

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: July 20,2026

(1) Appeal No. 629 of 2023

- 1. Prateek Strivastava
- 2. Namita Mehta

Both R/o Flat No. B-191, The Icon DLF, Phase-5, Opposite
Two Horizon Centre Building, Sector-43, Gurugram-122009

Appellants.

Versus

M/s Vatika Limited, A-002, INXT City Centre, Ground Floor,
Block-A, Sector-83, Vatika India Next, Gurugram, Haryana-
122012

Respondent

(2) Appeal No. 630 of 2023

- 1. Prateek Strivastava
- 2. Namita Mehta

Both R/o Flat No. B-191, The Icon DLF, Phase-5, Opposite
Two Horizon Centre Building, Sector-43, Gurugram-122009

Appellants.

Versus

M/s Vatika Limited, A-002, INXT City Centre, Ground Floor,
Block-A, Sector-83, Vatika India Next, Gurugram, Haryana-
122012

Respondent

(3) Appeal No. 631 of 2023

- 1. Prateek Strivastava
- 2. Namita Mehta

Both R/o Flat No. B-191, The Icon DLF, Phase-5, Opposite
Two Horizon Centre Building, Sector-43, Gurugram-122009

Appellants.

Versus

M/s Vatika Limited, A-002, INXT City Centre, Ground Floor,
Block-A, Sector-83, Vatika India Next, Gurugram, Haryana-
122012

Respondents

CORAM:

Justice Rajan Gupta
Dinesh Singh Chauhan

Chairman
Member (Technical)

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Argued by: Mr. Parvez Chugh, Advocate for the appellants.

Mr. Kamaljeet Dahiya, Advocate for the respondent.

O R D E R:

RAJAN GUPTA, CHAIRMAN

This order shall dispose of above mentioned appeals, as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 629 of 2023.

2. Present appeal is directed against order dated 04.02.2022 passed by the Authority¹. Operative part thereof reads as under:

“G. Directions of the authority (Rectified vide order dated 04.02.2022)

62. 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 amount of assured return at the agreed rate i.e. Rs.96.75 per sq. ft. to the complainants from the date the payment of assured return has not been paid i.e. October 2018 till the date of completion of the building. After completion of the construction of the building, the respondent/builder would be liable to pay monthly assured returns @100/- per sq. ft. of the super area upto 3 years or till the unit is put on lease whichever is earlier.

¹ Haryana Real Estate Regulatory Authority, Gurugram

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ii. The respondent is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainants and failing which that amount would be payable with interest @7.30% p.a. till the date of actual realization.

iii. The respondent shall not charge anything from the complainants which is not part of the agreement of sale.

63. It is clarified that the period of appeal and period of payments of decretal amount shall be counted from the date this amended/rectified order is uploaded on the website of the Authority.

64. Complaint stands disposed of.

65. File be consigned to registry.”

2. The appeal is accompanied with an application (CM No. 1291 of 2023) seeking condonation of delay of 520 days in filing thereof.

3. In the application seeking condonation of delay, it is averred that after receiving notice of the appeal preferred by the respondent-promoter, the appellants contacted their earlier counsel to represent them in the aforesaid appeal and also prefer appeal on their behalf. The appellants were under the bonafide impression that the earlier counsel had preferred appeal on their behalf. They came to know that no appeal had been preferred on their behalf when the appeal filed by the respondent-promoter was dismissed on 21.08.2023. Thereafter, the appeal was prepared and filed. It is further averred that the delay is neither intentional nor deliberate.

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4. In reply to the application seeking condonation of delay, it is averred that the same has been filed without giving any substantial reason for such a huge delay. The delay is intentional.

5. We have heard learned counsel for the parties and given careful thought to the facts of the case.

6. In a recent judgment of the Hon'ble Supreme Court in **Pathapati Subba Reddy (Died) by L.Rs. & Ors. V. The Special Deputy Collector (LA)**², various principles governing condonation of delay have been culled out. Paragraph 26 thereof is reproduced hereunder:

26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself.*
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*

² SLP (Civil) No. 31248 of 2018, decided on 08.04.2024

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- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*
- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*
- (vii) Merits of the case are not required to be considered in condoning the delay; and*
- (viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”*

7. On a perusal of the principles laid down in the aforesaid judgment, it is evident that though a liberal and justice-oriented approach has to be adopted, it cannot be used to defeat the substantial law of limitation as laid down in the Limitation Act. Every application has to be decided in light of the facts and circumstances of each case. A right or remedy, which has not been exercised for a long time, must come to an end or cease to exist after a fixed period of time. It is trite law that in case the grounds are so specious that sufficient cause for condoning the delay is not made out, such application has to be rejected.

8. In the instant case, the grounds given by the appellants for condoning the delay in filing the appeal are not

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at all convincing. The appellants have merely given circuitous pleas in support of its application for condonation of delay. It is pertinent to mention that the appeal was filed after dismissal of the appeal filed on behalf of the respondent-promoter. The appellants were actively pursuing the execution of the order which demonstrates that they had full knowledge of the proceedings. The appellants had already got the order executed that was passed in their complaint. It has also come on record that the appellants have already received the amount of assured returns before the Executing Court. The appellants' lack of vigilance cannot be a valid ground for condoning such a huge delay. Under Section 44(2) of the Act³, a period of 60 days has been prescribed for preferring an appeal. However, in the instant case, appeal has been filed after an inordinate delay (520 days) and no cogent reasons are forthcoming for condonation thereof. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in the present case.

9. The application is, thus, without any merit and is dismissed.

10. Consequently, the appeals are also dismissed.

11. A copy of this order be sent to the parties/their counsel and the Authority.

³ The Real Estate (Regulation and Development) Act, 2016

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12. Files be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

July20,2026
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