

**BEFORE SHRI BINOD KUMAR SINGH, MEMBER
REAL ESTATE REGULATORY AUTHORITY, PUNJAB**

Complaint No. 0564 of 2022
Date of Institution :29.11.2022
Date of Decision:07.04.2025

1. Amandeep Singh Viridi

2. Sukhjinder Singh

Both residents of House No.90, Sector 16-A, Chandigarh-160015

....Complainants

Versus


1. TDI Infratech Limited, SCO Nos.54-55, Sector 118, Mohali Chandigarh
Kharar Road, NH-21, TDI City, Mohali, Sahibzada Ajit Singh Nagar-Pin
Code 160055

2. HDFC Bank Limited, SCO No.153-154-155, Sector 8C, Chandigarh
160008

....Respondents

Present: Shri Ankit Midha, Advocate for the complainants
Shri Puneet Tuli, Advocate for respondent no.1
Shri Vaibhav Singh, Advocate for respondent no.2

ORDER

 This complaint in Form 'M' under Section 31 of the Real Estate (Regulation and Development) Act, 2016, (hereinafter referred to as the Act of 2016) read with Rule 36 (1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the Rules of 2017)

was instituted on 22.11.2022 by the complainants in their individual capacity against respondents with reference to Section 18 of the Act of 2016 seeking interest from 17.04.2019 till 18.12.2020 (the date of registration of the Conveyance Deed) on the amount deposited for the period of delay in handing over of possession of residency GF-1564.

2. For the sake of convenience, Section 31 of the Act of 2016 read with Rule 36(1) of the Rule of 2017 are reproduced as under:

"31. Filing of complaints with the Authority or the Adjudicating Officer.-- (1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.

Explanation.—For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be specified by regulations".

"Rule 36. Filing of complaint with the Authority and inquiry by the Authority.[Section 31,71 (1) and 84(2)(zc)]-- (1) Any aggrieved person may file a complaint with the Authority for any violation under the Act or the rules and regulations made



thereunder, save as those provided to be adjudicated by the adjudicating officer, in Form 'M' which shall be accompanied by a fee of one thousand in the form of a demand draft or a bankers cheque drawn on a scheduled bank in favor of the Authority and payable at the branch of that bank at the station where the seat of the Authority is situated".

3. The complainants submitted the following in the complaint that:-

- 3.1 They purchased a residency unit No.GF-1564 having super area of 1750 sft, on ground floor in the project 'Connaught Residency' developed by the respondent no.1 at Sector 74-A, Mohali.
- 3.2 Thereafter provisional letter of allotment was issued on 02.11.2016 and Floor Buyer Agreement was entered into between the complainants and respondent no.1 on 17.10.2016 (Annexure C-1 and Annexure C-2 respectively).
- 3.3 The rate of the floor was fixed at Rs.65,12,065/- including external development charges, interest free maintenance security deposit and club membership charges.
- 3.4 The Floor Buyer Agreement entered into with the complainants was not as per the Agreement for Sale prescribed in Sub-rule 1 of Rule 8 of Punjab State Real Estate (Regulation and Development) Rules, 2017.


3.5 Possession of the floor was to be delivered by respondent no.1 within a period of 24 months with grace period of six months from the date of execution of the Floor Buyer Agreement dated 17.10.2016 i.e by 17.04.2019.

3.6 The complainant availed home loan of Rs.50,00,000/- from respondent no.2.

3.7 It is averred that offer of possession was made to the complainants vide letter dated 03.10.2020 wherein it was stated that the physical possession of the floor shall be handed over to the complainant within 30 days after clearance of all the dues.

3.8 Entire payment was made upto 15.10.2020 and Conveyance Deed of the floor was registered on 18.12.2020 and physical possession was given to the complainants immediately thereafter.

3.9 Hence this complaint seeking interest from 17.04.2019 till 18.12.2020.



4. Upon notice, Shri Puneet Tuli, Advocate appeared for respondent no.1 and submitted reply to the effect that the complainants were allotted residency No.GF-1564 in the project 'Connaught Residency'; a buyer agreement was executed on 17.10.2016; occupancy certificate was received

on 10.12.2019; the complainants could not deposit the amount in time; offer of possession was made to the complainants on 03.10.2020 and subsequently possession was handed over to them. Possession of the unit was delayed due to corona which was declared 'force majeure', by the Ministry of Housing, Government of India.

