

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

Complaint No.0134 of 2023  
Date of Institution : 30.04.2023  
Date of Decision: 30.04.2025

1. Sunil Kumar
2. Veena Devi

Both residents of H.no.409, Sector 77, SAS Nagar, Mohali,  
Punjab, Pin Code No.160071

....Complainants

Versus

M/s A TECH Infrastructures Private Limited, Metro Park, Sector 103,  
Landran Banur Road, Sahibzada Ajit Singh Nagar, Mohali, Punjab, Pin  
Code 140307

....Respondent

Present: Shri Rajeev Anand, Advocate for the complainants  
Shri Jaspreet Singh, Advocate for the respondent

**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 30.04.2023 by the complainants in their individual capacity for issuance of a direction to the respondent to deliver possession of Plot No.2112, measuring 210 sq. yards in the project 'Metro Park' Sector 103, Landran-Banur Road, Mohali to the complainants, along with interest for the period of delay in handing over possession.

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 complainant submitted the following in the complaint which is summarized below:-

3.1 It is averred by the complainants that they entered into an agreement by way of Letter of Intent (LOI) with the respondent for purchase of Plot measuring 210 sq. yards against the total sale consideration of Rs.25,20,000/- in its project 'Metro Park' commenced on 01.08.2017 and was proposed to be completed on 01.08.2022.

3.2 The LOI was signed by the parties to the complaint on 06.07.2019 vide Ref No. P/2112/2019, and plot no. 2112 was allotted to complainants. As per its Clause 6.1

possession was to be delivered to the complainants tentatively on 04.04.2020.

3.3 It is further contended that as per payment plan the complainants vide 3 separate cheques dated 17.05.2019, 11.06.2019 and 20.06.2019 paid in advance a sum of Rs.12,60,000/- out of the total sale consideration of Rs.25,20,000/-.

3.4 It is the contention of the complainants that till date possession has not been handed over to them despite sending of several emails on 24.06.2020, 27.09.2020, and 03.12.2020 but no response.

3.5 Apart from email addressed to the Chief Minister of Punjab, complaints were sent to office of Director General of Police, Punjab and Senior Superintendent of Police, SAS Nagar Mohali where a vague reply was submitted by the Estate Officer, A-Tech Infrastructures Pvt. Ltd. on 17.03.2023.

3.6 The complainants intended to have office space by 2020 but till today possession has not been handed over to them.

3.7 It is the prayer of the complainants that respondent be directed to hand over possession of the plot along with interest for the period of delay in handing over possession of the said plot.



4. Upon notice Shri Jaspreet Singh, Advocate appeared in behalf of the respondent and submitted his reply which is summarized below:-

- 4.1 The respondent admitted the booking of plot measuring 210 sq. yards for a total sale consideration of Rs.25,20,000/- out of which they paid half of its amount, but stated that the complainants were investor. Regarding the complaint to SSP, Mohali, it is submitted that the same was filed by the police considering the matter being of civil nature.
- 4.2 Respondent stressed that the delay was not on its part but due to restrictions imposed by the Punjab Pollution Control Board and possession can only be given after approval from competent department and the complainants were informed in advance.
- 4.3 Respondent admitted that the complainant can claim amount paid along with interest as per Act of the 2016.
- 4.4 It is stated that the date of delivery of possession of the plot was tentative. However, the delay in delivery was due to 'force majeure' due to departmental delays/ inaction due to unforeseen circumstances etc. It is also mentioned in the reply that the intending allottee agreed and confirmed that in case the project is not viable for implementation, the allotment shall stand terminated and refund shall be handed over to the allottee.

4.5 Regarding change in number of the plot, it is submitted by the respondent that it was due to revised layout plan, sanctioned by the competent authority. Regarding possession it is further submitted by the respondent that due to pending approval from the competent authority possession of the plot cannot be given to the complainants. Respondent has relied upon Annexure R-3 a copy of notice dated 20.04.2022 issued by Punjab Pollution Control Board. It is the prayer of the respondent that the complaint be dismissed with costs.

5. Complainants submitted rejoinder reiterating the contents of their complaint. It is averred that possession of the plot was to be handed over on 04.04.2020 as per letter of intent, which was further revised to 09.12.2021, then 31.12.2022 and thereafter to 31.12.2024 which clearly shows that the respondent was not serious in its commitment. The respondent has already admitted the receipt of Rs.12,60,000/- from the complainants. There is no concealment of filing of complaint before SSP, Mohali by the complainants. The respondent has not entered into agreement to sell which is mandatory as per provision of Section 13 of the Act of 2016 and Rule 8 of the Rules of 2017 before charging 10% amount. Thus, the respondent has no right to raise the plea regarding non-availability of any sanction/approval to deny the right of the complainants. Regarding the delay due to non-grant of permission/sanction by PPCB, the complainants submitted that it is unfounded and untenable, as the complainants have no role to play towards such approval. It is the duty of the respondent to have all approvals and sanctions before collection of any amount for the office space from the complainants.

The complainants were never informed about the change in number of the plot by the respondent.

