

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

Complaint G C No-0527 of 2022  
Date of Institution: 02.11.2022  
Dated of Decision: 10.03.2026

Bandana Gautam, H. No. 395, Sector-8, Panchkula, Haryana-134109

....Complainant

Versus

1. Shivalik Infrastructure and Developers Pvt. Ltd., SCO 510, Sector-70, Sahibzada Ajit Singh Nagar (Mohali), Punjab- 160071
2. LIC Housing Finance Limited (ii) Office Address of the Respondent - SCO 2445-46 Sector-22C D, Chandigarh - 160022

....Respondents

Present: 1. Shri Rajbir Singh, advocate, for the complainant  
2. None for the respondent no.1  
3. Sh Sukhbir Singh, Advocate for the respondent no.2

**ORDER**

1. This complaint in Form 'N' under Section 31 of the Real Estate (Regulation and Development) Act, 2016, (hereinafter referred to as the Act of 2016) read with Rule 36 (1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the Rules of 2017) was instituted on 02.11.2022 by the complainant in her individual capacity against the respondent seeking following reliefs:

1.1 The present complaint may kindly be allowed and refund of principle amount of Rs. 11,83,150/- + MCLR + 2% simple interest may be directed to the Respondent to pay to the complainant in the interest of justice.

1.2 To direct the Respondent No. 1 to pay litigation expenses of Rs. 2,00,000/-.

2. The complainant submitted the following points in his complaint:

2.1 The complainant stated that the respondent No. 1 was offering fully constructed multi-storied ready to live apartments "Shivalik Towers, Phase-1,

Shivalik City" in Sector-127, Greater Mohali, District Mohali in different categories against the consideration price.

2.2 On 28.06.2006, the complainant approached the Respondent No. 1/ Developer and purchased an apartment under re-allotment (after being transferred from the original allottee) against the consideration price of Rs. 21,59,150/- on 28.06.2006. The complainant was allotted Apartment No. A-5, Block No. A, Shivalik Tower, Phase-1, Shivalik City and buyers' agreement was entered into between the parties. As per the agreement the physical possession of the dwelling unit was to be handed over by the Respondent No.1 within in a period of one year from the date of agreement.

2.3 The complainant stated that all the installments as per schedule time were being paid to the Respondent No. 1.

2.4 The Respondent No. 1/Promoters wrote a letter to the Respondent No. 2/LICHFL, Area Office, Chandigarh and sought the permission to mortgage the property allotted namely Flat No. A-5, Block-A, Shivalik Tower, Phase-1 in Shivalik City situated at Kharar - Landra Road, Kharar to Ms. Sushma Swaraj for a total consideration of Rs.21,59,150/-.

2.5 The Respondent No. 2 has refused to release further amount of installment on the ground that there is no sign of construction and due to slow progress in work at site is observed as such further amount cannot be released as the amount already released is more than the proportionate actual construction.

2.6 The respondent no.1 issued a notice dated 24.03.2008 calling on the complainant to make the payment which was suitably replied vide letter dispatched on 16.04.2008.

2.7 The respondent further apprised the complainant vide letter dated 30.01.2007 that they have now further handed over the site to other

developer M/s Kajal Enterprises and the factum remains that the Respondent No. 1 have failed to deliver possession till date.

2.8 The Respondent No. 1 got issued the legal notice dated 24.01.2012 to complainant and cancelled the agreement and refunded the principal amount by way of cheque.

2.9 The complainant on receipt of the legal notice and cheque got them replied through their counsel and returned the cheque in original alongwith the reply to the legal notice dated 12.03.2012.

2.10 Then, complainant had filed a consumer complaint case No. 363 of 2012 under section-12 of the Consumer Protection Act, 1986 before the District Consumer Dispute Redressal Forum, SAS Nagar (Mohali), Punjab. On 18.12.2012 the Ld. District Consumer Dispute Redressal Forum, SAS Nagar, Punjab dismissed the complaint case No. 363 of 2012 filed by the complainant on the ground of lack of pecuniary jurisdiction of the Forum to entertain complaint.

