoter stood confirmed by the very fact that agreement to sell executed between complainant and his seller Anoop Bansal was duly witnessed by Sh. Sandeep Garg on behalf of the respondent M/s Marvel Homes Construction Pvt. Ltd. that developed Motia Marvel Homes. And, thus respondent/ promoter was accountable for all his obligations, responsibilities and functions under the provisions of RERA Act whereas respondent had violated various provisions of the Act by not providing all the promised facilities and had since abandoned the project. No amenities and basic facilities had been provided as was assured. Rather till date respondent had not obtained any occupancy/ completion Certificate. Not only this, respondent/ promoter had violated the provisions of Section 3 of the Act by not getting his project registered with RERA, which was a mandatory provision apart from following Section 14 by raising additional construction against the sanctioned layout plan. No Gym, Club House, play ground, swimming pool etc. had been provided by the respondent as was promised. The possession that had been delivered to the complainant was actually no possession in the eyes of law as the same could not have been delivered without first getting OC/ CC from the competent authority. As such a direction was liable to be issued to said respondent/ promoter to obtain first occupancy and completion certificate from the appropriate authority and then to handover the actual legal possession to the complainant with a further direction to pay him interest as stipulated in the provisions of Section 18(1) of the Act till the handing over possession in the above said manner. Hence, the present complaint.

3. In response to the complaint and in reply thereof, respondents no.1 and 2 submitted that the complaint filed by complainant was not only false one but

also had no legal basis. Their project was a completed project that required no registration with the RERA. It was further submitted by the respondents that no provisions of the RERA Act have been violated by them as have been claimed. Rather all the facilities such as Gym, Club House, play ground, swimming pool etc. had been provided, apart from facility of power backup, lift and fire fighting equipment etc. All the requisite clearances have been obtained by the respondents from the concerned department. Moreover, the complainant had no privity of contract with the respondents as he was not a direct allottee having purchased the unit in question from the open market. There was thus no such question arose at all of any promise or assurances having been made to him by the respondents. The possession of the apartment in question had already been given by the respondent to the original allottee and even sale deed in his favour was got registered on 26.03.2015 while the complainant purchased the unit in question from its original allottee in the open market being fully aware of the quality and condition of the unit. Thus he could virtually make no claim against the promoters, it was asserted. It was also submitted that the project of the case in hand was completed in the year 2010 and no development work was pending. Infact, respondent/ builder applied for completion certificate to the MC authority vide its application/ letter dated 21.12.2010 following which a spot inspection of the building was even got done by the Assistant Town Planner. Consequent upon that a compounding fee of Rs.11,77,603/- was also deposited as was directed by the Assistant Town Planner. Otherwise also in the terms of Section 272 of Punjab Municipal Corporation Act, 1976 since the builder/ respondent had applied for issuance of completion certificate in the office of MC but no refusal was since conveyed to the respondent as such completion certificate/ permission stood deemed to have been granted. Moreover, all the units in the project were sold and out of the total 48 units, sale deeds of 44 units were got registered before the commencement of RERA Act. No buyer in such circumstances would be

willing to buy any unit in the project which is unfinished or not completed. So much so, the common area of the project had already been handed over to the Residents Welfare Society. Rest of the averments of the complaint were denied and prayer for dismissal of complaint was made.

4. While putting forth the case of the complainant his learned counsel appearing for him argued that he being a subsequent purchaser of the apartment in question, vide an agreement to sell dated 07.06.2016 became a subsequent allottee and had thus stepped into the shoes of his predecessor/ seller since thereafter title stood transferred in his name. The complainant was assured by the respondent of having all the sufficient approvals and about the clear ownership of their project. The said assurance by the respondent/ promoter stood confirmed by the very fact that agreement to sell executed between complainant and his seller Anoop Bansal was duly witnessed by Sh. Sandeep Garg on behalf of the respondent M/s Marvel Homes Construction Pvt. Ltd. that developed Motia Marvel Homes. And, thus respondent/ promoter was accountable for all his obligations, responsibilities and functions under the provisions of RERA Act whereas respondent had violated various provisions of the Act by not providing all the promised facilities and had since abandoned the project. No amenities and basic facilities had been provided as was assured. Rather till date respondent had not obtained any Occupancy or Completion Certificate. Not only this, respondent/ promoter had violated the provisions of Section 3 of the Act by not getting his project registered with RERA, which was a mandatory provision apart from following Section 14 by raising additional construction against the sanctioned layout plan. No Gym, Club House, play ground, swimming pool etc. had been provided by the respondent as was promised. The possession that had been delivered to the complainant was actually no possession in the eyes of law as the same could not have been delivered without first getting OC/ CC from the competent authority. As such it was finally contended that a direction was liable to be issued to

said respondent/ promoter to obtain first occupancy and completion certificate from the appropriate authority and then to handover the actual legal possession to the complainant with a further direction to pay him interest as stipulated in the provisions of Section 18(1) of the Act till the handing over possession in the above said manner.

