Real Estate Regulatory Authority, Punjab

First Floor, Block-B, Plot No. 3, Sector-18 A, Madhya Marg, Chandigarh – 160018
Phone No. 0172-5139800, email id: pschairrera@punjab.gov.in&pachairrera@punjab.gov.in

Before the Bench of Sh. Rakesh Kumar Goyal, Chairman.

1.	Complaint No.	GC No. 0255 of 2023
2.	Name & Address of the complainant (s)/ Allottee	Smt. Shama Khan W/o Sh. Khalil Ahmed Khan, BG-3-50D, Paschim Vihar, New Delhi-160063.
3.	Name & Address of the respondent (s)/ Promoter	Tewari Global Infrastructure Limited, 11B/8, PUSA Road, New Delhi- 110060.
4.	Date of filing of complaint	14.07.2023
5.	Name of the Project	Global City, Amritsar
6.	RERA Registration No.	PBRERA-ASR02-PR0479 Valid upto 31.03.2020
7.	Name of Counsel for the complainant, if any.	Sh. Dixit Garg& Sh. Iqbal Singh
8.	Name of Counsel for the respondents, if any.	Sh. Rohan Garg and Sh. Gauravjit Patwalia.
9.	Section and Rules under which order is passed	Section 31 of the RERD Act, 2016 r.w. Rule 36 of Pb. State RERD Rules, 2017.
10.	Date of Order	23.02.2026

Order u/s. 31 read with Section 40(1) of Real Estate (Regulation & Development) Act, 2016 r/w Rules 16, 24 and 36 of Pb. State Real Estate (Regulation & Development) Rules, 2017

The present complaint has been filed by Shmt. Shama Khan (hereinafter referred as the 'Complainant' for the sake of convenience and brevity) u/s. 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as the 'RERD Act, 2016' for the sake of convenience and brevity) read with Rule 36 of the Punjab State Real Estate (Regulation & Development) Rules, 2017 (hereinafter referred as the 'Rules' for the sake of convenience and brevity) before the Real Estate Regulatory Authority, Punjab (hereinafter referred as 'Authority' for the sake of convenience and brevity) relating to a RERA registered project (PBRERA-ASR02-PR-0479) namely **'GLOBAL CITY'** promoted by M/s. Tewari Global Infrastructure Ltd. (hereinafter referred as the 'Respondent' for the sake of convenience and brevity)alleging violation of the RERD Act, 2016 by Respondent /Promoter. The complainant has **sought refund of the amount paid (Rs.5,52,000/-) along-with interest** for the reason that the respondent failed to fulfil their obligations and on account of unfair trade practices in violation of allotment Letter and conditions mentioned in brochure of the scheme.

2. The brief gist of the complaint, as alleged by the complainantis that she [Customer Code No.: AGC/D/B/0573] is allottee of residential plot No.534

measuring 200 Sq. Yards in **Global City, Amritsar** vide Allotment Letter dated 07th December, 2006.The project has been registered with Punjab RERA vide Registration No. PBRERA-ASR02-PR0479.It was submitted that the complainant applied with earnest money of Rs.2,76,000/- on 17.02.2006 and was allotted a residential plot for consideration of Rs.11,04,000/-. An amount of Rs.2,76,000/- was again paid on 08.01.2007. Thus the total payment made is Rs.5,52,000/- and thereafter no payment has been made. As per copy of registration form bearing no. AGC/D/B/0573 dated 17.02.2006 placed on record, the complainant was to pay the consideration in instalment and the respondent was liable to made offer of allotment within 8 months of registration. There is no clause regarding possession in the said registration form. The case of the complainant is that no development has taken place whereas the respondent has alleged that the complainant failed to make the balance payment.

3. An agreement/ contract for sale of property, normally, is premised on a written agreement between the contracting parties, signifying a meeting of minds of two persons or more. The terms of the contract between the parties should be clear and explicit so as justify the contentions of the parties which is not the case here. The perusal of registration form reveals that it is very scratchy. No other document has been filed. It lacks clarity regarding method & manner in which instalments are to be made as well as date & method in which the possession has to be given.

4. It is observed that Punjab Apartment and Property Regulation Act, 1995 [PAPRA] was in operation when the so called registration form was signed between the parties. Section 3 of the said Act deals with general liabilities of the promoter. Section 3(2)(g) of the said act reads as under:-

> *"(g) specify, in writing, the date by which possession of the plot or apartment is to be handed over and he shall hand over such possession accordingly;"*

The provisions of PAPRA are on pari materia to the provisions of RERD, Act 2016.

