

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

Complaint No. RERA/ AdCNo.0057 of 2025TR-AUTH0006 of 2025
Date of filing: 19.05.2025
Date of decision: **15.05.2026**

1. Naresh Garg
 2. Anju Garg
- Both residents of House No.468, Third Floor, Sector 45
Gurgaon, Haryana Pin Code 122003
...Complainants

Versus

Omaxe New Chandigarh Developers Pvt. Ltd, India Trade Tower,
First Floor, Madhya Marg Extension, New Chandigarh, SAS
Nagar, Mohali

... Respondent

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

Present: Complainants 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 complainant against the respondent, relate to delay in handing over the possession of an apartment/ flat in the project "CASPEAN E" of THE LAKE. As per Clause 7.1 of the agreement for sale dated 30.12.2020, the possession of the said unit was stipulated to be handed over to the complainant on or before 31.07.2023. However, till date the project remains incomplete and possession has not been delivered to the complainant despite making more than 90% of the payment to the promoter. Accordingly, the main relief sought for is to issue direction to respondent to hand

over the possession of the flat along-with payment of interest for the period of delay till possession of the same is delivered.

2. Notice of the complaint was served on the respondent who filed a detailed reply in the matter.

3. In the reply filed on behalf of the respondent, 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 while the anticipated date for possession was 31.07.2023, whatever delay was there that was directly attributable to unforeseen circumstances beyond the respondent's control, including delays in obtaining essential regulatory approvals and, most significantly, force majeure conditions caused by the COVID-19 pandemic. Respondent had always acted in good faith and had honoured all its contractual commitments and obligations. It had fully adhered to the model Buyer's Agreement as prescribed under the RERD Act. The respondent had not violated any provisions of the RERD Act. Hence while denying rest of the averments of the complaint also, a prayer was made for dismissal of the complaint.

4. While putting forth the case of complainants it was contended by the learned counsel that in their present complaint, they seek interest for the delayed period of possession apart from a direction to the respondent/ builder to handover the possession upon obtaining OC. As per Clause 7.1 of the agreement for sale dated 30.12.2020 the possession of the completed apartment/ unit was to be delivered on 31.07.2023, but no OC has been obtained till date by the promoter. Hence, the complainants were entitled to claim interest for the period possession has been delayed already as well as till

possession was delivered on obtaining completion certificate in a duly completed manner. The complainants had already made a substantive payment towards the total sale consideration. The complainants, therefore, seek directions against the respondent to pay delay interest on the amount paid till actual legal possession is offered with valid OC/CC.

5. On the other hand, learned counsel for respondent submitted that the alleged delay in completion of the unit allotted to the complainants had occurred solely on account of *force majeure* circumstances arising out of the unprecedented COVID-19 pandemic, and was in no manner attributable to any fault, negligence, or lapse on the part of the respondent company. It was thus submitted that claims made by the complainants were not only unjustified but were meritless as well. Their complaint deserved to be dismissed with costs.

6. This authority has carefully considered the rival contentions of both the parties and perused the record of the case. From the pleadings and arguments of both the parties, it is established on record that possession of the flat has not been delivered to the complainants till today. The complainants had been waiting for possession of their flat for the last about three years and still there was no commitment on behalf of the respondent as to when the possession would actually be delivered. Therefore, it would be manifestly unfair to the complainants to make them wait for the relief of interest as the duration for handing over possession was not known at that stage since no completion certificate was of course there with the promoter. In the given circumstances, it also cannot be held that the said project was complete. As per Clause 7.1 of the Buyer's Agreement, the

promised date of delivery of possession was 31.07.2023. The complainants have already paid a substantive amount towards the sale consideration of the unit to the respondent. The Act provides for payment of interest in case of delay in handing over of possession and the right of claiming interest on the delayed possession has been conferred upon an allottee by the provision of Section 18 of the Act which is an indefeasible right. It stands established that the respondent promoter has failed to deliver possession of the unit within the agreed time frame as stipulated in the Buyer's agreement, i.e., on or before 31.07.2023. Section 18(1)(a) of the RERA Act clearly provides that if the promoter fails to complete or is unable to give possession of an apartment in accordance with the terms of the agreement, the allottee is entitled to interest for every month of delay till handing over of possession. The liability under Section 18 is statutory in nature and arises automatically upon failure to deliver possession within the stipulated period. The complainants are therefore entitled to interest for delayed possession in terms of Section 18(1) of the RERA Act, 2016, which reads 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:

	xxx	xxx	xxx
(2)	xxx	xxx	xxx
(3)	xxx	xxx	xxx

7. Therefore, this bench of Authority holds that the respondent is in violation of the terms of the agreement as well as the provisions of the RERA Act. The complainants are entitled to possession of the allotted unit after completion of development and after obtaining Occupation Certificate, along with interest for the period of delay as prescribed under the RERA Act and Rules made thereunder.

8. In view of the above findings, the complaint deserves to be fully allowed and this Bench holds that the respondent has failed to fulfill its obligation of delivering possession within the agreed period, and the complainants are entitled to interest for the delay w.e.f. 31.07.2023.

9. As an outcome of above discussion, the complaint is accepted and the respondent is accordingly hereby 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. 31.07.2023 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 complainants shall take possession of the unit so offered after

making all the pending payments, as provided in the buyer's agreement. The conveyance deed shall be executed thereafter in accordance with law within time-frame prescribed.

10. The respondent is directed to make the above payment within the time stipulated under Rule 17 of the Punjab State Real Estate (Regulation and Development) Rules, 2017. Thereafter the said amount is to be recovered as arrears of Land Revenue by the Competent Authorities as provided/authorized in the Punjab Land Revenue Act, 1887 read with section 40(1) of the Act, 2016 if not paid as directed. And, then the Secretary of this Authority shall be issuing "Recovery Certificate" as per rules and respondent shall be rendering itself liable for any other coercive action as prescribed by the Act and rules made thereunder. The complainants and the respondent are further directed to inform the Secretary of this Authority regarding any payment received or paid respectively so as to take the same into account before sending "Recovery Certificate" to the Competent Authority for recovery.



**(Arunvir Vashista),
Member, RERA, Punjab**