



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.

Phone No. 0172-5139800, email id: pschairrera@punjab.gov.in & pachairrera@punjab.gov.in

1. **Complaint No.** :- GC No. 0024/2023
2. **Name & Address of the complainant (s)/ Allottee** :- 1. Sh. Gagan Singh Thakur
2. Ms. Babita Thakur
(Both R/o H.No. 5621, Sector 56, Chandigarh – 160055)
3. **Name & Address of the respondent (s)/ Promoter** :- 1. Land Twisters
2. Sh. Pankaj Sood
(Both at Opp. SBP Homes, Extension 3, Sector 126, Chandigarh-Kharar Road, SAS Nagar (Mohali), PB 140071.
4. **Date of filing of complaint** :- 09.02.2023
5. **Name of the Project** :- Land Twister Homes
6. **RERA Registration No.** :- PBRERA-SAS80-PR0277
7. **Name of Counsel for the complainant, if any.** :- Sh. Manmohan Sharma, Advocate.
8. **Name of Counsel for the respondent, if any.** :- Sh. Jaspreet Singh, Advocate.
9. **Section and Rules under which order is passed** :- Section 31 of the RERD Act, 2016 r.w. Rule 36 of Pb. State RERD Rules, 2017.
10. **Date of Order** :- 31.07.2025

Order u/s. 31 and Section 40(1) of Real Estate (Regulation & Development) Act, 2016 read with Rules 16, 24 and 36 of Pb. State Real Estate (Regulation & Development) Rules, 2017.

The present complaint dated 09.02.2023 has been filed by Sh. Gagan Singh Thakur & Ms. Babita Thakur (hereinafter referred as the '**Complainants**' for the sake of convenience and brevity) u/s. 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as the '**RERD Act, 2016**' for the sake of convenience and brevity) read with Rule 36 of the Punjab State Real Estate (Regulation & Development) Rules, 2017 (hereinafter referred as the '**Rules**' for the sake of convenience and brevity) before the Real Estate Regulatory Authority, Punjab (hereinafter referred as '**Authority**' for the sake of convenience and brevity) relating to the project "**Land Twister Homes**" situated at Village Kharar-Landra Road, Sector 116, Mohali, Punjab against the respondents **M/s. Land Twister & Anr.** (hereinafter referred as '**Respondents**' for the sake of convenience and brevity) seeking the relief of **Refund alongwith Interest** thereupon.

2. The brief gist of the complaint is that the complainants booked a Flat No.385 at 1st Floor (measuring 1125 sq. ft.) in the project "Land Twister Homes" at Kharar-Landran Road, Sector 116, Mohali, launched by the respondents and both the parties entered into an 'Agreement to Sell' on 18.04.2016 at a sale consideration of Rs.27,00,000/-. Out of sale



consideration, the complainant paid a total sum of ₹8,25,000/- between 2015 and 2017. The detail of the same is as under:-

Sr. No.	Payment Made on	Amounting	Cash/Cheque
1.	02.04.2015	Rs.2,00,000/-	Cheque
2.	18.04.2016	Rs.4,50,000/-	Cheque
3.	05.12.2016	Rs.1,00,000/-	Cheque
4.	31.01.2017	Rs.75,000/-	Cheque

The respondents assured that development had commenced and repeatedly sought further payments on the pretext of project progress, yet on multiple visits to the site the complainants found no development at all and were unable even to identify the plot. Despite the agreed possession date of 20.08.2017, no construction was completed, no offer of possession was made, and the respondents continued to give false assurances. This conduct amounts to clear deficiency in service, breach of the contractual obligations, and violation of the Real Estate (Regulation and Development) Act, 2016. In these circumstances, the respondents are liable to refund the sum of ₹8,25,000/- (principal amount) along with interest at 18% per annum from the dates of deposit until realization, pay ₹50,000/- towards litigation expenses, and comply with any further relief deemed appropriate by the Authority to safeguard the complainants' rights and deter similar misconduct in the real estate sector.

3. In response to the complaint, the respondent filed its reply dated 06.07.2023 stating therein that the complainant, on his own volition, and fully aware of the nature, status, and details of the Respondent's project "Land Twister Homes" situated at Village Kharar-Landra Road, Sector 116, Mohali, Punjab, after having inspected and perused all relevant documents, voluntarily booked Flat No. 385, 1st Floor, having a super built-up/saleable area of approximately 1125 sq. ft., for a total sale consideration of ₹27,50,000/- and executed an Agreement to Sell dated 18.06.2016 with the Respondent Company. The Complainant specifically opted for a payment-linked plan as stipulated in Articles 2(3) and 3(3) of the Agreement to Sell, thereby agreeing to make scheduled payments along with applicable GST. However, contrary to the terms of the Agreement, the Complainant has committed persistent and willful defaults by failing to pay more than seven scheduled installments, thereby seriously breaching his contractual obligations. Despite the Respondent repeatedly contacting the Complainant telephonically, through registered post, and issuing written demand notices dated



