



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

155

RERA-APPL-184-2025 (O&M)

Date of decision : 17.11.2025

Emaar India Limited

..... Appellant

versus

Kusum Bali and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kunal Dawar, Senior Advocate with
Ms. Shruti Mandhotra, Advocate
Mr. Saurav Bajaj, Advocate
Mr. Samarth Dwide, Advocate and
Mr. Manish, Advocate
for the appellant.

PANKAJ JAIN, J. (Oral)

1. Appellant is a developer aggrieved of the orders passed by the authorities under the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'RERA Act', 2016).
2. The appeal arises out of a complaint filed by allottee under Section 31 of 2016 Act read with Rule 28 of Haryana Real Estate (Regulation and Development) Rules, 2017 alleging violation of Section 11(4)(a) of 2016 Act. As per the complainant, the appellant-promoter agreed to handover possession of the building to the allottees within 30 months of the execution of the agreement, i.e. 24.12.2010 with the further grace period of 120 days. Due date of possession was 24.06.2013. Occupation certificate was issued on 08.01.2018 and possession was offered on 09.03.2018.



3. The complaint was contested by promoter claiming that the conveyance deed already stands executed on 05.10.2018. The present complaint has been filed in March 2021 and the same having been filed after the execution of conveyance deed, is not maintainable.

4. There not being much dispute regarding the timelines, the authority vide order dated 13.12.2022 disposed off the complaint in the following terms:-

“34. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondent is directed to pay the interest at the prescribed rate i.e. 10.35% per annum for every month of delay on the amount paid by the complainants from 24.06.2013 till 09.05.2018 i.e. expiry of 2 months from the date of offer of possession (09.03.2018). The arrears of interest accrued so far shall be paid to the complainants within 90 days from the date of this order as per rule 16(2) of the rules.
- ii. The amount of compensation already paid to the complainants by the respondent as delay compensation in terms of the buyer's agreement shall be adjusted towards delay possession charges payable by the promoter at the prescribed rate of interest to be paid by the respondent as per the proviso to section 18(1) of the Act.
- iii. The respondent shall not levy/recover any charge from the complainants which is not the part of the buyer's agreement. The respondent is also not entitled to claim holding charges from the complainants/allottees at any point of time even after being part of the buyer's agreement as per law settled by hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.”



5. Dissatisfied with the order passed by the authority, the promoter approached the Appellate Tribunal by way of Appeal No.397 of 2023. Vide impugned order, the Tribunal partly allowed the appeal preferred by the promoter granting four months grace period, i.e. 120 days in terms of the agreement.

6. Learned senior counsel appearing for the appellant-promoter has assailed the orders passed by the Tribunal primarily disputing the maintainability of the application. Mr. Dawar submits that the complaint having been filed after execution of conveyance deed and the rights of the parties having been finalized by the covenants contained in the conveyance deed, the complainant had no locus to prefer the complaint in terms of agreement of allotment. Complainant is estopped from raising any grievance in terms of concluded contract between the parties. Reliance is being placed upon Section 55 of the Indian Contract Act. He draws attention of this Court to the observation made by Tribunal in para 6 holding that there is no limitation prescribed in the Act. He relies upon ***B.K. Educational Services Private Limited vs. Parag Gupta and Associates 2018 AIR Supreme Court 5601, C.P. No.1567 of I&BC of 2017*** titled as '***Ajita Enterprise vs. Pratibha Industries Ltd.*** decided on 06.04.2018, ***M/s. Arif Azim Co. Ltd. vs. M/s. Aptech Ltd., 2024(2) RCR (Civil) 218 and Hukumdev Narain Yadav vs. Lalit Narain Mishra 1974(2) SCC 133***, to submit that the complaint filed under the RERA Act having the taping of a miscellaneous application, the limitation to file the same would be governed by Article 137 of the Limitation Act.



7. I have heard learned senior counsel for the appellant and have carefully gone through the records of the case.

8. The argument raised by senior counsel regarding non-maintainability of the complaint under 2016 Act after the execution of conveyance deed is misconceived. Section 19 deals with rights and duties of allottees. Corresponding thereto is Section 11 that deals with functions and duties of promoter. Allottee has been defined under Section 2(d) of 2016 Act which reads as under:-

“2(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;”

9. Bare perusal of the afore reproduced provision reveals that the allottee includes transferee and a person in whose favour the plot, apartment or building has been sold. The expression is vide enough even to include vendee under such allottee, who acquires interest in the property subsequently. Thus, merely on account of registration of conveyance deed, the obligation of the promoter does not come to an end as per statutory right cannot be defeated by pleading acquiescence. Reliance upon Section 55 of the Contract Act also is insignificant in view of the overriding effect of the provisions of 2016 Act over anything inconsistent contained in any other law including those contained in the Contract Act, 1872.

10. Since the present complaint was filed within three years of the offer of possession, this Court does not deem it fit to go into the



issue of applicability of the Limitation Act to the complaints filed under 2016 Act in the present case. The question is left open.

11. In view of above, finding no merits in the present appeal, the same is ordered to be dismissed.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

17.11.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No