

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

Complaint No.0335 of 2024  
Date of Institution : 16.09.2024  
Date of Decision: 27.05.2026

Satinder Kaur, B/36, 437/1 Behind Stadium Vikas Nagar Pakhowal  
Road, Model Town, Ludhiana, Punjab-141002

....Complainant

Versus

M/s Omaxe New Chandigarh Developers Pvt. Ltd. 10 LSC, KALKAJI,  
New Delhi -110019

....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-PR0320)**

Present: Shri Manpreet Singh Longia, Advocate for the complainant  
Shri Tejeshwar Singh, Advocate for the respondent

**ORDER**

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 16.09.2024 by the complainant  
in her individual capacity against the respondent seeking following  
reliefs:

- i. To direct the respondent to offer a valid offer of possession of apartment i.e. IRTC/II/CROYAL/UGF/684 having a super area/carpet area measuring 2450 sq.ft./1740 sq.ft. along with a copy of the completion certificate and occupation certificate issued by the concerned authorities;

- ii Direct respondent to pay interest at the prescribed rates on the total amount paid so far from the due date of delivery of possession to the date of actual possession.
- iii To waive off any excess sought to be charged from complainant in the form of PLC Charges, Meter Cost, External Electrification Cost and Infrastructure Cost/Cess as the same were included in cost of apartment and the same are also against the terms and conditions of the BBA.

2. Brief facts of the complaint as submitted by complainant are summarized below: -

2.1 Complainant's a retired senior citizen of 75 year's old booked a flat on 14.12.2018 in the project "Integrated Res Township IIIA" developed by the respondent by paying amount of Rs.2.5 lakh. Schedule of payment was handed over to complainant **(C-1)**. Complainant paid amount of Rs.46,32,874/- on 06.03.2019 before executing agreement to sale. Till date, total amount paid by complainant is Rs.51,05,626/-. The allotment letter/BBA was executed on 05.09.2019 (Annexure C-2) and complainant was allotted independent floor unit no. IRTC/II/CROYAL/UGF/694 having a super area/carpet area measuring 2450 Sq. Ft./1740 Sq. Ft. Total cost of the unit was Rs.52,62,102/- + GST but includes one car parking, power back up, PLC, EDC etc., the same has been mentioned in Schedule C-1 (Annexure C-3). Complete breakdown of amount to be paid was mentioned in Schedule C-2 (Annexure C-4). As per clause 7.1 of agreement the possession of the apartment was to be delivered on or before 01.04.2021. Complainant made the due payment, which was to be paid before possession in respect of flat on 12.03.2019. Latest statement of account is attached as (Annexure C-5).

2.2 On 07.06.2024, respondent called the complainant and asked her to take possession of apartment, by paying the sum due and

complainant was handed over the statement of account, wherein it was shown that an amount of Rs.14,72,621/- is due, whereas as per payment schedule C-1, very small sum was due. It was further stated that the construction of the apartment is complete, whereas when complainant visited the apartment, she found the apartment to be in dilapidated condition and complainant refused to take possession and informed that she will take possession once apartment is habitable. Respondent sent a reminder dated 08.07.2024 that amount of Rs. 14,80,930.39 is pending against the complainant. After receiving the letter, complainant visited the office of respondent and argued that how excess charges on account of PLC, meter cost, external electrification, infrastructure cost/cess, could be levied by the respondent. As per clause 1.8(iii) of BBA, cost of providing electric wiring, electrical connectivity to the said unit, lift, waterline and plumbing, finishing with paint etc. were already included in the total/computed price of the unit. In schedule C-1(**Annexure C-3**) the amount of PLC has already been included in total sales price of the apartment. Act of the respondent in charging PLC, electric wiring, and electrical connectivity twice is bad in law and amounts to unfair trade practices. After the visit by the complainant, the amount was reduced by respondent and respondent again on 12.08.2024 sent another reminder that amount of Rs 12,71,48.89 is pending for realisation from complainant. Complainant had to again visit the respondent regarding the excessive charges being charged by respondent, this time respondent did not adhere to the request made by complainant. Respondents are charging an amount of Rs.2,08,851/- on account delayed payments, whereas there is no delay on part of complainant. In terms of Clause 9.3 of BBA, interest could only be charged, after

the allottee fails to make the payment for 2 (two) consecutive demands made by the promoter, whereas in present case no such demand was made, so complainant is not liable to pay any interest on account of delay.

