HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	70 of 2022
Date of filing:	27.01.2022
Date of first hearing:	04.05.2022
Date of decision:	14.11.2024

Narendra Singh S/o Sh. Gurdial Singh
R/o 401, Millenium Residency, Sector 47,
Gurugram, Haryana- 122012

....COMPLAINANT

VERSUS

1. Urban Improvement Company Pvt Limited.
(Greenfield Aravalli Hills, Faridabad)
F-32, Connaught Place
New Delhi-110001

2. Bharat Bhushan, Chairman
Urban Improvement Company Pvt Limited
Registered Office: F-32, Connaught Place
New Delhi-110001

3. Pravin Kumar, Sr. General Manager
Urban Improvement Company Pvt Limited
Registered Office: F-32, Connaught Place
New Delhi-110001

....RESPONDENTS

CORAM:	Parneet S Sachdev	Chairman
	Nadim Akhtar	Member
	Dr. Geeta Rathee Singh	Member

Present: Mr. Amandeep Singh, counsel for the complainant, in person.

Ms. Kanika Khurana proxy counsel for Adv. Vaneet Soni, counsel for the respondent through VC

ORDER (PARNEET S SACHDEV - CHAIRMAN)

1. Present complaint dated 27.01.2022 has been filed by the complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the

possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	Greenfield Aravalli Hills, Faridabad, Haryana
2.	RERA registered/ not registered	Un-registered
3.	Unit no.	Plot No. C-11 (Zonal No. C-3200)
4	Unit size	356 sq. yards
5.	Nature of the project	Residential
6.	Date of booking	05.11.1963 (as per page no.9 of complainant pleadings)
7.	Date of builder buyer agreement	No BBA executed
8.	Possession clause in BBA	Not available
8.	Basic sale price	Not available
9.	Amount paid by complainant	₹87,800/- (as per the information of plot and receipt details given on page 16 & 17 of the complaint file and it is also admitted by the respondent company on page. 11, para 3 of the respondent file).

B. FACTS OF THE COMPLAINT

3. Facts of the present complaint are that the complainant, a senior citizen, booked Plot No. C-11 (Zonal No. C-3200), measuring 356 square yards at Greenfields Aravali Hills, Faridabad, a project promoted by Urban Improvement Co. Pvt. Ltd., on 05.11.1963. The complainant has been consistently requesting the respondent for possession of the said plot since its booking. Despite the passage of decades and payment of the full consideration amount, the respondent company has failed to hand over possession of the plot.

4. That the complainant made payments toward the total cost of the plot, including all government charges, over a period from 1963 to 1998, and by 29.05.1998, the entire payment was completed. Despite no dues remaining against the property, the respondent company has refused to execute the conveyance deed or provide possession of the plot.

5. That on 16.02.2021, the respondent company demanded an additional sum of ₹ 34,00,000/- as a security deposit for a pending Income Tax (IT) case against the company. The complainant has no involvement in this case or the alleged liability. The complainant sought documentary proof justifying the demand but received no response from the company. On 03.03.2021, the complainant refused to pay the illegal demand and requested the respondent company to provide proof of any

obligation to deposit the said amount. Following this, on 26.03.2021, the respondent company asked the complainant to visit their office via email. However, during the visit, the company refused to provide any IT-related documents or execute the conveyance deed.

6. That the complainant made further attempts to resolve the issue by approaching the chairman, Mr. Bharat Bhushan, and the senior general manager of the company through emails, letters, and personal visits on multiple dates, including 07.06.2021, 17.06.2021, 06.07.2021, 23.07.2021, 23.08.2021, and 18.10.2021. Despite repeated requests, the company refused to execute the conveyance deed or provide possession. On 28.12.2021, the complainant sent a final notice to the company demanding the registration of the plot in their favor, but the respondent company failed to act on the notice.

7. That the respondent company has been unlawfully demanding monthly security charges for the plot, even though possession has not been handed over to the complainant. It is further submitted that the project of respondent company is not registered with the Real Estate Regulatory Authority (RERA), which is a violation of government norms requiring all ongoing projects to be registered. The respondent company has also violated government guidelines and policies by

refusing to transfer the property despite having received the full payment.

8. That the respondent company was issued an assessment order by the Income Tax Department regarding cash transactions, for which a penalty was imposed. However, the complainant's Plot No. C-11 is not listed in the assessment order. The Hon'ble Income Tax Appellate Tribunal, Delhi Bench 'G,' provided relief to the respondent company on 07.02.2020 in ITA No. 7496/DEL/2019 (Asst. Year 2015-16), proving the baseless nature of the respondent's demand for ₹34,00,000/- from the complainant. Despite this, the respondent company has persisted with its illegal demand.

9. It is pertinent to mention that the complainant never made any cash payments to the respondent company. All payments were made through cheques or demand drafts, as reflected in the receipts. (Annexure C-3). The respondent company's claim that the project was incomplete by 1998 is also refuted by advertisements published in 1994-95, which stated that the project had all necessary approvals and was ready for auction and construction activities. (Annexure C-5).

