

RESERVED JUDGMENT**BENCH-1****THE UTTAR PRADESH REAL ESTATE APPELLATE TRIBUNAL,
AT
LUCKNOW.****1. APPEAL NO. 03/2022**

Dheeraj Kumar Appellant.

Versus

M/s Gaursons Hi-Tech Infrastructure Pvt. Ltd. Respondent.

WITH

2. APPEAL NO. 04/2022

Jyoti Taneja Appellant

Versus

M/s Gaursons Hi-Tech Infrastructure Pvt. Ltd. Respondent.

Hon'ble Mr. Justice (Dr.) D. K. Arora, Chairman.
Hon'ble Mr. Kamal Kant Jain, Technical Member.

1. In both the aforesaid appeals the facts and legal issues are common and the judgment and order of the Adjudicating Officer is identical, therefore, we deem it proper to decide both the appeals by a composite judgment and order and we take the facts of Appeal No. 3 of 2022 being a leading appeal.
2. The present appeal has been preferred by Sri Dheeraj Kumar (hereinafter referred to as the 'appellant') under Section 44(1) of the Real Estate (Regulation and Development) Act 2016 (hereinafter referred to as 'the Act 2016') against the order dated 02.08.2021 passed by the Adjudicating Officer of the Real Estate Regulatory Authority, Regional Office, Gautam Budh Nagar (hereinafter referred to as the 'Adjudicating Officer') in Complaint No. ADJ/NCR144/03/72562/2021 whereby the complaint was decided with the following directions:--

(1) The complainant will receive Rs.50,000/- as compensation from the respondent for violating the provisions of Section 12 as well as making wrong statement in the Brochure.

(2) The respondent is directed to ensure payment of the amount of compensation within 45 days from the date of the order.

2. The facts of the case, in brief, as culled out from the memo of appeal, are that the appellant booked a shop no. FF-58 on 16th March 2017, under 50:50 plan(with Assured Rental), on first floor in 'Gaur City Center' of the respondent for which the demanded 50% payment amounting to Rs.16,01,402/- was made.

2.1 The respondent did not provide possession of the unit to the appellant within time limit, therefore, the appellant filed Complaint No. NCR144/09/60126/2020 before the Regulatory Authority at Gautam Budh Nagar. The said complaint was decided by the Regulatory Authority vide judgment and order dated 04.01.2021 directing the respondent to provide possession of the unit to the appellant and to make payment of delay interest @ MCLR+1%.

2.2 Thereafter the appellant filed another Complaint No. NCR144/03/71123/2021 against the respondent for refund of entire deposited amount along with interest and compensation under Sections 12 and 18 of the Act 2016. The said complaint was rejected vide order dated 26.07.2021 on the ground that the Regulatory Authority has already passed order on the complaint of the appellant filed under Section 31 of the Act and another complaint of the appellant is pending before the Adjudicating Officer wherein order is reserved.

3. The appellant has challenged the impugned order dated 02.08.2021 passed by the Adjudicating Officer, on the following grounds:--

- (1) The Adjudicating Officer has failed to properly appreciate the sufficient evidences led by the appellant to prove the financial losses.
- (2) The Adjudicating Officer has overlooked the compensation under Section 12 of the Act 2016 for the financial losses, mental agony and depression caused to the appellant and simply ordered compensation

of Rs.50,000/- for not obeying the clauses of Section 12 and providing false information in the advertisement and brochure.

- (3) No emphasis was given by the Adjudicating Officer on the main crux of Section 12 which clearly states that the person who makes an advance or a deposit on the basis of information contained in the notice, advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains and loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the promoter in the manner as provided under the Act 2016. The proviso clearly states that if the person affected by such incorrect, false statement contained in the notice, advertisement or prospectus, or the model apartment, plot of building, as the case may be, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate as may be prescribed and the compensation in the manner provided under the Act 2016.
- (4) The Adjudicating Officer was requested to refer Section 12. He should have calculated the compensation in accordance with the crux of that particular section keeping in view the financial losses that would have occurred if he is granted refund of his entire amount with interest.
- (5) Appellant's choice of the said unit was solely based on the connecting corridor/skywalk. He was interested in buying the shop at ground floor and that too near the main entrance, but since no inventory was available of his desired size at ground floor, so he decided not to buy in the project, but the sales team of the builder convinced him or induced him that the first floor of the project will have more footfall and more sales due to the connecting skywalk between Gaur City Center and Gaur Mall.
- (6) The respondent assured and convinced the appellant of good amount of footfall just because of skywalk. The respondent showed the appellant the prospectus, brochure, website and other advertising material of the builder which promises the better footfall due to inter-connectivity. But since no skywalk was constructed, so the appellant

will incur huge financial losses on account of less sale due to less footfall.