2.3 Complainant after receiving repeated telephonic reminders from respondent to take over possession of the apartment, again visited the apartment and noticed that there are no sanitary fittings, no ceilings in the bathrooms, due to which the pipes are exposed. The kitchen of the said apartment does not have sink, granite counter, or modular fittings as mentioned in Schedule-D which catalogues the specifications/amenities/ facilities which are part of the apartment. The Italian marble flooring in drawing/dining area is incomplete and there is no main door, even there is no door installed in the whole apartment due to which stray dogs are living in the apartment premises. There are no electrical wire and switches installed in the entire apartment. In the master bedroom, the cupboard, wooden floor are not installed. Also, window is wrongly fitted/installed and same is not as per dimensions of the window and doors. Complainant has made all the payments but till date, no valid offer of possession has been made. The law has now been well settled by Hon'ble REAT, Punjab and by this Hon'ble Court that offer of possession without appending valid completion certificate and occupation would not be a valid offer of possession and can be termed as paper possession only. (*Appeal No. 24 of 2018 titled as Estate officer, PUDA versus RERA decided on 26.10.2018 and ADC No. 1253 of 2019 titled as Raminder Kaur vs Bathinda Development Authority decided on 29.12.2023*). No valid offer of possession has been made in the present case even after a lapse of more than 3 years from the due date of possession i.e

01.04.2021. The demands raised on account of Interest, electricity equipment, electrical wires, PLC etc. are illegal, arbitrary and violates the BBA/Allotment letter.

3. Notice of this complaint was issued to respondent. Shri Tejeshwar Singh, Advocate appeared on behalf of respondent and submitted his Power of Attorney. Thereafter, reply dated 15.04.2025 was submitted by respondent raising preliminary objection that ;

3.1 Respondent stated that the complainant approached the respondent in December 2018, seeking to book two units for investment purposes. One of the said units is the subject of the present complaint, whereas the other unit i.e. IRTC//II/CROYAL/UGF/700 is subject of complaint no. GC No. 0334/2024.

3.2 The complainant submitted an Application Form for allotment on 08.12.2018. Respondent in his reply reproduced the clause 8(i), (ii), (ii), 13, 24 and 28. The same is not mentioned now for sake of brevity. The Agreement for Sale under the Additional Discount Payment Plan was executed between the parties on 05.09.2019 for Independent Floor no. IRTC/II/CROYAL/UGF/684.

3.3 The Complainant had opted for the "Additional Down Payment Plan/ Additional Discount Payment Plan", under which an additional discount was extended to the Allottee on the total sale consideration of the unit, discount amounting to Rs.11,24,303/- was extended to the Complainant strictly subject to adherence to the payment schedule. Respondent reproduced the clause 1.2, 1.3, 1.4, 7.1, 7.2 and 9.3 of agreement to sale. The same is not mentioned now for sake of brevity.

3.4 The complainant defaulted in timely payments of the Unit under the Agreement entered into between the parties, despite multiple demand notices and reminders. the complainant, even today, owes the Respondent Rs.10,62,630/- not including delay interest (on account of delayed payments by the Complainant) but includes government levies, registration and conveyance charges etc.

3.5 Responded submitted that due to the unprecedented and unforeseeable calamity of COVID-19, as with most businesses and all builders, the answering respondent's work too was halted for a considerable period of time and even after that could only resume at a snail's pace, given the lack of availability of resources, personnel and labour at the time. The Complainants have failed to account for the unprecedented and unforeseeable force majeure event of COVID-19, which further entitles the Respondent to an extension in the stipulated timeline for completion of construction and development. Moreover, the date mentioned in Clause 7.1 is "April 2021" which would mean "30 April 2021" and "not 1 April 2021". Respondent also stated that benefit of extension of 9 months in the date of possession has been granted to the present Respondent by the Hon'ble State Consumer Disputes Redressal Commission, Chandigarh in its Judgment and Order dated 10.05.2023 passed in the cases of *Ramesh Kumar v. Mis Omaxe Chandigarh Extension Developers Private Limited and Ors., CC No. 9 of 2023* and *Ravinder Avasthi v. Mis Omaxe Chandigarh Extension Developers Private Limited and Ors., CC No. 10 of 2023*. Similar relief has also been granted by the Hon'ble SCDRC Punjab in *Raman Kumar and Anr. v. Omaxe New Chandigarh Developers Pvt. Ltd., CC-24-2023*.

