

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

Complaint No. 0387 of 2024
Date of Institution : 08.11.2024
Date of Decision: 10.09.2025

1. Ashok Kumar Aggarwal
2. Geeta Aggarwal

Both residents of Near Shimla View Restaurant, District Solan,
Himachal Pradesh, Solan, PIN Code 173214

....Complainants

Versus

M/s Omaxe New Chandigarh Developers Private Limited, India Trade
Tower, First Floor, Baddi-Kurali Road, New Chandigarh, Mullanpur,
Punjab District Sahibzada Ajit Singh Nagar (Mohali) PIN Code
140901

....Respondent

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

**(Registration Number: PBRERA-SAS80-
PR0040)**

Present: Shri Savinder Singh Gill and Shri Hoshiar Chand,
Advocates for complainants
Shri Tejeshwar Singh and Shri Vageesh Marwaha,
Advocates for respondent

ORDER

Complainants seek following directions to respondent

- i. To deliver possession of Apartment No.TLC/CASPEAN.B/
SEVENTEENTH/1702(TLC/1189);
- ii. To pay interest with effect from 31.07.2021 till offer of
possession after obtaining Completion/ Occupancy
Certificate;
- iii. To execute the sale deed of said Apartment;
- iv. To pay Rs.50,000/- as litigation expenses;
- v. Not to charge any delayed payment interest from
complainants and

- vi. To quash letter dated 08.10.2024 being illegal in the eyes of law.
2. Complainants submitted the following facts in their complaint which are summarized below:-
- 2.1 Complainants, booked Apartment on 22.03.2018 in the project "The Lake", being developed by respondent at Village Bharounjian, Mullanpur, New Chandigarh, District S.A.S. Nagar, Mohali, Punjab by paying Rs.3,00,000/-.
- 2.2 Complainants were allotted Unit No. TLC/CASPEAN.B/ SEVENTEENTH/1702 (TLC/1189), having Super area 1885 sq. ft. and carpet area 1263 sq. ft. for a total sale consideration of Rs.90,66,352.25. Out of the said total sale consideration, complainants have paid Rs.43,97,076.47/- including GST to respondent till date as per statement and receipts (**Annexure C-2 Colly**).
- 2.3 The agreement for sale (**Annexure C-1**) was entered into between complainants and respondent on 22.05.2018. As per its Clause 7.1 possession of Apartment was to be handed over by respondent to complainants on 31.07.2021.
- 2.4 It is averred that respondent sent a letter to complainants on 08.10.2024 (**Annexure C-3**) offering possession of Apartment for carrying out fit-outs, after delay of more than three years and also demanded an amount of Rs.56,21,978.54/- from them.

- 2.5 It is also contended that the terms and conditions of agreement for sale, are wholly one-sided and in favour of respondent.
- 2.6 Respondent has demanded club charges as the club is non-existent. The delayed payment charges have been calculated @18% per annum despite complainants having made all payments on time.
- 2.7 Entire project is still under construction except for the Tower in which Apartment of complainants is situated and is surrounded by dust and lack of security. Complainants tried to amicably settle the matter with respondent but failed, hence this complaint seeking reliefs noted in the initial para of this order.
3. Upon notice of this complaint, Shri Tejeshwar Singh, Advocate appeared on behalf of respondent and submitted reply dated 17.07.2025 which is summarized below:-
- 3.1 Respondent admitted that complainants submitted an Application Form on 20.03.2018 and opted for "Additional Discount Payment Plan" under which an additional discount Rs.6,72,081/- was extended to Allottee on the total sale consideration of Unit on their commitment to make timely payments of all installments and other charges. It was also made clear that in case of default by complainants, respondent shall be entitled to withdraw the said discount granted to complainants.
- 3.2 Agreement for Sale dated 22.05.2018 (**Annexure R-1**) was executed along with 'Note 1 to Schedule-D' for the

allotted Unit No. TLC/CASPEAN- B/ SEVENTEENTH/1702, in residential project 'The Lake'.

3.3 It is alleged that complainants defaulted in making timely payments despite various demand notices and reminders (**Annexure R-2 colly**). Respondent has calculated 91 days of delay in making different payments from 07.04.2018 to 08.10.2024 by complainants as per table produced in the reply itself. A sum of Rs.1,48,731.78 has been calculated as interest for the period of delay at the simple rate of 11.1% per annum. Respondent admitted that complainants have already deposited Rs.1,35,200/- as partial interest liability from Rs.1,48,731.78. Respondent relied upon Clause 7.3 of the agreement whereby respondent is entitled for extension of possession date equivalent to number of days for delayed payments.

3.4 Respondent further stated that due to unforeseeable calamity of COVID-19, work halted for a considerable period of time and only resumed at a snail's pace and respondent completed the construction of the subject unit. The tentative date of possession stood duly extended up to April 2023 with the consent of the allottee and referred e-mail dated 19.01.2023 (**Annexure R-3**).

3.5 It is submitted that respondent issued a letter dated 08.10.2024 (**Annexure R-4**) offering possession of unit to complainants, prior to filling of present complaint.