2.11 On 12.02.2013 the present complainant filed First Appeal No. 108 of 2013 before the State Commission Dispute Redressal Commission, Punjab, Chandigarh in First Appeal No. 108 of 2013 modified order under appeal to effect that the complaint should have been returned to the complainant for presenting the same before the State Commission and the Ld. District Forum directed to return the complaint after making necessary endorsement thereon.

2.14 The complainant filed an appeal before the National Consumer Disputes Redressal Commission, New Delhi. Hon'ble NCDRC upheld the order passed by the Ld. State Commission Dispute Redressal Commission, Punjab, Chandigarh on 24.05.2019.

2.15 The complainant visited the site in question several times to comply with the order passed by the Ld. State Commission Dispute Redressal Commission, Punjab, Chandigarh and Hon'ble NCDRC there is nil development the spot.

3. On 09.05.2024, The Ld. Counsel of the complainant submitted that shortcoming in the complaint as pointed out by the Registry has been removed and re-submitted the complaint in-line. Registry is directed to issue notice to the respondent to appear in person or through authorized representative and to file reply within 15 days of the receipt of the notice. Hearing date i.e. 20.06.2024 is fixed for appearance and filing for reply.

3.1 On 20.06.2024, Sh Rajbir Singh, Advocate appeared on behalf of the complainant. No body appeared on behalf of respondent no.1. Sh Sukhbir Singh, Advocate appeared for Respondent no.2 and submitted copy of reply. Copy of reply has been handed over to counsel of the complainant. Further, it was noted that the notice issued to the Respondent no.1 has been received back with the postal remarks 'Addressee left'. The counsel of the complainant is directed to furnish alternate address of the respondent no.1 within 10 days. Thereafter, the registry of this Authority is directed to issue fresh notice to the respondent no.1 once the address received. Next date of hearing is 13.09.2024 for appearance of respondent and filing of reply. On 13.09.2024, Member was on leave, the case adjourned for 07.10.2024.

3.2 On 07.10.2024, on the last date of hearing i.e.20.06.2024 the counsel for Respondent no.2 filed its reply. Copy of reply has been handed over to counsel of the complainant and Counsel of the complainant seeks adjourned to file the rejoinder. It is also directed to send a copy of same to the respondent, in advance. Alternate address of the respondent no. 1 is still awaited. On the last date of hearing i.e.20.06.2024, the counsel of the complainant is directed to furnish alternate address of the respondent no.1 within two weeks, so that notice upon the respondent no.1 could be served upon. Registry of this Authority is also directed to issue fresh notice to the respondent no.1 once the alternate address received. Next date of hearing is 11.12.2024 for filing of reply by respondent no.1. On 11.12.2025, the case was re-assigned to this bench by the Authority. Therefore, the matter has been rescheduled for 23.01.2025 for the purpose already fixed.

3.3 On 23.01.2025, Sh Nikhil Saini, Advocate Proxy counsel appeared for the complainant but nobody appeared on behalf of Respondent no.1 & 2. Registry directed to issue fresh notice to the respondent no. 1 on both addresses again. Next date for appearance and filing of reply is 20.03.2025. On 20.03.2025, the notices issued to the respondent no. 1 had received back undelivered with postal remarks 'no such person' on both the addresses. Registry is directed to issue dasti notice to the respondent no.1. Sh Sukhbir Singh, advocate for the respondent no.2 stated that the reply has already been submitted and kept on record. Later on, Sh Rajbir Singh, Proxy counsel of the Sh Ashish Jhamb, Advocate for the complainant appeared and informed the next date of hearing i.e.15.05.2025 for appearance and filing of reply of respondent no.1.

3.4 On next of hearing i.e. 15.05.2025, Sh Rajbir Singh, Proxy Advocate for the Sh Ashish Jhamb, Advocate for the complainant and Sh Anuj Sharma, Proxy Advocate for the Sh Sukhbir Singh for the respondent no.2 appeared. As directed on 20.03.2025, dasti notice was delivered to the respondent no.1 on 06.05.2025, but nobody appeared for the respondent no.1 despite the service of notice. Proxy counsel appeared for the complainant requested for service of dasti notice again to the respondent no.1 and proxy counsel stated that he himself will serve the dasti notice. Registry is directed to provide the copy of notice to the Ld Counsel to serve the dasti notice upon the respondent no.1. Next date of hearing i.e.17.07.2025 for appearance and filing of reply of respondent no.1.

