

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

Complaint GC No.0320 of 2024

Date of Institution: 03.09.2024

Dated of Decision: 24.04.2026

1. Amit Tandon and

2. Shweta Tandon

Both at R-4, 104/4, Sushma Valencia, Sahibzada Ajit Singh Nagar (Mohali),
Punjab- - 140603

....Complainants

Versus

1. M/s Suksha Developers Pvt Ltd, Unit No. B-107, Business complex at Elante
Mall, Ist Floor, Industrial area, Phase-1, Chandigarh-160002.

2. Manhattan Infra Services Pvt Ltd, B-107, FF, Business Complex at Elante
Mall, Industrial Area phase1, Chandigarh - 160002

....Respondents

Present: 1. Shri Omkar Chauhan, Advocate for the complainant,
2. Shri Vishal Singhal, Advocate for the respondent.

Complaint in Form 'M' u/S 31 of the Real Estate (Regulation
and Development) Act, 2016, read with Rule 36 (1) of the
Punjab State Real Estate (Regulation and Development) Rules,
2017.

(Registration Number: PBRERA-SAS80-PR0396)

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 03.09.2024 by the complainants in their individual
capacity against the respondent seeking following reliefs:

1.1 Respondent be directed to provide with all amenities such as permanent
electricity connection from PSPCL, Water connection from MCD, Swimming

pool, Club house, Gymnasium, Children Park, clean water, securities services, proper stilt car parking, occupation certificate as agreed in the agreement for sale and as per the provisions of the Act.

- 1.2 Respondent be directed to pay to the complainant interest for the delay of possession of their flats quantified as interest @ 24 % per annum on the amounts paid to respondents from the date of each payment till the date of delivery of possession with occupation certificate;
 - 1.3 Respondents be further directed to obtain electric connection from urban line instead of agricultural supply;
 - 1.4 Respondent be further directed to refund the maintenance charges of Rs.80,506/- along with interest charged from the complainants w.e.f. 20.02.2024 to 30.09.2025, as the incomplete possession was delivered on 18.03.2024 without the availability of all the amenities/facilities as agreed in the agreement;
 - 1.5 To provide proper maintenance facilities to the complainants at its own cost until obtaining occupancy certificate;
 - 1.6. To pay a sum of Rs. 50,000/- to each consumer to reimburse legal costs and expense;
 - 1.7 To issue direction to pay the cost of litigation
2. Brief facts of the complaint as submitted by complainant are summarized below: -
- 2.1 The complainants had booked and allotted a residential Unit/Apartment No. R4-104/04, 4th floor in pocket R-4 along with a stilt parking in the Project named "SUSHMA VALENCIA", situated at Village Nagla, M.C. Zirakpur, District SAS Nagar, Punjab by the respondent no.1. A Copy of agreement dated 22.03.2023 is annexed and marked hereto as Annexure C-1.

- 2.2 As per sub clause 7.1 of possession of the said apartment was to be handed over on 31.10.2023 after obtaining completion/occupation certificate. As per term 7.2 of said agreement, respondent No.1/ promotor assured that upon obtaining completion/occupation certificate from the competent authority, it shall offer in writing possession of said unit, to allottees in terms of agreement within one month from date of issue of such notice and promoter shall give possession of said unit to the allottees. As per clause 11 of said agreement, the promoter shall be responsible to provide and maintain essential services of the project till the taking over of the maintenance of the project by the association of allottees.
- 2.3 The complainants remained stick to payment schedule as provided by respondent No.1/ promotor, however, possession of the apartment was not handed over on 31.10.2023 as agreed in the agreement. The complainants have paid total amount of their agreement as well as advance maintenance charges of Rs.80,503/-. The details of the payment made to the respondent No.1 from time to time are annexed and marked hereto as Annexure C-2.
- 2.4 The complainants stated that the respondent No.1/ promotor not only violated sanctioned plan but also deprived flat buyers of various common facilities such as permanent electric connection, swimming pool, club house, Life style Club, Sports Club, gymnasium etc. as promised in its brochure, even after 2 years from promised date of possession.
- 2.5 The complainants also stated that the respondent No.1/ promotor failed to obtain occupation certificate till date and offered incomplete possession to many flat buyers including present complainants who were constrained to accept possession on 18.03.2024 and there is no permanent electric connection. A copy of certificate of possession of complainants is further marked and annexed here as Annexure C-3.

