

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

Complaint No. RERA/ GC No.0057 of 2024

Date of filing: 08.02.2024

Date of decision: **12.12.2025**

1. Sourabh Bhandari, resident of New Bank Colony, behind Bus Stand, Pathankot, Punjab
2. Sonam Bharal, resident of 2nd floor # 3832, Sector 32D, Chandigarh, Pin Code No.160030

...Complainants

Versus

Sushma Buildtech Limited, B-107, First Floor, Business Complex at Elante Mall, Industrial Area Phase 1, Chandigarh.

... Respondent

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

Present: Complainant Sourabh Bhandari in person
Advocate Sanjeev Sharma, representative for respondent

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 respondent, relates to delay in handing over possession of the residential apartment allotted to the complainants in the project "Sushma Crescent". Accordingly, the main relief sought for is to issue 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 respondent 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 certain legal issues were raised on the ground of maintainability of the complaint, and suppression of material facts. 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 as per Clause 7.1 of the Agreement, the possession of the unit was to be offered on 09.08.2023, subject to *force majeure* conditions and the timely payment of instalments by the complainants. However, the complainants failed to adhere to the payment schedule stipulated in the agreement, which resulted in delays in the construction of the project. Moreover, 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.

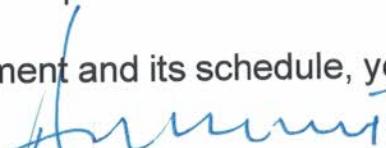
4. While reiterating the contents of complaint, learned counsel for the complainants highlighted the main facts of the case. He pointed out that vide allotment letter dated 08.02.2021 the complainants were allotted a residential unit/ apartment in the project "Sushma Crescent" of respondent. He continued that as per clause 7.1 of the agreement, the possession of the flat was to be given by the builder on 09.08.2023. This stipulation had however been violated by the respondent and even after delay of more than 4 years, possession of the unit was still not handed over to the complainants. 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

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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 reiterated the legal contentions noted above. He further contended that complainants failed to adhere to the payment schedule stipulated in the agreement, which resulted in delays in the construction of the project. Thus, it could not be said that there was any delay in handing over possession. Hence, the complainants were not entitled to seek payment of interest under this provision. The complaint being without merit deserves to be dismissed.

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 none of the legal issues raised by the respondent have any merit. Further, 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

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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.

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. 09.08.2023 (i.e. the promised date for delivery of possession) till a valid offer of possession is made by the respondent after obtaining OC/CC from the competent authority 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.

8. File be consigned to record room and copy of the order be provided to both the parties free of costs.



(Arunvir Vashista),
Member, RERA, Punjab