3.6 Respondent obtained the Occupation Certificate on 20.04.2024 and a letter offering possession was sent to the complainant on 07.06.2024, along with intimation regarding pending dues. As per the said letter, the balance payment had to be made within 15 days. The complainant has failed to take possession of the unit and has also failed to make the outstanding payment. A true copy of the Occupation Certificate dated 20.04.2024 is annexed herewith as Annexure R-5. A true copy of the Offer of Possession dated 07.06.2024 is annexed herewith as Annexure R-6. As per Clause 7.2, the Complainant is supposed to take possession within 3 months. In case possession is not taken within the said time period, the Respondent shall have no choice but to levy maintenance charge along with interest as per Clause 7.3 of the Agreement, which the Complainant shall be liable to pay.

3.7 Under the Additional Discount Payment Plan opted by the Complainant, the Respondent had conferred a huge benefit/rebate of Rs.11,24,303/-. As per Schedule C-2 of the Agreement, in case the Allottee fails to make timely payment of the instalments, the Company can withdraw the discount given under the Payment Plan opted by the Allottee. Accordingly, due to his failure to make due payments on time, the aforesaid discount/rebate of Rs.11,24,303/- is liable to be withdrawn/refunded to the Respondent.

3.8 Respondent denied the allegations that any excess charges have been charged. It is denied that PLC has been wrongly charged. It is respectfully submitted that the Schedule C-1 annexed with the Agreement (Annexure C-3) clearly shows that one count of PLC benefit, i.e. Corner or Park Facing, is included in the unit price. In this case, due to the Complainant's preference

for a corner unit, PLC for it being at the corner was included in the price. However, upon development, the Complainant's unit stands facing park, which is not included in the one count of PLC already exhausted by the unit being a corner one. Thus, PLC for the unit being park facing is charged. It is denied that charges for electrical wiring have been levied. Clause 1.8(iii) of the Agreement state that electrical wiring and connectivity to the Unit shall be provided within the cost; accordingly, no charges for the same have been levied. As per the letter offering possession, charges are for "external electrification" and "meter cost". While the agreement specifies that no charges shall be levied for electrical wiring and connectivity, which refers to the internal wiring and connections within the flat, external electrification charges are a distinct expense. External electrification pertains to the infrastructure outside the individual unit, like substations/transformers/the distribution network that brings power to the entire building or complex. Since these charges cover the provision of electricity to the building as a whole, they fall outside the scope of internal wiring and connectivity, thus justifying the separate levy. Further, the meter cost is related to the procurement and placements of the meters. Even in Schedule D of the Agreement (on page 21 of the Complaint) which lays down in detail the inclusions within the consideration, under the head of electrical fitting, "modular switches, sockets, copper wiring, power back up" are included, and external electrification and meter cost are not. It is further denied that infrastructure cost/cess is being wrongly charged. Infrastructure cost/cess is a government levy imposed by the government and is not charged

by the builder.

3.9 It is denied that amounts were decreased due to visit of complainant or above factors, in fact amount due was decreased due to a credit note that was added to the account of the Complainant due to the reduction of applicable GST rate, as reflected in the account statement annexed by the Complainant. It is denied that there is no delay on part of the Complainant. In fact, the Complainant has caused a delay of over 2200 days, still counting. It is relevant to point out here that the Complainant is mischaracterizing Clause 9.3 and, in any case, the Complainant has delayed in making payment at stage of 30 days, 141 days and possession - every stage after booking, therefore this argument, even if true, does not apply here. It is further denied that no demand was made from the Complainant. Demands were made via phone call/letters at various occasions. Reminders too were issued. In fact, the Complainant has herein repeatedly admitted that the Respondent provided repeated reminders on call as well. Further, payment plan has been admitted and annexed by the Complainant and as per the Agreement as well as the Application Form, the Complainant is liable to make payments in a timely fashion. It is denied that there are no ceilings in the bathroom or flooring is not complete. It is denied that possession isn't ready, as even OC has been issued. It is denied any unwanted extra amount is being demanded. It is denied that no valid offer of possession has been made. In fact, till date, payment is pending. It is denied that the unit is not ready or that possession has not been offered.

3.10 It is further submitted that as per record, complainant has not fulfilled her financial obligations and has not deposited instalments on

time fallen due i.e. as per Construction Linked Plan. Respondent relied upon Section 19(6) and 19(7) of the Act of 2016. In support, respondent attached copies of reminders as Annexure R/2 Colly.

4. Complainant submitted rejoinder reiterating the contents of her complaint and controverting the contents of the reply submitted by respondent. It is added that complainant has made all the payments as per payment plan mentioned in Allotment Letter cum Builder Buyers' Agreement dated 24.08.2015.