10. Despite decades of continuous communication and repeated requests, the respondent company has delayed the transfer of the plot for an unjustified period of 23 years, causing the complainant significant

financial losses. The complainant respectfully requests that the Hon'ble Authority direct the respondent company to withdraw the illegal demand of ₹34,00,000/- and monthly security charges, execute the conveyance deed, and hand over possession of the plot immediately. Additionally, the complainant seeks interest at 15% on the present market value of the plot for the delay caused by the respondent company.

C. RELIEFS SOUGHT

11. The complainant in her complaint has sought following reliefs:-

    i. The company must withdraw unlawful and forcible demand of Rs: 34,00,000/- (rs. thirty-four lakhs only) towards security deposit.

    ii. The company must execute conveyance deed of the plot and handover possession of the plot in favour of the complainant immediately.

    iii. The company must pay interest on the present market value of the plot for the delayed period (w.e.f. completion of the colony/project or wef date of final payment).

    iv. The company must withdraw illegitimate demand of monthly security charges as the plot is still under their possession. The

complainant is liable to pay security charges only after transfer of legal title.

v. Requested to kindly issue orders to the colonizer/ company to execute conveyance deed of plot no. C-3200 in my favour immediately. Also, i claim 12% interest on the market value of the plot for the delayed period. (w.e.f. completion of the colony/project). Security charges shall be paid wef actual handover of the possession of the plot.

D. REPLY SUBMITTED ON BEHALF OF ALL THE RESPONDENTS.

On 24.02.2022, ld. counsel for the respondent on behalf of respondent no's 1 to 3, filed a detailed reply to the complaint wherein:

12. Respondent has submitted that respondent no. 1, a company registered under the Companies Act, 1956, is managed by Directors nominated by the Government of India under Section 408 of the Companies Act. The respondent no. 1 - company is controlled by the Ministry of Corporate Affairs and operates on a no profit-no loss basis for the welfare of approximately 4300 plot holders in Greenfields Colony, Faridabad. Its Directors, including retired IAS and IPS officers, are

appointed by the Government of India solely for public interest and the welfare of the plot holders.

13. The complaint pertains to Plot No. AC-11, Sector-C (Zonal Plot No. 3200) in Greenfields Colony, which was initially allotted to Smt. Satwant Kaur Walia (mother of the complainant, Narendra Singh) against a payment of ₹87,800. The complainant inherited the allotment through transfer in 1990, as per the allottee's request. Despite multiple letters from Respondent No. 1 in 1990 and 1998 requesting execution of the sale deed, neither the complainant nor his mother took any action until February 2021. Copies of two such letters dated 27.02.1990 and 03.05.1998 calling upon the allottee for execution and registration of sale deed are annexed with reply as Annexure R-2 & R-3 respectively.

14. At that point, the complainant was informed about tax liabilities arising under Section 43CA of the Income Tax Act, which mandates the use of stamp duty valuation as the deemed consideration when the sale consideration is lower. Since the allotment price paid in the 1960s is significantly lower than the prevailing circle rates, respondent no. 1 required the complainant to deposit ₹ 34,00,000 as a fixed deposit (FD) with a lien in its favour to address potential tax implications. This demand is consistent with past practices followed by other allottees, as

evidenced by agreements and FDs submitted by 101 similarly situated individuals.

15. Respondent No. 1 highlighted that the demand arises from an income tax order dated December 15, 2017, imposing liabilities on the company for discrepancies between sale consideration and stamp duty valuation. The tax authorities initiated penalty proceedings under Section 271(1)(c) of the Income Tax Act. These tax liabilities were challenged by Respondent No. 1 and resolved in their favour by Income Tax Appellate Tribunal (ITAT) on technical grounds. Copies of relevant orders and tax notices were shared with the complainant and copy of the aforesaid Income Tax Appellate Tribunal order dated 07.02.2020 is annexed with the reply as Annexure R-8.

16. However, the complainant, while filing the current complaint, concealed these facts and falsely alleged the demand of ₹34,00,000 as unlawful. Respondent No. 1 argues that this demand is lawful, justified, and essential for executing the sale deed. Moreover, Respondent No. 1 denies the claim of interest or allegations of delay, citing that it repeatedly called upon the complainant for execution and registration of the sale deed.

17. Respondent No. 1 also contends that respondents no. 2 and 3, as individuals, have been unnecessarily added to the complaint without

any relief sought against them and are protected from legal proceedings as per Delhi High Court orders. Respondent No. 1 asserts its readiness to execute the sale deed, contingent upon the complainant's compliance with legal requirements. Hence, the relief sought by the complainant is denied as baseless and contrary to law.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS

18. During oral arguments, ld. counsel for the complainant reiterated the basic facts of the case and argued that the respondent company's demand for ₹34,00,000 and the requirement for a fixed deposit with a lien are baseless and unlawful. It was alleged that their plot is not included in the Income Tax Department's penalty list and that all payments for the plot were made through cheque or demand draft, with no cash payments involved and that too way back in the year 1998.

