

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB  
SCO No. 95-98, Bank Square, P.F.C Building, Sector-17-B, Chandigarh

Subject: -

**APPEAL NO. 139 of 2022**

1. Rupali S Verma, wife of Shri Shekhar Verma, resident of House No.2564, Part 3, Sector 21, Panchkula Haryana - 134117.
2. Shekhar Verma, son of Late Shri F.C. Verma, resident of House No.2564, Part 3, Sector 21, Panchkula Haryana- 134117.

...Appellants

Versus

Greater Mohali Area Development Authority, PUDA Bhawan,  
Sector 62, Sahibzada Ajit Singh Nagar (Mohali) through  
Estate Officer.

...Respondent

**APPEAL NO. 208 of 2022**

Greater Mohali Area Development Authority, PUDA Bhawan,  
Sector 62, Sahibzada Ajit Singh Nagar (Mohali) through  
Estate Officer.

...Appellant

Versus

1. Rupali S Verma
2. Shekhar Verma

Both residents of House No.2564, Part 3, Sector 21,  
Panchkula, Haryana - 134117.

....Respondents



Memo No. R.E.A.T./2023/ 278

To,

REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1<sup>ST</sup> FLOOR,  
BLOCK B, PLOT NO.3, MADHYA MARG, SECTOR-18,  
CHANDIGARH-160018.

Whereas appeals titled and numbered as above ~~was~~<sup>were</sup> filed before the  
Real Estate Appellate Tribunal, Punjab. As required by Section 44 (4) of the  
Real Estate (Regulation and Development) Act, 2016, a certified copy of the  
order passed in aforesaid appeals is being forwarded to you and the same  
may be uploaded on website.

Given under my hand and the seal of the Hon'ble Tribunal this 16th

day of August, 2023.



*Dhanendra Kumar*  
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

**IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB**

APPEAL NO. 139 OF 2022

**MEMORANDUM OF PARTIES**

1. Rupali S Verma, wife of Shri Shekhar Verma, resident of House No.2564, Part 3, Sector 21, Panchkula Haryana - 134117
2. Shekhar Verma, son of Late Shri F.C. Verma, resident of House No. 2564, Part 3, Sector 21, Panchkula Haryana - 134117

...Appellants

Versus

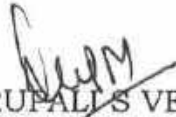

Greater Mohali Area Development Authority, PUDA Bhawan, Sector 62, Sahibzada Ajit Singh Nagar (Mohali) through Estate Officer.

.....Respondent



PLACE:CHANDIGARH

DATE: 21.07.2022

 [RUPALI S VERMA]  [SHEKHAR VERMA]

**APPELLANTS IN PERSON**

Contact Details: 09779333225

Email ID: [rupalishekhar2564@gmail.com](mailto:rupalishekhar2564@gmail.com)

BEFORE THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB,  
SECTOR-17, CHANDIGARH-160017.  
*Appeal No. 208/2022*  
MEMO OF PARTIES

Greater Mohali Area Development Authority, PUDA Bhawan, Sector  
62, Sahibzada Ajit Singh Nagar (Mohali), Punjab-160062 ...Appellant

Versus

Rupali S Verma,

Shekhar Verma

Both residents of House No. 2564, Part 3, Sector 21, Panchkula,  
Haryana - 134117. ...Respondents



Place: Chandigarh  
Date: 30.11.2022

*Bu*  
(Bhupinder Singh & Balwinder Singh)  
Advocates  
Counsel for the Appellant

**THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT  
CHANDIGARH**

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**APPEAL NO. 139 of 2022**

1. Rupali S Verma, wife of Shri Shekhar Verma, resident of House No.2564, Part 3, Sector 21, Panchkula Haryana - 134117.
2. Shekhar Verma, son of Late Shri F.C. Verma, resident of House No.2564, Part 3, Sector 21, Panchkula Haryana-134117.

...Appellants

Versus

Greater Mohali Area Development Authority, PUDA Bhawan, Sector 62, Sahibzada Ajit Singh Nagar (Mohali) through Estate Officer.

...Respondent

**APPEAL NO. 208 of 2022**

Greater Mohali Area Development Authority, PUDA Bhawan, Sector 62, Sahibzada Ajit Singh Nagar (Mohali) through Estate Officer.

...Appellant

Versus

1. Rupali S Verma
2. Shekhar Verma

Both residents of House No.2564, Part 3, Sector 21, Panchkula, Haryana - 134117.

....Respondents

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**Present: -** Mrs. Rupali S Verma, appellant/allottee (in person).  
Mr. Balwinder Singh, Advocate for the developer.





**CORAM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN  
SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.),  
MEMBER (JUDICIAL)  
ER. ASHOK KUMAR GARG, CHIEF ENGINEER (RETD.),  
MEMBER (ADMN./ TECH.)**

**JUDGMENT: SH. S.K. GARG DISTT. & SESSIONS JUDGE  
(RETD.), MEMBER (JUDICIAL) (ORAL)**

1. Both these appeals have been filed against order dated 31.05.2022 passed by the Real Estate Regulatory Authority, Punjab at Chandigarh Punjab (hereinafter known as the Authority), vide which the complaint filed by the complainants was allowed and the following reliefs were granted to them.

i) The respondent shall pay interest @9.50% per annum (today's highest MCLR rate of 7.50% plus 2%) on Rs.89,74,442/-, paid by the complainant, w.e.f. 12.08.2018 till the actual handing over of possession.

ii) The complainants are directed to take possession of the plot within 30 days of issue of this order.

