



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

## BEFORE THE ADJUDICATING OFFICER

**Complaint No. – 619 of 2023**

**Date of Institution: - 14.03.2023**

**Date of Decision: - 22.08.2023**

Jitender Gahlawat s/o Sh. Kehar Singh, aged about 45 years, r/o House no.204, I – Block, Near Corporation Bank, Devashri Garden, Porvorim, North Goa, Goa – 403501

...COMPLAINANT

VERSUS

1. M/s Parker VRC Infrastructure Pvt. Ltd. through its Authorized person Sh. Manish Garg and Sh. Chander Shekhar Bansal both Directors at 408, D-Mall, Netaji Subhash Place, Pitam Pura, Delhi – 110034 and current working from Parker VRC Infrastructure Pvt. Ltd. Parker Mall, Upper Ground Floor Sector 62, G.T. Road, NH, Kundli, Sonapat, Haryana -131028
2. Sh. Manish Garg, Director and Authorized person for M/s Parker VRC Infrastructure Pvt. Ltd. and resident of 160, Vaishali, Pitampura, New Delhi – 110034
3. Sh. Chander Shekhar Bansal, Director and Authorized person for M/s Parker VRC Infrastructure Pvt. Ltd. and resident of 160, Vaishali, Pitampura, New Delhi – 110034

*Salita Gupta*

4. Aakarshak Realators Pvt. Ltd. through its Authorized person Sh. Manish Garg, Director at 410, 4<sup>th</sup> Floor, D Mall, Netaji Subhash Place, Pitam Pura, Delhi – 110034
5. Sh. Manohar Lal Garg, Director – M/s Parker VRC Infrastructure Pvt. Ltd. and resident of 160, Vaishali, Pitampura, New Delhi – 110034
6. Sh. Rajeev Kumar Gupta, Director M/s Parker VRC Infrastructure Pvt. Ltd. and resident of 178, West Punjabi Bagh, New Delhi -110026
7. Sh. Ravinder Mohan Garg, Director – M/s Parker VRC Infrastructure Pvt. Ltd. and resident of B-40-42, Neb Valley Neb Sarai, South Delhi IGNOUS Delhi-110068
8. Javier Management Services Pvt. Ltd. bearing CIN No. U74999DL2012PTC229734 and GSTIN 06AACCJ7417P1Z5 through its Authorized person, situated at Sector -62, Parker Mall, Upper Ground Floor, Village Rasoi, Kundli Sonapat, Haryana - 131028

....RESPONDENTS

**Hearing:-** 3<sup>rd</sup>

**Present:-** Mr. Vivek Sheoran, Advocate, Counsel for the complainant  
Mr. Gaurav Gupta, Advocate, Counsel for the respondents no. 1 to 4  
None for respondents no.5 to 8

*Gaurav Gupta*

**JUDGEMENT:**

The brief facts culminating into the institution of the present complaint are:

1. On 08.01.2013, the complainant had booked one flat in 'White Lily', project of the respondent on payment of ₹6,00,000/-. Thereafter, the complainant had paid an amount of ₹8,31,662/- on 10.04.2013, ₹7,52,000/- on 10.06.2013, ₹5,69,165/- on 25.08.2013 and ₹6,60,000/- on 05.09.2013. On 27.12.2013 Builder Buyer Agreement was executed between the complainant and respondent no.1. Before signing of Builder Buyer Agreement on 27.12.2013, the complainant had paid total amount of 34,12,827/- i.e. 46.27% approximately of the total amount stipulated in Builder Buyer Agreement. The complainant had paid an amount of ₹26,79,875/- as stipulated in clause 1.2 of Builder Buyer Agreement and it is more than 36% of total amount agreed between the parties. As per clause 6(i) of Builder Buyer Agreement, the builder was to make offer of possession of the flat within 42 months from the date of signing of agreement with a grace period of 6 months. The date for offering the possession of flat comes out to be 27.05.2017. After adding the grace period, subject to objections, the date for offer of possession would be 27.12.2017. Respondent no.1 vide letter dated 06.03.2019 made offer of possession to the complainant. Even after adjusting the grace period of 6 months, offer of possession was made after delay of 14 months. Hence respondents are liable to pay delay interest at the same rate being charged by them from the complainant for any delay. Though, the possession certificate qua the

