

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

Complaint RERA/GC No,0322 of 2023

Date of Decision: **20.06.2025**

Richa Goyal, 121, Vishal Nagar Extension Pakhowal Road,
Ludhiana, Punjab.

...Complainant

Versus

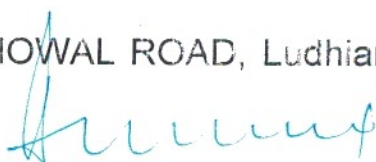
Omaxe Buildwell Limited, 10 Local Shopping Complex New Delhi
..... Respondent

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

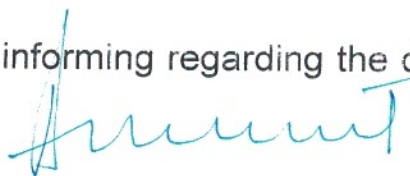
Present: Mr. B.K. Tiwari, Advocate representative for the
complainant
Mr. Arjun Sharma, Advocate representative for the
respondent

The present complaint has been filed under Section 31
of the Real Estate (Regulation and Development) Act, 2016
(hereinafter referred to as "the Act"), read with Rule 37 of the
Punjab State Real Estate (Regulation and Development) Rules
2017 (hereinafter referred to as the Rules) against the respondent.

2. Briefly narrating, the facts of the complaint are that
earlier Mrs. Aerika Gupta and Mrs. Preeti Tiwari (previous allottees)
on 11.04.2014 were allotted commercial space/shop no.12 in
RAL/PALIKA BAZAR having super area measuring 207.82 Sq. ft. in
the project "Royal Arcade" of respondent situated at ROYAL
RESIDENCY PAKHOWAL ROAD, Ludhiana for basic sale price of

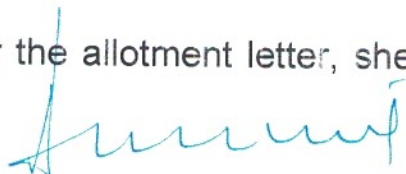


Rs.12,46,920/-, besides other charges. The respondent promoter also executed allotment cum buyer agreement with the previous allottees on the same day i.e. on 11.04.2014. The said previous allottees had already made payment of Rs.4,73,829.51 to the promoter by way of part payment. The possession of the unit in question was to be handed over within a period of 18th months with extension of 6 months from the date of signing of allotment letter. The present complainant Richa Goyal purchased the allotment rights of Mrs. Aerika Gupta and Mrs. Preeti Tiwari (previous allottees) in the shop in question on 17.01.2017 after making payment of Rs.7 lacs to the previous allottees. On the basis of said purchase the allotment right of Mrs. Aerika Gupta and Mrs. Preeti Tiwari (previous allottees) in the commercial shop in question was transferred in the name of the present complainant on the basis of their joint request by the respondent promoter on 17 February 2017 after receiving the further payment of Rs.1,30,303/- from the complainant. In the joint application for assigning of the said allotment rights to the complainant, it was stipulated that the transfer of the allotment rights of the shop in question in the name of the complainant would be as per the terms and conditions of the earlier allotment letter/buyer's agreement dated 11 April, 2014. The respondent promoter however failed to complete the project and offer the possession of the unit in question as per stipulation in the allotment/buyer's agreement dated 11.04.2014 and also the respondent promoter despite regular inquiries by the complainant had not been informing regarding the development of the project of



the case in hand. The project had been unreasonably delayed by the respondent promoter without any justification and the complainant ultimately being dissatisfied called upon the promoter to refund the amount paid with interest and compensation through different emails, but to no effect. Hence, the present complaint is for the grant of refund of entire amount paid by the complainant alongwith interest from the date of first payment due to non-delivery of possession of the unit in question.

3. The complaint was contested by the respondent. It was however admitted that the shop in question in the project of the respondent was allotted vide allotment letter dated 11 April 2014 in the name of Mrs. Aerika Gupta and Mrs. Preeti Tiwari and as per stipulation in the said allotment/buyer's agreement executed between them, the possession of the unit in question was to be handed over by the promoter within 24 months from the date of signing the allotment letter with extension of 6 months as grace period. It was also admitted that on the basis of joint request dated 17 February 2017, the allotment right in the shop in question was transferred in the name of present complainant. But it was claimed that date for offering the possession of the shop in question as per stipulation in the allotment letter was since already elapsed by that time and the present complainant had agreed to purchase the said allotment rights in the shop in question from the previous allottees, knowing well that there was already a delay in delivery of possession as per the allotment letter, she thus had condoned the



delay in completion of the project and offering of possession by her own act and conduct.

On merits, it was claimed that no specific pleadings had been made by the complainant for specifying the extent of disproportionate gain or unfair advantage bestowed upon the respondent promoter nor any amount of loss had been suffered by the complainant. It was further averred that the present complaint was abuse of the process of law and denying the rest of the averments of the complaint prayer was made for dismissal of the complaint.

4. Rejoinder was filed on behalf of complainant in which the contentions of the respondent in the reply were controverted while those of complaint were reiterated.

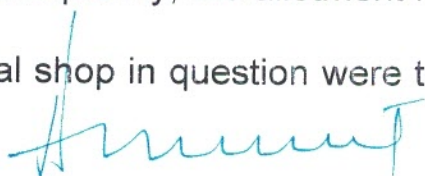
5. The argument on behalf of the complainant at the outset was that complainant stepped into the shoes of the earlier allottees by purchasing their rights of allotment of the commercial unit in question, which was also approved by the respondent promoter, who took further payment from the complainant before the transfer of the allotment right. It was then argued that consequent upon transfer of the allotment rights of the shop in question in the name of the complainant by the promoter both the parties would be governed by the original terms and conditions of the allotment/buyer's agreement dated 11 April, 2014. It was contended that complainant never condoned the delay in offering of possession nor there was any such writing executed between the parties. He further contended that respondent promoter failed to complete the



project within the stipulated period as per allotment/buyer's agreement without any justification and there being unreasonable delay in completion of the project, therefore, complainant was entitled to the relief claimed.