2. Admittedly one Sitaram son of Suraj Singh applied for the allotment of plot of 300 sq. yards on 30.04.2015 in Eco City-2, New Chandigarh. Upon being successful in the draw of plots, Letter of Intent (LoI) was issued to him by respondent vide letter dated 13.08.2015. The Letter of



Intent (LoI) was subsequently transferred in the name of the complainants.

3. As per Clause 14 of Letter of Intent (LoI) all development works at the site were to be completed in 36 months and the allotment letter was to be issued after the completion of **"All Development Works"**. The allottees are required to take possession of plot within 30 days of issuance of allotment letter.

4. Vide letter dated 18.09.2020 plot bearing No.3130/Corner, measuring 306/25 sq. yard was allotted to the complainants.

5. However, the development works were not completed within the stipulated period but the allotment letter was issued as such the complainants refused to take possession of the allotted plot and filed the complaint before the Authority resulting into the impugned order.

It is also an admitted fact that during the pendency of this appeal the possession of the plot was handed over to the complainants on 24.05.2023.

7. It has been argued on behalf of the complainants that in this case the allotment letter was to be issued after the completion of all the development works but the respondent issued the allotment letter without completion of the development works as the energization



of the electricity service has not been completed when the allotment letter was issued on 18.09.2020. It has been further submitted that the complainants/allottees could not have started the construction work unless and until there is electricity supply at the spot so the direction given by the learned Authority to them to take possession of the plot within 30 days of the issuance of the impugned order is arbitrary and illegal. A prayer has been made to set aside the said directions. Another submission has been made to direct the respondents to pay the interest for the period of delayed possession till 24.05.2023 on which date the possession was delivered.

8.

On the other hand, it has been submitted by the learned counsel for the respondent that the energization of electricity services was completed on 10.06.2021 and the PSPCL has taken over the charge of the electrical equipments for its maintenance and operation on 22.09.2021, as is evident from letter dated 10.03.2023. Moreover, according to the learned counsel, the possession could not have been given to the complainants in the absence of sanctioned building plans, which were never submitted by the complainants. It has been prayed that the appeal filed by the complainants be dismissed.





9. We have given thoughtful consideration to the submission of both the parties. As per clause 14.1 of the Letter of Intent (LoI), letter of allotment was to be issued after the completion of all the development works. All the development work includes the work of energization of electric service as well, as without electricity nobody can raise construction on the allotted plot, therefore, the allotment letter dated 18.09.2020 which was issued before the completion of the energisation of electric services is meaningless being illusory. The complainant could not have been forced to take possession of the allotted plot without the electric supply. In this view of the matter the direction of the learned Authority to the complainants to take possession of the plot within the 30 days of the passing of the impugned order is set aside being illegal and arbitrary.



So far as the submission of the learned counsel for the respondent-Authority that the possession could not have been given to the complainants in the absence of sanctioned plans is concerned, the same is without any merit because this assertion is not substantiated by any document. Even otherwise as per Clause 12 of Allotment Letter dated 18.09.2020, the allottees could not undertake constructions of building over the plot without getting the building plans approved from the competent

authority. Thus the submission of the building plan is a pre-condition for the construction of the building and not for taking possession.

11. Of course, the letter dated 10.03.2023, reveals that the energization of the electric services has been completed on 10.06.2021 but this fact was never disclosed to anyone. So much so there is no reference in the grounds of appeal preferred by the GMADA that the electric work was completed on 10.06.2021 and energized on 10.03.2023. This fact was disclosed before this Court for the 1<sup>st</sup> time on 06.04.2023 by them. No explanation has been given as to why it took so long for the respondents to disclose this fact. This reflects seriously on the bona fides of the respondent.

12.

Admittedly no allotment letter was issued to the complainants after the energization of the electric services was completed, so the offer of possession vide allotment letter dated 18.09.2020 was meaningless as the possession was offered without the completion of all the development works.

13.

For the aforementioned reasons the direction given by the learned Authority directing the complainants to take possession of the plot within 30 days of passing of the impugned order is set aside. The complainants are held



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entitled to interest for delayed possession from 12.08.2018 i.e. the promised date of possession till 24.05.2023 when the possession of the plot was handed over to the complainants.

14. Consequently, the appeal filed by the complainants is allowed whereas the appeal filed by the respondent-GMADA is dismissed.

15. Files be consigned to record room.



*Sd/-*  
**JUSTICE MAHESH GROVER (RETD.)**  
CHAIRMAN

*Sd/-*  
**S.K. GARG, D & S. JUDGE (RETD.)**  
MEMBER (JUDICIAL)

*My view appended on subsequent pages*  
**ER. ASHOK KUMAR GARG, C.E. (RETD.)**  
MEMBER (ADMINISTRATIVE/TECHNICAL) *Sd/-*

*August 14*, 2023  
CND

Certified To Be True Copy  
*Chandigarh*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

16/08/2023 *[Signature]*



**Appeal No. 139 of 2022 & Appeal No. 208 of 2022**

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REAL ESTATE APPELLATE TRIBUNAL PUNJAB AT CHANDIGARH

**Appeal No. 139 of 2022**

1. **Rupali S Verma**, wife of Shri Shekhar Verma, resident of House No.2564, Part 3, Sector 21, Panchkula Haryana – 134117
2. Shekhar Verma, son of Late Shri F.C. Verma, resident of House No.2564, Part 3, Sector 21, Panchkula Haryana – 134117

.....Appellants

Versus

**Greater Mohali Area Development Authority**, PUDA Bhawan, Sector 62, Sahibzada Ajit Singh Nagar (Mohali) through Estate Officer.

