BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: August 31,2026

(1) Appeal No.247 of 2024

JMD Ltd., 6, Devika Towers, Upper Ground Floor, Nehru Place, New Delhi-110019

Appellant.

Versus

Vandana Bhatia, B-164, Ashok Vihar, Phase-I, North West Delhi, Delhi 110052

Respondent

(2) Appeal No.248 of 2024

JMD Ltd., 6, Devika Towers, Upper Ground Floor, Nehru Place, New Delhi-110019

Appellant.

Versus

Ashish Bhatia, B-164, Ashok Vihar, Phase-I, North West Delhi, Delhi-110052

Respondent

(3) Appeal No.249 of 2024

JMD Ltd., 6, Devika Towers, Upper Ground Floor, Nehru Place, New Delhi-110019

Appellant.

Versus

Jaikishan Tilwani, 704, Tower-15, Orchid Patels, Sohna Road, Sector-49, Gurugram

Respondent

Coram:

Justice Rajan Gupta **Chairman**

Dinesh Singh Chauhan **Member (Technical)**

Present: Mr. Venket Rao, Advocate and
Ms. Ankita Saikia, Advocate for the appellant.

Mr. Rishab Jain, Advocate and
Mr. Harsh Sharma, Advocate for the respondent(s)

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. 247 of 2024.

2. Present appeal is directed against order dated 16.08.2023, passed by the Authority[1]. Operative part thereof reads as under:

> ***"G. Directions of the authority:***
> *32. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:*
> *a. The respondent is directed to refund the entire amount paid by the complainant along with prescribed rate of interest @ 10.75% p.a. as prescribed under rule 15 of the rules from the date of each payment till the date of refund of the deposited amount.*
> *b. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.*
> *33. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.*
> *34. The complaints stand disposed of. True certified copies of this order be placed on the case file of each matter.*
> *35. File be consigned to registry."*

3. It appears that a project in the name and style of 'JMD Suburbio II' was floated by the appellant-promoter in Sector 67, Gurugram. The allottee applied for a unit therein.

[1] Haryana Real Estate Regulatory Authority, Gurugram

Total sale consideration of the unit was Rs.41,99,068, out of which, the allottee remitted an amount of Rs.38,62,327/-. Buyer's agreement was executed between the parties on 29.10.2014, Due date of possession was 13.05.2017. Occupation Certificate was granted to the project on 28.06.2022. Offer of possession was made to the allottee on 04.07.2022. As there was delay in handing over the possession of the unit, the allottee preferred a complaint before the Authority seeking refund of the paid-up amount along with interest and other ancillary reliefs.

4. After hearing rival contentions of the parties, the Authority disposed of the complaint vide the impugned order by issuing the directions reproduced in para No. 2 of this order.

5. Feeling aggrieved by the impugned order, the appellant-promoter has filed the instant appeal.

6. Learned counsel for the appellant-promoter contended that the only grievance against payment of interest is that it was beyond the control of the promoter to get Occupation Certificate in time as the CBI was investigating the matter under the orders of Hon'ble Supreme Court.

7. A perusal of the record shows that the allottee filed the complaint before the Authority on 16.03.2022 seeking refund of the amount. The Occupation Certificate was granted to the project on 28.06.2022. It is well-settled that the allottee has unqualified right to withdraw from the project and seek refund of the paid-up amount. In this context, observations made by the Hon'ble Supreme Court in ***M/s Newtech Promoters and Developers Pvt. Ltd.'s case (supra)*** are

reproduced hereunder:

> *"78. This Court while interpretating Section 18 of the Act, in* ***Imperia Structures Ltd. v. Anil Patni and Another, 2020(10) SCC 783*** *held that Section 18 confers an unqualified right upon an allottee to get refund of the amount deposited with the promoter and interest at the prescribed rate, if the promoter fails to complete or is unable to give possession of an apartment as per the date specified in the home buyer's agreement in para 25 held as under:*
>
> > *"25. In terms of Section 18 of the RERA Act, if a promoter fails to complete or is unable to give possession of an apartment duly completed by the date specified in the agreement, the promoter would be liable, on demand, to return the amount received by him in respect of that apartment if the allottee wishes to withdraw from the Project. Such right of an allottee is specifically made "without prejudice to any other remedy available to him". The right so given to the allottee is unqualified and if availed, the money deposited by the allottee has to be refunded with interest at such rate as may be prescribed. The proviso to Section 18(1) contemplates a situation where the allottee does not intend to withdraw from the Project. In that case he is entitled to and must be paid interest for every month of delay till the handing over of the possession. It is up to the allottee to proceed either under section 18(1) or under proviso to Section 18(1). The case of Himanshu Giri came under the latter category. The RERA Act thus definitely provides a remedy to an allottee who wishes to withdraw from the project or claim return on his investment."*

8. The contention of learned counsel for the promoter that it was beyond its control to get Occupation Certificate in time due to pendency of investigation with CBI lacks merit. It is evident from the record that the matter remained under investigation by the CBI from 01.11.2017 to 11.5.2020. However, the due date of possession in the instant case was 13.05.2017. It is, thus, clear that the orders of Hon'ble Supreme Court were passed after the due date of possession expired. Thus, there was delay on the part of the promoter to deliver possession by due date of possession. Thus, the Authority has rightly directed the appellant-promoter to refund the paid-up amount along with interest from the date of each payment till the date of refund.

9. In view of above, we do not find any illegality or infirmity with the order passed by the Authority.

10. The appeals are dismissed.

11. The amount of pre-deposit made by the promoter in each case, along with interest accrued thereon, be remitted to the Authority for disbursement to the allottee(s), subject to tax liability, if any.

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

13. Files be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

August 31,2026/mk