

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

Complaint No. RERA/ GC No.0167 of 2024

Date of filing: 13.05.2024/03.07.2023

Dated of Decision: **12.12.2025**

1. Col. Sandeep Kumar Batish

2. Shilpa Batish

Both residents of # 561/2, 1st Floor, Sector-2 Panchkula, Haryana.

...Complainants

Versus

ATS Estates Pvt. Ltd.

711/92 Deepali, Nehru Place, New Delhi Pin Code 110019.

... Respondent

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

Present: Sh. Luv Malhotra, Advocate representative for the complainants
Sh. Hardeep Saini, Advocate, representative for the 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 'ATS Golf Meadows Lifestyle'. Accordingly, the main relief sought for is to direct 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.



3. The main averments of respondent in its reply are as follows: -

- i. That the project in question was registered with this Authority on 01.09.2017 and as per declaration and affidavit submitted by the respondent and as per the provisions of Section 4(2)(1)(C) of the Act, the completion time of the project, has been declared as nine years i.e. upto 01.09.2026 and as such, the complaint is pre-mature.
- ii. That the provisions of the Act cannot be read *ipso facto* into the already executed contracts between a promoter and an allottee and it is settled law that legislative acts entailing change in substantive rights are made applicable prospectively.
- iii. It has been then submitted that the penalty stipulated in the contracts cannot be axiomatic but a person claiming such amount or penalty must prove loss or damages suffered by him.
- iv. Further, that the jurisdiction of this Authority could not have been invoked in this case in view of the arbitration clause 35 of the agreement and dispute resolution mechanism settled between the parties was to be invoked. As such the complaint under the Act is not maintainable.

4. While reiterating the contents of complaint, learned counsel for the complainants highlighted the main facts of the case. He

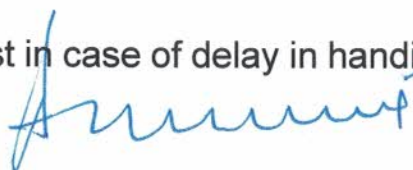


pointed out that complainants were allotted a residential unit/ apartment 4 BHK bearing No.05013 on the 1st floor in Tower No.5 having super/ carpet area of 2950 sq. ft in the project 'ATS Golf Meadows Lifestyle' of respondent. The total sale consideration of the flat was Rs.84,62,500/-. They had already paid Rs.78,17,906/- i.e. more than 90% of the total price of the unit. He continued that as per clause 14 of the buyer's agreement dated 30.06.2017, the possession of the unit was to be delivered within 24 months i.e. maximum till 30.06.2019. This stipulation had however been violated by the respondent and even after delay of more than 6 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 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 the agreement dated 30.06.2017 did not contain any provision for payment of interest. At the best the complainants could have sought refund of the money paid by them but this course of action had not been adopted and the payment of interest therefore was not warranted in law. 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.


7. 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. Violation of Section 18(1) of the Act is therefore established; and the complainants are entitled to the relief provided therein.

8. 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. 30.06.2019 (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 RERA 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.

9. 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