

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

Complaint No. GC No.0305 of 2023UR

Date of Institution: 26.08.2023

Dated of Decision: 12.09.2025

Joginder Singh son of Puran Singh, resident of # 233, Urban Extate, Batala, District Gurdaspur.

... Complainant

Versus

Jallandhar Improvement Trust, GT Road, Jallandhar, Punjab.

... Respondent

Complaint under Section 31 of the Real Estate
(Regulation and Development) Act 2016.

Present: Mr. Saurabh Bahmani, Advocate representative for the complainant
Mr. Prem Kumar, Advocate representative for the respondent

ORDER

The present complaint had been filed by complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) against the respondent promoter seeking refund of the money deposited by the complainant for the allotment of plot in the project 'Surya Enclave Extension' developed by the respondent, because of the inordinate delay in delivery of possession thereof.

2. It was the case of the complainant that in the year 2011, respondent launched a scheme of plotted colony in the name of "Surya Enclave Extension". Complainant applied for 350 Sq. yd. Plot under category namely "Pensioners of Punjab Government" and plot no.49-D was allotted to the complainant vide allotment letter dated

02.04.2012. As per scheme of allotment, 10% amount was to be deposited as earnest money at the time of submission of application form and then 15% amount was to be paid within 30 days of issuance of allotment letter. As complainant opted for installment plan, rest of the 75% amount was to be deposited in five equated six monthly installments. As per clause No.7 of the allotment letter, possession of the plot was to be delivered within a period of two and a half year from the date of allotment i.e. up to 02.10.2014. In terms of allotment letter complainant deposited a total sum of Rs.70,24,877/- till 04.04.2014 towards cost of the plot, which included interest on the installments. But inspite of the receipt of entire amount, the possession of the plot was not offered to the complainant. However, on 23.02.2016, complainant received a letter from the respondent, wherein it was informed that due to the stay granted by the Honb'ble Punjab & Haryana High Court, on the petition filed by the Land Owner, development of the project could not be completed. It was alleged by the complainant that till today neither any agreement to sell has been executed, inspite of receipt of full amount nor possession of plot has been offered. Ccomplainant feeling dissatisfied because of the unnecessary delay in completion of the project chose to withdraw from the project and seek refund of the amount paid alongwith interest.

3. The contention of the complainant thus was that despite the lapse of a long time, possession of the plot had not been offered so far. The relief claimed accordingly is refund of the amount deposited by the complainant, along with interest thereon.

4. Upon notice of the complaint respondent appeared and filed its reply contesting the complaint denying claim of the complainant. In its reply respondent trust raised certain preliminary objections on the grounds of maintainability of complaint, limitation and its cause of action. While on merits, it was submitted that the possession of the plot could only be obtained by the complainant after he executed the agreement to sell. But it was the complainant who never came forward to execute the agreement to sell within 30 days of the issuance of allotment letter to him. It was also submitted that possession of the plot was with the trust that has been handed over to it by the Land Acquisition Collector. In this manner complainant was entitled to possession of the said plot only after he executed an agreement to sell in that regard for which he was being invited. The trust was always ready and willing to deliver possession of the plot to complainant, but as is clear the complainant who is not interested in taking the possession of the said plot allotted to him. Respondent had already carried out development work in the entire scheme area providing all basic amenities there. Rest of the averments made in the complaint have also been denied by the respondent in its reply and finally a prayer was made for dismissing the complaint having no basis and cogent ground.

5. Claimant filed rejoinder rebutting the contentions of the reply and reiterating the averments of the complaint.

6. While putting forth the case of complainant it was argued by his learned counsel that an allotment letter was issued in favour of the complainant containing all the terms and conditions thereof. So much so, full and final payment of the plot has been made by the

complainant. But the respondent trust neither delivered the possession of the said plot nor it is in a position to do so as till date no completion certification has been obtained. Even the basic amenities in the area have not been provided. In these circumstances, complainant has been left with no other option but to withdraw from the project praying for refund of his amount paid alongwith interest as per the provisions of RERD Act.

7. On the other hand, while opposing the case of complainant it was argued that first of all this authority does not have the jurisdiction since only registered projects came under its purview. Moreover, the complaint in hand is highly time barred suffering from delay and laches. There are number of judgments/ decisions of various RERA authorities on the point that debarred the claim of complainant specially in view of the fact that trust was and is still ready and willing to give the possession of allotted plot to the complainant. Otherwise also, before the plot could be delivered an agreement to sell is to be executed which is the pre-condition and from executing which, it is the complainant who is backing out.

8. I have carefully considered the rival contentions. This authority does not find much weight or substance in this contention of respondent that the issue raised by the complainant did not come under the purview of RERA having no jurisdiction over the matter since only the registered project came under it. Respondent has not been able to show if it possessed the completion certificate. As such respondent trust was not in a position to make an offer for the delivery of possession of the plot. Whatever offer even if being made without there being a completion certificate with the

respondent it is not considered to be a valid offer. It has also been so observed by the Hon'ble Supreme Court of India in **Dharmendra Sharma V/s Agra Development Authority, Civil Appeal Nos.2809-2810 of 2024 decided on 6 September, 2024** that in the absence of requisite completion certificate the offer of possession even if made is not valid one. In the case in hand, no completion certificate was of course there with the promoter. As such even if any offer allegedly made by the respondent for delivery of possession in an incomplete project was not a valid offer. In the given circumstances, it also cannot be held that the said project is complete which is rather an ongoing project that was supposed to be got registered with the authority as per the provisions of the Act. Because of this it cannot be even legitimately argued that case of complainant was time barred since suffered from delay and laches and delay being an inordinate one. Rather complainant is found to be fully entitled to claim his refund alongwith the interest as per the provisions of the Act. Thus this is no ground to reject the claim of the complainant that the project is not registered. 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.

9. As a result of the above discussion, the complainant is held to be entitled to have his amount paid refunded with interest. And the respondent is directed to refund the amount deposited by the complainant along with interest thereon at the prescribed rate (today's highest MCLR rate plus 2%) from the date of deposit till the date of its refund. The payment should be made within the time stipulated under Rule 17 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 failing which, Secretary of the authority shall be issuing recovery warrant for the said amount due.

Announced: 12.09.2025


**(Arunvir Vashista),
Member, RERA, Punjab.**