

**BEFORE Sh. Arunvir Vashista, Member-II
THE REAL ESTATE REGULATORY AUTHORITY, PUNJAB AT
CHANDIGARH**

Complaint No. RERA/ GC No.0351 of 2023

Date of filing: 28.09.2023

Dated of Decision: **29.08.2025**

1. Kuldip Sharma, # 34 B, Phase-6, South Delhi, Delhi
2. Deepika Sharma, Bank of Baroda RO-BDR, Inspection Department, 6th Floor, Suraj Plaza 3, Sayajigang, Vadodara (Gujarat).

...Complainants

Versus

Suksha Developers Pvt. Ltd. (through its Director Mr. Bharat Mittal),
B-107, First Floor, Business Complex at Elante Mall, Industrial Area
Phase-1 Chandigarh.

... Respondent

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

Present: Sh. Kunal Grover, Advocate representative for the
complainants
Sh. Sanjeev Sharma, Advocate, representative for the
respondent

ORDER

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. The gist of the complaint is that the complainants booked
Flat No. R1-003/1 at first floor type 3 BHK +S having carpet area of
1234.84 sq. ft. and super area of 2165 sq. ft. in the residential project
known as "Sushma Valendia" located at village Nagla, M.C. Zirakpur,
District SAS Nagar, (Mohali), developed by the respondent. The total

sale consideration of the flat was Rs.83,03,000/-. An "Agreement for Sale" dated 04.10.2021 was also executed *inter-parties*, which included a payment plan and stipulated that possession would be delivered on or before 04.04.2023 as per Clause 7.1 of the Agreement for Sale. The respondent promised to provide assured monthly income/ rental income to the tune of Rs.18,337/- through cheques upto the date of delivery of possession. But instead of intimating regarding the completion of the work in the apartment, the respondent vide notice dated 27.07.2023 cancelled the allotment. The complainants allege service deficiencies, as the respondent has not completed the construction nor adhered to the possession delivery timeline, but the complainants while intending to remain in the project demand interest on the paid amount of Rs.74,74,133/- for each month on account of delay in handing over possession alongwith all formalities, including the occupancy certificate etc. Hence, the present complaint.

3. Upon notice, respondent promoter filed written reply contesting the complaint by taking preliminary objections on the grounds of maintainability and cause of action. On merits, it was submitted that the complainants were not seeking withdrawal from project or refund of the amount on account of delay in offer of possession but have filed the complaint for seeking possession of unit alongwith assured return which was not maintainable and liable to be dismissed. The assured return which was being sought was not provided under RERA Act and only interest for delay has been provided and contemplated under the Act. Even as per agreement dated 04.10.2021 the possession was to be offered by April 2023 subject to various force majeure conditions and the same was offered

on 01.04.2023 and interest for delay was also paid to the complainants till June, 2023. No deficiency was there on the part of respondent. The possession was offered on asking of complainants, as they wanted early possession and a sum of Rs.10,49,618/- was payable by the complainants before taking possession of unit but the complainants failed to make the payment and take possession of the unit. It was further averred that the present complaint was an abuse of the process of law. Denying the rest of the averments of the complaint a prayer was made for dismissal of the complaint.

4. Complainants filed rejoinder and broadly reiterated the contents of the complaint.

5. Learned counsel for the complainants pointed out that as per Clause 7.1 of the Agreement for sale the delivery of the flat was to be effected on or before 04.04.2023. The grace period of 6 months was to be allowed only in the case of '*force majeure*'. No situation of *force majeure* had been pointed out and as such possession should have been delivered by 04.04.2023. Hence, the respondent was liable to pay interest for the period of delay.

6. On the other hand, learned counsel for respondent reiterated the legal contentions noted above. He further contended that there was no provision provided under the Act to claim assured return and the claimants could only claim interest for the delayed period. He further contended that even as per agreement dated 04.10.2021 the possession was to be offered by April 2023 subject to various force majeure conditions and the same was offered on 01.04.2023 and interest for delay had also been paid to the complainants till June,

2023. As such complainants cannot claim that there was any delay in delivery of possession. At the best the complainants could have sought refund of the money paid by them but this course of action had not been adopted and the payment of interest therefore was not warranted in law.

7. This authority has carefully considered the rival contentions of both the parties and perused the record of the case.

8. Certain facts are undisputed between the parties that complainants booked flat in question in the project of the respondent. An agreement for sale dated 04.10.2021 was also executed between the parties. The total sale consideration of the apartment was Rs.83,03,300/-. As per clause 7.1 of the agreement the due date for handing over possession of the flat was 04.04.2023. Complainants had been asking for the delivery of possession of the flat but the project was incomplete till date and no occupation certificate/ completion certificate had been obtained by the respondent from the competent authority. As has been categorically 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 respondents for delivery of possession in an incomplete project was not a valid offer as has been observed by Hon'ble Supreme Court of India in **Dharmendra Sharma V/s Agra Development Authority, (Supra).**

9. As a result of the above discussion this complaint is partly accepted and the respondent is directed to pay interest on the amount paid by the complainants to the respondent at the prescribed rate as per Rule 16 of the RERD Act i.e. State Bank of India highest marginal cost of lending rate (as on today) plus 2% from the date of payment till a valid offer of possession is made by the respondent. However, any amount received by the claimants by way of interest as has been claimed by the respondent shall be set off from the amount payable by the respondent to the claimants. File be consigned to record room after due compliance.

Announced: 29.08.2025



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