*Sigheeta Gupta*

project was received on 07.03.2019, which shows that respondents had offered possession simply on the anticipation of securing Occupation Certificate and offer of possession cannot be said to be genuine. The complainant could not take the possession of the flat, soon thereafter the respondents without adverting to the fact that they had caused delay in handing over the project and ought to have paid interest and compensation to the complainant, started demanding certain outstanding amounts from the complainant. The respondents have levied certain unaccounted taxes and charges upon the complainant which are neither legal nor tenable as per settled law of land. Respondent no.8 while referring itself as maintenance agency had also started issuing demand notices for payment of outstanding maintenance charges. The complainant is permanent resident of Goa. Due to COVID-19 and after suffering burnt of infection in its early stage, could not have travelled at the project to settle the issues. The complainant had informed working officials of respondents that owing to his work schedule he could take only one week off in the month of February and March and further coupled with the risk of COVID-19, he had requested them to settle the matter by conducting video calls or through phone. All such requests of the complainant were declined by the respondents. He was suggested to visit the project for sorting out for same. The complainant visited the project in February 2023. In pursuant to the meeting with the officials of the respondents, while raising some genuine concern over the pending issues and variables upon which the said amount has been calculated, representation dated 09.02.2023 was sent for settlement of dues and taking over

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physical possession and also executing the conveyance deed. Till date no reply of the said representation has been received by the complainant. By way of the present complaint, the complainant has sought compensation in the form of delay interest from the respondents as it is a matter of record that by virtue of clause 6 of Builder Buyer Agreement, the offer of possession was to be made on 27.05.2017 and it was offered only on 06.03.2019. Though it could not have been offered as Occupation Certificate was granted to the respondents only on 07.03.2019. Even if 06.03.2019 is considered to be date of offer of possession, the total delay comes to 1 Year 9 Months and 9 Days. The complainant has also sought compensation to the tune of ₹1,00,000/- against mental harassment and litigation charges in the sum of ₹1,55,000/-. The respondents have failed to communicate to the complainant regarding any reason or circumstances which had prevented them from offering possession within a period of 42 months from the date of executing Builder Buyer Agreement. The benefit of grace period cannot be given to them. The respondents cannot simply be granted privilege of grace period as a mean of luxury without there being any genuine reason for invoking the same. Granting of grace period is a contingency which could only be invoked as and when conditions regarding the same exist and prevent the respondents from the completing their part of liability in time limit. As per clause 3(ii), 6(iii), 7(iii), 10 and 28 it would reflect that the respondents had levied interest @ 24% from the complainant as the rate the delay interest to be paid by him under different circumstances. From the perusal of demand and reminder

letter, such rate of interest has been levied against the complainant, the complainant is also entitled for delayed interest at the same rate. The total amount ought to be charged from the complainant as per payment plan would be ₹73,77,050/- (excluding tax), but perusal of computation sheet qua the total amount paid by the complainant would reveal that till 16.02.2018 i.e. much before the possession was allegedly offered, he made a payment of ₹77,20,672/- i.e. in excess of ₹3,404/-. The complainant believed that the amount was being increased from the agreed amount on account of levying valid tax but till date respondents have not provided the break-up of the tax amount. It transpires that the respondents, even before offering possession to the complainant, have induced him to deposit amount higher than agreed in Builder Buyer Agreement. Respondent had taken amount of ₹7,52,000/- for starting construction of tower, whereas the construction had started only on 01.08.2014. Despite taking amount against club charges on 30.06.2015 and 15.10.2015, not a single penny has been spent on the club till 24.10.2019. Demand letters dated 21.10.2019 and 24.01.2020 would reflect that the respondents, in the guise of clause 6(iii) of Builder Buyer Agreement, but in gross violation of settled law, the respondent had been charging holding charges from the complainant and non-payment of the same appears to have been levying delay interest over the same. The demand for holding charges, being illegal, be set-aside and the amount demanded against the same be adjusted in the account of complainant. Bare perusal of different demand letters and reminders would reflect that respondents under the pretext of

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unexplained charges namely basic taxes, interest, delay interest has been taken and further been demanding amounts which are not otherwise due against the complainant. The manner and the mode of demands and reminders is so complex that it is not possible for a person of ordinary prudence, the said amount being unexplained or unwarranted be adjusted in the favour of the complainant. By virtue of letter dated 20.01.2018, the respondents have offered now and never plan to the complainant wherein it was suggested that if the complainant clears his dues of ₹3,35,868/-, he would be granted two benefits of GST @ 12% by the company on the balance payment and no maintenance charges till March 2019 would be charged. Said offer of respondents was nothing but a tactic to induce the complainant in paying of such charges which are not otherwise payable by him. Respondents have wrongly demanded VAT amount to the tune of ₹69,041/- vide demand letter dated 20.03.2017, which is illegal.