- 3.6 It is emphasized that respondent obtained the Occupancy Certificate on 26.11.2024, (**Annexure R-5**) from the competent authority. However, Complainants have failed to take physical possession of the unit which is in contravention of Clause 7.2 of the Agreement and also of Section 19(10) of the Act of 2016, which mandates that allottee shall take possession of unit within two months from the date of its issuance. It is further submitted that after obtaining Occupancy Certificate, respondent issued a reminder to complainants on 05.12.2024 (**Annexure R-6**) to take possession of unit.
- 3.7 While relying upon Annexure R-3 respondent stated that mutually-agreed extension of due date of possession comes to 30.04.2024 and not 31.07.2021 as claimed by complainants. Complainants have also ignored unprecedented and unforeseeable *force majeure* event of COVID-19, which entitled respondent further extension in completion of construction and development. Respondent also relied upon the Advisory issued by the Ministry of Housing & Urban Affairs (Housing Section), Government of India, "for Extension of Registration of Real Estate Projects Due to '*force majeure*' under the provisions of the Act of 2016 (RERA)" on 13.05.2020 (**Annexure R-7**). Also, this Authority issued a 'List of projects where extension of six months was granted due to COVID-19, vide Circular dated 28.10.2020', (**Annexure R-8**), the project of

respondent was also mentioned therein. Respondent reproduced relevant paras of Clause 7 of the Agreement in support of his case. As per Clause 7.3, respondent is entitled to an extension of 91 days as mentioned in para 6 (Table) of the reply. Respondent also relied upon order dated 10.05.2023 passed by learned State Consumer Disputes Redressal Commission, Chandigarh (SCDRC) in the matters of "*Ramesh Kumar v. M/s Omaxe Chandigarh Extension Developers Private Limited and Ors.*", (CC No. 9 of 2023) and "*Ravinder Avasthi v. M/s Omaxe Chandigarh Extension Developers Private Limited and Ors.*", (CC No. 10 of 2023), wherein at para 12 the SCDRC Chandigarh has granted a benefit of extension of 9 months in the date of possession to the present respondent. Respondent has also relied upon the following judgements:

- i. "*Raman Kumar and Anr. v. Omaxe New Chandigarh Developers Pvt. Ltd.*", (CC-24-2023), wherein similar relief has also been granted by the learned SCDRC, Punjab
- ii. "*Kishore V. Patil v. M/s Marvel Zeta Developers Pvt. Ltd.*", (Consumer Case No. 58 of 2022) decided on 05.08.2024 wherein the learned National Consumer Disputes Redressal Commission has granted extension of 16 months in the stipulated date of possession.
- iii. "*Hero Realty Pvt. Ltd. v. Rohit Goyal*", (Appeal no. 23,28 of 2024) decided on 03.02.2025 by Hon'ble Real Estate Appellate Tribunal, Punjab wherein similar directions have been passed.
(Copies of the above judgments are **Annexure R-9**).

3.8 As per calculation of respondent the actual date of possession in view of Clause 7 of the Agreement is

30.04.2024 mentioned in the reply at 'Para-H' of 'Grounds of Appeal':

Agreement	22.05.2018
Tentative Date of possession mentioned in Clause 7.1	31.07.2021
Mutually Agreed Extended Date of Possession (in view of e-mail dated 19.01.2023)	30.04.2023
(+) 9 months extension as granted by RERA due to COVID-19	30.01.2024
(+) 91 days of delay to be added as per Clause 7.3	30.04.2024

3.9 It is further contended that respondent obtained Occupancy Certificate on 26.11.2024 and offered possession on 08.10.2024. Thus, delay interest, if any, can only be considered w.e.f. 30.04.2024 to 26.11.2024.

3.10 It is further averred that as per Clause 1.12 of the Agreement; Clause 8 (i) of the Application Form; Section 19(7) read with Section 2(z) of the Act of 2016 the complainants are liable to pay delay interest at the rate of SBI MCLR + 2% p.a. Respondent also relied upon the case of "Gurnaib Singh Brar vs. M/s. Country Colonisers Pvt. Ltd.", (GC No. 18562020UR of 2020), wherein this Authority directed that even Complainant would be liable to pay delay interest to respondent which would be adjusted in the delay interest/compensation payable by respondent to Complainants.

3.11 Respondent further submitted that under the 'Additional Discount Payment Plan', respondent had granted rebate Rs.6,72,081/-. Since complainants failed to make due payments on time, the rebate of Rs.6,72,081/- is liable

to be withdrawn and refunded to respondent. Any amount payable to complainants may be subject to deduction of this rebate. Respondent denied that project is incomplete, hazardous, or unfit for possession or interest have been charged at the rate of 18% per annum. It is prayed that the complaint be dismissed with costs.

