

**SHRI ARUNVIR VASHISTA, MEMBER
THE REAL ESTATE REGULATORY AUTHORITY, PUNJAB
PLOT NO.3, BLOCK-B, FIRST FLOOR, SECTOR 18A,
MADHYA MARG, CHANDIGARH.**

Complaint No. GC No.0250 of 2023

Date of Institution: 10.07.2023

Dated of Decision:09.03.2026

1. Monu Singla son of Satpal Singla, resident of # 164 New Officers Colony, Patiala, Punjab.
2. Navneet Bansal, resident of # 141 Majithia Enclave, Patiala, Punjab.

...Complainants

Versus

Manohar Infrastructure and constructions Pvt. Ltd, SCP 139-141,
Sector 17 C, Chandigarh.

...Respondent

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

Present: Mr. Munish Gupta, Advocate representative for the
complainant
Mr. Manmohan Sharma, Advocate representative for
the respondent

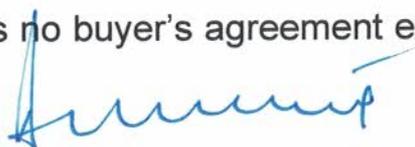
ORDER

The present complaint has been filed by complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) against the respondent promoter seeking refund of the amount paid alongwith interest in accordance with Section 18 of the Act for the allotment of plot in the project 'Palm Gardens' developed by the respondent at Mullanpur, New Chandigarh. He prays for the refund of the amount deposited by him with the respondent/ promoter as booking amount against receipt/ acknowledgment issued by respondent. The total booking amount paid by him was Rs.13,72,500/- out of the total sale



consideration of the plot booked i.e. Rs.45,75,000/-. There was no allotment letter issued by the promoter as was promised nor any buyer's agreement was executed. No development at the spot took place. Rather vide a letter dated 17.02.2014 another sum of Rs.9,15,000/- was demanded. When asked about the agreement and issuance of some allotment letter, complainant was asked to wait for some time as due to some litigation going with the Pollution Control Board, those formalities were being delayed.

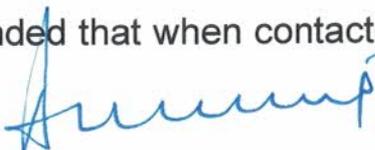
2. Upon notice of the complaint respondent appeared and filed its reply contesting the complaint and denying claim of the complainant. It was submitted that the complaint filed by complainant was not only legally maintainable but has been filed suppressing and concealing certain material facts. The promoter has been approaching complainant time and again to come forward to get an agreement executed upon making certain payments out of the remaining amount of total sale consideration. He has rather admitted the issuance of demand letter dated 17.02.2014 by respondent. There was thus no response from his side to such letter repeatedly being issued that ultimately compelled the respondent company to cancel the Expression of Interest of the complainant vide a cancellation letter dated 28.11.2022. He was, therefore, himself a defaulter who did not adhere to financial discipline by making timely payments of the balance amount of sale consideration despite repeated requests/ demands. Otherwise also his claims had no legal basis which are not only highly time barred ones since suffered from delay and laches. He was not entitled to any relief u/S 18 of the Act as there was no buyer's agreement executed between the parties on



the basis of which he could claim refund of his deposited amount. Rather such an agreement could not be got executed on account of complainant's own default who failed to respond to the repeated requests made by promoter to come forward to get such an agreement executed.

3. Claimant filed rejoinder rebutting the contentions of the reply and reiterating the averments of the complaint.

4. While putting forth the case of complainant it was argued by his learned counsel that after making payment of Rs.13,72,500/- complainant got the plot of 250 Sq. Yd. booked in the project of the respondent vide receipt annexure- C2 dated 21.03.2012. No allotment letter was issued in favour of the complainant following the booking of the said plot nor any agreement to sell was executed between the parties. Both the parties kept mum till a letter Annexure C-3 was addressed to the complainant by the respondent on 17.02.2014 raising a demand of Rs.9,15,000/- so that it could proceed ahead further on an Expression of Interest shown by the complainant by depositing said booking amount. It has been further contended on behalf of the complainants that at the time of receiving the booking amount respondent promised that an allotment letter would be issued within a month's time thereafter and the possession of the developed plot would be handed over subsequent thereto within two years from the date of booking i.e. from 21.03.2014. But to the utter surprise of the complainants, respondent instead issued said letter dated 17.02.2014 demanding another sum of Rs.9,15,000/- after making them wait for over two years. It has further been contended that when contacted respondent asked them



to wait for some time and complainants were told that due to some litigation of respondent with the Pollution Control Board issuance of allotment letters were being delayed. As they have already paid a substantial amount, they thought it to be wise to wait believing the promises of respondent till 2019 when they were again assured by the respondent that its project had received sanctions and buyer's agreement will be executed. In these circumstances, complainants have been left with no other option but to withdraw from the project praying for refund of their amount paid alongwith interest as per the provisions of RERD Act.

