

**BEFORE SHRI BINOD KUMAR SINGH, MEMBER
REAL ESTATE REGULATORY AUTHORITY, PUNJAB**

Complaint No. G C No 0015 of 2023

Date of Institution: 23.01.2023

Dated of Decision: 27.05.2026

Sanjeev Kumar, House No.782, Sector 9 A, Gurgaon, Haryana-122001

....Complainant

Versus

1. M/s Bajwa Developers Ltd. through its MD, Regd./Sales Office - SCO 17-18, Sunny Enclave, Desumajra, Kharar, Sahibzada Ajit Singh Nagar (Mohali), Punjab -140301
2. Baldev Singh S/o Joga Singh, 2525 Sunny Enclave, Sector 125 Kharar District & State Sahibzada Ajit Singh Nagar (Mohali), Punjab - 140301
3. Sukhwinder Mohan Lal Son of Mohan Lal, House No 1282, Phase 1 Ram Darbar District & State Sahibzada Ajit Singh Nagar (Mohali), Punjab-140301
4. Jarnail Singh Son of Bishan Singh, 1002 Sector 71, Sahibzada Ajit Singh Nagar (Mohali) , Punjab -160071
5. Kashmir Singh Sales Representative, SCO 17 18 Sunny Enclave, Deshu Majra, Sector 125 Kharar Sahibzada Ajit Singh Nagar (Mohali), Punjab-140301

....Respondent

Complaint in Form 'M' u/S 31 of the Real Estate (Regulation and Development) Act, 2016, read with Rule 36 (1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017.

(Registration Number: PBRERA-SAS80-PR0580)

- Present:
1. Shri Ravi Kumar Nayak, advocate, for the complainant
 2. None for respondent no. 1 to 4
 3. Sh Vipul Monga and Ms Rabia Devgan, Advocates for the respondent no. 1 & 5.

ORDER U/s 31

1. This complaint in Form 'M' under Section 31 of the Real Estate (Regulation and Development) Act, 2016, (hereinafter referred to as the Act of 2016) read with Rule 36 (1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the Rules of 2017)

was instituted on 23.01.2023 by the complainants in their individual capacity against the respondent seeking following reliefs:

1.1 Refund of the amount of Rs. 24,38,075/- alongwith interest @ 15% p.a. w.e.f. the dates of payment till the final realization.

2. The brief facts of the complaint as submitted by complainant are summarized below: -

2.1 The Complainant booked a residential plot in the project in year 2012 and made a payment of Rs.7,30,000/- by way of Cheque bearing the number 234678 dated 27.12.2012, drawn on HDFC Bank. He was allotted the plot number 534 D, in Sector 124 Sunny Enclave, Kharar measuring 138.89 square yards acknowledged vide Receipt dated 27.12.2012 [D-1 & D-2].

2.2 The sale consideration of the plot was fixed @ Rs.24,30,675/- and the delivery of the plot in the fully developed project with all the basic amenities, was agreed for 3 years from the date of booking.

2.3 The Complainant made following payments

i) Rs.4,86,000/- vide cheque no.146427 dated 7.04.2013,

ii) Rs.6,08,000/- vide cheque no.146428 dated 1.06.2013

both drawn on ICICI Bank acknowledged vide Receipts dated 7.04.2013 and 01.06.2013. [D-3 to D-6].

2.4 The Complainant, in year 2015, was informed by the company that the project has reached its final stage and directed to make the final payment of Rs.5,56,575/- excluding the EDC amount. However, the Respondent company representative informed the Complainant that there was some problem with the allotted plot i.e. 534 D, and clarified that the Complainant would be given some other plot and Complainant agreed for the allotment of a plot in the new location. Thereafter, the Complainant made the balance payment of Rs.5,56,575/- vide cheque no. 804746 dated 19.07.2015 and amount of

Rs.57,500/- against EDC vide cheque no. 804747 dated 18.07.2015 both drawn on ICICI Bank acknowledged vide receipts dated 19.07.2015 [D-7 & D-8].

2.5 Vide letter dated 25.07.2015, a plot bearing the number 500D, measuring 138.89 square yards was re-allotted in the said project and acknowledged the payment of the full and final payment of Rs.23,81,000/- and also the payment against the EDC to the tune of Rs.57,500/- on part of the Complainant. [D-9].

2.6 The Complainant requested the respondent vide letter dated 23.06.2022 and 30.07.2022 to get the registration of the plot No.500-D, allotted vide letter dated 25.07.2015 but there was no response from the Respondents' side. [D-10 & D-11].

2.7 The Complainant also served a legal notice dated 04.10.2022 to the Respondents claiming refund of the amount paid alongwith interest and compensation. However, the Respondents have not responded to the same till date. [Document D-12].