3.5 On 17.07.2025, Sh Rajbir Singh, Advocate for the complainant, Ms Millie Gautam, Advocate proxy for Sh Sukhbir Singh, advocate for the respondent no.2 and none for respondent no.1 appeared. The counsel of the complainant placed on record a copy of dasti notice dated 23.05.2025 allegedly served upon respondent no.1, which is signed by one 'Balram Mahto' with stamp of Shivalik Properties and Developers, Regd. Office # 173, sector-9-B, Chandigarh. Further, a legal representation dated 18.06.2025 has been

received from Sh Deepanshu Mehta, Advocate in response to above dasti notice stated that 'Shivalik Properties and Developers, Regd. Office # 173, sector-9-B, Chandigarh', is a separate entity and has no connection with the respondent no.1. In view of above said facts, complainant was directed to provide any other address within ten days and thereafter registry to issue notice to respondent. Next date of hearing i.e.28.08.2025 for appearance and filing of reply of respondent no.1.

3.6 On 28.08.2025, Sh Vikram Singh, Advocate for the complainant and none for respondent no.1 & 2 appeared. The counsel of the complainant stated that the respondent no. 1 is neither appearing and not responding, hence the notice may be issued through publication. Registry was directed to ascertain any new/updated address of the respondent no.1 as the project was registered with the Authority with the registration no. PBRERA-SAS80-PR0669. Next date of hearing i.e.03.10.2025 for appearance and filing of reply of respondent no.1.

3.7 On 03.10.2025, Sh Rajbir Singh, Advocate for the complainant sought more time to submit publication charges to the registry for publication of notice in the newspapers. Next date of hearing i.e. 28.11.2025 for further proceedings.

3.8 On 28.11.2025, Ms Millie Gautam, Advocate proxy for Sh Sukhbir Singh, advocate for the respondent no.2 and none for complainant and respondent no.1 appeared. Incompliance to order dated 28.08.2025, publication of notice to the respondent no.1 for appearance and reply has been affected in newspaper "The Hindustan Times" on 20.11.2025. Next date of hearing i.e. 18.12.2025 for reply of respondent no.1.

3.9 On 18.12.2025, None for the complainant and respondents appeared. Next date of hearing i.e.19.02.2026 for filing of reply of respondent no.1.

On 19.02.2026, Sh Rajbir Singh, Advocate for the complainant, Ms Millie Gautam, Advocate proxy for Sh Sukhbir Singh, advocate for the respondent

no.2 and none for respondent no.1 appeared. No body appeared even after the publication of notice. The matter is reserved for order.

3.10 It is clear from above details that despite various opportunities granted to respondent neither any reply to complaint was filed by respondent no.1 nor there was any representation on behalf of respondent no.1 till date. It appears that respondent no.1 is not interested to pursue its matter before this Authority.

4. The respondent no. 2 has furnished his reply on 20.06.2024 and stated that complainant availed the housing loan facility from the answering respondent no.2 and housing loan account of the complainant has already been closed. No relief has been sought by the complainant against answering respondent no.2.

5. The undersigned heard arguments of the Counsel for the complainant on 19.02.2026. On the basis of his submission made in their pleadings as summarised above. I have duly considered the documents filed and written & oral submissions of the complainant.

6. The complainant had purchased an apartment no. A-5, in Block No. A, Shivalik Tower, Phase-1, Shivalik City under re-allotment (after being transferred from the original allottee) against the consideration price of Rs. 21,59,150/- on 28.06.2006. As per the agreement the physical possession of the dwelling unit was to be handed over by the Respondent No.1 within in a period of one year from the date of agreement. The complainant took home loan from LICHFL, Area Office, Chandigarh. The respondent no.1 apprised the complainant vide letter dated 30.01.2007 that they have now further handed over the site for construction to other construction company i.e. M/s Kajal Enterprises. The Respondent No. 1 issued the legal notice dated 24.01.2012 to complainant and cancelled the agreement and refunded the principal amount Rs. 11,83,150/- by way of cheque no. 096301 dated 24.01.2012. Vide

dated 12.03.2012, the complainant had given reply to the legal notice dated 24.01.2012 to the respondent no.1 through their counsel.