5. The case pertains to pre- RERD Act, 2016 period. However, the project was still going on when RERD Act, 2016 came into effect. The respondent, in fact, is registered with RERA vide registration no.: PBRERA-ASR02-PR0479. Therefore, the complainant is squarely governed by the provisions of RERD Act, 2016. The promoter has not got the completion certificate till date.

6. The respondent has also raised the question of maintainability of the complainant on the ground that the same has been instituted after 16 years when the cause of action arose in December 2007. Further complainant has sent legal notice in as early as year 2014 but no action was taken subsequent to the response of the respondent in the said year. This plea does not hold ground as the cause of action is running in nature and till date, the respondent has failed to show any document vide through which offer of possession/ valid possession as per the Act was made to the complainant and partial/ full completion certificate has not been brought on record by the respondent. The huge delays in handing over possession are at the behest of the promoters themselves. The reliance is hereby placed on the judgement issued by the Hon'ble Supreme court in the case of "Kusheshwar Prasad Singh v. State of Bihar [2007] 11 SCC 447 " wherein it is held that "a wrongdoer ought not to be permitted to make a profit out of his own wrong". Therefore, this plea is rejected.

7. The violations and contraventions contained in the complaint were given to the representative of the respondents to which they denied and did not plead guilty. The complaint was proceeded for further inquiry. Both the parties filed their written arguments i.e. reply by the respondent on 25.10.2023 and rejoinder by the complainant vide submissions dated 04.11.2024. The same has been placed on record.

8. That representatives for parties addressed arguments on the basis of their submissions made in their respective pleadings as summarised above. I have

duly considered the documents filed and written & oral submissions of the parties i.e. complainant and respondent.

9. After perusal of the file i.e. oral arguments of the parties, pleadings etc. available in record, the following facts are not in dispute:

(a) Respondent obtained an advance of Rs.2,76,000/- (25% of sale price) on 17.02.2006 against sale of plot in its project.

(b) Letter of Allotment was issued on 7th December, 2006 and another 25% of sale price i.e. Rs.2,76,000/- was received by the respondent on 8th January, 2007. The offer of allotment was to be made within eight months of registration. The same was delayed for over one month. As per registration form, the respondent is liable to pay interest @ 8% for delayed offer of allotment which is more than one & half months.

(C) The registration form and allotment does not contain the date of possession.

(d) The case lacks clarity regarding method & manner in which the balance payments are to be made as well as date/month/year& method in which the possession has to be given.

10. The registration form and allotment letter in this case is scratchy. There are clear violations of PAPRA Act 1995 and RERD Act 2016. For example, the promoter has received more than 10% as booking amount, the date of possession has not been mentioned, there is no agreement for sale etc. Such one-sided arrangements have been held to be illegal by the Hon'ble Supreme Court in 'Pioneer Urban Land & Infrastructure Ltd., Vs Govindan Raghavan (Civil Appeal No.12238 of 2018 and 'Wg. Cdr. Arifur Rahman Khan and Aleya Sultana and Ors. Vs. DLF Southern Homes Pvt. Ltd.' (Civil Appeal No.6239 of 2019). The promoter though in this case is under mandate to act reasonably and fairly but it failed miserably.

11. Every agreement for sale and/ or allotment letter must contain specific clause regarding specific actual possession. For example, Form Q is a template of Agreement of Sale in Punjab State Real Estate (Regulation and Development) Rules 2017. Para 7.2. is relevant here in the context of possession being reproduced below:-

> *"7.2 Procedure for taking possession The Promoter, upon obtaining the occupancy certificate from the competent authority shall* ***offer in writing the possession of the (Apartment/Plot),*** *to the Allotee in terms of this Agreement to be taken within two months.*
>
> ***(Emphasis Supplied)***.

The Law and various judicial pronouncements also emphasis and recognize that there should be date of the actual physical delivery in every contact particularly contact or agreement for sale in immovable property. According to various courts, the time is essence in immovable property transactions. An instructive discussion has found in the judgment in the case of Saradamani Kandappan v. S. Rajalakshmi (2011) 12 SCC 18 of how the principle of time not being the essence of the contract in transactions relating to sale of immovable properties took shape and how with changing times, the outlook of the courts in pleas claiming specific performance should be. It is considered appropriate to reproduce the same hereunder:

> *"36. The principle that time is not of the essence of contracts relating to immovable properties took shape in an era when market values of immovable properties were stable and did not undergo any marked change even over a few years (followed mechanically, even when value ceased to be stable).....This principle made sense during the first half of the twentieth century, when there was comparatively very little inflation, in India. The third quarter of the twentieth century saw a very slow but steady increase in prices. But a drastic change occurred from the beginning of the last quarter of the twentieth century. There has been a galloping inflation and prices of immovable properties have increased steeply, by leaps and bounds. Market values of properties are no longer stable or steady. We can take judicial notice of the comparative purchase power of a rupee in the year 1975 and now, as also the steep increase in the value of the immovable properties between then and now. It is no exaggeration*

to say that properties in cities, worth a lakh or so in or about 1975 to 1980, may cost a crore or more now. 37. The reality arising from this economic change cannot continue to be ignored in deciding cases relating to specific performance. The steep increase in prices is a circumstance which makes it inequitable to grant the relief of specific performance where the purchaser does not take steps to 14 (2011) 12 SCC 18 20 complete the sale within the agreed period, and the vendor has not been responsible for any delay or non-performance. A purchaser can no longer take shelter under the principle that time is not of essence in performance of contracts relating to immovable property, to cover his delays, laches, breaches and 'non-readiness'...............

**** 42. Therefore there is an urgent need to revisit the principle that time is not of the essence in contracts relating to immovable properties and also explain the current position of law with regard to contracts relating to immovable property made after 1975, in view of the changed circumstances arising from inflation and steep increase in prices. We do not propose to undertake that exercise in this case, nor referring the matter to a larger Bench as we have held on facts in this case that time is the essence of the contract, even with reference to the principles in Chand Rani and other cases. Be that as it may.*

12. There is another aspect in this case. The project is RERA registered project. It has been found that the license was valid upto31.03.2020. The RERA registration of the project has lapsed and its name appears in the list of projects lapsed, on the Pb. RERA's website as on date. Despite lapse of more than 19 years, the promoter has failed to obtain the partial/ complete completion certificate.

13. It has also observed that the complainant has paid Rs.5,12,000/- against the sale price of Rs.11,04,000/-. This comes to 50%. As per section 13 of RERD Act 2016, the promoter should not accept more than 10% as advance money. However, this law was not applicable when the allottee and promoter entered into contract. The forfeiture of entire money is against the law and equity when the promoter has neither cancelled the unit nor obtained the occupation certificate/ completion certificate so far. A promoter cannot typically forfeit more than 10% of

the total apartment/plot cost. The promoter has neither cancelled the plot nor offered the possession and even the project is not complete or has not obtained requisite partial or completion certificate.

14. The complainant in its reply had contended that it had made various communications [R-5 to R-10] requesting the complainant to make payment and get the conveyance deed executed as non-payment is hurdling the progress of project. The complainant denied the receipt of any such communication contending therein that these are self created and no postal receipt/ acknowledgment has been placed. It is observed that in the letter dated 29.01.2009, it is being claimed that many customers have got the sale deeds registered whereas in letter dated 21.01.2011, it is mentioned that development work on the project site is in full swing like construction of commercial shops, road work, sewerage line, water line, electricity, street light and maintenance of fully development parks including walkway. It has been mentioned that infrastructure of the project is in final stage very soon. Therefore, it appears that these are merely paper claims and nothing more than that. As the promoter/ respondent does not have any partial or full completion certificate till date, it is held that there is no force in the counter claim of the respondent that the project is complete in all respects/ a valid offer of possession was never made.

15. It appears from the pleadings of the parties that the complainant made first concrete efforts to get back refund on 12th September, 2014 followed by legal notice. The respondent responded on 13th September, 2014 to clear the pending dues or get all money paid clubbed (The complainant had booked more than one plot). In other words, there is implied refusal to refund. Thereafter the complainant neither took any step to get the refund even after issuing legal notice to respondent nor did the respondent take any step to cancel the allotment and take subsequent steps.

16. The complainant is a senior citizen and has submitted that she invested her retirement benefits in the project. The deficiencies in the form of not

complying with law of land including non-completion of project, receipt of advance before any approval, booking amount more than 10%, inconsistency in progress of the project and non- compliances with RERD Act 2016 including lapse of registration numbers shows that project is not complete and promoter has failed in its promise and expectations of the home buyer. A senior citizen who had employed her life time savings/ retirement benefits cannot be made suffer or can be denied interest merely for the reason that she remained silent for eight years. As detailed above, the cause of action is running in nature and on the principle of equity and justice alone, this complaint deserves to succeed.