.....Respondent

**Appeal No. 208 of 2022**

**Greater Mohali Area Development Authority**, PUDA Bhawan, Sector 62, Sahibzada Ajit Singh Nagar (Mohali), Punjab-160062

.....Appellant/Complainant

Versus

**Rupali S Verma,**

Shekhar Verma

Both residents of House No.2564, Part 3, Sector 21, Panchkula, Haryana – 134117.

.....Respondents

**Present:** Mr. Balwinder Singh and Mr. Bhupinder Singh, Advocates for the promoter in both the appeals  
Mrs. Rupali S Verma, one of the two the allottees, in person in both the appeals.

**QUORUM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN**

**SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.), MEMBER (JUDICIAL)**

**ER. ASHOK KUMAR GARG, CHIEF ENGINEER (RETD.), MEMBER (ADMN./ TECH.)**



**JUDGMENT: (ER. ASHOK KUMAR GARG, CHIEF ENGINEER (RETD.), MEMBER (ADMN./TECH.) – HIS VIEW)**

1. By this order, I will dispose of above mentioned two cross appeals, bearing Appeal No. 139 of 2022 (**Rupali S Verma and another versus Greater Mohali Area Development Authority**) and Appeal No. 208 of 2022 (**Greater Mohali Area Development Authority versus Rupali S Verma and another**), filed against the same order dated 31.05.2022 passed by the Bench of Sh. Sanjiv Gupta, the then Member of the Real Estate Regulatory Authority, Punjab (*hereinafter referred to as the Authority*) in the complaint bearing GC No. 02992021 instituted on 30.07.2021.
2. The common facts have been extracted from Appeal No. 139 of 2022 (**Rupali S Verma and another versus Greater Mohali Area Development Authority**).
3. A complaint bearing GC No. 02992021 was filed on 30.07.2021 before the Authority by Mrs. Rupali S Verma and Mr. Shekhar Verma (*the appellants in Appeal No. 139 of 2022 and the respondents in Appeal No. 208 of 2022, hereinafter may also be referred to as the complainants or the allottees*) against the Greater Mohali Area Development Authority (*the respondent in Appeal No. 139 of 2022 and the appellant in Appeal No. 208 of 2022, hereinafter may also be referred to as the GMADA, the promoter or the developer*) in form 'M' under section 31 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the Act*) and Rule 36(1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (*hereinafter referred to as the Rules*), praying therein inter alia for (i) possession of a developed plot with complete basic amenities in a fixed timeline along with statutory delayed period possession interest w.e.f. 12.08.2018, till such time, all basic amenities including electricity



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are provided at the site; (ii) either awarding delayed possession interest @ 18% pa as is being charged by the promoter or refunding entire penal interest charged by the promoter @ 18%; (iii) setting aside alleged illegally and arbitrary devised procedure of the promoter to first get the building plans approved and then apply for possession. It has also been prayed in the complaint that as an interim measure, the operation of clause 10 and clause 13 of the allotment letter may be kept in abeyance and the promoter may be restrained from considering the period from 18.09.2020 onwards towards calculation/consideration of construction period till such time actual possession is offered with all basic amenities.

4. It has inter alia been stated in the complaint dated 30.07.2021 that (i) the original allottee applied for allotment of a residential plot measuring 300 square yards @ Rs. 21,000/- per square yards in promoter's project namely, ECO CITY 2, Mullanpur, New Chandigarh; (ii) that letter of intent (*hereinafter referred to as the LOI*) dated 13.08.2015 was issued in favour of original allottee (*consequent upon being successful in the draw of lots held on 06.06.2015*); (iii) that possession was to be offered within 36 months i.e. by 12.08.2018; (iv) that on 02.09.2015, the plot was transferred in favour of the complainants after charging Rs. 1,57,500/- as transfer fee and Rs. 1,26,000/- towards Cancer and Drug Addiction Treatment Infrastructure Fund (*hereinafter referred to as the Cancer Cess*); (v) that possession was offered on 18.09.2018 without providing basic amenities in the nature of electricity supply and proper roads, maintained parks etc; (vi) that besides continuous representations, a final representation dated **14.12.2021** (*strangely the date of aforesaid representations and dates of some more documents/events mentioned in the complaint are post the date of filing the online complaint i.e. on 30.07.2021*)





was served upon the promoter but till date no response; (vii) that the promoter failed to deliver possession till date despite receiving complete consideration amount (it is stated in the complaint that account statement dated 27.12.2021 is attached and differential amount has also been paid on 28.12.2021); (viii) that the complainants are unable to take possession without electricity supply and other basic amenities and for the reason that the promoter has devised allegedly illegal and arbitrary procedure to first get the building plans approved and then apply for possession.

The complainants have attached copies of the LOI, transfer letter, allotment letter, their aforesaid representations & final reminder, account statement, screen shot taken from the promoter's website regarding procedure for issuance of demarcation certificate and application for the same.