- 2.6 The complainants further stated that the respondent No.1/ promotor appointed respondent No.2 as its maintenance agency for the management, operation, maintenance, and upkeep of common areas, services and facilities of the complex. Although, it is a bounden duty of respondent No.1 to provide maintenance in complex, however, respondent No.1 persuaded flat buyers including the complainants to sign an agreement with respondent No.2 for maintenance of the society and collected an amount of Rs.80,503/- in advance for a period of more than 2 years from each resident. A copy of maintenance agreement dated 16.02.2024 is also annexed and marked hereto as Annexure C-4.
- 2.6.1 The complainants pointed out several flaws in the current development of the society such as there are no proper permanent electricity connection for the project, lack of water supply, faulty lifts etc.
- 2.7 The complainants also raised the issue that the promoter cannot charge holding charges and maintenance charges without valid offer of possession and also liable to pay delayed possession charges as per clause 7.6 and 9.2 (ii) of the agreement.
3. Upon notice Shri Vishal Singhal, Advocate appeared for the respondent and submitted his reply dated 24.07.2025 on 05.08.2025 to the following effect:
- 3.1 While taking preliminary objections that the contents of the complaint are false and the complainant has not approached this Authority with clean hands, the respondent repeated the contents of the complaint i.e. signing of agreement for sale for Unit No. R4-104/04, 4th Floor, issuance of allotment letter on 22.03.2023 (Annexure-R-1). The Complainant executed an Agreement for Sale on 22.03.2023 and as per Clause 7.1 of the said agreement, the possession of the unit was to be delivered by 31.10.2023, subject to force majeure conditions (Annexure R-2).

- 3.2 The Respondents emphatically denies the Complainant's allegations regarding delays in possession. Any delays were directly attributable to unforeseen circumstances beyond the Respondent's control, most significantly, force majeure conditions caused by the COVID-19 pandemic.
- 3.3 Respondent further stated that on pursuant to the 'Agreement for Sale', the Complainants were duly offered possession of their unit through an 'Offer of Possession Letter' dated 01.02.2024, a copy of which is appended herewith as Annexure R-3. The said letter formally communicated the readiness of the unit for possession. In accordance with the terms and conditions of the Agreement for Sale, the Complainants were also advised to execute a Maintenance Agreement to ensure the proper upkeep of their unit and contribute to the maintenance and management of the common areas and facilities of the project. The complainants asked for possession of unit, knowing fully well that OC is still awaited, sought waiver of delay charges for delay in making payments, sought interest/ compensation for delay in offer of possession and agreed not to file any case/ complaint for the said claims and got conveyance deed executed and paid maintenance charges also. Copy of Settlement Agreement dated 09.11.2023 is annexed as Annexure R-4. The complainants were duly paid compensation amount of Rs.25,000/- per month for delay period, in total amount of Rs.1,12,096/- (Rupees One Lac Twelve Thousand NinetySix only) vide cheques (appended as Annexure R-5) were paid to the complainants. Consequently, the Complainants executed a Maintenance Agreement on 01.03.2024 with Respondent No.2 is appended herewith as Annexure R-6. These documents demonstrate the fulfilment of the Respondents' obligations under the Agreement for Sale and the Complainants' acknowledgment of their responsibilities regarding the maintenance of the unit and project facilities and complainants have duly agreed and accepted the terms and conditions of agreements executed by them and are binding upon them.

