

**BEFORE THE ADJUDICATING OFFICER
THE RAJASTHAN REAL ESTATE REGULATORY AUTHORITY,
JAIPUR**

Complaint No. RAJ-RERA-C-2025-8192

Govind Sharma S/o Shivram Sharma, R/o 4 HA, 398 Indira
Gandhi Nagar, Jagatpura, Jaipur, Rajasthan-302017.

.....Complainant



Versus

M/s Shivshakti Realhome Pvt. Ltd. through its director Mr.
Rajeev Kumar Singhi, having its office at Shivalika, GH-5,
Gokulpura, Near Marble Mandi, Kalwar Road, Jaipur-302012.

.....Respondent

Present

Hon'ble Shri R.S. Kulhari, Adjudicating officer

Mr. Sanjay Khedar, Advocate present for complainant.

Respondent proceeded ex-parte.

Date: 03.07.2025

R. S. Kulhari
(R. S. KULHARI)
Adjudicating Officer
Rajasthan Real Estate Regulatory Authority
Jaipur

ORDER

The present complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as 'RERA Act') read with Rule 36 of the RERA Rules, 2017 for seeking compensation.

2. The brief facts of the matter are that the complainant booked a flat bearing no. A-602 in the project of respondent named as "**Shivraj Residency**" for total sale consideration of Rs. 42,94,501/-. The complainant has deposited total amount of Rs. 31,98,000/- to the respondent on various dates. The agreement for sale was executed on 14.03.2015 wherein it was agreed that the possession would be delivered latest by 14.09.2018. But the promoter has not developed the project within stipulated period.

3. Being aggrieved, the complainant filed a complaint bearing no. RAJ-RERA-C-N-2023-6310 before the Hon'ble RERA Authority for refund of amount with interest. The Hon'ble RERA Authority vide order dated 03.06.2024 directed the respondent to refund the deposited amount alongwith interest @ 10.85% from the expected date of possession i.e. 14.09.2018 till the issuance of the order i.e. 03.06.2024, excluding moratorium period. Thereafter, the complainant has filed



the present complaint for compensation mainly on the grounds of deficiency in service, mental agony, rent and cost of litigation.

4. A registered notice was sent to the promoter for appearance on 10.06.2024 but he has not appeared. As per track report, notice was delivered to the respondent. Therefore, in view of the absence of promoter the matter was proceeded ex-parte vide order dated 10.06.2025.
5. In support of the complaint, the complainant has filed various documents and argued the case at length. Since nobody has appeared on behalf of the respondent therefore, the respondent remained unrepresented and unheard.
6. Learned counsel for the complainant submitted that the complainant has deposited Rs. 31,98,000/- but the respondent in order to defraud the complainant did not take any step in development of the project. Even he has not refunded the deposited amount in compliance of the order of the Hon'ble Authority. The Hon'ble Authority has allowed interest @ 10.85% per annum whereas more than 12% return can be fetched by investing anywhere in the market. The complainant has also lost the opportunity of having his own flat. Therefore, adequate compensation be granted.
7. Having heard the learned counsel for the complainant and considering the material available on record it is



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evident that the complainant has booked a flat in the project of respondent and paid Rs. 31,98,000/- to the promoter but no offer for possession has been made. The Hon'ble RERA Authority has also observed that the project has not been completed within stipulated period and allowed the complaint by directing the respondent to refund the entire deposited amount alongwith interest @ 10.85% p.a. from expected date of possession till the issuance of order. No fault has been attributed on the part of the complainant. The averments and the documents placed on record by the complainant have remained totally unrebutted and uncontroverted by the promoter. Therefore, there is no reason to disbelieve them. The agreement for sale was executed between the parties on 14.03.2015. As per sale agreement, possession of the flat was to be delivered latest by September 2018 but no offer for possession was made by that time. Thus, it is proved that the promoter has failed to discharge its obligations as required under the RERA Act and has violated the provisions of Section 18(1) of the RERA Act, entitling the complainant for compensation.

8. Coming to the aspect of assessment of compensation, it is apparent that the complainant has lost the opportunity of having flat and has also deprived of appreciation of the cost. The Hon'ble RERA Authority has allowed interest @ 10.85% per annum but that cannot be said to be



adequate to reconstitute the complainant in its original position. In case of refund, like present one the allottee should be reconstituted as laid down by the Hon'ble Supreme Court in the case of **Experion Developers Pvt. Ltd. Vs. Sushma Ashok Shiroor** Civil Appeal No. 6044 of 2019 decided on 07.04.2022. In my opinion, at least 12% return on the deposited amount appears to be appropriate and adequate to recoup the financial losses caused to the complainant. Thus, a difference of 1 % p.a. in the form of compensation deserves to be awarded on the deposited amount from expected date of possession till 03.06.2024 in addition to the interest allowed by the Hon'ble Authority.

9. Besides, the complainant has deposited amounts on various dates and the said amount remained with the respondent all through. No interest has been allowed by the Hon'ble RERA Authority till the promised date i.e. 14.09.2018, on the deposited amount whereas the complainant was regularly paying the interest or the interest was accrued on the loan amount or on the other amount arranged by him. Therefore, the complainant is also entitled to get the compensation in the form of interest for this period. Hence, the respondent is liable to pay 12% p.a. return in the form of compensation on each deposit from date of deposit till 13.09.2018.

10. Besides, the Hon'ble RERA Authority has allowed interest upto the date of disposal of the complaint i.e. 03.06.2024 but the amount shall remain with the promoter till the actual refund is made. Therefore, the complainant is also entitled to get the compensation @ 12% on the total deposited amount of Rs. 31,98,000/- from 04.06.2024 till the date of payment.

11. Apart from above, the complainant has suffered physical and mental agony coupled with loss of opportunity because of deficiency in service and non-delivery of flat. The complainant booked the flat with a sanguine hope that on a fine day he would be owner of his own house but all has gone in vain and he has to console himself by taking refund with some interest/ compensation and the same is yet to be refunded without any certainty of payment on specific date. Therefore, he is entitled to get the compensation on this count which is quantified to be Rs. 1,00,000 considering the facts in its entirety. Besides, the complainant was compelled to fight legal battle before the Hon'ble RERA Authority as well as before this Tribunal without any fault on his part and has incurred cost of litigation so he is also entitled to the same which is considered to be Rs. 20,000 as justified in the present case.

12. In view of the above the complaint is allowed in the following manner:-



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- (i) The respondent is directed to pay compensation in the form of interest @ 12% p.a. on each deposit from the date of deposit till 13.09.2018 and will pay additional interest @ 1% p.a. as compensation on the total deposited amount of Rs. 31,98,000/- from 14.09.2018 till 03.06.2024 and also pay interest @ 12% as compensation from 04.06.2024 till the date of refund.
- (ii) The promoter shall also pay Rs. 1,00,000/- as compensation towards mental agony and deficiency in service and Rs. 20,000/- towards cost of litigation to the complainant.
- (iii) The compliance of the order shall be made within 45 days from today failing which the respondent shall have to pay additional interest @ 2% p.a. simple on the whole recoverable amount under this order.
- (iv) The order be uploaded on the website of RERA and be also sent to both the parties. File be consigned to records.

Date:- 03.07.2025

[Signature]
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