3. On 21.02.2023, notice was issued to the respondents to appear in person or through authorized representative and to file reply within 15 days of the receipt of the notice. Hearing date i.e. 20.04.2023 was fixed for appearance and filing for reply. On 20.04.2025, Sh Harinder Singh Advocate appeared for the complainant and Ms Rabia Devgan Advocate appeared for respondent no. 1,4 & 5. Ms Rabia Devgan, Advocate for respondents no. 1,4 & 5. No body appeared on behalf of respondent no. 2 & 3. Ms Rabia Devgan, advocate submitted her Power of Attorney and requested for time to file the reply. Ms Rabia Devgan was directed to submit the reply within four weeks with an advance copy to Counsel of the complainant. Next date was fixed on 15.06.2023 for further proceedings. Further, counsel of the complainant was directed to ensure that the addresses of the respondents no. 2 & 3 provided

in the complainant are correct, in case there are any change in the addresses that be intimated to the registry of this Authority. Registry was also directed to issue fresh notice in case of any change in address of respondent no. 2 & 3.

3.1 On next date of hearing i.e. 15.06.2023, neither anybody appeared on behalf of complainant and respondents nor any reply was received. In the interest of natural justice another opportunity was granted. As the complainant had not provided fresh addresses of respondents no. 2 & 3, another opportunity was granted to the Ld counsel of the complainant to submit the fresh addresses of respondents no. 2 & 3. Case was fixed for 24.08.2023 for further proceedings. On next date of hearing i.e. 24.08.2023, neither anybody appeared on behalf of complainant and respondents nor any reply has been received. In the interest of natural justice another opportunity was granted to submit reply in two weeks. Complainant has not provided fresh addresses of respondents no. 2 & 3, the Ld counsel of the complainant directed to provide fresh addresses of respondents no. 2 & 3. Case was fixed for 14.09.2023 for further proceedings.

3.2 On 14.09.2023, none appeared on behalf of complainant. Shri Ripudaman Singh, Advocate appeared on behalf of respondents no. 1,4 &5 and prayed for four weeks' time to file reply and the same was allowed with a direction to supply advance copy to the counsel of the complainant. Registry informed that the complainant has not provided fresh addresses of respondents no. 2 & 3, the Ld counsel of the complainant directed to provide fresh addresses of respondents no. 2 & 3 immediately. Case was fixed for 27.10.2023 for further proceedings. On 27.10.2023, the court was adjourned thus the case was refixed for 24.11.2023 for further proceedings.

3.3 On 24.11.2023, Sh Ravi Kumar Nayak, Advocate for the complainant and Sh Vipul Monga, Advocate for respondent no. 1,4 & 5 appeared. No body appeared on behalf of respondent no. 2 & 3. Registry informed that the complainant has not provided fresh addresses of respondents no. 2 & 3, the

Ld counsel of the complainant directed to provide fresh addresses of respondents no. 2 & 3 within one week time. Sh Vipul Monga submitted an application for removal of name of respondent no. 5. Sh Vipul Monga also submitted another application for producing additional evidence for adjudication of the case. Copies of both applications submitted by Sh Vipul Monga had been supplied to the counsel of complainant for filing his response. The counsel of the respondent no. 1 & 4 was directed to furnish the reply within three weeks' time. Case was refixed for 04.01.2024 for further proceedings

3.4 On 04.01.2024, Sh Vipul Monga, Advocate for respondent no. 1,4 & 5 appeared. No body appeared on behalf of complainant and respondent no. 2 & 3. Sh Vipul Monga, advocate stated that the copy of the agreement for sale has not been enclosed by the complainant with his complaint. He also stated that office of the respondent no. 1 has been seized by the Income Tax Authority and respondent does not have any copy of 'agreement to sale'. Counsel of the respondents no. 1,4 & 5 were again directed to furnish the reply within three weeks' time. Case was refixed for 08.02.2024 for further proceedings. Thereafter matter was taken up on 17.05.2024. Sh Ravi Kumar Nayak, Advocate for the complainant and Ms Rabia Devgan, Advocate for respondent no. 1,4 & 5 appeared on 17.05.2024. No body appeared on behalf of respondent no. 2 & 3. The Ld counsel for respondents no. 1 & 4 requested for more time to file the reply. On the date of hearing counsel of the complainant was also directed to submit his response to the application filed by the respondent no. 5 for deletion of his name from the array of the respondents. Case was fixed for 19.07.2024 and thereafter for 10.09.2024 for further proceedings.