17. Considering all the facts and circumstances of the case, it appears that both the promoter/ respondent is negligent and deficient in their agreement. The respondent failed to offer the possession of the plot in earnest manner. Giving a considerate and passionate approach to the case, it is hereby held that the complainant is entitled to refund of Rs.5,52,000/- being the amount paid thereof.

18. The Ld. Counsel for the complainant argued that failure to hand over possession constitutes a continuing violation of the Act, entitling them to refund with interest under Section 18 of RERD Act 2016. Reliance was placed upon the judgment of the Hon'ble Supreme Court in ***M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. and others in Civil Appeal Nos. 6745-6749 of 2021***.

19. The section 18 of the RERD Act 2016 clearly provides that if the promoter fails to deliver possession in accordance with the terms of the Agreement for Sale, the allottee has a statutory right to seek refund with interest. The Hon'ble Supreme Court 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 authoritatively held that delay beyond the agreed possession date confers an indefeasible right upon the allottee to seek refund. Further, Hon'ble Supreme Court of India, in Para 77, of its judgment in ***M/s. Newtech Promoters and***

Developers Pvt. Ltd. (supra) 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...".*

20. As regards contention of the Respondent that complainant did not make full payment, the Hon'ble Supreme Court in his judgment in M/s. Newtech Developers Pvt. Ltd. (supra) in Para 80 has held as follows:-

> *"80. The further submission made by learned counsel for the appellants that if the allottee has defaulted the terms of the agreement and still refund is claimed which can be possible, to be determined by the adjudicating officer. The submission appears to be attractive but is not supported with legislative intent for the reason that if the allottee has made a default either in making instalments or made any breach of the agreement, the promoter has a right to cancel the allotment in terms of Section 11(5) of the Act and proviso to sub-section 5 of Section 11 enables the allottee to approach the regulatory authority to question the termination or cancellation of the agreement by the promotor and thus, the interest of the promoter is equally safeguarded."*

21. The respondent had the option to initiate the process for cancellation of the allotment, in case a default, by the complainant. However, the same was not done and the respondent itself failed to offer actual physical possession. Hence, the respondent is liable for refund of the entire amount paid by the complainant, along-with prescribed rate of interest.

22. As per the provisions of Section 18, the complainant is entitled to claim refund along-with 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."

However, this law is applicable from 01.05.2017 while the allotment letter mentions the interest rate to be 8% per annum. Therefore in terms of equity and as per contact, the promoter needs to be liable to pay interest @ 8% upto 30.04.2017. The Rule 16 of Punjab State Real Estate (Regulation and Development) Rules 2017 came into existence from 01.05.2017. Hence the rate of interest from 01.05.2017 will be @ 9.80 + 2% as per section 18 or RERD Act, 2016 read with Rule 16 of Punjab State Real Estate (Regulation and Development) Rules 2017.

23. In view of the above, the complaint is ***<u>Allowed</u>*** and complainant is entitled to refund of Rs.5,52,000/- along-with interest applicable @ 08.00 from the date of deposit till 30.04.2017 and thereafter from 01.05.2017 till 28.02.2026 @ 10.80% (i.e. 8.80% SBI's Highest MCLR Rate applicable as on 15.01.2026 + 2%) as per Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules, 2017. The period for payment of interest will be considered from the end of month in which allotment/ date of payment (whichever is later), to the previous month of the date in which payment has been effected by the promoter. Therefore, the calculation of refunds and interest upto 28.02.2026 is as follows:-

Interest payable from	Principal Amount paid	Interest calculated till	Rate Of Interest	Delay in months	Interest payable
01.03.2006	2,76,000	30.04.2017	@ 8.00% as detailed in Para No.22 above	134	2,46,560
01.02.2007	2,76,000	30.04.2017		123	2,26,320
01.05.2017	2,76,000	28.02.2026	@ 10.80% (i.e. 8.80% SBI's Highest MCLR Rate applicable as on 15.01.2026 + 2%)	106	2,63,304
01.05.2017	2,76,000	28.02.2026		106	2,63,304
	5,12,000				**9,99,488**
GRAND TOTAL (Principal Amount + Interest Payable upto 28.02.2026)					**15,11,488**

24. The Hon'ble Supreme Court, in its judgment in the matter of *M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. and Others* **(Civil Appeal Nos. 6745-6749 of 2021),** has upheld that the refund to be granted u/s. 18 read with Section 40(1) of the Real Estate (Regulation & Development) Act, 2016 is to be recovered as Land Revenue alongwith interest and/or penalty and/or compensation.