06.11.2016 and 27.06.2022, requiring the Complainant to clear his outstanding dues, the Complainant deliberately failed to comply and has not made the requisite payments till date. It is pertinent to state that the flat booked by the Complainant is fully constructed and ready for possession, and several other purchasers in the same project, who adhered to their payment schedules, have already executed their respective sale deeds and taken possession of their units without any grievance. The Complainant, instead of honoring his contractual commitments, has chosen to file the present complaint as a counterblast to the Respondent's lawful demands, deliberately concealing the fact of his own defaults, suppressing material facts, and making false, vague, and unsubstantiated allegations with the ulterior motive of evading payment and extracting undue monetary benefit. The complaint is further not maintainable in its present form as it has not been filed in strict compliance with the provisions of the Real Estate (Regulation and Development) Act, 2016, and is barred by the express terms of the Agreement to Sell, which mandates that any dispute between the parties shall be referred to arbitration at Chandigarh as per Articles 6(C) and 14 thereof. The Complainant's conduct clearly reflects that he has approached this Hon'ble Authority with unclean hands, abusing the process of law, attempting to cause wrongful loss to the Respondent and wrongful gain to himself, and tarnishing the Respondent's reputation without any justifiable cause. The allegations of non-development, mental harassment, and deficiency in service are wholly baseless and are a smokescreen to divert attention from the real issue, namely the Complainant's repeated and continued default in making payments. The present complaint, being frivolous, vexatious, and devoid of merit, deserves to be dismissed.

4. The violations and contraventions contained in the complaint were given to the representative of the respondents to which they denied and did not plead guilty. The complaint was proceeded for further inquiry.

5. Complainant filed his rejoinder controverting the allegations of the written reply filed by respondents and reiterating the averments of the complaint.

6. That representatives for parties addressed arguments on the basis of their submissions made in their respective pleadings as summarised above. I have duly considered the documents filed and written & oral submissions of the parties i.e., complainant and respondents.



7. During the course arguments, the complainants have reiterated their prayer for refund of the paid amount, alongwith interest from respondent No.1. On the other hand, Ld. Counsel for respondent No.1 has laid emphasis stating that, as there is an arbitration clause in the allotment letter/agreement for sale, no recourse can be taken under the provisions of the Act. The Respondent also points out that the Agreement to Sell dated 18.06.2016 was executed between the parties, wherein the Complainant specifically opted for a payment-linked plan as detailed in Articles 2(3) and 3(3) of the Agreement, binding himself to make installment payments as per the stages of construction along with applicable GST. The Respondent contends that despite this clear contractual stipulation, the Complainant has willfully and persistently defaulted in making more than seven scheduled payments, to which Respondent has placed on record copies of demand notices dated 06.11.2016 and 27.06.2022, issued by registered post, as well as telephonic records and correspondence to establish that repeated demands were made for clearance of outstanding dues. According to the Respondent, the Complainant ignored these communications and failed to make the requisite payments till date. The Respondent asserts that the flat in question is fully constructed, ready for possession, and fit for execution of the sale deed, and that numerous other allottees in the same project, who have complied with their payment obligations, have taken possession without any grievances.

8. Before going into the facts of the case, the preliminary objections raised by respondent No.1 need to be addressed. Without going into details, it would be sufficient to mention that all these objections have been dealt with by this Authority in order dated 19.05.2022, passed in complaint No.1729, of 2020-titled as Prateek Sharma Vs. Omaxe Chandigarh. Keeping in view the detailed reasoning given in that order, all the preliminary objections raised in the reply by respondent No.1 are hereby dismissed.

9. Further, upon the evaluation of the pleadings, documentary evidence, and oral submissions advanced by both sides, it emerges as an admitted and undisputed fact that the complainant had made substantial payments to the respondent towards the consideration of the subject unit. During the course of final hearing, when specifically queried, the Learned Counsel for Respondent No. 1 unequivocally admitted that possession of the said unit had not been either offered or handed over to the complainant and that the respondent had neither obtained a completion certificate, occupancy certificate, nor a partial completion certificate from the competent authority, which are mandatory prerequisites for lawful delivery of possession. While attempting to justify this non-performance, the respondent contended that



the complainant had defaulted in making more than seven scheduled payments; however, upon further questioning, the Learned Counsel candidly admitted that no proceedings for termination or cancellation of the allotment had ever been initiated on this ground. This sequence of admissions leads to the clear inference that, despite receiving substantial sums of money from the complainant, the respondent neither completed the construction nor complied with statutory requirements, nor took any lawful steps to resolve the alleged payment default. Therefore, the complainant has been able to demonstrate that the respondents have acted in bad faith by collecting substantial amounts from buyers without delivering the promised development. Once the promoter has defaulted in time bound construction of the project; not obtained either occupancy certificate/partial completion certificate/completion certificate on or before due date of possession agreed in the agreement for sale nor cancelled the unit/flat citing any default on the part of the allottee then the allottee becomes entitled to refund alongwith interest.