6.1 The State Commission Dispute Redressal Commission, Punjab, Chandigarh in First Appeal No. 108 of 2013 in case of complainant vide order dated 16.01.2017 directed the OP no.1 (Shivalik Infrastructure and Developers Pvt. Ltd., SCO 510, Sector-70, Sahibzada Ajit Singh Nagar, Mohali, Punjab- 160071) to deliver the possession of the allotted flat in Block No. A situated in Shivalik Tower Phase 1, Shivalik City, vide allotment letter Ex/C-1 to the complainant on payment of entire balance sale consideration amount by the complainant to OP no.1 with interest @ 9% p.a from the date of delay till actual payment. The complainant shall pay the above referred balance amount with interest to OP no.1 within a period 45 days from the date of receipt of certified copy of order, whereupon OP no.1 shall further deliver the possession with complete occupation certificate to the complainant within 30 days period from the date by executing all the formalities on its part. It is further held that the right of OP no.2 (LICHFL, Area Office, Chandigarh) shall remain fixed as security over the flat till the entire loan amount is cleared by the complainant as charged over the flat to OP no.2 for the loan taken by complainant from OP no.2.

6.2 The complainant filed an appeal before the National Consumer Disputes Redressal Commission, New Delhi against the decision of Ld. State Commission Dispute Redressal Commission, Punjab, Chandigarh. The Hon'ble NCDRC upheld the order dated 16.01.207 passed by the Ld. State Commission Dispute Redressal Commission, Punjab, Chandigarh on 24.05.2019.

6.3 Complainant visited the site in question several times to comply with the order passed by the Ld. State Commission Dispute Redressal Commission, Punjab, Chandigarh and Hon'ble National Consumer Disputes Redressal Commission, but there is nil development the spot. The prolonged delay of more than fifteen years constitutes deficiency in service and unfair trade

practice. The complainant, therefore, prayed for refund of the deposited amount along with interest.

6.4 After hearing and examining the record, it is evident that the stipulated date for possession was 31.10.2007, yet the complainant has not been given possession to date.

6.5 Further, Hon'ble Supreme Court of India, in Para 77, of its judgment in M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. and others in Civil Appeal Nos. 6745-6749 of 2021. has reiterated the law declared by the court in Imperia Structures Ltd.(supra). The same is reproduced below: -

*“77. ....The submission has no foundation for the reason that the legislative intention and mandate is clear that Section 18(1) is an indefeasible right of the allottee to get a return of the amount on demand if the promoter is unable to handover possession in terms of the agreement for sale or failed to complete the project by the date specified and the justification which the promotor wants to tender as his defence as to why the withdrawal of the amount under the scheme of the Act may not be justified appears to be insignificant and the regulatory authority with summary nature of scrutiny of undisputed facts may determine the refund of the amount which the allottee has deposited, while seeking withdrawal from the project, with interest, that too has been prescribed under the Act...”*

6.6 Ms Bandana Gautam (i.e. the complainant) purchased the unit under re-allotment on 28.06.2006 for consideration of Rs.21,59,150/- and deposited an amount of Rs.11,83,150/- on 28.06.2006. The complainant was allotted Apartment No. A-5, in Block No. A, Shivalik Tower, Phase-1, Shivalik City and buyers' agreement was entered into between the parties. In such a scenario when it comes for refund and interest the subsequent allottee, it will be the principal amount paid by first (original) allotted to be considered for refund not consideration what amount has actually been paid by the second allottee. Therefore, for the purpose of refund of principal amount or amount paid by the allottee, it will be actual total payment received by promoter in the allottee's account including the subsequent allottee. Therefore, it is held that the amount paid by both the allottees in the account of the promoter in relation to sale price of the unit as per agreement is the amount to be refunded. The interest will be paid to the subsequent allottee from the date

it had got the transfer in its name as allottee in the account books of the promoter which is 28.06.2006. No interest will be paid for the prior period. However, for all other purposes, it is considered the subsequent allottee had stepped into shoes of the earlier allottee and is entitled for all the rights & facilities from the date of it becoming allottee. The payment of interest will start to the subsequent allottee only from the date when it had paid the amount to the earlier allottee and/or to the promoter as the case may be.