5. On the other hand, while opposing the case of complainants it was argued on behalf of the respondent that it was completely a failure on the part of complainants in making payments as per the payment plan agreed to between them, the buyer's agreement could not be executed in their favour. The respondent has been raising demands for further payment as per payment plan agreed and a letter dated 17.02.2014 was admittedly issued to the complainants raising demand for that. Since there was no response as such to the demands so made by the respondent nor any further payment was made finally respondent company had to cancel 'Expression of Interest' vide its cancellation letter dated 28.11.2022. It was further contended that the claim of complainants is not only highly time barred but it suffers from delay and laches. Moreover, claimants are guilty of concealment of certain material facts like issuance of cancellation letter issued by the respondent. It was finally contended that complaint of the complainant was liable to be dismissed at the threshold.

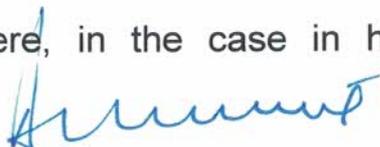


6. All the submissions put forth have been considered and examined carefully and upon doing so this bench finds hardly any substance or merit in the case put forth on behalf of the promoter. This is an admitted fact that an amount of Rs.13,72,500/- was got deposited with the respondent company as booking amount out of the total sale consideration of the plot as is also revealed by the receipt dated 21.03.2012 issued in that respect. Although it has been emphasized on behalf of respondent that it was on account of default of complainant himself the promoter company was forced to cancel the Expression Of Interest/ booking amount as despite issuance of demand letters repeatedly he did not come forward to deposit the remaining amount of sale consideration and to get buyer's agreement executed, yet at the same time a contention is being raised by the promoter that the claim of complainant for refund alongwith interest u/S 18 of the Act is highly time barred. Both these contentions are contradictory specially in view of the admitted fact of depositing of booking amount and issuance of repeated demand letters by the company before finally cancelling the same in the year 2022. All these letters as well as unilateral cancellation conveyed by the company do not go with the contention raised on its behalf regarding the claim of complainant being highly time barred since suffering from delay and laches. The very conduct of promoter company itself while issuing repeated demand letters in the year 2014 and 2017 before finally cancelling the booking in the year 2022 amounts to as confirmation on their behalf of the booking transaction or by whichever name it is called. In this way the contention of claim of complainant being hit by limitation etc. is not sustainable as said



unilateral cancellation that was done in the year 2022 stands challenged by the complainant by way of his present complaint filed in the beginning of year 2023 itself and thus cannot be called a time barred claim in any manner. Besides the provisions of Section 18 of the Act grant an indefeasible right in favour of an allottee which cannot be taken away under any circumstance. In the light of these discussed circumstances, this bench further finds a very little application of the law of limitation being mindful of the '*retroactive*' and '*remedial nature*' of the Act. Therefore, the contention that has been raised emphatically on behalf of the respondent that the claim of complainant was highly time barred since suffered from delay and laches, holds no merit. It is perhaps for this reason no specific limitation period has been provided in the Act.

7. With regard to the other contention of the respondent concerning cancellation of the Expression of Interest, it is found that the said cancellation was not done in the terms of any agreement for sale. Rather admittedly there was no agreement for sale that could be executed between the parties. As per Section 11(3) of the Act promoter was under an obligation to issue the allotment letter containing information about the sanctioned plans, layout plans as well as stage wise time schedule of completion of the project etc. Further, as per Section 11(5) of the Act he could cancel the allotment only in terms of the agreement for sale and against which an allottee could approach the Authority for relief, in case he was aggrieved by such cancellation claiming such cancellation was not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause. Here, in the case in hand it is the promoter



company that failed to fulfil its obligations as per the above stated provisions of the Act. The said cancellation when examined in the light of facts and circumstances of the case was not only an unilateral one but was also not in accordance with the terms of any agreement for sale what to talk of it being without any sufficient cause. Therefore, cancellation allegedly done was no cancellation in the eyes of law which can be allowed to be withheld or sustained. Moreover, no cross-claims have been made by the promoter company highlighting defaults on the part of complainant in not adhering the financial discipline etc. specially when there was no agreement as such executed between the parties which was one of the obligations of the respondent that he failed to fulfil. In this way, it is finally found that the complainant is entitled to claim refund of his deposited amount alongwith interest since the amount deposited has been used by the promoter company for all these years.

8. As an outcome of the above discussion, the complaint is accepted and the respondent is directed to refund the amount deposited by the complainant along with interest thereon at the prescribed rate (today's highest MCLR rate plus 2%) from the date of deposit till the date of its refund. The payment should be made within the time stipulated under Rule 17 of the Rules, 2017 from the date of receipt of this order.


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