5. Reply was also filed by respondent no.2 to the effect that the complainants are the borrowers and governed by the loan agreement and tripartite agreement. Respondent no.2 sanctioned and granted loan of Rs.50,00,000/- vide loan Account No.624224537. It was submitted by respondent no.2 that till the time of full payment of the loan account, the complainants are liable to keep their loan account regular. An outstanding loan amount sheet showing the outstanding loan of Rs.42,60,705.00 as on 28.02.2023 has also been filed by respondent no.2.
6. Counsel for the complainants filed rejoinder reiterating the contents of their complaint.
7. Arguments were heard on the stipulated date.
8. Counsel for the complainants stated that the contents of complaint be considered as their arguments as they have got possession immediately after execution of conveyance deed on 18.12.2020. The prayer of the complainants

is for payment of prescribed interest with effect from 17.04.2019 till 18.12.2020. To strengthen the case of the complainants the Counsel submitted orders dated 01.06.2023 passed by this Authority in GC No.0384 of 2021, GC0500 of 2021 GC0516 OF 2022 for the same project of respondent no.1.

9. Counsel for respondent no.1 stated that due to corona the construction work was moved slowly and when they received occupancy certificate on 10.12.2019. Possession was offered vide letter dated 03.10.2020 and conveyance deed was executed on 18.12.2020.

10. I have considered the arguments of both the parties and also gone through the file.

11. The issue raised by respondent no.1 regarding pandemic of corona has no legs to stand. Perusal of letter dated 03.10.2020 issued by respondent no.1 itself to the complainants stating that '*the physical possession of the floor shall be handed over to you within 30 days after the clearance of all the dues mentioned in the final statement of accounts....*'. Perusal of the file revealed that respondent no.1 executed the conveyance deed on 18.12.2020 after receiving the balance payment. Thus, once respondent no.1 is issuing letter dated 03.10.2020 demanding balance payment, and thereafter executed

conveyance deed on 18.12.2020, it had no right to raise the issue of 'force majeure' due to corona. Thus, this argument is rejected.

11. The point to be adjudicated upon is from which date and till what date the complainants are entitled for payment of interest as they have got possession of their residency No.GF-1564 allotted to them by respondent no.1 immediately after execution of conveyance deed on 18.12.2020. Thus, it is held that the complainants are entitled for payment of interest for the period of delay in handing over possession.

12. From the above discussion it is established on record that possession was to be delivered within 30 months (24 months with grace period of 6 months) i.e by 16.04.2019 but conveyance deed was executed on 18.12.2020. It is the case of complainants themselves that after execution of conveyance deed, respondent no.1 immediately handed over possession of the residency No/GF-1564 to the complainants. This case is accordingly squarely covered within the definition of Section 18 of the Act which reads as under:-

"18. (1) If the promoter fails to complete or is unable to give possession of an apartment, apartment 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) ..

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) ...

(3)..."

13. As a result of the above discussion, this complaint is accordingly allowed and respondent no.1 is directed to pay interest under Section 18(1) of the Act of 2016 at the rate of 11.10% per annum (today's State Bank of India highest Marginal Cost of Lending Rate of 9.10% plus two percent) prescribed in Rule 16 of the Rules of 2017 on the amount paid by the complainants w.e.f 17.04.2019 till 18.12.2020. The arrear of interest would be paid within the statutory time i.e ninety days stipulated under Rule 17 of the Rules of 2017 from the date of receipt of this order and submit the compliance report.

14. It may be noteworthy that in case compliance report is not submitted by respondent no.1 after the expiry of above stated period and further any failure to comply with or contravention of any order, or direction of Authority may attract penalty under Section 63 of this Act of 2016.

15. The complainants are also directed to submit report to this Authority that they have received the amount of interest as directed in this order.

16. As far as the claim of litigation cost of Rs.50,000/- is concerned, the complainants have not raised this issue during the course of arguments, hence being not adjudicated upon.

17. File be consigned to the record room after due compliance.


(Binod Kumar Singh)
Member, RERA, Punjab