- 3.4 The respondent also stated that the complainants formally taken the physical possession of Residential Unit No. R4-104/04, 4th floor, in the housing project Sushma Valencia, Zirakpur, Sahibzada Ajit Singh Nagar (Mohali), Punjab on 18.03.2024. Copy of complainants' letter of Intent to take possession is annexed as Annexure R-7. Thereafter, physical possession of the unit was handed over to the Complainants on 18.03.2024. The Complainants were issued a Certificate of Possession on 18.03.2024 along with acknowledgement receipt of physical possession of the unit. Copy of the Certificate of Possession is appended herewith as Annexure R-8.
- 3.5 The respondent again stated that after possession, the complainants furnished a Satisfaction Affidavit/Certificate on 18.03.2024, wherein they confirmed having thoroughly inspected the building plan, fittings, furnishings, and construction quality of the unit. Furthermore, the Complainants explicitly declared and confirmed that they would not raise any claims, disputes, or objections regarding the construction quality or possession of Residential unit No. R4-104/ 04, situated at 4th Floor in the housing project Sushma Valencia, located at, Village Nagla, MC Zirakpur, SAS Nagar, Mohali. A copy of the satisfaction Affidavit/Certificate dated 28.03.2024 is appended herewith as Annexure R-9. Respondent also stated that the Conveyance Deed has been executed in the favour of complainants on 20.02.2024, after satisfactorily in possession of the unit. By executing the Conveyance Deed, the ownership of the unit was transferred to the complainants, thereby relieving the Respondents of any further liabilities concerning the said unit. A copy of the Conveyance Deed duly registered on 20.02.2024 is appended as Annexure R-10.
- 3.6 Respondent argued that the complainants' allegations regarding the electricity connection and the availability of common services and facilities are completely baseless and factually incorrect. The complainants are at liberty to apply for an electricity and water connection for their unit directly

with PSPCL and the Municipal Corporation, Zirakpur. The baseless allegation as to supply of electricity from agriculture line has been made, just for sake of making allegations. However, the complainant has failed to provide any documentation or evidence to show that they have brought any issue concerning connections of electricity or water with the concerned authorities. It is further submitted that most of the common facilities in the project are complete.

4. On 05.03.2026, case was fixed for argument and nobody appears on behalf of complainants and respondents. In the interest of justice another opportunity was given for arguments and case is fixed for 09.04.2026 for arguments. On 22.01.2026, both the counsel of the complainant and respondents has argued the case. The undersigned heard the arguments of counsel for complainants and respondents and on perusal of written submissions of complainants and respondent. The authority has considered the submission of complainant and is of considered view that the complainant has not submitted any evidence to manifest that the possession of the unit was taken by complainant by means of any force, coercion and threat.
- 4.1 Regarding the pandemic of Covid-19, due to which respondent was not able to give possession of the unit to the complainants is without any substance as the date of agreement was 23.03.2023 and the pandemic period started from March 2020. It is noteworthy that the agreement was executed on 22.03.2023 after the occurrence of Covid-19. If respondents can execute the agreement and accept the amount for the unit on 22.03.2023, then they are liable to hand over possession on time as prescribed in the agreement dated 31.10.2023.
- 4.2 Vide letter/undertaking dated 18.03.2024, the complainant has requested the respondent/promotor for possession of the flat. As per undertaking dated 18.03.2024, complainants themselves confirmed their satisfaction

about layout of the complex, location of various installations and the services. Further, the complainants themselves have furnished a satisfaction affidavit to the respondent regarding building plan, fitting/furnishings and quality of construction. Furthermore, the complainants had executed the conveyance deed in their favour on 20.02.2024 in respect of unit no. R4-104/04, 4th floor, in the project Sushma Valencia, Zirakpur, SAS Nagar, Mohali. In view of above said facts, the respondent no.1 had stated that he had complied with his contractual duties.