- (7) The Adjudicating Officer has not taken into consideration the huge financial losses incurred to the appellant and also the financial expenses incurred by the appellant for his health treatment and surgery cost of heart attack (approx. Rs.1,80,000/- + medicines) occurred due to mental agony, sadness and depression caused by the respondent.

4. The appellant has prayed for the following reliefs:--

- (a) To set aside the order passed by the Adjudicating Officer.
- (b) Allow compensation of Rs.10,00,000/- for non-construction of skywalk.
- (c) Allow compensation of Rs.10,00,00/- for financial loss incurred due to interest loss and financial loss incurred due to non-payment of assured rental.
- (d) Allow compensation of Rs.10,00,00/- for financial loss incurred due to running business in rented premises due to delayed offer of possession.
- (e) Allow the appellant suitable compensation for mental agony, depression, cheating, fraud, misrepresentation, malpractices and threatening by the builder, besides giving him the huge financial losses.
- (f) Allow him suitable compensation for the expenses for litigation and also the expenses that he incurred on his medical bills which arose due to deterioration of his health because of all these matters.
- (g) In case the compensations are not allowed as demanded by the appellant, then direct the promoter/builder to return his entire investment along with interest and suitable compensation. Allow appellant to withdraw his money from the project.

- (h) Revoke the registration granted to the respondent builder because they are involved in unfair practice and irregularities as mentioned in Section 7 of the RERA Act.
5. The respondent filed its objection to the grounds of appeal and submitted that the appellant under the garb of challenging the impugned order dated 02.08.2021 passed in Complaint No. ADJ/NCR144/03/72562/2021 is mischievously trying to challenge certain time barred issues viz. Assured Rental and refund which have already been decided by the Regulatory Authority in two complaints filed by the appellant vide order dated 04.01.2021 passed in Complaint No. NCR144/09/60126/2020 and order dated 26.07.2021 passed in Complaint No. NCR144/03/71123/2021, hence the present appeal deserves to be dismissed being time barred.
- 5.1 Since the project owned and developed by the respondent is situated in the NCR, the construction of the same had been adversely affected by various stays imposed by the Environment Pollution (Prevention & Control) Authority, Hon'ble NGT and Hon'ble Supreme Court since the month of November 2017 till February 2020 which were beyond the control of the respondent and are covered under the "Force Majeure". Since the month of March 2020 the real estate sector has been gravely hit by Covid-19 pandemic and unprecedented lockdown imposed by the Central and State Governments, which also hampered the construction, material movement and labour at the project site.
- 5.2 Despite the fact that the appellant had been irregular in making payments towards the said unit which affected the construction schedule, the respondent tried its best to complete the construction of the project and applied for partial OC/CC on 28.01.2020 and submitted all the requisite NOCs. Thereafter the respondent issued offer for possession vide letter dated 04.04.2020 to the appellant, informing him to clear all pending dues. The appellant was also informed that the respondent had already applied for a partial OC/CC on 28.01.2020 and in terms of RERA's letter no. 8208/UP RERA/20th Meeting/Office Order/2019-20 dated 16.09.2019 the respondent's project had been granted deemed approval. On 29.05.2020 the respondent finally obtained the OC.

- 5.3 Although the possession was offered to the appellant on 04.04.2020 but the appellant did not clear his pending dues which were almost 50% of the cost of the booked unit as per the payment plan opted by the appellant, and did not approach the respondent for completing formalities for taking over of the physical possession on payment of pending dues. Instead the appellant on 04.09.2020 malafidely filed his first complaint bearing no. NCR144/09/60126/2020 before the Regulatory Authority seeking, inter alia, possession, delay penalty, assured rental, compensation for mental agony. The Regulatory Authority disposed of the said complaint vide order dated 04.01.2021 rejecting the claim of compensation and directing the respondent to pay the delay penalty at the rate of MCLR+1% and offer possession to the appellant.
- 5.4 The respondent complied with the direction of the Regulatory Authority dated 04.01.2021 and paid the delay penalty of Rs.1,02,159/- to the appellant which was credited after deduction of TDS of Rs.7,662/- and also informed the appellant to visit the respondent's office to complete the formalities for taking the physical possession.
- 5.5 The appellant again on 03.03.2021 filed his second complaint no. NCR144/03/71123/2021 before the Regulatory Authority seeking refund of full amount along with interest. The Regulatory Authority vide its order dated 26.07.2021 held that no new complaint can be entertained to review the order passed by the same Bench on the same subject matter and dismissed the complaint.
- 5.6 During pendency of the said Complaint No. NCR144/03/71123/2021 the appellant filed his third complaint on 22.03.2021 bearing No. ADJ/NCR144/03/72562/2021 before the Adjudicating Officer seeking compensations on the grounds of providing false information regarding construction of skywalk, delay penalty for delay in delivery of possession, failure to discharge duties as per agreement of giving assured rental @ 12% per annum. The Adjudicating Officer vide order dated 02.08.2021 ordered a compensation of Rs.50,000/- for violation of the provisions of Section 12 of the Act 2016.
- 5.7 The respondent approached the appellant telephonically and also through email dated 22.09.2021 and reminder email dated 29.09.2021 requesting the