5. While countering submissions made on behalf complainant, it was argued on behalf of respondents no.1 and 2 that the complaint filed by complainant was not only false one but also had no legal basis. Their project was a completed project that required no registration with the RERA. No provisions of the RERA Act have been violated by the respondents as have been claimed. Rather all the facilities such as Gym, Club House, play ground, swimming pool etc. had been provided, apart from facility of power backup, lift and fire fighting equipment etc. All the requisite clearances have been obtained by the respondents from the concerned department. Moreover, the complainant had no privity of contract with the respondents as he was not a direct allottee having purchased the unit in question from the open market. There was thus no such question arose at all of any promise or assurances having been made to him by the respondents. They had already given away the possession to the original allottee and even sale deed in his favour was got registered on 26.03.2015 while the complainant purchased the unit in question from its original allottee in the open market being fully aware of the quality and condition of the unit. Thus he could virtually make no claim against the promoters. The project was completed in the year 2010 and no development work was pending. Infact, respondent/ builder applied for completion certificate to the MC authority vide its application/ letter dated 21.12.2010 following which a spot inspection of the building was even got done by the Assistant Town Planner. Consequent upon that a compounding fee of Rs.11,77,603/- was also deposited as was directed by the Assistant Town Planner. Otherwise also in the terms of Section 272 of Punjab Municipal Corporation Act, 1976 since the builder/ respondent had applied for

issuance of completion certificate in the office of MC but no refusal was since conveyed to the respondent as such completion certificate/ permission stood deemed to have been granted. All the units in the project were sold and out of the total 48 units sale deed of 44 units were got registered before the commencement of RERA Act. No buyer in such circumstances would be willing to buy any unit in the project which is unfinished or not completed. Somuch so, the common area of the project had already been handed over to the Residents Welfare Society. It was thus finally argued that complaint filed by the complainant was liable to be dismissed with heavy cost.

6. Upon considering the various submissions put forth by the parties in the light of facts and circumstances of the case, the Authority fails to find itself in agreement with what has been argued on behalf of the complainant so far as his case claiming interest on the delayed possession and directions sought to be issued to respondents no.1 and 2 are concerned. Admittedly, the complainant is a subsequent purchaser who has been delivered possession of the apartment/ unit sold to him by its original allottee. Even the agreement to sell with regard to sale of apartment in question was executed between complainant and his seller namely Anoop Bansal. Thus, they both became parties to the sale agreement. In these circumstances, it cannot be possibly argued that the respondent/ promoter was a party to the sale agreement who although have been claimed to have assured the complainant with regard to providing all the claimed facilities through its Director namely Vinod Kumar since had signed the sale agreement on promoter company's behalf. As is clear from the document itself the said person even though had signed the document but he had been signing the same in his private/ individual capacity and not on behalf of the promoter company as its Director or Manager. The respondent/ promoter in this manner cannot be held to be a party to the sale agreement taking place between complainant and his seller namely Anoop Bansal.

There is thus no privity of contract between complainant and promoter making them accountable to each other. But here as admittedly also Anoop Bansal was the original allottee who had further sold his purchased unit to the complainant, had passed on or transferred all his rights qua the unit in question alongwith its possession to complainant. In this way, it can be said that complainant who had since purchased the unit from its original allottee had stepped into his shoes. But at the same time, it is also to be kept in mind that the complainant cannot claim to have possessed better rights than his seller/ predecessor-in-interest himself had as a seller cannot pass a better title than he himself had. This means that complainant could not have better title in the property than his seller had. Secondly, there was no direct privity of contract between complainant and the promoter. Besides, the claims of complainant are adversely affected by the basic rule of '*Caveat emptor*' relating to sale of goods specially which means 'buyer beware'. Complainant having purchased the unit should have been vigilantly aware of the quality and condition of the unit/ article at the time of purchase. Whatever rights as a buyer of the unit being its allottee he could have enforced against the promoter must be derived from the original contract/ sale agreement that took place or executed between the original allottee and the promoter which has not been brought on record. Meaning thereby the complainant could have enforced only those rights of original allottee relating to unit that have been transferred to him by his predecessor-in-interest by way of sale deed against the respondent/ promoter that has not been brought on record. As such on this account due to lack of proof as well, complainant has not been able to make out a case claiming directions to be issued to promoter with regard to providing certain amenities and facilities like Gym, Club House, Play ground, swimming pool etc.