25. In view of the aforesaid legal provisions and judicial pronouncement, it is hereby directed that the refund amount along with the accrued interest shall be recovered as Land Revenue as provided u/s. 40(1) of the RERD Act, 2016. Accordingly, the Secretary is instructed to issue the requisite Debt Recovery Certificate and send it after 90 days as per Rule 17 of the Punjab Real Estate (Regulation & Development) Rules, 2016 to the relevant Competent Authorities under the Punjab Land Revenue Act, 1887 for due collection and enforcement in accordance with law.

26. Further the principal amount is determined at Rs.5,12,000/- and interest of Rs.9,99,488/-.The rate of interest has been applied applicable @ 08.00 from the date of deposit till 30.04.2017 and thereafter from 01.05.2017 till 28.02.2026 @ 10.80%@ 10.80% (i.e. 8.80% SBI's Highest MCLR Rate applicable as on 15.12.2025 + 2%) as per Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules, 2017. Hence, the respondent is liable to pay a **total amount of Rs.15,11,488/-**upto 28.02.2026 and in case of non-payment of the same within stipulated time period, further sum due as interest **w.e.f. 01.03.2026 of Rs.4,608/- per month till the realization of payment**. Any amount paid by the respondent will be considered as payment against the interest whatever is due. After payment of whole of interest only then the payment will be considered against principal and accordingly the principal will be reduced and interest will be charged on the balance principal amount till the principal amount is fully paid. Even any payment after reduction in principal amount if any will be first considered towards interest payment, if any becomes due on the unpaid principal

amount. This amount of Rs.4,608/- will change according to the principal amount due at the start of the month as per the method narrated herein the para above.

27. The amount of Rs.15,11,488/- upto 28.02.2026 (i.e. principal amount of Rs.5,12,000/- and balance interest of Rs.9,99,488/-, determined as refund and interest amount thereon upto 28.02.2026 and further a sum of Rs.4,608/- per month w.e.f. 01.03.2026) to be payable as interest per month from 01.03.2026 is held **"Land Revenue" under the provisions of Section 40(1) of the RERD Act, 2016. The said amounts are to be collected as Land Revenue by the Competent Authorities as provided/authorised in the Punjab Land Revenue Act, 1887 read with section 40(1) of the Real Estate (Regulation and Development) Act, 2016 read with Rule 16 of the Punjab Real Estate (Regulation & Development) Rules, 2017.** The complainant & the respondent are directed to inform the Secretary of this Authority regarding any payment received or paid respectively so as to take the same in to account. The amount of Rs.15,11,488/- upto 28.02.2026 (i.e. principal amount of Rs.5,12,000/- and balance interest of Rs.9,99,488/-), has become payable by the respondent to the complainant immediately and be paid within 90 days from the date of receipt of this order by the promoter 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 as being determined vide this order u/s. 31 of the Real Estate (Regulation & Development) Act, 2016.

28. **The Secretary of this Authority is hereby directed to issue a "Debt Recovery Certificate" immediately and send the same to the Competent/ jurisdictional Authority as mentioned in the Punjab Land Revenue Act, 1887 after 90 days of the issuance of this order to be recovered as arrears of "Land Revenue".** The complainant & the respondent are directed to inform the Secretary of this Authority regarding any payment received or paid respectively so as to take the same in to account before sending "Debt Recovery Certificate" to the Competent Authority for recovery. **Further, Shmt. Shama Khan W/o Sh.**

Khalil Ahmed Khan, BG-3-50D, Paschim Vihar, New Delhi-160063is held to be Decree Holder and the Respondent M/s Tewari Global Infrastructure Limited, 11B/8, PUSA Road, New Delhi- 110060is held as judgment debtor for the purposes of recovery under this order.

29. No other relief is made out.

30. A copy of this order be supplied to both the parties under Rules and file be consigned to record room.

Chandigarh
Dated: 23.02.2026

(Rakesh Kumar Goyal),
Chairman,
RERA, Punjab.

Endst. No./CP/RERA/PB/PA/Sec.31/ 358 **Dated:-23.02.2026**

A copy of this order is hereby forwarded to the following for their information and necessary action:-

1. Shmt. Shama Khan W/o Sh. Khalil Ahmed Khan,BG-3-50D, Paschim Vihar, New Delhi-160063.
2. M/s Tewari Global Infrastructure Limited, 11B/8, PUSA Road, New Delhi-110060.
3. The Secretary, RERA, Punjab.
4. Director (Legal), RERA, Punjab.
5. The Complaint File.
6. The Master File.

(Sawan Kumar),
P.A. to Chairman,
RERA, Punjab.