appellant to provide a cancelled cheque to proceed for the refund of Rs.50,000/- in compliance of the impugned order. However, the appellant, instead of approaching the respondent for processing of the said compensation, filed the present appeal.

- 5.8 The appellant has filed multiple complaints one after the other against the respondent to bend the law for his own benefit. The appellant has put pressure on the respondent to get undue financial gains by demanding compensations and refund using the Regulatory Authority as a medium.
- 5.9 The appellant did not intend to take possession of the booked unit and the same is supported by the fact that the appellant has not paid more than 50% of the total cost of the unit till date.
- 5.10 The averments of the appellant regarding connectivity between “Gaur City Mall” and “Gaur City Centre” are baseless. As per the allotment letter, it is evident that there was no connectivity between the two commercial complexes through the alleged skywalk. Each project has a different layout plan and a distinct approval. At the time of booking it was made clear to the appellant that there was no such connection between these two commercial complexes through a skywalk. The brochure produced by the appellant to show the skywalk connecting these two commercial complexes is vague and does not particularly mention construction of a skywalk.
- 5.11 The contention of the appellant that he suffered loss as there was low footfall in the project due to non-connection of Gaur City Mall and Gaur City Centre, is wrong and strongly denied. Gaur City Mall and Gaur City Centre are at a close proximity and are in fact connected through the basement and share same multi-level parking, hence it is blatantly incorrect to allege that the footfall was affected due to non-connectivity of the two malls in the project.
- 5.12 The issue of assured rental has already been decided by the Regulatory Authority in the first order dated 04.01.2021. The Regulatory Authority observed that the advertisement regarding payment of assured rental does not explicitly state that the assured rental shall be payable till the date of issue of letter of offer of possession. The Regulatory Authority also observed that the appellant has failed to provide any evidence to support his contention that he is entitled to get the assured rental till the date of actual

possession. The assured rental benefits were paid to the appellant till the date of promised possession i.e. 30.04.2018.

- 5.13 The appellant is not entitled to the relief of refund in the present appeal as this appeal has been filed against the impugned order of the Adjudicating Officer dated 02.08.2021 wherein the appellant had only prayed for compensation. The issue of refund could have been challenged only by filing an appeal against the order dated 26.07.2021 in which relief of refund was prayed for. The appellant has wrongly sought for refund as an alternate relief in the present appeal.
- 5.14 The appellant has not taken possession till date, which is clear violation of clause (10) of Section 19 of the Act 2016. It is settled position of law that when the construction of a project is complete and possession is offered after issuance of OC, the allottee is obliged to take the possession of his unit and the developer is obliged to pay the delay compensation for the period of delay till the offer of possession.
- 5.15 Every term and condition or any facility/benefit to be provided by the respondent was clearly mentioned in the allotment letter and was provided to the appellant, so the question of misleading the appellant does not arise.
6. The appellant did not file any reply to the objections of the respondent to the grounds of appeal.
7. Heard Mr. Dheeraj Kumar-appellant (in person), Ms. Jyoti Taneja-appellant (in person) in Appeal No. 04/2022 and Mr. Samrat Vaish, learned counsel for the respondent.
8. On the basis of pleadings, record of appeal and submissions of appellants (in person) and learned counsel for the respondent, the admitted facts of the instant appeal are that appellant booked a shop no. FF-58 on 16th March 2017, under 50:50 plan (with Assured Rental), on first floor in 'Gaur City Center' of the respondent for which Rs.16,01,402/- was paid by the appellant. As the respondent failed to provide the possession of the unit within time limit, therefore, the appellant filed Complaint No. NCR144/09/60126/2020 before the Regulatory Authority at Gautam Budh Nagar. The said complaint was decided by the Regulatory Authority vide judgment and order dated 04.01.2021 directing the respondent to provide

possession of the unit to the appellant and to make payment of delay interest @ MCLR+1%.