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

5.1 It is argued that complainant booked a Unit bearing no. IRTC/II/CROYAL/UGF/684 in the project being developed by the respondent. In furtherance of the same, the complainant has paid more than 90% of the total sale consideration of the said Unit. The grievance of the complainant stems from the respondent's failure to fulfil its commitment regarding handing over of possession as agreed in the Agreement to Sale. A bare perusal of Clause 7.1 of the Agreement for Sale would show that the possession of the unit was to be delivered by April, 2021 subject to any delay or failure due to force majeure circumstances. As regards the reliance on COVID-19, the project construction period falls in the COVID-19 period.

5.2 It is a matter of record that Hon'ble Real Estate Appellate Tribunal, Punjab vide its order dated 22.08.2022 in Appeal No.100 of 2021 titled as "*Hero Realty vs Arun Premdhar Dubey*" held that due to *force majeure* on account of Covid-19, "*a benefit of at least 4 to 5 months on account of force majeure should be afforded to the developer to absolve him of the liability of completing the projects*

*within the timeline prescribed*". In view of above position the period of 4 months of *force majeure* has to be excluded from the period of delay in handing over possession to the complainant, order accordingly.

5.3 This Authority extended the period by 4 months for completion of project, therefore, the due date of possession after extension is taken as 31.08.2021 instead of 30.04.2021 (i.e. the promised date of possession as per Agreement).

5.4 The total cost of the unit was Rs.52,62,102/- out of which, an amount of Rs.51,05,626/- was already paid in time and the balance amount was to be paid at the time of possession. Even further, if there is any delay, the promoter can charge interest from the allottee-cum-complainant as per Agreement for Sale and only after when the complainant becomes allottee i.e. after the date of agreement to sale. The promoter has not given any notice or its intention to delay the possession when the payments, if any, was late. The promoter was required to give a very clear and unambiguous notice for delay in possession in case any payment was not being made in time making it absolutely clear of the delay in giving offer of the possession due to delay in payment. Even in the facts and circumstances, it is found that there is no delay as per the Agreement since substantial amount has already been paid and balance was required to be paid at the time of possession. As per column 1.5 of Form 'Q', any rebate allowed/granted to the allottee by the promoter shall not be subject to any revision/withdrawal.

6. The argument advanced by the learned counsel for the respondent that the present complaint is barred by limitation is wholly misconceived and is legally unsustainable. This Authority in catena of

cases has consistently opined that the provisions of Limitation Act, 1963 would not be applicable to the proceedings under the Real Estate (Regulation and Development) Act, 2016. This proposition is further fortified by a plethora of judicial precedents rendered by the Hon'ble Supreme Court of India, some of which are cited below: -

(i) 1961(1) SCC 873 titled as Town Municipal Council Athani Vs. Presiding Officer- wherein it was held that Article 137 of the Schedule of the Limitation Act will not apply to bodies other than Courts.

(ii) 1970 SC 209=1969(2) SCC 199 titled as Nityananda M Joshi Vs. LIC (3 judges)- wherein, it was held that Article 137 only contemplates application to Courts and that Labour Court is not a Court within the Limitation Act 1963.

(iii) 1975 SC 1039=1975(4) SCC 22 titled as CST Vs. Parson Tools & plants (3 judges) - wherein it was held that the Authorities under the Sales Tax Act are not Courts and, therefore, the Limitation Act does not apply to proceedings before them.

7. Furthermore, in the present case, the learned counsel for the respondent contended that the respondent has already obtained the Occupation Certificate of the Unit being allotted to the complainant on 20.04.2024. It was subsequently sent on 07.06.2024 and possession was offered to the allottee-cum complainant alongwith outstanding dues.

7.1 Thus, the respondent has obtained the Occupation Certificate on 20.04.2024 and offer was made by the respondent on 07.06.2024. The complainant is normally bound to take possession of the subject unit within a period of two months from the date of receipt of Occupancy Certificate in accordance with Section 19(10) of the RERD

Act, 2016. In the present case, the possession was offered only on 07.06.2024. Therefore, the complainant is entitled for interest on delayed possession to be payable by the respondent till 07.06.2024 plus 2 months. Further, clause 7.2 of the Agreement provides that the complainant is bound to take possession within 3 months from the date of offer of possession being made upon receipt of the Occupancy Certificate. The complainant, however, has not taken the possession till date. The allottee is not entitled for interest for the period of delay in taking possession till date since the offer was made originally on 07.06.2024 and the occupation certificate obtained on 20.04.2024. However, it is made clear here that at the time of taking physical possession by the allottee-cum-complainant, the promoter will provide all the facilities, fittings as per 'Agreement for Sale'. Therefore, it is directed, in consonance with the continuing statutory obligations of the promoter under Sections 14 and 18 of the Act, that all deficiencies, defects, or shortcomings pointed out at or before the time of handing over possession shall be duly rectified by the promoter.

