BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.724 of 2022

Date of Decision: May 18, 2026

Raj Kumar S/o Jai Lal, R/o H. No. 481 B, Ward No. 12, Nahar Colony, Fatehabad, Haryana.

... Appellant

Versus

M/s Alpha G Corp Development Pvt. Ltd., having its Office at Golf View Corporate Towers, 6th Floor, Wing A, DLF Golf Course Road, Sector 42, Gurugram-122002.

... Respondent

CORAM
Justice Rajan Gupta **Chairman**
Dinesh Singh Chauhan **Member (Technical)**

Present: Mr. Aseem Gupta, Advocate for the appellant.
Mr. Vikash Verma, Advocate for the respondent.

O R D E R:

RAJAN GUPTA, CHAIRMAN

The present appeal is directed against the order dated 05.08.2022 passed by the Haryana Real Estate Regulatory Authority, Panchkula in Complaint No.178 of 2021. Operative part thereof reads as under:

> *7. Since present matter is based on similar facts and relating to same project of the respondent, therefore it is also disposed of in terms of complaint no. 1506 of 2019 titled "Anil Kumar v Alpha Corp Development Pvt Ltd.'. Authority accordingly hereby dispose of the present complaint with a direction to complainant to take possession of the plot in accordance with latest offer letter issued to him by the respondent.*

2. Factual matrix of the case is that the appellant-allottee booked a residential plot measuring 500 sq. yards in the project "Alpha International City", Sector-4, Fatehabad, developed by the respondent–promoter in the year 2010. Plot Buyer Agreement was executed between the parties on 25.01.2011, under which possession was to be delivered within 18 months along with a grace period of 90 days i.e., by 25.10.2012. Total sale consideration of the plot was fixed at Rs.32,75,000/-. Against the said consideration, the allottee paid Rs.40,79,197/- (i.e., Rs.36,66,197/- upto 07.10.2014 and a further Rs.4,13,000/- on 18.02.2020). Respondent- promoter issued an offer of possession on 08.05.2012 along with a demand of Rs.35,19,898/-. However, the allottee alleged that the project was not adequately developed and there existed litigation concerning part of the project land, creating doubts regarding lawful possession. Thereafter, further demand letters dated 18.09.2012 and 29.04.2013 were issued raising additional demands including enhanced external development charges. Subsequently, the promoter raised demands towards maintenance charges, holding charges and other dues through communication issued on 15.07.2019. Challenging these demands as illegal and arbitrary, the allottee filed the complaint before the Authority.

3. The allottee contended before the Authority that possession was never lawfully offered as the project lacked complete development and dispute regarding the land title subsisted. It was argued that maintenance charges and holding charges could not be recovered for the period during which possession had not been legally handed over. On the other hand, stand of the respondent-promoter was that the development works stood completed; valid

offer of possession had been issued, and part completion certificate had been granted by the competent authority on 02.07.2015. According to the promoter, the allottee unnecessarily avoided taking possession and was, therefore, liable to pay all contractual dues.

4. After considering rival contentions of the parties, the Authority disposed of the complaint vide impugned order, operative part whereof has been reproduced in para 1 of this order.

5. Aggrieved by the said order, the allottee filed the present appeal contending that the Authority failed to examine the legality of maintenance charges and holding charges independently. It was argued by counsel for the appellant that penal holding charges and maintenance charges are not legally sustainable where actual possession was not effectively delivered.

6. On the other hand, learned counsel for the respondent-promoter argued that the project was completed and granted part completion certificate on 02.07.2015, i.e., prior to enactment of RERA Act, thus, the project in question does not fall within the purview of the Act and the Rules. He further argued that allottee deliberately avoided to take possession despite repeated offers and completion of development works. It was argued that the allottee alone was responsible for refusing possession and, therefore, the promoter was entitled to recover maintenance and other charges in accordance with the agreement.

7. We have heard learned counsel for both the parties and carefully examined the record of the case.

8. The Authority observed that although the project had been completed prior to the enactment of the RERA Act, the obligations relating to handing over possession and maintaining the project continued well beyond the coming into force of the Act.

Since repeated correspondence regarding possession and demands continued till 2019 and thereafter, the dispute constituted a continuing cause of action, squarely falling within the jurisdiction of the Authority and the Tribunal. The Authority further observed that the obligation of the promoter to hand over lawful possession is a continuing obligation and cannot be treated as exhausted merely because the project completed prior to enactment of RERA Act.

9. Further, the Authority noted that part-completion certificate dated 02.07.2015 and the subsequent letter dated 03.05.2018 established that the project had attained sufficient completion for delivery of possession. The Authority also observed that the civil litigation relied upon by the allottee neither pertained to the specific plot in question nor resulted in any adverse finding against the promoter. At the same time, the Authority held that the allottee's apprehensions regarding the project could not be said to be entirely baseless, particularly when litigation concerning part of the project land admittedly existed and the promoter itself continued issuing revised demands and communications over the years.

10. After considering the facts and circumstances of the case, this Tribunal is of the considered view that maintenance charges can only be levied from the date when the project attains a legally occupiable status, i.e., from the date of grant of part completion certificate.

11. As regards the Holding Charges, the issue is no longer *res-integra* in view of the judgment of Hon'ble Supreme Court in ***Civil Appeal Nos. 3864-3889 of 2020—DLF Homes Developers Ltd. (Earlier known as DLF Universal Ltd.) and another v. Capital Greens Floor Buyers Association etc. etc.,*** wherein it was held

that the builder is not entitled to levy holding charges. The Tribunal observes that the promoter could not burden the allottee with unconscionable financial liabilities for periods during which lawful and complete possession had not effectively been handed over.

12. In view of foregoing discussions, the appeal is partly allowed and the impugned order is modified to the extent that the allottee is at liberty to take possession of the plot in question; the promoter is held entitled to recover only reasonable contractual maintenance charges from 02.07.2015 till actual handing over of possession after adjustment of amounts already paid, if any. Holding charges are held to be illegal and non-recoverable. The promoter would furnish a revised statement of account and thereafter, hand over peaceful physical possession along with execution of necessary conveyance documents.

13. Copy of this order be sent to the parties/their counsel and the Authority.

14. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

May 18,2026/mk