6.7 Further, the Hon'ble Supreme Court in the case of Laureate Buildwell Pvt. Ltd. v. Charanjeet Singh, Civil Appeal No. 7042 of 2019 explicitly held that the subsequent purchaser is entitled to interest on the refund from the date the builder acknowledged the transfer of the flat, when the purchaser stepped into the shoes of the original allottee and the builder issued the endorsement letter. For ready reference, relevant extract of the order is reproduced here under: -

*“31. In view of these considerations, this court is of the opinion that the per se bar to the relief of interest on refund, enunciated by the decision in Raje Ram (supra) which was applied in Wg. Commander Arifur Rehman (supra) cannot be considered good law. The nature and extent of relief, to which a subsequent purchaser can be entitled to, would be fact dependent. However, it cannot be said that a subsequent purchaser who steps into the shoes of an original allottee of a housing project in which the builder has not honoured its commitment to deliver the flat within a stipulated time, cannot expect any – even reasonable time, for the performance of the builder’s obligation.....”*

6.8 Therefore, as discussed supra and in view of the judgment of the Hon'ble Supreme Court is held that Ms Bandana Gautam is entitled to refund subsequent to the date of 28.06.2006 which is the date from which it got the status of allottee in the records of the promoter. Further, the amount to be computed is Rs.11,83,150/-, which had been shown as payment received till in the allottee account. Therefore, it is held that Ms Bandana Gautam is entitled for an amount of Rs.11,83,150/- as payment towards allotted Apartment No. A-5, in Block No. A, Shivalik Tower, Phase-1, Shivalik City and interest thereon from 28.06.2006.

6.9 Since the construction has been delayed inordinately; therefore, 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.”*

6.10 In view of the above, the complaint deserves to be allowed. The complainant is entitled to refund of the deposited amount of ₹11,83,150/- along with interest @ 10.80% (i.e. 8.80% SBI's Highest MCLR Rate applicable as on 01.02.2026 + 2%) as per Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules, 2017. The promoters Shivalik Infrastructure and Developers Pvt Ltd., SCO 510, Sector-70, Sahibzada Ajit Singh Nagar (Mohali), Punjab- 160071 is held to be liable for payment declared under this order.

7. Now, on the question as to from which date the interest should accrue on the total sale consideration amount paid i.e. liable to be refunded to the complainant, this Bench of the Authority is of the considered view that it should start from the date of allotment to the complainant i.e. 28.06.2006 and thereafter date of respective payments made by the complainant to the respondent no.1 towards total sale consideration till the date of possession if taken or date of payment by the respondent no.1 whichever is earlier.

8. The respondent no.1 is directed to make the payment within 90 days from the date of receipt of this order as per Section 18 of the Real Estate (Regulation & Development) Act, 2016 read with Rules 17 of the Punjab Real Estate (Regulation & Development) Rules, 2017. The said amount is to be collected as Land Revenue by the Competent Authorities as provided/authorized in the Punjab Land Revenue Act, 1887 read with Section 40(1) of the Real Estate (Regulation and Development) Act, 2016.


9. It may be noteworthy that in case compliance report is not submitted by the respondents after the expiry of above stated period of ninety days and further any failure to comply with or contravention of any order, or direction of this Authority may attract penalty under Section 63 of this Act of 2016.

10. As per the provisions of sub-section (1) of Section 36 of the RERD Act, 2016; the promoter is hereby directed not to allot, book, sell or give possession to any third party of the unit/property which was allocated to the complainant(s) till all the payments payable to the complainant are fully paid to the complainant. The complainant will have its continuous lien over the said unit till the refund alongwith interest is fully paid by the promoter to the complainant as determined in this order and/or mentioned in the Decree Certificate. The promoter is free to sell the unit in question after duly obtaining the receipt of the due payment from complainant as per this order.

11. The complainant is also directed to submit report to this Authority that they have received the interest amount as per directions issued in this order.

12. The issue of cost of litigation has not been pressed during the course of arguments, so it is not being adjudicated upon.

13. File be consigned to the record room after due compliance.

  
(Binod Kumar Singh)  
Member, RERA, Punjab