7. So far as the claim of complainant with regard to interest on the delayed possession is concerned, again this authority does not find much weight or

substance in the case of complainant specially in view of the provisions of Section 18 of the Act which provides as under:-

18. Return of amount and compensation.—

(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) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, 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.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

8. When complainant's case is examined in the light of above, he could not have possibly claimed the interest on the delayed possession as even his predecessor-in-interest/ seller had since taken the possession that was later passed on to the complainant by him at the time of sale of unit to him. Again it also cannot be legitimately claimed on behalf of the complainant that the possession delivered to him was not a legal possession as promoter/ respondent did not have the completion and occupancy certificate with him. Such a challenge to the nature of possession could have been made only by the original allottee to whom possession was delivered and not by the complainant being subsequent purchaser taking possession

from his seller being fully conscious of its nature and legitimacy. Moreover, the interest that could have been claimed on the delayed possession if any could be made only by the original allottee. In the case in hand, complainant being a subsequent purchaser/ allottee taking possession from his seller cannot challenge the nature of possession what to talk of interest thereof as against the promoter. Once the possession has been taken of the apartment/ unit applicability of Section 18 does not come into operation. In this regard it has even been claimed by the respondent/ builder that his project was completed and he applied to the MC authority for issuance of completion certificate vide his application/ letter dated 21.12.2010. And following his application MC got his site inspected through Assistant Town Planner but no refusal was done. Since there was no refusal as such completion certificate was deemed to have been issued as per provisio (2) to Section 272 of Punjab Municipal Corporation Act, 1976, which is reproduced as under:

272. Completion certificate. –

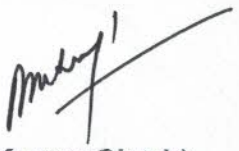
(1) xxxxxxxxxx xxxxxxxxxx xxxxxxxx

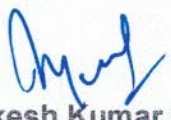
(2) *No person shall occupy or permit to be occupied any such building or use or permit to be used any building or a part thereof effected by any such work until permission has been granted by the Commissioner in this behalf in accordance with bye-laws made under this Act : Provided that if the Commissioner fails within a period of thirty days after the receipt of the notice of completion to communicate his refusal to grant such permission, such permission shall be deemed to have been granted.*

9. As an outcome of above discussion, the Authority comes to the conclusion that the relief of interest claimed by the complainant on the delayed possession cannot be granted to him nor he is found to be entitled to that. So far as the other directions sought for with regard to providing Gym/ Club House, Swimming

Pool, play ground etc. are concerned, those could not be issued on account of lack of proof of those having been already provided or not by the promoter. He could have also claimed compensation in case those were not provided to him depending on the terms and conditions of the sale agreement executed between the original allottee and the promoter and on their proving so. Here again, so far as compensation part is concerned, the authority has no jurisdiction in view of the law laid down by the Hon'ble Supreme Court in **Civil Appeals No.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. Accordingly, the present complaint is dismissed. Needless to mention here that nothing observed and expressed hereinabove while deciding the present complaint u/S 31 should be taken as a bar in the way of complainant resorting to any other legal remedy available to him concerning his grievances. File be consigned to the record room after necessary compliance as per rules.


(Arunvir Vashista)
Member, RERA, Punjab


(Binod Kumar Singh)
Member, RERA, Punjab


(Rakesh Kumar Goyal),
Chairman, RERA, Punjab

Amit Kumar
Versus

M/s Marvel Homes Construction Pvt. Ltd. & Ors.

GC No.0345 of 2022UR

13.10.2025

Present: Mr. Indresh Upadhaya Advocate representative for the complainant
Mr. Jatin Bansal Advocate representative for respondents no.1 & 2
None for respondent no.4

Vide separate order of even date, the present complainant has been dismissed. A copy of this order be provided to both the parties free of costs. File be consigned to record room after necessary compliance as per rules.


(Arunvir Vashista)
Member, RERA, Punjab


(Binod Kumar Singh)
Member, RERA, Punjab


(Rakesh Kumar Goyal),
Chairman, RERA, Punjab