BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 1306 of 2025

Date of Decision: October 30,2026

Kapil KalraS/o Sh. Charanjeet Kalra, aged about 46 years R/o99, Ullswater Crescent, London, SW 15 3RE presently at Delhi, India.

Appellant

Versus

M/s Corona Buildcon Private Limited, havingits Registered Office at: 102, South Ex Plaza 2, Room No. 209, Masjid Moth, South Delhi, Delhi, India, 110049, Corporate Office at: 504, DLF City Court, M.G. Road, Sikanderpur,Gurugram, Haryana, India, 122002.

Respondent

Coram:

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

Present: Mr. Tarun Singhal, Advocate,
for the appellant.

Mr. Devanshu Aggarwal, Advocate,
Mr. Kaustubh Khanna, Advocate,
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 11.09.2025 passed by the Authority[1] at Gurugram. Operative part thereof reads as under:

> *"21. On consideration of the documents available on record and submissions made by both the parties, the authority is of the view that the complainant has entered into a full and final settlement with the subsequent allottee by accepting*

[1] Haryana Real Estate Regulatory Authority, Gurugram.

the amount transferred by the subsequent allottee i.e., M/s NSS Enterprises. Also, the complainant has surrendered the unit and transferred the ownership rights to subsequent allottee vide letter dated 20.04.2023 which is prior to the filing of the complaint. Thus, the complainant is no longer remains allotttee with respect to the unit in question. The provisions of the Section 18 of the Act of 2016 is applicable only on allottee in whose favour a unit, plot or apartment has been allotted by the promoter. In the present case, the complainant is not a allottee, thus the relief sought by the complainant is declined being non-maintainable.

22. Complaint stands disposed of.

23. File be consigned to registry."

2. Factual matrix of the case is that the appellant-allottee booked unit No. C-0501 on the 5th floor in Tower-C in the respondent-promoter's project "Corona Gracieux", situated in Sector-76, Gurugram. The unit was allotted to him vide allotment letter dated 14.07.2012 for a basic sale consideration of ₹57,96,500/-, exclusive of other charges. No builder-buyer agreement was executed between the parties. The due date for delivery of possession was 14.07.2015, i.e., three years from the date of the allotment letter. The appellant paid ₹60,00,000/- up to 20.09.2018, and the respondent issued a no-dues certificate on that date. As the respondent-promoter failed to hand over possession even after receipt of the entire payment, the appellant filed a complaint before the Authority on 16.10.2023, seeking possession of the unit along with delayed possession charges.

3. The respondent-promoter contended before the Authority that vide document dated 20.04.2023, the appellant agreed to surrender and transfer his rights in the unit to M/s NSS Enterprises, subject to the conditions recorded therein. On the request of the subsequent allottee, the respondent issued a provisional allotment letter dated 31.07.2023 in favour of M/s NSS Enterprises, subject to submission of proof of payment. It was further contended that the appellant had ceased to be an allottee and, having received the entire consideration from the subsequent

purchaser, could neither claim possession nor delayed possession charges under Section 18 of the Act of 2016.

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

5. Aggrieved by the impugned order, the appellant-allottee preferred the instant appeal before this Tribunal. His principal grievance is that the Authority failed to appreciate that the proposed transfer in favour of M/s NSS Enterprises was conditional upon delivery of legal possession, obtaining of the occupation certificate, receipt of the stipulated payment, and realisation of the cheques. It is contended that, since the occupation certificate had not been obtained and possession had not been delivered, the transfer could not be treated as complete. It is further pleaded that the respondent-promoter unauthorisedly transferred the unit without the consent of the appellant. The appellant, therefore, claims that he continued to be an allottee on the date of filing of the complaint, i.e., 16.10.2023, and remained entitled to delayed possession charges for the period during which the respondent failed to deliver possession.

6. Per contra, learned counsel for the respondent-promoter supported the impugned order and submitted that the appellant had voluntarily surrendered his rights, received the entire consideration from the subsequent purchaser, and the unit was transferred in favour of the subsequent purchaser upon submission of proof of the entire payment made to the appellant-allottee.

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

8. At the outset, there is no privity of contract between the respondent-promoter and M/s NSS Enterprises, as the appellant and the respondent-promoter were the parties to the allotment of the unit in question. The respondent-promoter acted unilaterally on the

request of M/s NSS Enterprises and proceeded with the transfer without the consent or intimation of the appellant. There is no tripartite agreement amongst the appellant, the respondent-promoter and M/s NSS Enterprises by which the original allotment was substituted, the appellant was discharged from the contractual relationship, or M/s NSS Enterprises was accepted in his place. The provisional allotment letter dated 31.07.2023 was issued by the respondent directly in favour of M/s NSS Enterprises. The impugned order itself records that the appellant became aware of the provisional allotment only upon receiving the respondent's reply in the complaint. No material has been placed on record to show that the respondent informed the appellant of the proposed substitution or obtained his consent thereto or that he surrendered the possession to M/s NSS Enterprises in the absence of Occupation Certificate.

9. The due date for delivery of possession was 14.07.2015, whereas the provisional allotment letter in favour of M/s NSS Enterprises was issued only on 31.07.2023. Thus, more than eight years' delay had already occurred before the respondent purported to recognise the subsequent allottee. The respondent cannot rely upon its own act to avoid the consequences of the delay already occurred.

10. Under the proviso to Section 18(1) of the Real Estate (Regulation and Development) Act, 2016, the promoter is liable to pay interest for every month of delay to an allottee who continues with the project. A subsequent transfer cannot retrospectively extinguish the appellant's accrued entitlement in the absence of an express settlement or waiver thereof.

11. The receipt dated 20.04.2023 was executed between the appellant and M/s NSS Enterprises. It expressly made the proposed transfer subject to delivery of legal possession, obtaining of the occupation certificate, payment of the stipulated amount and

realisation of the cheques. Admittedly, the Occupation Certificate had not been obtained and legal possession had not been delivered when the complaint was filed. Thus, the conditions of the said receipt were not fulfilled and the transaction between the appellantand M/s NSS Enterprises remained incomplete. Consequently, the transfer of the unit in favour of M/s NSS Enterprises could not be treated as complete or justified. The allotment of the unit, therefore, continued to remain with the original allottee, i.e., the appellant.

12. The Authority, therefore, erred in treating the bilateral transaction between the appellant and M/s NSS Enterprises as sufficient to discharge the respondent from its liability under Section 18 of the Act. It further erred in declining the complaint as non-maintainable without examining whether there was any tripartite agreement, express waiver, or settlement of the respondent's accrued liability.

13. Consequently, the impugned order dated 11.09.2025 is set aside. The appellant is held entitled to possession as well as delay possession charges on the amount paid by him, at the prescribed rate under Section 18(1) of the Act read with Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, from the due date of possession, i.e., 14.07.2015, till the date of valid offer of possession issued after obtaining the Occupation Certificate, plus two months. It is clarified that this direction shall not determine or prejudice independent claim, if any, of M/s NSS Enterprises qua the appellant-allottee.

14. The appeal is disposed of in the above terms.

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

16. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

October 30,2026

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