

**IN THE DELHI STATE CONSUMER DISPUTES
REDRESSAL COMMISSION**

Date of Institution: 19.12.2022

Date of Hearing: 03.09.2025

Date of Decision: 16.10.2025

COMPLAINT CASE NO.- 211/2022

IN THE MATTER OF

MR. BRIJESH SINGH,

S/O MR. RAMCHANDRA SINGH

RESIDENT OF:

HOUSE NO. H405, 4th/F,

BLOCK H, POCKET C,

DDA LIG FLATS, MOLARBANDH,

NEW DELHI – 110044.

(Through: MNG Law Office)

...Complainant

VERSUS

PARKWOOD DEVELOPERS PVT. LTD.,

R/O: 1001, HEMKUNT CHAMBERS,

89 NEHRU PLACE,

NEW DELHI – 110019.

...Opposite Party

CORAM:**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)****HON'BLE MS. PINKI, MEMBER (JUDICIAL)****HON'BLE MR. J.P. AGRAWAL, MEMBER (GENERAL)**

Present: Mr. Nitin Goel, counsel for the Complainant (Enrl. No. D/2567/17, Email: advnيتين@hotmail.com)
None for the OP.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)**JUDGMENT**

1. The present complaint has been filed by the Complainant before this commission alleging deficiency of service and unfair trade practice on the part of the Opposite party and has prayed the following reliefs:

"1. Directing the Opposite Party No. 1 to refund a sum of Rs.18,50,000.00/- along with 18% interest to the Complainant paid by the Complainant to the Opposite Party No. 1 on account of Booking of Unit B-003, B-Block, Ground Floor, 1725 sq. ft Super Area in the project called PARKWOOD GLADE located at Kharar Landran Road, Mohali, Punjab-140307.

2. Directing the Opposite Party No. 1 to refund a sum of Rs 47,72,781.00/- along with all pending, future interest, charges, etc. to the Opposite Party No. 2 directly on account of housing loan of Complainant of flat in question.

3. Directing the Opposite Party No.2 to not to claim/charge any sum of loan, interest other charges from Complainant and to claim the same from opposite party no. 1 directly.

4. Directing the Opposite Party No.2 to not to present the security cheques of the Complainant bearing No. 000020 to 000040. drawn on HDFC Bank.

5. Directing the Opposite Party No.2 to not to file any cheque bounce, EMI Bounce, DRT Proceedings against

the Complainant or in the alternative file the same only against OP No.2.

6. Directing the Opposite Party No. 1 and 2 to pay to the Complainant a sum of Rs. 10,00,000/- (Rs. Ten Lakhs Only) as the compensation for the mental agony and harassment suffered by the Complainant due to nefarious and dubious activities of the Opposite Parties.

7. Directing the Opposite Parties to pay Rs. 1,00,000/- (Rs. One Lakh Only) as the litigation charges and Rs. 3,000/- (Rs. Three Thousand Only) as per hearing charges.

8. Directing the Opposite Party No. 2 to correct the CIBIL score of the complainant.”

2. The brief facts necessary for the adjudication of the present case are that on 22.07.2015, the Complainant booked a residential unit in the project called Parkwood Glade of the Opposite Party, situated at Kharar-Landran Road, Mohali, Punjab. Accordingly, the Opposite Party vide allotment letter dated 22.07.2015, allotted Unit No. B-003 having a super area of 1725 sq. ft. in Block-B on the ground floor. A Flat Buyer Agreement dated 22.07.2015 was executed between the parties for a total consideration of Rs.65,16,625/-. As per Clause 19(a) of the said Agreement, the Opposite Party was liable to hand over the possession of the said unit by 30.07.2017. However, the Opposite Party failed to hand over the possession of the said unit to the Complainant till date.
3. Moreover, the Complainant diligently followed the payment plan and had paid an amount of Rs. 18,50,000/- by 19.08.2015 to the Opposite Party. Further, the Opposite Party introduced LIC Housing Finance Ltd., wherein the Opposite Party assured the Complainant that if the Complainant obtained a loan towards the payment of the said unit from LIC Housing Finance Ltd., then the Opposite Party would pay all the