- 4.3 It is always advice able that possession of unit should be taken when the builder has all clearance from competent authority including occupation certificate/completion certificate. The moot question lies whether if the allottees has taken possession and promoter has no occupation certificate from the competent authority, whether allottee is obliged to pay maintenance charges or not.
- 4.4 Further as per provision of RERA Act, builder responsibility u/s 11(4)(d) of the RERA Act means that the promoter/builder is responsible for providing and maintaining essential services at reasonable charges until the maintenance is taken over by the Association of Allottees i.e. RWA and section 11(4)(g) mandates that the promoter must pay all outgoing (including land cost, ground rent and maintenance) until he transfers physical possession to the allottee.
- 4.5 Regarding the issue of maintenance charges, it is fact that, the complainants have taken actual physical possession of their respective unit and even conveyance deed has also been executed in their favour. The complainants are using the same for residence, in such case the possession is not considered a "paper possession or "fit-out possession". If allottee take possession on its own and uses the facility provided by the builder/promoter he cannot avoid the maintenance charges as he is using premises which is being maintained by promotor/builder. Allottee hold the

possession of unit and at the same time, he cannot deny Common Area Maintenance Charges. For maintenance of common area and for providing essential services like water, electricity builder/promoter has to spent certain amount which would have to be recovered from the resident of building, if they have taken possession. In this case, the complainant has already taken the possession and to maintain the common area and to use essential services, he needs to pay for common area maintenance charges and services actually used by complainant. Hence it is observed that if an allottee is actually residing in the premises and consuming services (Water, electricity, security), they may be liable to pay for those specific services.

4.6 The complainants had booked and has been allotted vide Letter dated 22.03.2023 a residential Unit/Apartment No. R4-104/04, 4th floor in pocket R-4 along with a stilt parking in the Project named "SUSHMA VALENCIA", Zirakpur, SAS Nagar, Punjab. Due date for possession was 31.10.2023 and possession was handed over on 20.02.2024. As the complainants had executed the conveyance deed in their favour on 20.02.2024. Hence there is delay in handed over the possession of the above said Unit. The undersigned is of the considered view that complainant is entitled for the receipt of interest from the respondent for the period of delay in handing over possession of the above said Unit as provided in section 18(1) of the Act.

4.7 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 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."


5. As a net result of the above discussion, this complaint is accordingly partly allowed and respondents are directed to:

5.1 To pay interest under Section 18(1) of the Act of 2016 at the rate of 10.80% per annum (today's State Bank of India highest Marginal Cost of Lending Rate plus two percent i.e. 8.80%) prescribed in Rule 16 of the Rules of 2017 on the amount of Rs.78,00,994/- paid by complainant till 31.10.2023 i.e. due date of possession to 20.02.2024 (i.e. date of Conveyance Deed) and in respect of payment received after due date of possession i.e. after 31.10.2023, from the date of receipt of payment till 20.02.2024. The calculation of interest up to 20.02.2024 is calculated as under:

Interest from	Principal amount	Interest calculated till	Rate of Interest	No. of days	Interest amount
01.11.2023	78,00,994	20.02.2024	10.80% per annum	112	258496
13.02.2024	5,15,006	20.02.2024	10.80% per annum	7	1066
16.02.2024	84,000	20.02.2024	10.80% per annum	4	99
	84,00,000				2,59,661

Further, reduce the amount of Rs.1,12,096/- paid by Respondent (as mentioned at para 3.3 of the order) as per settlement agreement dated 09.11.2023 from the interest as calculated above i.e. Rs. 2,59,661/-. The arrear of interest amounting Rs.1,47,565/- would be paid within the statutory time i.e. ninety days stipulated under Rule 17 of the Rules of 2017 from the date of receipt of this order and submit the compliance report.

- 5.2 Respondent is further directed to provide all necessary and obligatory assistance to Allottee including the complainant for getting water/electricity connection from respective authorities as these are essential services.
6. Complainants are at liberty to approach the competent authority asking for the compensation for the alleged deficiency of services if feels aggrieved.
7. It may be noteworthy that in case compliance report is not submitted by the respondents after the expiry of above stated period of ninety days and further any failure to comply with or contravention of any order, or direction of this Authority may attract penalty under Section 63 of this Act of 2016.
8. The issue of cost of litigation has not been pressed during the course of arguments, so it is not being adjudicated upon.
9. File be consigned to the record room after due compliance.


(Binod Kumar Singh)
Member, RERA, Punjab