6. The undersigned heard the arguments of learned Counsel for the respondent. Nobody was present on behalf of the complainants on the date of hearing the arguments. However, the contents of the complaint were reiterated by the complainants by filing a rejoinder. The basic sale price of the plot was fixed at Rs.25,20,000/- out of which the complainants have paid Rs.12,60,000/-. It is noted that the letter of intent was issued on 06.07.2019 and as per its clause 6.1, possession was to be delivered on or before 04.04.2020. The complainants also raised objection regarding change of number of plot without their knowledge. As per the pleadings of the complainants, they also lodged police complaints and the complaint filed before SSP, Mohali was filed after considering the matter to be of civil nature. The prayer of the complainants is for issuance of directions to the respondent to hand over possession of the plot along with interest for the period of delay in handing over plot in question.

7. On the other hand, it is the argument of the respondent that the complainants are investors and they have paid only half of the amount of the basic sale price i.e Rs.12,60,000/- out of Rs.25,20,000/-. The respondent further stated that the complaint filed with SSP, Mohali was filed after considering the reply of the respondent. There is official delay on the part of the concerned department and the respondent also relied upon notice dated 20.04.2022 issued by the Punjab Pollution Control Board, Patiala whereby certain restrictions were imposed upon the respondent. The respondent admitted that new number of the plot has been allotted



to the complainant due to revised layout plan sanctioned by the competent authorities and prayed that the complaint be dismissed.

8. The undersigned considered the pleadings of the parties and also gone through the record of this case.

9. The prayer of the complainants is for issuance of direction to the respondent to hand over possession of the plot along with interest for the period of delay in handing over possession thereof. On the other hand, it is the contention of the respondent that due to restrictions imposed by PPCB, they were unable to deliver possession.

10. Perusal of the file revealed that on 11.04.2024 following interim order was passed by the undersigned:

"11.04.2025

*Present: None for the complainant*

*Shri Jaspreet Singh, Advocate for the respondent*

*Ld. Counsel appeared on behalf of the respondent stated that the settlement process which was earlier going on could not be executed. The clearance from PPCB has been obtained, however, no documentary evidence for the same was submitted. He has been directed to provide the same. He further submitted that the land under constructions is still not owned by the promoter and there is dispute going on for the ownership. As per the prayer in Form- M, the complainant has prayed for possession and delayed possession charged in form of interest. As the possession is not in the vicinity, thus the respondent is directed to take appropriate action for the possession to the complainant as early as possible.*

*For interest under Section 18(1) of the Real Estate (Regulation and Development) Act, 2016 separate detailed order will be passed.*

*Sd/-  
(Binod Kumar Singh)  
Member, RERA, Punjab"*

11. It is an admitted fact between the parties that out of the sale consideration of Rs.25,20,000/- the complainants have paid Rs.12,60,000/- (50%) of the sale consideration and as per clause 6.1 of the letter of intent dated 06.07.2019, possession was to be

delivered on or before 04.04.2020. However, it is also an admitted fact that till today possession of the plot allotted to the complainants has not been handed over to them. It is the contention of the respondent that due to restrictions imposed by PPCB, it was not able to deliver possession. However, during the course of hearing held on 11.04.2025, learned Counsel for the respondent admitted at the bar that they have obtained clearance from PPCB, but no documentary proof was placed on record by learned Counsel for the respondent. Thus, it is established on record that there is apparent delay on the part of the respondent in delivery of possession of the plot to the complainants. It is held that the complainants are entitled for payment of interest as per Section 18(1) of the Act of 2016 which is reproduced below for ready reference:-

*""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)..."*

12. As a result of the above discussion, this complaint is accordingly allowed and respondent is directed as under:-

- i. To hand over valid possession of the Plot No.2112 allotted vide reference No.P/2112/2019, measuring 210 sq. yards in the project 'Metro Park' Sector 103, Landran-Banur Road, Mohali to the complainants.



- ii. 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 05.04.2020 till the date of this order in the first instance, and the arrear of interest would be paid within the statutory time i.e ninety days stipulated under Rule 17 of the Rules 2017 from the date of receipt of this order.
- iii. To pay interest under Section 18(1) of the Act 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 from the date of this order till the date of delivery of valid possession and submit the compliance report.

13. It may be noteworthy that in case compliance report is not submitted by the respondent 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.

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

15. Further, the complainants are bound to pay the outstanding amount, if any, before taking the possession of the Unit as per Section 19(10) of the Act of 2016 which reads as under:-

*"(10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be".*

16. It is a matter of record that the complainants have paid a total sum of Rs.12,60,000/- accepted by the respondent out of the total sale consideration of Rs.25,60,000/- before entering into any Agreement for Sale. It is also a matter of record that no agreement for sale has been placed by either of the parties executed between the parties, if any regarding the plot in question. This is an established violation of Section 13 of the Act of 2016 which is reproduced below:-

*"13. No deposit or advance to be taken by promoter without first entering into agreement for sale.-- (1) A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force".*

17. In view of the above violation of Section 13 of the Act of 2016, by the respondent, Secretary of this Authority is directed to issue notice to the respondent to explain why proceedings under Section 61 of the Act of 2016 be not initiated against it for imposing penalty for contravening the provisions of Section 13 (Supra).

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

  
(Binod Kumar Singh)  
Member, RERA, Punjab