

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

Complaint No.0208 of 2024
Date of Institution :11.06.2024
Date of Decision: 08.08.2025

1. Anurag Sharma,
2. Tuhini Sharma,

Both residents of M 7/3, Army Quarters Pocket-1, Hanuman Temple Complex, Opposite RTO Trimulgherry, Secunderabad, Hyderabad, Pin Code 500015

....Complainants

Versus

ATS Estates Private Limited through its Directors, ATS Golf Meadows Chandigarh Ambala Highway, Opposite Sadashiv Complex, Derabassi, Sahibzada Ajit Singh Nagar, Mohali, Punjab Pin Code 140507

....Respondent

Complaint in Form 'M' u/S 31 of the Real Estate (Regulation and Development) Act, 2016, read with Rule 36 (1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017.

(Registration Number: PBRERA-SAS79-PR0007)

Present: Shri Vikas Sheel Verma, Advocate for complainants
Shri Hardeep Saini, Advocate for Shri J.P.Rana, Advocate for respondent

ORDER

The prayers of complainants in this complaint, are for issuance of direction to respondent to complete/construct the Apartment and hand over possession after obtaining the Completion/Occupancy certificate from the Competent Authority; and to pay interest at the prescribed rate from July 2016 on the amount of Rs.33,77,932/- till the date of possession of Flat No. 7074, 7th Floor, Type-C, Tower no.07 in the project 'ATS GOLF MEADOWS LIFESTYLE', situated at Village Madhopur, Tehsil Derabassi, District Mohali, Punjab

2. Brief facts as submitted by complainants in their complaint are summarized below:-

- 2.1 Complainants booked Apartment No. 7074, 7th floor, Type-C, Tower no. 07 at 'ATS GOLF MEADOWS LIFESTYLE',

situated at Village Madhopur, Tehsil Derabassi, District Mohali, Punjab with respondent against the basic sale price base of Rs.38,00,000/- out of which complainants have paid Rs.33,77,932 upto 25.08.2014 i.e more than 85% of basic price. Allotment letter was issued on 22.07.2014 and on the same date buyer agreement was entered into between the parties.

2.2 As per Clause 14 of the agreement possession of the apartment was to be delivered within 42 months (36 months + 6 months' grace period) from the date of actual start of the construction of a particular tower in question. Vide letter dated 27.12.2014 issued by respondent it was intimated to complainants about start of construction in December 2012. The Apartment is still under construction and respondent failed to deliver possession of apartment as promised in the Agreement.

2.3 Respondent had violated provisions u/s 18(1) of the Act of 2016.

2.4 It is the prayer of complainants to direct respondent to complete/construct apartment; hand over possession after obtaining Completion/Occupancy certificate; respondent be further directed to pay interest at the prescribed rate from the date July 2016 till possession and to pay Rs.1,50,000/- towards costs of Litigation.

3. Upon notice, Shri J.P.Rana, Advocate appeared with Shri Hardeep Saini, Advocate and submitted their power of attorney. Reply dated 08.09.2024 was filed by respondent which is summarized below:-

- 3.1 Respondent admitted the development of project "ATS Golf Meadows Life Style" at village Madhopur, Tehsil Derabassi, District SAS Nagar, Mohali, Punjab and entering into agreement for sale with complainants on 22.07.2014.
- 3.2 As per Registration number PBRERA-SAS79-PR0007, the completion time of the Project consisting of 15 Towers, has been declared to be "9 years" i.e by 01.09.2026.
- 3.3 As per Clause 14 of buyer agreement dated 22.07.2014 possession of the plot was to be handed over within 42 Months (36 months plus 6 months' grace period) from start of construction.
- 3.4 Respondent had paid delayed penalty of Rs.2,47,000/- to complainants as per terms of buyer agreement. Complainants are only entitled for payment of only Rs.5/- per sq. ft per month for the period of delay in possession. Respondent is making effort to deliver possession shortly.
- 3.5 Respondent also relied upon Clause 35 and Clause 37 of Buyer Agreement to contend that for settlement of dispute matter is to be referred under Arbitration and Conciliation Act, 1996 and Courts at Noida have jurisdiction to entertain the case respectively.
- 3.6 It is prayed that in view of above facts, the complaint be dismissed.
4. Rejoinder dated 17.01.2025 was filed by complainants reiterating the contents of their complaint and denied the contents of reply of respondent. It is added that as per law settled upto the Hon'ble Supreme Court in the matter of "*Imperia Structures Ltd. Vs Anil Patni and anr.*", (Civil Appeal No.3581-3590 of 2020) the relevant date for delivery of

possession to an allottee is the date mentioned in the agreement for sale and not the date till which registration of the project is valid. The date of start of construction is December 2012 and possession was to be delivered within 42 months i.e by 30.06.2016. It is admitted by complainants that they have received Rs.2,48,000/- from respondent. Regarding the arbitration clause, complainants referred the law of Hon'ble Supreme Court in the matter of "*Emaar MGF Vs Aftab Singh*" (Review Petition Nos. 2629 and 2630 of 2018).