5. The promoter, in its reply dated 04/05.04.2022 to the complaint, have inter alia contended that (i) the terms and conditions for allotment of plots in the scheme for allotment of 334 residential plots of different sizes at ECO CITY PHASE II, NEW CHANDIGARH were given in detail in Brochure of the said Scheme; (ii) that the brochure and the LOI dated 13.08.2015 inter alia stipulate that *"Possession of the plot shall be taken by the allottee within 30 days from the date of issuance of allotment letter, failing which it shall be deemed to have been handed over to the allottee on the expiry of the given period."*; (iii) that it has been mentioned under clause 22 of the LOI dated 13.08.2015 that the draw of lots for plot number will be held after the completion of development works which will be subject to EIA clearance; (iv) that the complainants got the LOI transferred in their names on 02.09.2015, which was subject to the condition that they shall abide by the terms and conditions of the said LOI as well as



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provisions of Punjab Regional and Town Planning and Development Act, 1995 (*hereinafter referred to as the PRTPD Act*) and all instructions/guidelines issued thereafter as well as Ecocity-2 Allotment Scheme; (v) that after completion of development works and EIA clearance, numbering-draw of plots to be allotted under the scheme was conducted on 22.10.2019 and after completion of formalities, facing situation of lock down/curfew restrictions on account of Covid-19, the allotment letter had been issued to the complainants on 18.09.2020 after the complainants on 11.09.2020 submitted an undertaking of the original allottee required under clause 4 of the LOI that the original allottee and his spouse/minor children do not own or were allotted at any time by a Government agency a residential plot fully on lease hold basis or free hold basis in any of the Urban Estates developed by GMADA, PUDA, Housefed or any other Government Agency or in Cooperative Societies to whom land was allotted by any of the Government agencies in SAS Nagar (Mohali) Sub-Division or Chandigarh or Panchkula); (vi) that as per clause 10 of the allotment letter dated 18.09.2020, the allottee was required to take physical possession of the plot within 30 days from the date of issuance thereof, failing which it shall be deemed to have been handed over to the allottee from the date of allotment and in case of non-feasibility of plot/site, the allottee should inform the Estate Officer in writing before the lapse of 30 days from the issuance of allotment letter; (vii) that most of the representations of the complainants attached with the complaint are prior to completion of 3 years from the issuance of the LOI dated 13.08.2015; (viii) that as per report obtained from Divisional Engineer (C-2), GMADA on 03.06.2021 and report of Divisional Engineer (PH-2), GMADA, the work of approach road to all





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residential plots and all works relating to Public Health stood completed in litigation free area by December 2020 and as per report obtained from Divisional Engineer (Electricity), GMADA on 04.06.2021, electrification works in this Urban Estate are also complete and only works of installation of lights in the parks is under progress.

The promoter has attached with his aforesaid reply dated 04/05.04.2022 the copies of application dated 30.04.2015 of the original allottee for allotment of a 300 square yard residential plot in Eco City (Phase-II) and liability affidavit dated 31.08.2015 of the complainants.

6. The complainants, vide their rejoinder dated 26.04.2022, have inter alia contended (i) that civil works are still in progress; (ii) that a formal document, supported by a certificate issued by the competent authority that development works are complete, is required; (iii) that in another case before the Authority pertaining to the same project, the promoter on 27.11.2020 have submitted a status report (copy attached by the complainants with their said rejoinder) of development works accepting that development works at site were incomplete on 27.11.2020.



Though the complainants have denied even the report dated 04.06.2021 regarding completion of electrification works, but no reason/basis for such denial has been given and nothing has been mentioned in the rejoinder to contradict the completion of electrical works.

7. As mentioned in the aforesaid order dated 31.05.2022 passed by the Authority, during the arguments held before the Authority on 13.05.2022, Ms Rupali Shekhar Verma inter alia pointed out that development works at the site were not complete and drew

attention to the status report submitted by the promoter on 03.06.2021 (not placed on record before this Tribunal in either of the present cross appeals) and highlighted the fact that electrical services had still not been energized in the colony and hence could not take possession of the plot.

On the other hand, the counsel for the promoter thereby inter alia argued (i) that as per status report submitted to promoter, on 03.06.2021, all development works except energization of electrical services had been completed; (ii) that the electrical connection was required only at the stage of start of construction; (iii) that the complainants had not submitted the building plans as yet; (iv) that the promoter was exempt from the provisions of Punjab Apartment and Property Regulation Act, 1995 (*hereinafter referred to as the PAPRA*) under section 44(1)(a) thereof and hence it was not required to obtain a completion certificate.

