

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

Complaint No.0112 of 2024
Date of Institution: 16.03.2024
Dated of Decision: 20.02.2026

1. Ram Kumar Sharma,
2. Usha Devi,

Both resident of VPO Samoor Kalan, Teh & Distt Una, Himachal Pradesh- 174303.

....Complainant

Versus

Balaji Developers, Shop No. 124, Anaj Mandi, Kurali, Tehsil Kharar, Sahibzada Ajit Singh Nagar (Mohali), Punjab-140103

....Respondent

Present: 1. Sh Arun Vats, Advocate for the complainants,
2. Ms Manisha Maggu, Advocate for the respondent

ORDER

1. This complaint in Form 'M' 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 16.03.2024 by the complainants in their individual capacity against the respondent seeking following reliefs:

1.1 Prayer to the Hon'ble Authority to do justice by helping us in getting the possession of the flat.

2. The brief facts mentioned in the complaint by the complainant are as under: -

2.1 The complainant and his wife (Usha Devi) had booked one flat bearing number, 124-B (1st Floor), in Bala Ji Homes-2, Village Chanalon, HADBDAST No. 110, Kurali, S.A.S. Nagar (Mohali), Punjab on 7th Nov 2022 with M/S Balaji Developers having RERA Registration number PBRERA-SAS80-PR0726 on an agreed amount of Rs.28,75,000/- and paid advance payment of Rs.7,50,000 which is over and above 10% of the total cost. No agreement of sale has been done between two parties and the respondent made promised for possession of flat in the month of May 2023. But the builder had failed to deliver the possession. After repeated requests over personal meetings, respondent assured possession within 3-4 months, but the flat was not ready even in the month of December 2023. Suddenly, on 19th Feb 2024 the amount Rs.7,50,000/-, which was paid to the builder, returned to my account without any discussion or prior information.

This seems that the respondent has cancelled our booking without informing the applicant or without any communication.

3. Notice of the complaint was served on the respondents who has filed a detailed reply in the matter.
4. Upon notice Ms Manisha Maggu, Advocate appeared for the respondent and submitted his reply on 17.07.2025 to the following effect:
 - 4.1 The complainant had booked flat No. 124-B (Ist Floor) on 7th November 2022 in Balaji Homes-2 and paid the booking amount of Rs.7,50,000/-. However, the complainants never came forward to execute the agreement for sale even respondent sales staff tried to contact the complainants many times.
 - 4.2 Thereafter, when the complainants did not show their willingness to get the agreement executed, the respondent returned the amount of Rs.7,50,000/- vide cheque no.33250 dated 19.02.2024 to the complainants.
 - 4.3 Respondents denied that the possession was to be delivered by the month of May, 2023 as no agreement was executed by the complainants. The respondent further stated that the project has almost been completed and this fact is clear from the QPRs uploaded on the web-site of the RERA Authority.
5. Complainants submitted rejoinder reiterating the contents of the

complaint and controverting the contents of the reply submitted by respondent.

6. The undersigned heard the arguments of both the parties on the stipulated date.

6.1 It is argued by the complainant that they have booked the flat No. 124-B, Ist Floor, on 07.11.2022 in Balaji Homes-2 and paid Rs.7,50,000/- as booking amount, no agreement for sale has been executed between the complainants and respondent. The respondents cancelled the booking and had refunded booking amount Rs.7,50,000/- vide cheque no. 33250 dated 19.02.2024, which was also verified by the complainants. The complainants have filed his complaint u/s 31 of the Act on 16.03.2024 after 11 months of receiving the payment of Rs. 7,50,000/-.

7. As a result of the above discussion, the undersigned is of the considered view that the complainant has applied for the allotment of a residential unit vide application 05.11.2022. On perusal of the application dated 07.11.2022, it is observed that the application is signed by only one person i.e Ram Kumar Sharma and signature of the co-applicant i.e. Mrs Usha Devi is not available of the application form. No agreement of sale has been executed between complainants and respondent. Even, complainants approached RERA and sought relief after 11 months of receiving the full amount of initial deposit i.e.

Rs.7,50,000/- . No Agreement to sale has been executed between the complainants and respondent, hence there is no relation of allottee and promotor has been established between complainants and respondent. The definition of the allottee as described in section 2(d) of the Act is as under:

2. Definitions —In this Act, unless the context otherwise requires: —

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

7.1. Neither any allotment letter has been issued by the respondent nor any agreement for sale has been duly executed and registered between complainants and respondent. In the absence of allotment letter, the foundational document evidencing allotment of a specific apartment and contractual obligations between the parties is missing, which materially affects the maintainability and adjudication of the complaint. This aspect assumes significance while examining the applicability of section 18 of the Act:

Provisions of the Section 18(1) of the Act is reproduced 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 **allottee**, 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."

As a result of the above discussion, no relief can therefore be granted to complainant as per provisions of the RERA Act, 2016 on the prayer of getting the possession of the flat.

8. Further, the complainant had deposited Rs.7.50 lakh on 07.11.2022 and 22.11.2022 and the same has been admitted by respondent. As the respondent had cancelled the booking and refunded the booking amount after period of 14 months. It is a general financial principle that the interest of any money belongs to the person (complainant) who owns the money. In case the money is utilized by other person (respondents) without any due compensation to the owner of money, the interest earned on it should be refunded to the owner(complainant).

8.1 From the above discussion, it is held that complainants are entitled for interest on amount i.e. Rs.7,50,000/- refunded to complainants, for the period money that has been used by the respondent i.e. 07.11.2022 (Rs.2,50,000/-) and 22.11.2022 (Rs.5,00,000/-) to 19.02.2024, as per Section 18(1) of the Act of 2016 which is reproduced below: -

10. As a net result of the above discussion, this complaint is accordingly partly allowed and respondents no.2 is directed to pay interest on the amount of Rs.7,50,000/- at the rate of 10.80% per annum (today's State Bank of India highest Marginal Cost of Lending Rate of 8.80% plus two percent) prescribed in Rule 16 of the Rules of 2017 from the date of receipt of payment amounting Rs.7,50,000/- till the date of refund.

11. In his submission, respondent has accepted that he has taken booking amount of Rs.7,50,000/- for flat no. 124-B (1st Floor), in Bala Ji Homes-2, Village Chanalon, HADBDAST No.110, Kurali, S.A.S. Nagar (Mohali), Punjab whereas the total sale consideration was Rs. 28,75,000/-. The booking amount taken by the respondent is more than 10% of the sale consideration. Hence, the respondent has violated the provision of the section 13(1) of the Act and liable for penalty under the provision of section 61 of the Act. The provision of Section 13(1) and Section 61 which are reproduced below: -

13. (1) A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.

61. If any promoter contravenes any other provisions of this Act, other than that provided under section 3 or section 4, or the rules or regulations made thereunder, he shall be liable to a penalty which may extend up to five per cent. of the estimated cost of the real estate project as determined by the Authority

10. Registry is directed to initiate penalty proceeding as directed above.

11. File be consigned to record room after due compliance.

Binod Singh
20/02/26

(Binod Kumar Singh)
Member, RERA, Punjab