- 8.1 The appellant filed another Complaint No. NCR144/03/71123/2021 against the respondent for refund of entire deposited amount along with interest and compensation under Sections 12 and 18 of the Act 2016. The said complaint was rejected vide order dated 26.07.2021 on the ground that the Regulatory Authority has already passed order on the complaint of the appellant filed under Section 31 of the Act and another complaint of the appellant is pending before the Adjudicating Officer wherein order has been reserved. The Adjudicating Officer examined the complaint by framing a issue as under:

‘As to whether the complainant is entitled for compensation?’

- 8.2 After examining the pleadings, record and the order of the RERA passed in Complaint No. NCR144/09/60126/2020 (Dheeraj Kumar Vs. Gaursons Hi-Tech Infrastructure Pvt. Ltd.) observed that the issue of assured return has already been examined by the Bench of RERA, therefore, it is not proper to re-examine the same. The Adjudicating Officer further examined the fact that in the replication the compensation for mental pain and agony has been claimed, but no relief has been claimed and the replication is only the reply of the written statement and if any relief is to be claimed, that has to be mentioned in the original complaint and hence, the new relief/claim in the replication cannot be looked into.
- 8.3 The Adjudicating Officer while examining the issue of wrong information in the Brochure and other document came to the conclusion that the promises made in the Brochure regarding connecting the Gaur City Centre with Gaur City Mall through skywalk on the first floor has not been done and for this false promise, the Adjudicating Officer awarded the compensation of Rs. 50,000/- to both the appellants. The appellant being not satisfied with the relief/amount of compensation awarded by the Adjudicating Officer preferred the instant appeal, seeking reliefs as mentioned in para-4 herein above.
- 8.4 The respondent approached the appellant telephonically and also through email dated 22.09.2021 and reminder email dated 29.09.2021 requesting the appellants to provide a cancelled cheque to proceed for the refund of

Rs.50,000/- in compliance of the impugned order. But no response has been received from the appellants.

8.4 Though in both the appeals, the appellants have not placed on record the online complaint filed before the Adjudicating Officer. However, on examining the portal of the RERA, we found that in the online complaint, following grounds of compensation under the heading Grounds of Compensation have been mentioned as been mentioned as under:

Grounds for Compensation

S.N.	Ground Name	Amount	Remark
1.	Incorrect/False information provided	1000000.00	Builder has mentioned in various adv. Documents and maps that first floor of the said Gaur City Center will be connected through Sky Walk with Gaur City Mall, which has not been constructed.
2.	Delay in possession	1000000.00	The estimated date of possession as mentioned in Allotment letter was 30 th April 2018, whereas the offer of Fit-out possession was given to me in April 2020 i.e. after delay of more than 24 months.
3.	Failure to discharge duties as per Act/Rules/Regulations and Agreement for sale.	1000000.00	The builder had failed to give possession by due date and failed to give assured rental and failed to build skywalk.

8.5 A detail complaint has also been uploaded on the e-portal of the RERA praying reliefs as under:

(i) Allow me compensation of Rs. 20,00,000/- for mental agony and depression, cheating, fraud, misrepresentation, malpractices and threatening by the Builder, besides giving me the huge financial losses, these had given me huge mental agony. I ran into depression and an not living happily thereafter.

(ii) Revoke the registration granted to the Respondent Builder because they are involved in unfair practice and irregularities as mentioned in Section 7 of the RERA Act.

9. In order to examine the grounds taken by the appellant and the averments made, we deem it proper to frame following issues based on the grounds pressed by the learned counsel for the appellant:--

(i) Whether the allottee/complainant in order to substantiate the claim of compensation submitted any evidence for determination of the compensation before the Adjudicating Officer?

- (ii) Whether there is any illegality or perversity in the impugned order dated 02.08.2021 passed by the Adjudicating Officer in granting compensation to the allottee/complainant?

10. Vide **Issue No. (i)** we are required to examine as to whether the allottee/complainant in order to substantiate the claim of compensation submitted any evidence for determination of the compensation by the Adjudicating Officer.