3.5 On 10.09.2024, Ms Rabia Devgan, Advocate for respondent no. 1,4 & 5 appeared on 10.09.2024. No body appeared on behalf of complainant and respondents no. 2 & 3. Reply to the application for deletion of name of the respondent is available on record. Respondent no. 1,4 &5 was also directed to

place on record a copy of agreement to sell along with agreed date of possession. Case was fixed for 18.11.2024 and thereafter for 13.12.2024 for further proceedings as case had been re-assigned to the Bench of undersigned. No body attended the proceeding on behalf of the complainant and respondents on 13.12.2024 and on 06.02.2025. Case was fixed for 27.03.2025 for reply.

3.6 On 27.03.2025, Sh Abhay Proxy advocate appeared on behalf of complainant but nobody attended the proceeding on behalf of respondents no. 1 to 5. Case is fixed for 24.04.2025 for reply. On 24.04.2025, Sh Ravi Kumar Nayak, Advocate for the complainant and Ms Rabia Devgan, Advocate for respondent no. 1,4 & 5 appeared. No body appeared on behalf of respondent no. 2 & 3. Counsel of the respondents no. 1,4 & 5 sought more time for reply. One more opportunity granted to the respondent to file reply before next date of hearing. Case was fixed for 03.07.2025 for reply. On 03.07.2025, Sh Harvinder Singh proxy Advocate for Sh Ravi Kumar Nayak, Advocate for the complainant and Ms Rabia Devgan, Advocate for respondent no. 5 appeared. No body appeared on behalf of respondent no. 1 to 4. On the date of hearing counsel for the complainant has raised objection vide application dated 17.05.2024 for deletion of name of respondent no. 5 for array of respondents. Further, it was also informed to the counsel of respondent no. 5 that since the respondent no.1 has not been appeared so far and respondent no.5 is one of the key person who was dealing with the complainant pertaining to the unit under consideration, thus it was considered view of the undersigned that it is not correct at this stage to delete the name of respondent no. 5 from the proceedings. Case was fixed for 21.08.2025 for reply.

3.7 On 21.08.2025, Sh Harvinder Singh, proxy advocate for Sh Karan Nayak Advocate for the complainant had submitted application for deletion of name of respondent no. 5 i.e. Sh Kashmir from the complaint. Sh Vipul Devgan, Advocate for respondent no.5 appeared. Respondent was directed to collect

the reply of the complainant on the issue of deletion of name of respondent no. 5. Case was fixed for 18.09.2025 for reply.

3.8 The counsel of complainant in his reply vide dated 20.08.2025 to application dated 03.07.2025 filed on behalf of the respondent no. 5 submitted that the complainant visited the office of the respondents for the purpose of making the final payment and the Respondent no. 5 informed the complainant that there was some problem with the initially allotted plot i.e. 534D and assured that another plot would be allotted to the complainant. Respondent no. 5 also pursued the complainant to agree for the allotment of an alternate plot by alluring that the new location would be completely developed with all the road, sewerage, water connection etc. The respondent no. 5 was instrumental in handling all the affairs with the complainant and is an essential party for the proper adjudication of the present matter.

3.9 On 18.09.2025, the court was not available. On next date of hearing i.e. 16.10.2025, none appeared on behalf of complainant and respondents. Subsequently, the case was fixed for 11.12.2025 for arguments. On 11.12.2025, Sh Harvinder Singh proxy Advocate for Sh Ravi Kumar Nayak, Advocate for the complainant and Sh Vipul Monga, Advocate for respondent appeared. Ld Counsel for complainant requested for adjournment and Ld Counsel for respondents stated that he wants to withdraw the Power of Attorney in the matter. The same was allowed. The case was fixed for 12.02.2026 for arguments. On 12.02.2026, Sh Ravi Kumar Nayak, Advocate for the complainant appeared through video conference and none had appeared on behalf of respondents. The case was fixed for 19.03.2026 for arguments.

3.10 On 19.03.2026, Ms Sandeep Kaur, proxy Advocate for Sh Karan Nehra, Advocate for the complainant appeared. Ms Rabia Devgan, Advocate for respondent appeared. Ld Counsel for complainant requested for adjournment as main counsel was not available for arguments. Ld Counsel for

respondents stated that on 11.12.2025, she had withdrawn the power of attorney for the respondent but she had now submitted Power of Attorney as the respondents no. 1 & 5 have engaged her as counsel. The case was fixed for 07.05.2026 for arguments. On 07.05.2026, Sh Ravi Kumar Nayak, Advocate for the complainant appeared through video conference and argued the matter and none had appeared on behalf of respondents. Matter was reserved for order.

4. It is clear from above details that despite various opportunities granted to respondent neither any reply to complaint was filed by respondents nor there was any proper and consistent representation on behalf of respondents till date. It is evident that respondents are not interested in perusing the case and non-filing of reply indicates that they have nothing to submit in response to complaint.