5. The undersigned heard the arguments of both the counsels on the stipulated date.

6. Counsel for complainants argued on the lines of his complaint as well as rejoinder and argued that possession of the apartment has not been handed over to complainants so far. As per Clause 14 of the buyer agreement possession was to be delivered within 42 months. For the sake of convenience Clause 14 reads as under:

"Possession of the said Apartment is proposed to be delivered by the Company to the Allottee within a period 36 months (three years) with a grace period of six months (hereinafter referred to as "the Stipulated : Date") from the date of actual start of the construction of a particular Tower Building in which the registration for allotment is made, subject always to timely payment of all charges including the Basic Sale Price Stamp Duty, Registration Fees and Other Charges as stipulated herein or as may be demanded by the Company from time to time in this regard. The date of actual start of construction shall be the date on which the foundation of the particular Building in which the said Apartment is allotted shall be laid as per certification by the Company's Architect/Engineer in charge of the Complex and the said certification shall be final and binding on the Allottee".*

7. The Annexure P-4 is a letter dated 15.07.2016 in reference to clause 14 of Buyers Agreement addressed to complainant by the authorised representative of respondent sharing "*that the construction of tower/building had started on December 2012, and the work is in full swing*". Further, it is noted that vide interim order dated 10.07.2025 counsel for respondent was directed to provide certificate of

Architect/Engineer regarding the start of construction of the particular building. In compliance thereto, during the proceedings held on 25.07.2025, counsel for respondent stated that *"there is no record of Architect and Engineering Certificate with the respondent. He further agreed that as per letter dated 15.07.2016 (Annexure-P4 of complaint) the date December, 2012 may be treated as date of commencement of Tower-7 being the unit under consideration.."* Thus, the date of delivery of possession is 30.06.2016 and complainants are entitled for payment of interest at the prescribed date mentioned in the Act of 2016 till the date of handing over possession of the apartment.

8. On the other hand, Counsel for respondent argued that as per registration certificate granted to respondent the date of completion of project is 01.09.2026. He also argued that if this Authority is considering payment of interest, for the period of delay in handing over possession of apartment to complainant by respondent, then the sum of Rs.2,48,000/- already paid as delayed interest by respondent to complainants as admitted by complainants in their rejoinder, be deducted from the due interest. He also argued that respondent is making all efforts to handover possession shortly.

9. The undersigned considered the arguments of both the counsels and also gone through the available record.

10. From the above discussion, it is established on record that possession of the apartment was to be handed over to complainants on or before 30.06.2016, however, till today respondent is unable to hand over the same. Even no Completion/Occupancy Certificate has been placed on record by respondent. Thus, failure of respondent to hand over possession of the apartment to complainants attracts the proviso

to Section 18(1) of the Act. For the sake of convenience the relevant portion is reproduced hereunder:-

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) *...*

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. (emphasis supplied)

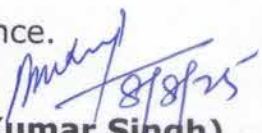
11. In view of the above statutory provision it is held that complainants are entitled for payment of interest for every month of delay from the date of possession i.e from 30.06.2016 till the date it is handed over to them.

12. It is the admitted case of both the parties that respondent had paid a sum of Rs.2,48,000/- and received by complainants towards delay in handing over possession.

13. As a result of the above discussion, this complaint is accordingly allowed and respondent is directed

13.1 to pay interest at the rate of 10.90% per annum (today's State Bank of India highest Marginal Cost of Lending Rate of 8.90% plus two percent) prescribed in Rule 16 of the Punjab State the Real Estate (Regulation and Development) Rules, 2017 from 30.06.2016 till the date of possession of the Apartment Flat No. 7074, 7th Floor, Type-C, Tower no.07 situated in the project "ATS Golf Meadows Lifestyle" situated at village Madhopur, Tehsil Derabassi, District SAS Nagar, Mohali, Punjab is made to complainants after obtaining the Completion/Occupancy Certificate.

- 13.2 However, respondent is directed to pay the interest as stated above from 30.06.2016 till the date of this order i.e 03.08.2025 in the first instance within the statutory time i.e ninety days stipulated under Rule 17 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 from the date of receipt of this order.
- 13.3 Respondent is further directed to pay interest at the rate of 10.90% per annum (today's State Bank of India highest Marginal Cost of Lending Rate of 8.90% plus two percent) prescribed in Rule 16 of the Punjab State the Real Estate (Regulation and Development) Rules, 2017 from 04.08.2025 till the date of actual handing over possession of the above said apartment.
- 13.4 Since respondent had already paid a sum of Rs.2,48,000/- and received by complainants towards delay in handing over possession, this sum be set off from the due interest to be paid by respondent to complainants.
14. Issue regarding litigation costs was not pressed/raised by complainants during the course of their arguments, hence not being adjudicated upon.
15. File be consigned to record room after due compliance.


(Binod Kumar Singh)
Member, RERA, Punjab