6. On the other hand, the argument on behalf of respondent was that as the complainant chose to purchase the allotment right of the previous allottees in the commercial unit in question, despite knowing that the stipulated period for completion of the project had already elapsed and therefore, she condoned the delay in completion of the project and could not reagitate this issue. He further contended that the respondent promoter was to develop mega project, of which the commercial market was only part and that the project would be completed and possession would be handed over to the allottees and therefore the complainant was not entitled to any such relief.

7. It is not disputed by the parties that Mrs. Aerika Gupta and Mrs. Preeti Tiwari (previous allottees) on 11.04.2014 had been allotted the unit in question in the project of the case in hand for basic sale price of Rs.13,82,517/-, besides other charges and promoter also executed allotment cum buyer agreement with the previous allottees on the same day i.e. on 11.04.2014. It was also admitted that the present complainant Richa Goyal purchased the allotment right of previous allottees in the shop in question on 17.01.2017 after making payment of Rs.7 lacs to the previous allottees and subsequently, the allotment rights of previous allottees in the commercial shop in question were transferred in the name of

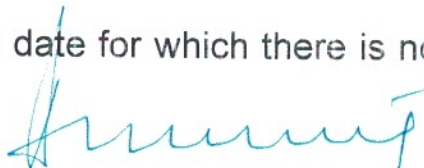


the present complainant on the basis of their joint request by the respondent promoter on 17 February 2017 after receiving the further payment of Rs.1,30,303/- from the complainant. Though on behalf of the respondent promoter it was agitated that the complainant condoned the delay in completion of the project by herself seeking the transfer of the allotment, at the time when the stipulated date for delivery of possession had already elapsed, but this authority finds that as per averments in the joint request for transfer of the allotment from the previous allottees to the complainant in respect of commercial unit in question, which was allowed by the respondent promoter, there are stipulations that the transfer of the allotment to the complainant would be governed by the terms and conditions of the allotment/buyer's agreement dated 11.04.2014, which was executed by the promoter with the previous allottees. Therefore, both the parties even after the transfer to the complainant would be bound by the terms and conditions of the allotment/buyer's agreement dated 11.04.2014. As per clause 31(a) of the allotment letter dated 11.04.2014, the construction of the unit in question was to be completed and the possession was to be offered within a period of 18 months from the date of signing of the allotment/buyer's agreement with extension for a period of 6 months. Calculating on that basis from the date of execution of the allotment/buyer's agreement i.e. 11.04.2014 and taking into account extension for 6 months the possession of the unit in question was to be offered within 24 months i.e. on or before 10.04.2016. Simply because the present complainant purchased the allotment rights of



the previous allottees after the lapse of said stipulated period for completion of the construction and offering of the possession, it cannot be said that complainant had condoned the delay by her own act and conduct in completion of the project by the stipulated period as per the allotment letter. Admittedly the project of the case in hand remained incomplete not only by the stipulated date but also till date as there is nothing on record to suggest that the promoter either completed the project or offered possession of the unit in question. Therefore, the project of the case in hand remained incomplete. At this stage, an argument on behalf of the promoter was also advanced that the complainant had since not made the balance payment as per the payment plan and therefore she herself was at fault. But this argument as well is without substance ~~because~~ since the promoter himself committed default in delaying the project beyond the stipulated date, he is precluded now from setting up the defence that there was also a default on the part of the complainant in making any payment. Otherwise also there is nothing on record to suggest that if any notice on behalf of the promoter was ever issued to the complainant asking her for making or demanding the payment. Rather no further step had been initiated by the promoter to cancel the allotment of the complainant. The argument is thus rejected.

8. As an outcome of the above discussion, it is found that the project of the case in hand had been delayed for a period of almost 9 years till date for which there is no justification on the part



of the respondent promoter in not completing the project and handing over possession of the unit in question to the complainant as per the agreement. The complainant is therefore certainly entitled to seek withdrawal from the project and for refund of the amount paid alongwith interest under Section 16 of the RERA Rules.

9. Even the Hon'ble Adjudicating Officer in the connected complaint inter parties on the same cause of action was also pleased to pass the order dated 28.06.2024 allowing compensation holding that the project got delayed due to the fault of the respondent promoter.

10. In view of above discussion, the complaint is accepted and the respondent is directed to refund the entire amount paid by the complainant to the respondents in respect of the shop in question, alongwith interest @ 11.10% per annum (today's highest MCLR rate of 9.10% plus 2%) as per the provisions of Section 18(1) of the Act, read with Rule 16 of the Punjab State(Regulation and Development) Rules 2017, with effect from the respective dates of payments till realization/ payment is made. This amount shall be paid by the respondent/ promoter within ninety days from the date of this order. File be consigned to record room after due compliance.

Announced: 20.06.2025


(Arunvir Vashista)
Member, RERA, Punjab

Complaint RERA/GC No.0322 of 2023

Richa Goyal V/s Omaxe Buildwell Ltd.

Present: Mr. B.K. Tiwari, Advocate representative for the complainant
Mr. Arjun Sharma, Advocate representative for the respondent

Vide separate order of even date, the present complainant has been allowed. File be consigned to record room after due compliance.

Dated: 20.06.2025


(Arunvir Vashista)
Member, RERA, Punjab