10. Further, Hon'ble Supreme Court of India, in Para 77, of its judgment in M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. and others in Civil Appeal Nos. 6745-6749 of 2021, has reiterated the law declared by the court in *Imperia Structures Ltd.(supra)*. The same is reproduced below:-

"77.The submission has no foundation for the reason that the legislative intention and mandate is clear that Section 18(1) is an indefeasible right of the allottee to get a return of the amount on demand if the promoter is unable to handover possession in terms of the agreement for sale or failed to complete the project by the date specified and the justification which the promotor wants to tender as his defence as to why the withdrawal of the amount under the scheme of the Act may not be justified appears to be insignificant and the regulatory authority with summary nature of scrutiny of undisputed facts may determine the refund of the amount which the allottee has deposited, while seeking withdrawal from the project, with interest, that too has been prescribed under the Act..."

11. As regards contention of the Respondent that complainants did not make full payment, Hon'ble Supreme Court in his judgment in M/s. Newtech Developers Pvt. Ltd. (supra) in Para 80 has held as follows:-

"80. The further submission made by learned counsel for the appellants that if the allottee has defaulted the terms of the agreement and still refund is claimed which can be possible, to be determined by the adjudicating officer. The submission appears to be attractive but is not supported with legislative intent for the reason that if the allottee has made a default either in making instalments or made any breach of the agreement, the promoter has a right to cancel the allotment in terms of Section 11(5) of the Act and proviso to sub-section 5 of Section 11 enables the allottee to approach the regulatory authority to question the termination or cancellation of the



agreement by the promotor and thus, the interest of the promoter is equally safeguarded."

12. The respondent had the option to initiate the process for cancellation of the allotment, in case a default, by the complainants. However, the same was not done and promoter itself failed to offer possession, within the agreed upon/extended period, in terms of Agreement for Sale. Hence, the complainants are liable for refund of the entire amount paid by the complainant, alongwith prescribed rate of interest.

13. Since the construction has been delayed inordinately; therefore, as per provisions of Section 18 the complainant is entitled to claim refund alongwith interest as per its choice in case of non-completion on due date. It reads 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) 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."

14. In view of the above, the complaint is **Partly Allowed** and complainant is entitled to refund of its money alongwith interest applicable @ 11.10% (i.e. 9.10% SBI's Highest MCLR Rate applicable as on 31.07.2025 + 2%) as per Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules, 2017. The period for payment of interest will be considered from the next month in which payment was effected by the allottee to the previous month of the date in which payment has been effected by the promoter. Therefore, the calculation of refunds and interest upto 31.07.2025 is calculated as follows:-

Sr. No.	Payment made on	Interest payable from	Principal Amount paid	Interest calculated till	Rate Of Interest	Delay in months	Interest payable till 31.07.2025
A	B	D	E	F	H	I	J
1	02.04.2015	01.05.2015	2,00,000/-	31.07.2025	@ 11.10% (i.e. 9.10% SBI's Highest MCLR Rate applicable as on 31.07.2025	122	2,25,700/-
2	18.04.2016	01.05.2016	4,50,000/-	31.07.2025		110	4,57,875/-
3	05.12.2016	01.01.2017	1,00,000/-	31.07.2025		103	95,275/-
4	31.01.2017	01.02.2017	75,000/-	31.07.2025		102	70,763/-
Total			8,25,000/-				8,49,613/-
GRAND TOTAL (Principal Amount + Interest Payable upto 31.07.2025)							16,74,613/-



15. The Hon'ble Supreme Court, in its judgment in the matter of **M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. and Others (Civil Appeal Nos. 6745-6749 of 2021)**, has upheld that the refund to be granted u/s. 18 read with Section 40(1) of the Real Estate (Regulation & Development) Act, 2016 is to be recovered as Land Revenue alongwith interest and/or penalty and/or compensation.

16. In view of the aforesaid legal provisions and judicial pronouncement, it is hereby directed that the refund amount along with the accrued interest shall be recovered as Land Revenue as provided u/s. 40(1) of the RERD Act, 2016. Accordingly, the Secretary is instructed to issue the requisite Debt Recovery Certificate and send it after 90 days as per Rule 17 of the Punjab Real Estate (Regulation & Development) Rules, 2016 to the relevant Competent Authorities under the Punjab Land Revenue Act, 1887 for due collection and enforcement in accordance with law.