8. In light of the above discussions, the complainant is entitled for interest on account of delayed possession only till the date of offer of possession made by the respondent i.e. 07.06.2024 plus 2 months. As per provisions of Section 18 of the RERD Act, 2016, the complainant is entitled to claim interest on delayed possession. Section 18 of the RERD Act, 2016 runs as under: -

"18. Return of amount and compensation.

(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.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act."

9. In view of the above findings, the complaint deserves to be Partly Allowed and this Bench holds that the respondent -promoter has failed to fulfil its obligation of delivering possession within the agreed period, and the complainant is entitled to interest for the delay till 07.06.2024 plus 2 months.

9.1 As a net result of the above discussion, this complaint is accordingly allowed and respondent is directed 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 of 8.80% plus two percent) prescribed in Rule 16 of the Rules of 2017 on the amount paid by the complainant i.e. Rs.48,82,875/- w.e.f. 01.09.2021 the date agreed for handing over possession minus four month on account of covid at the first instance till date of offer of possession i.e. 07.06.2024 plus 2 months within ninety days from the date of receipt of this order and submit a compliance report to this Authority about releasing the interest amount as directed.

9.2 For the payment amounting Rs.2,22,752/- made after possession date i.e. 01.05.2021 interest under section 18(1) of the Act at the rate of 10.80% per annum w.e.f. date of respective payment to till the date of offer of possession i.e. 07.06.2024 plus 2 months. The above interest 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. Therefore, the calculation of delayed interest is calculated as follows: -

Interest payable from	Principal Amount Paid	Interest calculated till	Rate of Interest	No. of days	Interest Amount
01.09.2021	4882874	07.08.2024	10.80% pa	1071	15,47,381
01.05.2024	222752	07.08.2024	10.80% pa	98	6,459
TOTAL	5105626				15,53,840

10. In view of the aforesaid legal provisions and judicial pronouncement, it is hereby directed that the above amount shall be recovered as Land Revenue as provided u/s 40(1) of the RERD Act,

2016. The total amount due towards delayed interest upto 07.08.2024 is calculated at an amount of Rs.15,53,840/- and the respondent is directed to make the payments within 90 days to the complainant. Further, in view of the fact that the offer of possession has already been made by the respondent-promoter on 07.06.2024, if any amount is due towards the complainant, then the said payment will be adjusted towards the amount payable to the allottee-cum-complainant by promoter and it will be adjusted by the promoter as payment received from the allottee payable by the promoter at the time of offer of possession.

11. 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.

12. The complainant is also directed to submit report to this Authority that they have received the interest amount as per directions issued in this order.

13. It is also an admitted position on record that the complainant had paid a sum of Rs.48,82,874/- prior to the execution of the Agreement for Sale dated 05.09.2019. This amount so received by the promoter is evidently more than 10% of the total sale consideration. Sub-Clause1 of Section 13 of the RERD Act, 2016 prohibits the promoter from accepting more than 10% of the cost of the apartment, plot, or building, as an advance payment or an application fee. from a person, without first entering into a written

agreement for sale. Section 13(1) of the RERD Act, 2016 reads as under: -


"13. No deposit or advance to be taken by promoter without first entering into agreement for sale (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."

13.1 It is prima facie clear that the respondent has violated the statutory provision of Section 13(1) of the RERD Act, 2016. Accordingly, Registry of this Authority is hereby directed to put up separately for initiating proceedings against the respondent under section 61 of the Act for violation of Section 13(1) of the RERD Act, 2016.

13.2 During the proceeding, the counsel of the respondent had submitted that proceeding for identical matter is already in process before the co-ordinate bench of Chairman. The same may be verified by the registry before initiation of any further proceeding.

14. It is further reiterated that irrespective of the interest payable to complainant to the date as mentioned in preceding paragraph, the promoter shall provide all provisions as agreed upon as per the terms and condition of agreement to sale. The complainant is at liberty to approach the competent authority in case of any such deficiencies.

15. File be consigned to the record room after due compliance.

  
27/5/26  
**(Binod Kumar Singh)**  
Member, RERA, Punjab