2. Upon notice respondents no.1 to 4 appeared and filed reply taking preliminary objections that the complainant had voluntarily invested in the project of the respondent namely 'White Lily' developed at Village Kamaspur, Sonipat, Haryana. The complaint is not maintainable and is liable to be dismissed. The complainant has sought relief of payment of delay interest, quashing of certain demands, refund of excess amount charged from this Court, which are beyond jurisdiction of the Adjudicating Officer. It is only within the ambit of Hon'ble Authority to adjudicate upon these issues. No cause of action has arisen to the complainant, any cause of action so created by the complainant is false,

fictitious and no right has accrued to the complainant to approach this Court. The complainant has not approached the Court with clean hands and material facts have been concealed. The complainant is estopped by his own act and conduct from claiming any relief. The complainant had booked unit no.D-603 in the project namely 'White Lily' of the respondent after full satisfaction about the project of his own. Builder Buyer Agreement was executed on 27.12.2013. The complainant had agreed to make payments under several heads as per terms of Builder Buyer Agreement. The possession of the unit was agreed to be delivered as per terms of Builder Buyer Agreement. Certain set of terms and conditions were applicable and binding upon both the parties. The complainant was required to pay an amount of ₹77,20,525/- towards sale price of the unit, amount of ₹3,52,843/- towards taxes, total sale consideration of the unit was ₹80,73,368/-. Apart from this the complainant was required to pay other charges, duties, miscellaneous expenses, which are payable at the time of taking possession and registration of conveyance deed of the unit. The project was completed well within time, Occupation Certificate was received from the competent Authority vide letter dated 07.03.2019 and a valid offer of actual physical possession of the unit was made to the complainant on 15.04.2019 subject to clearance of outstanding dues. It is the complainant who did not come forward to accept the possession and clear the outstanding dues towards the unit. Now the complainant cannot level false and frivolous allegations upon the respondents and get undue benefit. Due to some typographical error, the date 06.03.2019 was wrongly

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mentioned in the letter of offer of possession and in order to rectify such bona fide mistake, the respondents again made fresh offer of possession vide letter dated 15.04.2019. Out of total sale consideration of ₹80,73,368/-, the complainant has deposited only an amount of ₹77,63,849/- (₹73,77,050/- towards sales price + ₹3,17,758/- towards taxes + ₹69,041/- towards VAT) and an amount of ₹3,78,560/- (₹1,92,725/- towards sales price + ₹21,450/- towards taxes + ₹1,64,385/- towards possession charges). Since valid offer of possession has already been made on 15.04.2019, the complainant is also liable to pay an amount of ₹1,67,350/- towards interest on delayed payment calculated from 15.04.2019 to 31.05.2023 @ 10.70% per annum as per HRERA Rules and an amount of ₹11,93,150/- towards holding charges (calculated at ₹10/- per sq. ft. from 01.05.2019 to 31.05.2023 and as such a total amount of ₹17,39,060/- (₹3,78,560/- remaining towards unit + ₹1,67,350/- towards interest on delayed payment + ₹11,93,150/- towards holding charges) is left to be paid towards the unit booked by the complainant. The delay was caused by many incidents like Jat stir in 2016, arrest of Ram Rahim in year 2017, demonetization, implementation of GST, which were having lasting impact on the progress of the project. All these factors were beyond the control of respondents. The complainant out of ulterior motive and mala fide intention, in order to hide his own illegal act and conduct and acting in breach of terms of Builder Buyer Agreement, the complainant has levelled false and frivolous allegations with intent to obtain undue monetary benefits.

3. On merits, it is submitted that as per terms of agreement the deemed date of possession comes to 27.12.2017, after calculating a period of 48 months from the date of execution of agreement. The respondents have completed the project within time after obtaining numerous sanctions, approvals, licenses from various competent Authorities from time to time and a slight delay in fulfilment of all the requisites, is no delay in Group Housing Development projects. After raising all the construction works and obtaining all the sanctions, approvals etc., occupation certificate was applied on 07.03.2018 and was issued by Town and Country Planning Department, Haryana on 07.03.2019. The delay in issuance of Occupation Certificate by competent Authority cannot be attributed to the respondents as it is internal matter. It is denied that respondents have offered the possession simply on the anticipation of securing Occupation Certificate. It is denied that complainant could not take possession of the flat or the respondents without advertng to the facts that they had caused delay in handing over the project or they ought to have paid interest and compensation to the complainant, the respondents had rather started to demand certain outstanding amounts. The complainant has not mentioned even a single cause as to why he could not take possession of the flat. In fact, the complainant did not intentionally come forward to take possession and clear genuine outstanding dues. The complainant is not entitled to get any interest and compensation from the respondents and all the payments demanded from the complainant are in accordance with terms and conditions of Builder Buyer Agreement. Respondent no.8 is maintenance agency