8. The Authority, in its aforesaid order dated 31.05.2022, has inter alia held that *"Regarding the matter of development works at the site, it is clear that while other works had been completed the energization of electrical services was still to be done. Finally, we do not agree with the argument that the respondent is not obliged to obtain a Completion Certificate. It may be exempt from the provisions of the PAPRA, but are certainly not exempt from the provisions of this Act. However, since as per record of the case most development works have already been carried out, the complainants should take possession of the plot."*

The complaint has been allowed by the Authority and the following directions have been issued by the Authority:-





- I. *The respondent shall pay interest @ 9.50% per annum (today's highest MCLR rate of 7.05% plus 2%) on Rs.89,74,442/-, paid by the complainant, w.e.f. 12.08.2018 till the actual handing over of possession.*
- II. *The complainants are directed to take possession of the plot within 30 days of issue of this order.*

9. Aggrieved by the above said order dated 31.05.2022 of the Authority, the allottees as well as the promoter have impugned the same before this Tribunal by filing their appeals dated 21/22.07.2022 and 01/02.12.2022 respectively, the later one being accompanied with promoter's applications bearing Application No. 321 of 2022 to condone 10 days delay owing to lengthy procedure of the office of the promoter; and with Application No. 322 of 2022 to place on record a copy of partial completion certificate and a map showing the area under partial completion certificate.
10. The allottees in their Appeal No. 139 of 2022 have inter alia stated (i) that the complainants had paid Rs.89,74,442/- which is more than the sale consideration besides an amount of Rs.1,57,500/- towards Cancer Cess and another amount of Rs.1,26,000/- towards processing fee for transfer of plot in their name, leading to a payment of over Rs.92 Lacs; (ii) that energization of electrical services were still not complete at the time of issuance of allotment letter; (iii) that it has been pleaded by the complainants in their rejoinder that no document has been placed on record by the promoter to support its claim that civil works are complete in the project; (iv) that during the pendency of the complaint, the complainants made an attempt to know the process for taking possession of the plot (*not indicated in any of the prior documents placed on record before this tribunal*) and to their surprise, the policy guidelines provide that before taking possession, sanctioned building plans should be in place; (v) that building plans cannot be



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prepared unless physical possession of the plot is offered at the site after due demarcation; (vi) that on 02.02.2022, the promoter issued a letter internally asking the concerned department about the development status at the site of project and its copy was sent to the complainant (a copy of the said letter dated 02.02.2022 has been attached by the allottees with their appeal), but till date no explanation/clarification regarding the development works at site has been given; (vii) that without electrical services, development works cannot be considered as complete and the complainants are entitled for the delayed period possession till the date of energization of electrical services; (viii) that the direction that the complainants should take possession of the plot without electricity supply should be set aside and the respondent should be directed to immediately ensure that all formalities for energization of the electrical supplies are completed before offer of possession; (ix) that it is inconceivable that possession is to be handed over after a building plan is submitted and approved when the plot actual size, location, etc is yet to be seen; (x) that possession must be handed over and only then building plan can be prepared.



On the other hand, the promoter, in its Appeal No. 208 of 2022, has not taken any substantial new ground in addition to facts mentioned in the foregoing paragraphs.

12. While issuing notice of motion for 22.08.2022 in Appeal No. 139 of 2022, this Tribunal directed on 25.07.2022 that in the meantime the energization of electrical works be completed before next date of hearing and possession also be handed over to the complainants. After some adjournments on the requests of the parties or otherwise, this Tribunal inter alia ordered on 02.02.2023 that let the developer supply the information regarding the date when the energization of the electricity lines was done, which was intimated



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by the counsel for the promoter on 06.04.2023 to be 10.06.2021 and has placed on record before this Tribunal a copy of a letter dated 10.03.2023 of Divisional Engineer (Electricity) in this regard. The counsel for the developer stated before this Tribunal on 18.05.2023 that the allottee can visit office of the Estate Officer, GMADA on any working day and ask for possession which shall be handed over to her on very same day without insisting on the approved building plans; and the allottee stated that she will visit on 22.05.2023 at 10:30 AM and as perusal of order dated 06.07.2023 reveals that possession was handed over to the allottees on 24.05.2023 itself. A copy of the possession certificate is available in the file for Appeal No. 139 of 2022.

**MY FINDINGS:**

13. The brochure for the scheme for allotment 334 residential plots in ECO CITY PHASE II as well as the LOI dated 13.05.2015 inter alia stipulate (i) that the period of development works at site shall be approximately 36 months; (ii) that allotment letter shall be issued after completion of all development works; (iii) that possession of the plot shall be taken by the allottee within 30 days from the date of issuance of allotment letter, failing which it shall be deemed to be handed over to the allottee on the expiry of the given period.
14. The promoter issued the allotment letter dated 18.09.2020, thereby allotting plot No. 3130/Corner measuring 306.25 square yards (*as per the LOI dated 13.08.2015, the original allottee has applied for a plot of 300 square yard size category and as per clause 3 of the LOI dated 13.08.2015, additional price was payable in case area of the plot was found to be more than the allotted area during the measurement of site*) to the allottees and inter alia requiring the



allottees to take physical possession of the plot within 30 days of the issuance of the said allotment letter, failing which it shall be deemed to have been handed over to the allottee from the date of allotment and in case of non-feasibility of the plot/site, the allottee was required to inform the Estate Officer in writing before the lapse of 30 days from the issuance of allotment letter.

15. The representation dated 30.06.2021 (on which postal receipt dated 30.06.2021 is also appended) is stated to be a reminder to some earlier representation dated 14.03.2021 but no such earlier representation or any other representation made after the issuance of the allotment letter dated 18.09.2020 but before the aforesaid representation dated 30.06.2021, has been placed on record; though the allottees have attached with their complaint dated 30.07.2021 their representations dated 15.02.2016, 12.08.2016, 13.02.2017, 11.08.2017, 09.02.2018, 01.08.2018, 13.02.2019, 26.07.2019 and 10.08.2020, thereby intimating about the payments being made, reserving their rights to recover interest/excess interest being charged before issuance of allotment letter and to claim interest and compensation under the Act and requesting the promoter to hold draw of lots and to issue allotment letters.