EMIs of the said loan to LIC Housing Finance Ltd. till the possession of the said unit was delivered. Accordingly, the LIC Housing Finance sanctioned a loan amount of Rs.58,00,000/- to the Complainant. Subsequently, LIC Housing Finance Ltd. disbursed an amount of Rs.47,72,781/- to the Opposite Party and a MoU was executed between the Complainant and Opposite Party no.1, wherein it was specifically mentioned that the Opposite Party would make the EMIs on behalf of the Complainant till possession was delivered.

4. Thereafter, the Opposite Party paid the EMIs only for some time and then stopped making the payments. The Complainant also made several communications regarding the possession of the said unit but the Opposite Party kept on delaying the possession. Therefore, the Complainant suffered great hardship as on one hand, LIC Housing Finance Ltd. started demanding EMIs from the Complainant and on the other hand, the Opposite Party failed to deliver the possession within the stipulated time and caused inordinate delay. Thus, the Complainant approached this Commission alleging deficiency in service on the part of the Opposite
5. During the course of the proceedings, notice was issued to the Opposite Party on 23.12.2022. It is evident from the affidavit filed by the Complainant that the said notice was served upon the Opposite Party on 20.02.2023 and also served through post on 27.02.2023. However, the Opposite Party failed to file the written statement within the stipulated period. Therefore, this Commission vide order dated 21.02.2023, closed the right of the Opposite Party to file its written statement. Since the right of the Opposite Party to file written statement was closed, the averments made in the complaint remain un rebutted.

6. The Complainant has filed his Evidence by way of Affidavit to substantiate his averments on record.
7. The Complainant has filed the written arguments and reiterated that the allegation made in the complaint. They relied upon the following judgments:
 - a. *M/s Fortune Infrastructure vs Trevor D'Lima & Ors., Civil Appeal No(s). 3533-3534 of 2017, Supreme Court of India Civil Appellate Jurisdiction.*
 - b. *Central Bank of India vs. Ravindra and Ors. AIR 2001 Supreme Court 3095.*
8. We have perused the material available on record and heard the counsel for the parties.
9. The fact that the Complainant had booked said unit with the Opposite Party is evident from the Flat Buyer's Agreement dated 22.07.2015. (**Annexure A-2**). Payment to the extent of **Rs. 18,50,000/-** by the Complainant to the Opposite Party is evident from the receipts issued by the Opposite Party. (**Annexure A-4, A-5 and A-6**).
10. The *main question* for consideration before us is *whether the Opposite Party is deficient in providing its services to the Complainant?*
11. The expression Deficiency of Service has been dealt with by the Hon'ble Apex Court in *Arifur Rahman Khan and Ors. vs. DLF Southern Homes Pvt. Ltd. and Ors.* reported at **2020 (3) RCR (Civil) 544**, wherein it has been discussed as follows:

"23.The expression deficiency of services is defined in Section 2 (1) (g) of the CP Act 1986 as:

(g) "deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a

person in pursuance of a contract or otherwise in relation to any service.

24. A failure of the developer to comply with the contractual obligation to provide the flat to a flat purchaser within a contractually stipulated period amounts to a deficiency. There is a fault, shortcoming or inadequacy in the nature and manner of performance which has been undertaken to be performed in pursuance of the contract in relation to the service. The expression 'service' in Section 2(1) (o) means a service of any description which is made available to potential users including the provision of facilities in connection with (among other things) housing construction. Under Section 14(1)(e), the jurisdiction of the consumer forum extends to directing the opposite party inter alia to remove the deficiency in the service in question. Intrinsic to the jurisdiction which has been conferred to direct the removal of a deficiency in service is the provision of compensation as a measure of restitution to a flat buyer for the delay which has been occasioned by the developer beyond the period within which possession was to be handed over to the purchaser. Flat purchasers suffer agony and harassment, as a result of the default of the developer. Flat purchasers make legitimate assessments in regard to the future course of their lives based on the flat which has been purchased being available for use and occupation. These legitimate expectations are belied when the developer as in the present case is guilty of a delay of years in the fulfilment of a contractual obligation.

