

**BEFORE SH. ARUNVIR VASHISTA, MEMBER-II
THE REAL ESTATE REGULATORY AUTHORITY, PUNJAB AT
CHANDIGARH**

Complaint No. RERA/ GC No.0265 of 2023

Date of filing: 25.07.2023

Date of decision: **23.02.2026**

1. Ravinder Singh Gill
2. Sharanjeet Kaur

Both residents of # 28, Adarsh Nagar, Near Kanhaiya Chowk,
Yamuna Nagar, Haryana, Pin Code No.135001

... Complainants

Versus

1. Ambika Realcon Developers Pvt. Ltd. 120, 1st Floor, DLF Tower-
B, Jasola, Central Delhi, Delhi
2. Bank of Maharashtra, 88-89 Sector 17 C Chandigarh

... Respondent

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

Present: Advocate Mandeep Singh, representative for the
complainants
Advocate M.S. Longia, representative for respondent no.1
Advocate Rahul Sharma, representative for respondent
no.2

ORDER

The main allegations in this complaint filed under Section
31 of the Real Estate (Regulation and Development) Act, 2016
(hereinafter referred to as "the Act") by the complainants against the
respondents, relate to delay in handing over the possession of
residential Flat allotted to the complainants in the project "La Parisian"
of respondent situated at Sector-66 SAS Nagar, Mohali. The total sale
consideration of the apartment was Rs.79,78,000/-, out of which
complainants had already paid Rs.55,56,606/- to respondent no.1. As
per the agreement for sale, the construction of the apartment was to

be completed on or before 30.09.2022 but till date possession of the flat has not been delivered. Accordingly, the main relief sought for is to issue the direction to respondent to hand over possession along-with payment of interest for the period of delay.

2. Notice of the complaint was served on the respondents who filed a detailed reply in the matter. Subsequently, a rejoinder was also filed on behalf of the complainants reiterating the contents of the complaint.

3. In the reply filed on behalf of the respondent/ promoter, it was submitted that as per Clause 7.3 of the Sale Agreement dated 20.11.2020, in the event of allottee failing to make the instalment as outlined in Schedule E of the agreement, besides paying interest on the delayed amount, the possession of the apartment will be extended for a period equivalent to the delay in paying the outstanding amount. In the present case, the complainants had consistently delayed making payments as per the agreed payment plan. Consequently, the possession date, as per the provisions of Clause 7.3 automatically stood extended to reflect the extent of the payment delayed, in accordance with the payment plan. The factum of booking of the unit in question by the complainants in the project of the case in hand has been admitted and it was submitted that possession was to be delivered on or before 30.09.2022. However, due to outbreak of COVID-19 pandemic the Government has extended the period for all real estate projects by 6 months. Thus, it could not be said that there was any delay in handing over possession. Denying rest of the averments of the complaint, prayer was made for dismissal of the complaint.



4. While reiterating the contents of complaint, learned counsel for the complainants highlighted the main facts of the case. He pointed out that vide allotment letter dated 06.11.2020 the complainants were allotted Flat no. TRIOMPHE/ A/ 701 at 7th Floor having Super Area measuring 1730 sq. ft approximately in the project "La Parisian" of respondent. The total cost of the unit was Rs.79,78,000/-, out of which complainants had already paid Rs.55,56,606/- to respondent no.1. As per the agreement for sale, the construction of the apartment was to be completed on or before 30.09.2022. This stipulation had however been violated by the respondent and even after delay of more than 3 years, possession of the unit was still not handed over to the complainant. Therefore, the respondent was liable to pay interest for delayed period on the amount paid by the complainants at the rate prescribed in the Punjab State Real Estate (Regulation and Development) Rules, 2017 for the period of delay till the delivery of possession.

5. On the other hand, learned counsel for respondent contended that as per Clause 7.3 of the Sale Agreement dated 20.11.2020, in the event of allottee failing to make the instalment as outlined in Schedule E of the agreement, besides paying interest on the delayed amount, the possession of the apartment will be extended for a period equivalent to the delay in paying the outstanding amount. In the present case, the complainants had consistently delayed making payments as per the agreed payment plan. Consequently, the possession date, as per the provisions of Clause 7.3 automatically stood extended to reflect the extent of the payment delayed, in accordance with the payment plan. The aforesaid clause had also



been borrowed from the model agreement. From the perusal of above it was abundantly clear that the allottee was obliged under the agreement to make timely payment of instalments and other dues, however as stated above the allottee had failed to follow the time schedule, therefore he was not entitled to any relief.

6. This authority has carefully considered the rival contentions of both the parties and perused the record of the case. At the outset it is held that the Act provides for payment of interest in case of delay in handing over of possession and this legal right of an allottee cannot be defeated by the lack of such a provision in any document issued by a promoter. Finally, the Act and its Rules only require that the matter pursued by a complainant should not be pending before any other court or authority. The complainants have certified to this effect in para 7 of their complaint. It was well within the complainant's right to decide which of the alternative remedies available to them should be pursued. It is accordingly held that the arguments raised on behalf of the respondent are not valid; and there has been a delay on the part of the respondent in handing over possession of the apartment to the complainants as agreed. Although it was contended that despite reminders timely payments were not made as per the agreement and its schedule, yet no counter claim has been made by the respondent on the aspect in its reply filed. As such in the absence of any details qua that no relief could be claimed by the respondent nor such an unestablished claim could negate the right of claiming interest on the delayed possession as has been conferred upon an allottee by the provision of Section 18 of the Act which is an indefeasible right.



Admittedly, there is a delay in delivery of possession and for which claimants are entitled to claim interest thereon for the period it is being delayed. Violation of Section 18(1) of the Act is therefore established; and the complainants are entitled to the relief provided therein. Section 18 speaks as under: -

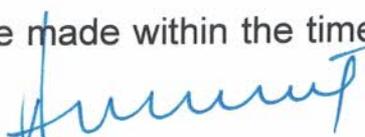
“18. (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building, —

(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.”

7. As an outcome of above discussion, the complaint is accordingly accepted and the respondent is directed to pay interest on the amount paid by the complainants at the rate prescribed in the Punjab State Real Estate (Regulation and Development) Rules, 2017 (today's highest MCLR rate plus 2%) w.e.f. 30.09.2022 (i.e. the promised date for delivery of possession) till 05.06.2025 (i.e. the date of delivery of possession) as per provisions of the RERD Act 2016. The payment should be made within the time stipulated under Rule 17 of



the Punjab State Real Estate (Regulation and Development) Rules,
2017.



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