16. As the allottees failed to even respond to the allotment letter dated 18.09.2020 within stipulated 30 days from issuance in terms of its clause 10, the provisions of the brochure of the scheme that remained open till 30.04.2015 and those of the LOI dated 13.08.2015, to the effect that "*Possession of the plot shall be taken by the allottee within 30 days from the date of issuance of allotment letter, failing which it shall be deemed to have been handed over to the allottee on the expiry of the given period.*" are attracted against the allottees. Even as per the said clause 10 of the allotment letter dated 18.09.2020, the allottee was required to take





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physical possession of the plot within 30 days from the date of issuance thereof, failing which it shall be deemed to have been handed over to the allottee **from the date of allotment** and in case of non-feasibility of plot/site, the allottee was required to inform the promoter in writing before the lapse of 30 days from the issuance of allotment letter. But no representation has made by the allottees after the issuance of the allotment letter dated 18.09.2020 but before 30.06.2021 i.e. for a period of more than nine months. Thus, though the allottees were time and again making representations to the promoter for issuance of allotment letter since 15.02.2016 to 10.08.2020, but when the promoter issued allotment letter dated 18.09.2020, which is admittedly received by the allottees, they failed to approach the promoter for taking possession (admittedly only during the pendency of the complaint, the complainants made an attempt to know about the process for taking possession of the plot) or even inform the promoter in writing about any non-feasibility of plot/site, though the allottees were required to act upon either of these two options (i.e. take possession or point out non-feasibility) within a period of 30 from the issuance of the allotment letter as per provisions of the brochure of the scheme, the LOI dated 13.08.2015 as well as the allotment letter dated 18.09.2020.



17. Hence, the possession should have been deemed to be handed over, in terms of the relevant provisions of the brochure of the scheme as well as those of the LOI dated 13.08.2015, on 18.10.2020 i.e. on expiry of given period of 30 days from the issuance of the allotment letter dated 18.09.2020.
18. However, as the promoter itself has admitted that energization of electricity lines was done on 10.06.2021, the possession should be



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deemed to be handed over to the allottees on 10.06.2021 instead of 18.10.2020 as mentioned above.

19. I am not inclined to afford any relief to the promoter due to two waves of the Covid-19 that occurred in the years 2020 and 2021 because, in my opinion, such relief to the promoter(s) will be at the cost of the allottee(s) and is unjustified.
20. Perusal of joint report dated 27.10.2020 of D.E. (C-2), D.E. (PH-2) and D.E. (Elec.) of GMADA, attached by the complainants with their rejoinder dated 26.04.2022, reveals inter alia (i) that the development works related to civil i.e. road network, laying of public health services such as water supply lines, sewerage lines and storm water lines and electrical works had been completed at site; (ii) that energization of electrical services was still to be made by PSPCL for which PSPCL had been requested to waive off bank guarantee clause for release of partial load and it was expected that it will be allowed by PSPCL and partial load was expected to be released by PSPCL shortly; (iii) that allottees require connection for individual services after approval of building plans and after start of construction at site, but sewerage connection is provided after the allottee has obtained completion/partial completion certificate; (iv) that road accessibility, public health services and electrical network has been provided at the site of the plot No. 201 allotted to Kunika Sharma.



This report admits that as on 27.10.2020, energization of electrical services was yet to be made. However, later on the electricity line was energized on 10.06.2021 as intimated by the counsel for the promoter in response to a specific query of this Tribunal.

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21. The said report dated 27.10.2020 is in respect of complaint bearing GC No. 1511 of 2019 filed on 23.12.2019 titled as Kunika Sharma versus GMADA, which was decided by a double Bench of the Authority on 25.01.2021, which in turn was challenged by the allottees of that case as well as by the promoter by filing cross appeals bearing Appeal No. 15 of 2021 and Appeal No. 23 of 2021. Ms. Rupali Shekhar Verma, in her capacity as an Advocate, was the counsel for the allottees in those appeals. Those two appeals were decided by this Tribunal by passing order dated 09.12.2021, perusal of which reveals that in that case, there is no disclosure about energization of electricity line on 10.06.2021 and no mention of the reports dated 03/04.06.2021 regarding completion of electrical works.
22. The complainants, vide their rejoinder dated 26.04.2022, have inter alia contended that a formal document is required, supported by a certificate issued by the competent authority that development works are complete.
23. The promoter, vide its Application No. 322 of 2022 in Appeal No. 208 of 2022, has place on record a copy of partial completion certificate dated 10.06.2022 for 203.70 acres area of the project issued by the Chief Administrator, GMADA in reference to the report submitted by the Inspection Committee comprising DE(C-2), DE(PH-2), DE(Elec.), DE(Hort.) and DTP, GMADA along with a copy of Layout Plan for Partial Completion drawing, showing that the plot No. 3130/Corner allotted to the complainants falls under the area of partial completion certificate.
24. Though the promoter failed to obtain the completion certificate issued by the competent authority immediately after energization of electricity lines on 10.06.2021, may be due to mistaken belief





that the promoter was exempt from the provisions of *the PAPRA*) under section 44(1)(a) thereof, the reports of the Divisional Engineers of GMADA, which is a public authority established by the Government of Punjab under a State Act namely the PRTPD Act enacted to develop the land in a planned manner in the State, cannot be ignored. Even the aforesaid partial completion certificate issued by the Chief Administrator, GMADA is based on the reports submitted by a committee comprising Divisional Engineers and DTP, GMADA.