5. The undersigned heard arguments of the Counsel for the complainant on 07.05.2026. The undersigned have duly considered the documents filed and written & oral submissions of the complainant.

6. The complainants made payment of Rs.24,38,075/- for allotment of plot. As per receipts of payment dated 27.12.2012, 07.04.2013 and 01.06.2013 issued by M/s Bajwa Developers Ltd (Respondent no.1), allotted plot number 534D. However, as per receipt date 19.07.2015 plot number was changed from 534D to 500D. The same facts were further verified from the no dues certificate dated 25.07.2015 issued by M/s Bajwa Developers Ltd (Respondent no.1). Vide NDC dated 25.07.2015, the complainant stated that full & final payment of Rs. 23,81,000/- has been paid in respect of plot no. 500D of 138.89 Sq. Yards in sector 124, sunny Enclave Township, Tehsil Kharar, Distt. Mohali. As per submission of complainant, no possession of plot had been handed over to him in spite of the fact that all payment has been made. During proceedings, respondent had failed to furnish any submission in respect of possession of plot.

6.1 In the present case, even though no specific agreement has been executed by the respondent no. 1, it is submitted by the complainant that at the time of booking of the plot, it was assured that the same shall be handed over within a span of three years.

6.2 Further, the Hon'ble Supreme Court of India in Civil Appeal No(S) 3533 -3534 of 2017 in case of M/s. Fortune Infrastructure (Now Known As M/s. Hicon Infrastructure) & Anr. Versus Trevor D'lima & Ors in para 23 of the order held that the appellants were to perform the contract within a reasonable period of three years from the date of the agreement. In this case the Supreme Court had held a period of 3 years to be reasonable. Therefore, in view of Apex court decision, in this case possession date is considered three years after the date of booking of plot i.e. 27.12.2015.

7. The case of complainant and the claim made thereunder including the documents produced on record in support thereof remained unrebutted as respondent chose not to reply and argue despite affording sufficient opportunity and they were proceeded against exparte. From the documents placed on record by the complainant, it was evident that despite making full payment of the sale consideration, the complainants were not given possession of the plot. By way of the present complaint, complainants seek only the refund of their amount having been paid along with interest as they did not intend to remain in project and their claim for that is very much justified and rightful under the circumstances.

8. Further, Hon'ble Supreme Court of India, in Para 77, of its judgment in **M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. and others in Civil Appeal Nos. 6745-6749 of 2021.** has reiterated the law declared by the court in **Imperia Structures Ltd.(supra)**. The same is reproduced below:-

"77.The submission has no foundation for the reason that the legislative intention and mandate is clear that Section 18(1) is an indefeasible right of the allottee to get a return of the amount on demand if the promoter is unable to handover possession in terms of the agreement for sale or failed to complete the

project by the date specified and the justification which the promotor wants to tender as his defence as to why the withdrawal of the amount under the scheme of the Act may not be justified appears to be insignificant and the regulatory authority with summary nature of scrutiny of undisputed facts may determine the refund of the amount which the allottee has deposited, while seeking withdrawal from the project, with interest, that too has been prescribed under the Act..."

Hence, complainants are entitled for refund of the entire amount paid by the complainant, along with prescribed rate of interest. The change of unit from 534D to 500D does not alter the charge of interest u/s 18(1) of RERD Act.

9. Since the possession of plot has been delayed inordinately; therefore, as per provisions of Section 18 the complainant is entitled to claim refund along with interest as per its choice in case of non-completion on due date. It reads as under: -

"18. (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building, —

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

As a net result of the above discussion, this complaint is accordingly allowed and respondents are directed:

9.1 To refund the amount of Rs.24,38,075/- along with interest @ 10.80% (i.e. 8.80% SBI's Highest MCLR Rate applicable as on 01.05.2026 + 2%) as per Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules, 2017 from respective date of payment till the date of actual refund.


9.2 Respondents are further directed to refund the amount of Rs. 24,38,075/- along with interest thereon to the complainant within the statutory time i.e. ninety days stipulated under Rule 17 of the Rules of 2017

from the date of receipt of this order and submit a compliance report to this Authority about releasing the amount along with interest as directed.

10. It may be noteworthy that in case compliance report is not submitted by the respondents after the expiry of above stated period of ninety days and further any failure to comply with or contravention of any order, or direction of this Authority may attract penalty under Section 63 of this Act of 2016.

11. The complainant is also directed to submit report to this Authority that they have received the amount along with interest as per directions issued in this order.

12. File be consigned to record room after due compliance.


(Binod Kumar Singh)
Member, RERA, Punjab