12. The above dicta reflects that failure on the part of the developer to deliver possession of the flat/unit to the purchaser within the contractually stipulated period constitutes a deficiency in service.
13. At this stage, it is appropriate to refer to Clause of the Flat Buyers Agreement dated 22.07.2015 (*Annexure A-2*), which is reproduced as hereunder:

“19 a) The possession of the said premises is proposed to be delivered by the Developer to the purchaser by 30th

June 2017, subject to receipt of all payments punctually as per agreed terms and on receipt of complete payment of the basic sale price and other charges due and payable upto the date of possession according to the payment plan applicable to him and if delay is due to force majeure conditions....”.

14. It reflects that the Opposite Party was bound to hand over the possession of the said unit by 30.07.2017. However, the Opposite Party has miserably failed to hand over the possession of the said unit till date. Hence, the Opposite Party has failed to fulfill its contractual obligation with respect to the timely handing over of possession to the Complainant.
15. More so, it has been well settled that the Complainant cannot be expected to wait for an indefinite period to receive the benefits of the hard-earned money they have spent in order to purchase the property in question (*Ref: Fortune Infrastructure v. Trevor D'Lima reported at (2018) 5 SCC 442*).
16. Relying on the above settled law, we hold the Opposite Party is deficient in providing its services to the Complainant as the Opposite Party had given false assurance to the Complainant with respect to the time for completing the construction of the said unit and kept the hard-earned money of the Complainant.
17. Furthermore, it is evident from the loan sanction letter (*Annexure A-7*) that the Complainant had taken a loan of Rs. 58,00,000/-, out of which an amount of Rs. 47,72,781/- was directly disbursed by LIC Housing Finance Ltd. to the Opposite Party towards the payment of the said unit (*Annexure A-8*). Moreover, it is clear from the record that the Opposite Party was liable to pay the EMIs to the Bank till the possession was handed over to the Complainant but till date the possession has not been delivered and the Opposite Party also stopped paying the EMIs

midway. Therefore, we are of the considered view that the Opposite Party is liable to refund the principal amount paid by the Complainant as well as to clear the loan liability of the Bank.

18. Keeping in view the facts of the present case and the extensive law as discussed above, *we direct the Opposite Party no.1 to refund the entire amount i.e. Rs. 18,50,000/- (as paid by the Complainant till date), along with interest as per the following arrangement:*

- A. An interest @ **6% p.a.** calculated from the date on which each installment/payment was received by the Opposite Party till **16.10.2025** (being the date of the present judgment);
- B. The rate of interest payable as per the aforesaid clause (A) is subject to the condition that the Opposite Party pays the entire amount on or before **16.12.2025**;
- C. Being guided by the principles as discussed above, in case the Opposite Party fails to refund the amount as per the aforesaid clause (A) on or before **16.12.2025**, the entire amount is to be refunded along with an interest @ **9% p.a.** calculated from the date on which each installment/payment was received by the Opposite Party till the actual realization of the amount.

19. In addition to the aforesaid and taking into consideration the facts of the present case, the Opposite Party is directed to pay a sum of:

- A. Rs. 1,00,000/- as cost for mental agony and harassment to the Complainant; and
- B. The litigation cost to the extent of Rs. 50,000/- to the Complainant.

20. The Opposite Party No.1 is further directed to clear the outstanding loan amount of the Complainant, pertaining to the said unit, with LIC Housing Finance Ltd.
21. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.
22. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
23. File be consigned to record room along with a copy of this Judgment.

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

(PINKI)
MEMBER (JUDICIAL)

(J.P. AGRAWAL)
MEMBER (GENERAL)

Pronounced On:

16.10.2025

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