17. Further the principal amount is determined at Rs.8,25,000/- and interest of Rs.8,49,613/- the rate of interest has been applied @ 11.10% (i.e. SBI's Highest MCLR Rate applicable as on 31.07.2025 + 2%) as per Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules, 2017. Hence, the promoter is liable to pay a total amount of Rs.16,74,613/- upto 31.07.2025 (i.e. principal amount of Rs.8,25,000/- and balance interest of Rs.8,49,613/-), and any amount due as interest w.e.f. 01.08.2025 of Rs.7631/- per month is due and pending. Any amount paid by the promoter will be considered as payment against the interest whatever is due. After payment of whole of interest only then the payment will be considered against principal and accordingly the principal will be reduced and interest will be charged on the balance principal amount till the principal amount is fully paid. Even any payment after reduction in principal amount if any will be first considered towards interest payment, if any becomes due on the unpaid principal amount.

18. Further, the promoter is directed not to sell, allot, book the Apartment bearing No. 385 at 1st Floor (measuring 1125 sq. ft.) in the project "Land Twister Homes" at Kharar-Landran Road, Sector 116, Mohali allocated to the complainants till the whole payment payable to the complainant of Rs.16,74,613/- upto 31.07.2025 (i.e. inclusive of principal amount of Rs.8,25,000/- and net interest of Rs.8,49,613/-) and subsequent interest amount w.e.f. 01.08.2025 @ Rs.7,631/- per month, if any, becomes due is fully paid to the complainant. The complainant will have its continuous lien over the said unit till the refund



alongwith interest is not paid by the promoter to the complainant as determined in this order and/or mentioned in the Decree Certificate. The promoter will be free to sell the unit in question only after duly obtaining the receipt of the due payment from complainant as per this order.

19. The amount of Rs.16,74,613/- (i.e. inclusive of the principal amount of Rs.8,25,000/- and interest of Rs.8,49,613/- determined as refund and interest amount thereon upto 31.07.2025 and further a sum of Rs.7,631/-) to be payable as interest per month from 01.08.2025 is held **"Land Revenue" under the provisions of Section 40(1) of the RERD Act, 2016. The said amounts are to be collected as Land Revenue by the Competent Authorities as provided/authorised in the Punjab Land Revenue Act, 1887 read with section 40(1) of the Real Estate (Regulation and Development) Act, 2016 read with Rule 16 of the Punjab Real Estate (Regulation & Development) Rules, 2017.** The complainant & the respondent are directed to inform the Secretary of this Authority regarding any payment received or paid respectively so as to take the same in to account. The amount of Rs.16,74,613/- upto 31.07.2025 (i.e. inclusive of the principal amount of Rs.8,25,000/- and interest of Rs.8,49,813/-), has become payable by the respondent to the complainant immediately and be paid within 90 days from the date of receipt of this order by the promoter as per Section 18 of the Real Estate (Regulation & Development) Act, 2016 read with Rules 17 of the Punjab Real Estate (Regulation & Development) Rules, 2017 as being determined vide this order u/s. 31 of the Real Estate (Regulation & Development) Act, 2016.

20. **The Secretary of this Authority is hereby directed to issue a "Debt Recovery Certificate" immediately and send the same to the Competent/ jurisdictional Authority as mentioned in the Punjab Land Revenue Act, 1887 after 90 days of the issuance of this order to be recovered as arrears of "Land Revenue".** The complainant & the respondent are directed to inform the Secretary of this Authority regarding any payment received or paid respectively so as to take the same in to account before sending "Debt Recovery Certificate" to the Competent Authority for recovery. **Further, Sh.Gagan Singh Thakur & Ms.Babita Thakur are jointly held to be Decree Holder and the Respondent no.1 i.e. Land Twisters & Proprietor Pankaj Sood are held as judgment debtors for the purposes of recovery under this order, since Land Twisters is a proprietorship firm.** Any amount paid by the judgment debtor to




any of the joint decree holder(s) will be duly considered as payment towards the amount payable determined under this order passed u/s 31 of the RERD Act, 2016. Further, the shares of the amount recoverable is joint and not any particular share to anyone of the complainant. Therefore, the promoter/judgment debtor is at liberty to pay anyone of both of the complainants in any ratio or the whole payment to anyone of them as per its discretion.

21. No other relief is made out.

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


Chandigarh
Dated: 31.07.2025




(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.Gagan Singh Thakur
2. Ms.Babita Thakur
(Both R/o H. No.5621, Sector 56, Chandigarh-160055)
3. Land Twisters.
4. Sh.Pankaj Sood
(Both at Opp.SBP Homes, Extension 3, Sector 126, Chandigarh-Kharar Road, SAS Nagar (Mohali), Punjab-140071.
5. The Secretary, RERA, Punjab.
6. Director (Legal), RERA, Punjab.
- ✓ 7. The Complaint File.
8. The Master File.


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