4. A rejoinder dated 29.07.2025 was submitted by complainants to the reply reiterating the contents of their complaint and controverted the contents of the reply submitted on behalf of respondent. In reply to averment of respondent to email dated 19.01.2023 sent by complainant to respondent it is emphasized that mere inquiry by complainants cannot be his consent of extension. It is further submitted that in the matter of "Hero Realty Vs Rohit Goyal", the RERA, Punjab has granted not more than four months' extension due to Covid-19. Complainant further denied that interest was payable from April 2024 instead it should be from 31.07.2021. Even despite obtaining Occupancy Certificate on 26.11.2024 respondent has not handed over possession. Entire payment has already been made in January 2025. It is further averred that charging interest from the date of fit-outs possession dated 08.10.2024 is illegal. Reclaiming of discount by respondent is baseless. Complainants are super senior citizens and cannot be expected to wait indefinitely.

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

6. It is argued on behalf of complainants that they were allotted Unit No. TLC/CASPEAN.B/ SEVENTEENTH/1702 (TLC/1189), having

Super area 1885 sq. ft. and carpet area 1263 sq. ft. for a total sale consideration of Rs.90,66,352.25 and complainant has paid entire amount in January 2025. As per Clause 7.1 of agreement for sale executed on 22.05.2018, possession of Apartment was to be handed over to complainant by 31.07.2021. It is further argued that respondent sent letter dated 08.10.2024 offering possession of Apartment for carrying out fit-outs. Complainants further stated that respondent has charged interest @ 18% p.a. as delayed payment charges whereas complainants have released all payments on time and these delayed charges are not payable by them. It is further emphasized that despite obtaining Occupancy Certificate on 26.11.2024, possession was offered only on 05.12.2024. Thus, complainants are entitled for payment of interest for the period of delay in handing over possession of the apartment to complainants with effect from 31.07.2021 till 05.12.2024.

7. On the other hand, it is argued on behalf of respondent that they offered huge discount to complainants; there is 91 days of delay in making payments; due to Covid-19 the construction was slow; and if there is any delay on the part of complainants to make payment on time, respondent is entitled for extension of that period of delay and considering the period of nine months of Covid-19 by relying upon various orders of various Authorities/Appellate Tribunal, Punjab, extension in project granted by this Authority, and also considering the delay in making payments, the date of possession would be 30.04.2024 as tabulated in para 6 of its reply. Respondent also admitted that out of Rs.1,48,731.78 complainants have already deposited Rs.1,35,200/- as partial interest liability which has been

calculated at the simple rate of 11.1% per annum for the period of delay in making payments by complainants.

8. The undersigned considered the rival contentions of both the parties and also perused the available record.

9. Perusal of Clause 7.1 of the agreement for sale dated 22.05.2018, would reveal that possession of the apartment was to be handed over to complainants on 31.07.2021. This complaint was instituted before this Authority on 08.11.2024 and as per Annexure R-5, Occupancy Certificate was issued by Greater Mohali Area Development Authority, vide its Memo No.GMADA-E.O./2024/GMAADA/24-25/IPO/5 dated 26.11.2024 attached by respondent with its reply dated 17.07.2025. It is the case of respondent that they offered possession of the Apartment No. TLC/CASPEAN.B/ SEVENTEENTH/1702 (TLC/1189), to complainants vide letter dated 8th October 2024 along with Annexure-A – Statement of Account-requesting to pay Rs.56,21,978.54 within fifteen days. However, complainants did not accept it. This letter dated 08.10.2024 is with "Sub: Offer of Possession of Residential Flat No. TLC/CASPEAN.B/ SEVENTEENTH/1702, admeasuring 1965 Sq.ft (182.55 sq. mt) ("Said Unit") in the project "The Lake" situated at Omaxe New Chandigarh for carrying fit-outs" only. There is no Occupancy Certificate attached with this letter. As noted above, Occupancy Certificate was granted to respondent on 26.11.2024, as such it is held that this offer of possession dated 08.10.2024 of said residential apartment to complainants is not valid offer of possession.

10. The respondent also argued that pandemic of Covid-19 occurred with effect from March 2020 onwards and possession as

claimed by complainants was to be handed over on 31.07.2021 and this Authority had itself granted 6 months reprieve to the promoters. It is further the case of respondent that during the intervening period of March 2020 to July 2021 due to Covid-19, the construction was at snail's pace and respondent could not meet the dead line and prayed for six months exemption from payment of interest for the period of delay, if this Authority is considering to grant this relief. He has also relied upon various orders of the competent Authorities in this regard.

11. During the course of arguments, it is stated that possession of the apartment has been taken over by complainants on 05.12.2024.

12. Thus, considering all the facts noted above, it is held that complainants are entitled to payment of interest for the period of delay in delivery of possession of the Apartment No. TLC/CASPEAN.B/ SEVENTEENTH/1702 with effect from 31.07.2021 minus six months till 05.12.2024 i.e from 31.01.2022 till 05.12.2024.

13. In view of above discussion, this complaint is allowed and respondent is directed to pay interest under Section 18(1) of the Act of 2016 at the rate of 10.85% per annum (today's State Bank of India highest Marginal Cost of Lending Rate of 8.85% plus two percent) prescribed in Rule 16 of the Rules of 2017 on the amount paid by the complainant w.e.f 31.01.2022 till 05.12.2024

14. File be consigned to record room after due compliance.


(Binod Kumar Singh)
Member, RERA, Punjab