25. Further, in addition to the fact that the allottees failed to approach the promoter for taking possession after issuance of allotment letter dated 18.09.2020 even till energization of electricity lines on 10.06.2021, there is no such condition, to first get the building plans approved and then apply for possession, in allotment letter dated 18.09.2020. Rather, its clause 12 reads as under:-

*"12 PUDA (Building) Rules, 2018 as amended from time to time, shall be applicable. The allottee shall be allowed to undertake construction of building over the plot only after getting the Building Plans approved from the Competent Authority. For permissible ground coverage, set back, height of building etc. PUDA (Building) Rules may be referred to."*



26. Even the possession certificate placed on record inter alia certifies that physical possession/demarcation has been handed over to the allottees on 24.05.2023 and it is also mentioned therein that the allottees shall start construction work after getting approval of building plans as per Building Rules, 2021 and terms and conditions of the allotment letter.

27. Because against the application for a plot of 300 square yards tentative size category, though LOI dated 13.08.2015 was issued

for same size but the allotment letter dated 18.09.2020 was issued for the plot No. 3130/Corner measuring 306.25 square yards, which implies that dimensions of the plot were also fixed from which exact size might have been arrived at. The location of the plot is shown in the aforesaid Layout Plan. The allottees could have obtained the said information/documents from the promoter immediately after receiving the allotment letter dated 18.09.2019, had they been mandated to first get the building plans approved and then apply for possession, as claimed by the allottees for the first time in their complaint dated 30.07.2021 (in which strangely a reference of their final representation dated 14.12.2021 is given, and even in the said representation dated 14.12.2021, there is no mention regarding approval of building plan before taking possession). However, they admittedly made half-hearted attempt only during the pendency of the complaint to know about the process for taking possession of the plot.

28. The allottees have not placed any document on record to show that they ever approached the promoter to take over the possession of the plot allotted to him and the promoter refused to hand over the possession of the plot without first getting the building plans approved.

In their aforesaid representation dated 30.06.2021, the complainants have inter alia alleged/claimed that "----XXX----, we are entitled to delay period possession interest as prescribed in the applicable rules, which is presently approximately 9.50% but we have been charged 18% on delayed period interest for PLC charges and excess area charges." These allegations/claims have been reiterated in their aforesaid representation dated 14.12.2021 and demand draft dated 09.12.2021 for Rs.9,08,798/- has been





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send towards payment of PLC and extra area charges along with interest.

30. As per terms and conditions of the brochure of the scheme, the LOI date 13.08.2015 and allotment letter dated 18.09.2020, the allottees were required to make payments as tabulated below wherein the details of the payments actually made by them as per material on record are also tabulated:-

Payment due as per the brochure/LOI/allotment letter				Payment made		
Description	Amount	Due date	Date	Amount		
Earnest money	3,00,000	See footnote-1	30.04.2015	3,01,000 <sup>2</sup>		
30% tentative cost less earnest money	15,90,000 <sup>3</sup>	12.09.2015	01.09.2015	15,90,000		
Cancer cess @ 2% of total cost	1,26,000	12.09.2015	01.09.2015	1,26,000		
Transfer fee @ 2.5% of the price	1,57,500	See footnote-4	01.09.2015	1,83,344 <sup>5</sup>		
<b>Instalments of balance 70% of tentative cost<sup>6</sup></b>						
<b>No.</b>	<b>Principal</b>	<b>Interest</b>	<b>Total</b>	<b>Due date<sup>7</sup></b>	<b>Date</b>	<b>Amount</b>
1 <sup>st</sup>	4,41,000	2,64,600	7,05,600	13.02.2016	15.02.2016	7,05,600
2 <sup>nd</sup>	4,41,000	2,38,140	6,79,140	13.08.2016	12.08.2016	6,79,140
3 <sup>rd</sup>	4,41,000	2,11,680	6,52,680	13.02.2017	13.02.2017	6,52,680
4 <sup>th</sup>	4,41,000	1,85,220	6,26,220	13.08.2017	11.08.2017	6,26,220
5 <sup>th</sup>	4,41,000	1,58,760	5,99,760	13.02.2018	09.02.2018	5,99,760
6 <sup>th</sup>	4,41,000	1,32,300	5,73,300	13.08.2018	01.08.2018	5,73,300
7 <sup>th</sup>	4,41,000	1,05,840	5,46,840	13.02.2019	13.02.2019	5,46,840
8 <sup>th</sup>	4,41,000	79,380	5,20,380	13.08.2019	26.07.2019	5,20,380
9 <sup>th</sup>	4,41,000	52,920	4,93,920	13.02.2020	13.02.2020	4,93,920
10 <sup>th</sup>	4,41,000	26,460	4,67,460	13.08.2020	10.08.2020	4,67,460
<b>Sub-Total</b>	<b>44,10,000</b>	<b>14,55,300</b>	<b>58,65,300</b>			
PLC & Price for 6.25 sq. yd. area	7,77,000 <sup>8</sup>			30.11.2020 <sup>9</sup>	14.12.2021	9,08,798 <sup>10</sup>
<b>Grand Total</b>			<b>88,15,800</b>			<b>89,74,442<sup>11</sup></b>

Note-1 At the time of applying for the allotment of a plot.