10.1 On examination of the record placed along with the memo of appeal as well as record of the proceedings of the RERA, we could not find out any record/documentary evidence in support of the claim for losses suffered by the appellant/complainant for adjudging quantum of compensation.

10.2 In our considered view, the allottee/complainant has not placed any record or documentary evidences for the losses suffered as a result of default of the respondent. Issue no. (1) is answered accordingly.

11. Vide **Issue no. (ii)** we are required to examine as to whether there is any illegality or perversity in the impugned order dated 02.08.2021 passed by the Adjudicating Officer in granting compensation to the allottee/complainant.

11.1 On examination of the scheme of the Act it is evident that jurisdiction of the Adjudicating Officer is to adjudge compensation under Sections 12,14,18 and 19 in accordance with the procedure laid down in Sections 71 and 72 of the Act. The powers, roles, domain and jurisdiction of the Adjudicating Officer has been clearly defined under the scheme of the Act. On thorough examination we found that 'compensation' has not been defined under the Act, 2016. However, 'compensation' has been defined in some other statutes like Workman Compensation Act and Land Acquisition Act. To settle the claim under the Motor Vehicle Act, the term 'compensation' is being used invariably and compensation is awarded accordingly. Compensation can be granted under the heads pecuniary and non-pecuniary losses. In the case of **Mr. R.D. Hattangadi Vs. M/S Pest Control (India) Pvt. Ltd., AIR 1995 Supreme Court, page 755**, the Hon'ble Supreme Court was pleased to observe as under:-

“ Broadly speaking while fixing an amount of compensation payable to a victim of an accident, the damages have to be

assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which is capable of being calculated in terms of money-, whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may, include expenses incurred by the claimant : (i) medical attendance; (ii) loss of earning of profit upto the date of trial; (iii) other material loss. So far non-pecuniary damages are concerned, they may include (i) damages for mental and physical shock, pain suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”

11.2 The Hon’ble Supreme Court while examining the issue of entitlement to compensation in ***H.U.D.A. and another versus Shakuntla Devi, (2017) 2 SCC 301*** made some essential observations which are also rudimentary for awarding compensation and quantum of compensation in consumer protection cases concerning real estate matters. The observations of Hon’ble Supreme Court are summarized as under:--

(a) that the sine qua non for entitlement of compensation is proof of loss or injury suffered by the consumer due to the negligence of the opposite party. Once the said conditions are satisfied, the consumer forum would have to decide the quantum of compensation to which consumer is entitled.

(b) that there cannot be any dispute that the computation of compensation has to be fair, reasonable and commensurate to the loss or injury. There is a duty cast on the consumer forum to take into account all the relevant factors for arriving at the compensation to be paid.

(c) the calculation of damages depends on the facts and circumstances of each case. No hard and fast rule can be laid down for universal application.

(d) that while awarding of compensation, a consumer forum has to take into account all the relevant factors and assess compensation on the basis of accepted legal principles, on moderation. It is for the consumer forum to grant compensation to the extent it finds it reasonable, fair and proper in the

facts and circumstances of a given case according to the established judicial standards where the claimant is able to establish his charge.

(e) that compensation cannot be uniform and can best be illustrated by considering cases where possession is being directed to be delivered and cases where only monies are directed to be returned. In cases where possession is being directed to be delivered the compensation for harassment will necessarily have to be less because in a way, that party is being compensated by increase in the value of the property, he is getting.

(f) that in cases where the consumer forum has directed delivery of possession, the party has to a certain extent already got a benefit. The cost of the land/flat would have come up in the meantime. Of course, even in such cases, where the delivery of possession has been directed there could be compensation for harassment/loss. But such compensation has to be worked out after looking to the facts of each case and after determining the amount of harassment/loss that has been caused to the consumer.

- 11.3 The Hon'ble Supreme Court in the case of ***Bangalore Development Authority versus Syndicate Bank (2007)6 SCC 711*** in the matter of self financing scheme while laying down principles for delay in the delivery of possession was pleased to observe that if some statute steps in and creates any statutory obligation on the part of development authority in the contractual field, the matter will be governed by the provisions of that statute. The relevant portions of paras 10, 10(a) and 10(b) are being extracted hereinbelow: –

“10. Where a Development Authority forms layouts and allots plots/flats (or houses) by inviting applications, the following general principles regulate the granting of relief to a consumer (applicant for allotment) who complains of delay in delivery or non-delivery and seeks redressal under the Consumer Protection Act, 1986 ('Act' for short) - [vide : Lucknow Development Authority vs. M. K. Gupta - 1994 (1) SCC 243, Ghaziabad Development Authority vs. Balbir Singh - 2004 (5) SCC 65, and Haryana Development Authority vs. Darsh Kumar - 2005 (9) SCC 449, as also Ghaziabad Development Authority vs. Union of India - 2000 (6) SCC 113]:

(a) Where the development authority having received the full price, does not deliver possession of the allotted plot/flat/house within the time stipulated or within a reasonable time, or where the allotment is cancelled or possession is refused without any justifiable cause, the allottee is entitled for refund of the amount paid, with reasonable interest thereon from the date of payment to date of refund. In addition, the allottee may also be entitled to compensation, as may be decided with reference to the facts of each case.

(b) Where no time is stipulated for performance of the contract (that is for delivery), or where time is not the essence of the contract and the buyer does not issue a notice making time the essence by fixing a reasonable time for performance, if the buyer, instead of rescinding the contract on the ground of non-performance, accepts the belated performance in terms of the contract, there is no question of any breach or payment of damages under the general law governing contracts. However, if some statute steps in and creates any statutory obligations on the part of the development authority in the contractual field, the matter will be governed by the provisions of that statute.

.....”

- 11.4 Subsequently the Hon’ble Supreme Court in ***Civil Appeal No. 6051/2002 (Ghaziabad Development Authority Vs. Shakuntala Rohatgi)***, decided on **04.03.2009**, placed reliance on the case of ***Bangalore development authority versus syndicate Bank*** (supra).
- 11.5 After promulgation of the Act of 2016, the issue of compensation is required to be examined and decided as per the provisions of section 71 and 72 of the Act of 2016 for non-compliance of any of the provisions specified in Sub-Section (1) of Section 71 i.e. Sections 12,14,18 and 19 of the Act, 2016.
- 11.6 The word “fail to comply with the provisions of any of the sections as specified in sub section (1)” used in Sub-Section (3) of Section 71, means failure of the promoter to comply with the requirements mentioned in sections 12, 14, 18 and 19. The Adjudicating Officer after holding enquiry while adjudging the quantum of compensation or interest as the case may be, shall have due regard to the factors mentioned in Section 72. The

compensation may be adjudged either as a quantitative or as compensatory interest.

- 11.7 The Adjudicating Officer, thus, has been conferred with power to direct for making payment of compensation or interest, as the case may be, “as he thinks fit” in accordance with the provisions of Sections 12,14,18 and 19 of the Act after taking into consideration the factors enumerated in Section 72 of the Act.
- 11.8 On examination of the pleadings on record and submissions, it is admitted position that the project of the appellant is delayed. In our considered view the claim of the allottee/complainant regarding compensation of Rs.10,00,000/- for delay in possession was not rightly examined by the Adjudicating Officer on account of not providing any record/documentary evidence for the losses suffered due to delay in possession by the respondent. Further the Adjudicating Officer awarded compensation of Rs. 50,000/- to both the appellants for violating Section 12 of the Act 2016 as well as making wrong statement in the Brochure, which we found just, fair and equitable.
- 11.9 On due consideration, we do not find any illegality or perversity in the impugned order dated 02.08.2021 passed by the Adjudicating Officer of the Regulatory Authority as we could not find out any record/documentary evidence in support of the claim for losses suffered by the appellant/complainant. The Adjudicating Officer has rightly rejected the claim of appellant regarding compensation of Rs.10,00,000/- for delay in possession and awarded compensation of Rs. 50,000/- for violating the provisions of Section 12 of the Act 2016 as well as making wrong statement in the Brochure. **Issue no. (ii)** is answered accordingly.
12. In view of the aforesaid analysis and after appreciating the submissions of appellants (in person) and learned counsel for the respondent as well as examining the record of the proceedings, we do not find any perversity and illegality in the impugned order dated 02.08.2021. None of the grounds taken in both the appeals are tenable in the eyes of law. Accordingly, while upholding the order dated 02.08.2021 passed by the Adjudicating Officer of the Regulatory Authority in Complaint No. ADJ/NCR144/03/72562/2021 (Dheeraj Kumar Vs. Gaursons Hightech Infrastructure Pvt. Ltd.) and

Complaint No. ADJ/NCR144/03/72569/2021 (Jyoti Taneja Vs. Gaursons Hightech Infrastructure Pvt. Ltd.), **we dismiss both the appeals.**

13. No order as to the costs.

Dated:

Shakir/Tanveer

(K. K. Jain)

(D. K. Arora)