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nominated by the respondent no.1-4, which is looking after the maintenance of the project. The complainant is bound to pay outstanding maintenance charges. It is denied that due to COVID-19, the complainant could not travel and visit the project to settle the issues. Till date the complainant has not communicated with the respondents despite demands raised as alleged by him. The complainant is concocting stories to get undue advantage from the Court. It is denied that the complainant had visited the project in February 2023 or sent a representation on 09.02.2023 for settlement of dues and taking over physical possession and executing conveyance deed. In fact, no representation was received. The complainant is not entitled to seek any compensation in the form of delayed interest. If there is any delay in offer of possession, it is only for a period of 3 months calculated from 27.12.2017 to 07.03.2018, the date on which application for Occupation Certificate was submitted. Because of force majeure conditions over the project beyond the control of respondents, period of 48 months be taken for ascertaining deemed date of possession not a period of 42 months. It is denied that respondents had levied interest @ 24% per annum upon the complainant as the rate upon which delay interest is to be paid by him. Interest @ 10.70% per annum is charged for delay in making the payment in accordance with HRERA Rules, 2017. If the complainant is entitled to delay interest, it is only @ ₹5/- per sq. ft. per month on super area for delay in possession. So far as the holding charges are concerned, the complainant himself agreed vide clause 6(iii) to pay the holding charges to the respondents at agreed rate, now he cannot escape his

liability to pay the same when they have become due. Complainant is not taking possession initially ever after receiving valid offer of possession. The respondents are well within their rights to recover holding charges. Respondent no.8 is rendering continuous service of maintenance of the project, not for a particular unit. The amount of ₹69,041/- as VAT has been rightly demanded from the complainant. The respondents have stated that all the claims of the complainant are denied and have prayed for dismissing the complaint with costs.

4. Rejoinder to reply filed by respondents no.1-4 was filed by the complainant reiterating his claim in complaint and denying allegations of the respondents.

5. Arguments of both learned counsel for the parties have been carefully heard along with meticulous examination of the records of the case.

6. It is not disputed that the complainant had booked flat no. D-603, sixth floor having super area of 2370 sq. ft. in 'White Lily' project of the respondents on payment of ₹6,00,000/- on 08.01.2013. It is also not disputed that Builder Buyer Agreement was executed on 27.12.2013. As per clause 6(i) of Builder Buyer Agreement, possession was to be offered within 42 months + 6 months grace period. The granting of grace period to the respondent for giving offer of possession has been objected to by learned counsel for complainant on the ground that there were no unforeseen circumstances. At this stage, it is not to be worked out as to whether grace period was to be granted to the respondent no.1 or not for completion of the project or giving offer of possession. The period


for giving offer of possession is taken as 42 + 6 months which comes to 27.12.2017. So far as offer of possession is concerned, the complainant has stated that offer of possession was made on 06.03.2019, whereas Occupation Certificate was received on 07.03.2019. It is the averment of learned counsel for respondents that letter of on offer of possession, the date 06.03.2019 was inadvertently written and later on revised /fresh offer of possession was given on 15.04.2019. As per version of the complainant there is delay of 14 months in handing over the possession, as per version of the respondents there is delay of only 3 months in offer of possession as date would be taken as 07.03.2018 when application for granting Occupation Certificate was moved. The complainant has also claimed delay interest for the delay in handing over the possession. At this stage, it is pertinent to mention that the relief of delay interest has to be claimed from Hon'ble Authority not before this Court. So far as the relief of demand for holding charges being set-aside as being illegal and amount be adjusted in the account of the complainant, this relief is also to be claimed from Hon'ble Authority. So far as other charges like VAT, GST, maintenance charges are concerned, these are also to be claimed from Hon'ble Authority. The complainant has also shown his grievances against club charges which is also not the jurisdiction of this Court.

7. The present complaint has been filed seeking compensation, but compensation in the shape of delay interest cannot be granted. The complainant has not uttered a single word in his entire complaint that because of delay in offer or handing over the possession, the complainant has suffering mental agony and


harassment. In the absence of any specific pleading with regard to suffer of mental agony and harassment, no compensation on this ground can be granted to the complainant. Since main relief is not being granted, there is no order on payment of litigation charges in favour of the complainant. Hence both reliefs are ordered to be declined.

8. Finding no merit in the complaint, it is ordered to be **dismissed**. File be consigned to record room after uploading of this order on the website of the Authority.

22.08.2023

  
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(DR. SARITA GUPTA)  
ADJUDICATING OFFICER

**Note:** This judgement contains 14 pages and all the pages have been checked and signed by me.

  
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(DR. SARITA GUPTA)  
ADJUDICATING OFFICER