Note-2 Includes processing fee amount of Rs.1,000/-.

Note-3 With surcharge @ 1.5%, 2%, 2.5% & 3% for delay up to 30 days, 60 days, 90 days & 6 months respectively plus penal interest @ 18% p.a. for the delayed period, if any.

Note-4 At the time of request for permission for transfer of the LOI after payment of 30% of the price.

Note-5 Includes processing fee and Service Tax amounts of Rs.3,328/- and Rs.22,516 respectively.

Note-6 Along with interest @ 12% p.a., if opted for instalments instead of depositing balance 70% within 60 days of the issue of the LOI.

Note-7 Delay in payments, if any, attracts 18% P.A. interest for the period of delay.

Note-8 Includes Cancer Cess @ 2% excess area cost as per Annexure to the allotment letter.

Note-9 As mentioned in the property ledger report dated 27.12.2021.

Note-10 Includes penal interest amount of Rs.1,44,734/- charged for delay in payment, besides Rs.7,64,064/- against dues amounting to Rs.7,77,000/-.

Note-11 The allottees have either wrongly claimed under paragraph 5.6 of their appeal dated 21.07.2022 that they had paid over Rs.92 Lacs or they have not placed on record the evidence in respect of some more payments made by them.

31. Perusal of the above table of detail of payments due/made and footnotes thereunder reveals (i) that the allottees are liable to pay penal interest @ 18% for delay in payments of certain dues; and (ii) that out of an amount of Rs.9,08,798/- paid by the allottees on



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14.12.2021, an amount of Rs.1,44,734/- has been adjusted by the promoter towards penal interest. However, as per provisions under section 19(7) of the Act, the allottees are liable to pay interest at the rate prescribed under the Rules for any delay in payment. Hence, the excess amount of penal interest, out of aforesaid amount of Rs.1,44,734/-, needs to be refunded by the promoter to the allottees.

32. The Authority, vide its aforesaid order dated 31.05.2022 has allowed interest on Rs.89,74,442/- w.e.f. 12.08.2018, whereas perusal of the details of the said amount of Rs.89,74,442/- given in the aforesaid table of detail of payments due/made and footnotes thereunder reveals that out of it, payments aggregating to the tune of Rs.29,37,398/- have been made after 12.08.2018 on various dates. Therefore, suitable modification in the aforesaid order dated 31.05.2022 is required to be made on this score also.

33. Strangely, in the copy of the online complaint filed on 30.07.2021 placed on record before this Tribunal by the allottees as well as by the promoter as part of their respective appeal, even subsequent/future documents/events namely "final representation dated 14.12.2021", "Account statement dated 27.12.2021" and differential amount has also been paid on 28.12.2021" have also been mentioned. The allottees have also placed on record as part of their appeal a copy of said representation dated 14.12.2021 (along with demand draft dated 09.12.2021 and payment receipt dated 14.02.2021) and a copy of account statement/property ledger report dated 27.12.2021 (page Nos. 52 to 61 of the paper-book of their appeal) as a part of the documents annexed to their online complaint dated 30.07.2021. It needs to be investigated as to how subsequent documents/events were mentioned in the online complaint and how subsequent documents were attached therewith.





**MY DECISION:**

34. In view of above, I deem it appropriate to partially accept both the appeals to the extent ordered hereunder:-

(i) First direction, imparted by the Authority under paragraph 10 of order dated 31.05.2021 passed by it in complaint bearing GC No. 02992021, is ordered to be modified as under:-

*"I. The promoter shall pay interest at the rate prescribed under Rule 16 of the Rules on all the amounts paid by the allottees till 10.06.2021 (i.e. the date when energization of the electricity lines was done) for the period from 12.08.2018 or the dates of payment of the said amounts, whichever is later, till aforesaid date of energization i.e. 10.06.2021. The aforesaid ordered interest amount shall be paid within 30 days from this order, failing which the same shall be payable along with interest thereon at the rate prescribed under Rule 16 of the Rules from the date of this order till realization. Further, out of an amount of Rs.1,44,734/- adjusted by the promoter towards penal interest out of an amount of Rs.9,08,798/- paid by the allottees on 14.12.2021, the interest charged in excess of that chargeable at the rate prescribed under Rule 16 of the Rules, be refunded by the promoter to the allottees along with interest thereon at the rate prescribed under Rule 16 of the Rules for the period from 14.12.2021 till realization."*

(ii) The Authority is hereby directed to investigated as to how subsequent documents/events dated 14.12.2021, 27.12.2021 and 28.12.2021, which are detailed under paragraph 33 above, were mentioned in the online complaint dated 30.07.2021 and how subsequent documents were attached



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with the said complaint and shall submit its report in this regard to this Tribunal within one months of this order.

35. The appeals are accordingly disposed of. A copy of this order be filed in each of the files of the appeals and also be communicated to the parties as well as to the Authority and thereafter the files be consigned to the record room.



August 14, 2023

Sd/-  
ER. ASHOK KUMAR GARG, C.E. (RETD.),  
MEMBER (ADMINISTRATIVE/TECHNICAL)

Certified To Be True Copy

*[Signature]*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

16/08/2023 *[Signature]*