19. Ld. counsel for the complainant highlighted that the penalty demand was quashed in appeal due to procedural lapses, and the provisions of Section 43CA(1) of the Income Tax Act do not apply to their transaction. It was contended that the respondent company cannot impose liability for anticipated penalties or demand a lien-based fixed deposit for uncertain future liabilities. He emphasized that the

transaction related to the allotment of their plot does not trigger the provisions of Section 43CA(1) of the Income Tax Act, which applies to undervalued transactions in cases of consideration below circle rates. The complainant's name is not included in the assessment or penalty orders issued by the Income Tax Department. Hence, the demand for ₹34,00,000 is unjustified and creates an undue financial burden on the complainant although the complainant is ready to take possession of the allotted plot but opposes the demand for additional charges. Ms. Kanika Khurana, proxy counsel for Adv. Vineet Soni, counsel on behalf of the respondents appeared and reiterated the basic arguments as asserted in the written reply.

F. ISSUES FOR ADJUDICATION

20. Whether the complainant is entitled to the relief claimed by the complainant in terms of provisions of RERA Act of 2016?

G. OBSERVATIONS AND DECISION OF THE AUTHORITY

21. The Authority has gone through the rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both parties , the Authority observed as follows :

G.I Complainant's grievance regarding the Respondent Company's demand for ₹34,00,000 as a security deposit.

22. After analyzing the facts and along with relevant record, applicable laws, and submissions made by the parties, the Authority observes that the demand for ₹34,00,000 stems from an alleged liability arising from the application of Section 43CA(1) of the Income Tax Act, 1961, which imputes tax liability based on the differential value between the actual sale consideration and the circle rate for stamp duty. This liability, however, pertains solely to the respondent company and not to the complainant. The respondent company's attempt to transfer its tax liabilities or future contingent liabilities to the complainant is wholly unjustified. Section 43CA(1) reads as under :

> *"Where the consideration received or accruing as a result of the transfer by an assessee of an asset (other than a capital asset), being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer."*

23. This provision does not place any liability on the complainant i.e allottee in the present case but focuses solely on the seller (the

respondent company). Thus, any assessment or penalty arising from this provision must be borne by the company and cannot be shifted to the complainant. There is no evidence presented that the complainant ever insisted on any registration deed below the circles rates. Section 43CA(1) places the onus squarely on the seller. Furthermore, it is noted that the complainant's plot is not listed in the Income Tax Department's assessment. The respondent company's demand is based on speculative assumptions about possible future liabilities, which lack legal or factual basis. This is an illegal demand made by the seller.

24. Authority also refers to Section 19 of the Real Estate (Regulation and Development) Act, 2016, which outlines the duties of an allottee. Section 19(6) states:

> *"Every allottee who has entered into an agreement for sale to take an apartment, plot, or building as the case may be, under section 13 shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any."*

25. The complainant has fully complied with his obligations under Section 19 by making all payments, including external development charges, registration, maintenance charges, and additional development costs, as

evidenced by the receipts submitted. The respondent company has acknowledged these payments in its written submissions in the form of reply filed on 24.02.2022. No additional liabilities can be imposed on the complainant in the absence of any contractual or statutory obligation towards the Income Tax liability of the respondent.

26. As per ***Pioneer Urban Land and Infrastructure Ltd. v. Govindan Raghavan [(2019) 5 SCC 725]***, the Hon'ble Supreme Court emphasized that the terms of a contract between a developer and an allottee must be fair and not one-sided. The Court held that imposing additional terms or conditions, which are arbitrary and not agreed upon in the original contract, amounts to unfair trade practice under Section 2(r) of the Consumer Protection Act, 1986. Such actions are detrimental to the interests of the allottee. In the present case, the unilateral imposition of a new liability in the form of a security deposit violates the complainant's contractual and statutory rights under RERA. The Respondent Company's action amounts to an abuse of its dominant position as a promoter and is contrary to the principles of natural justice.

27. Furthermore, it is observed that Section 11(4)(a) of the RERA Act, 2016, mandates the promoter to act in a transparent and fair manner by

being responsible for all obligations and functions under the provisions of RERA Act, 2016 in all dealings with the allottee. It states:

> *"(4) The promoter shall-*
> *(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:*

28. The Authority concludes that the respondent company's demand for ₹34,00,000 as a security deposit is unjustified, unlawful, and creates an undue financial burden on the complainant. The complainant has fulfilled all obligations given under the RERA Act. Hence, the respondent company cannot impose any additional financial liability and accordingly, additional demand of Rs. 34 lakhs stands quashed.

G.II Complainant's grievance regarding execution of conveyance deed of the plot and handing over the possession of the plot in his favour immediately.

29. The Authority further examines the second relief sought by the complainant, which pertains to the execution of the conveyance deed and the handover of possession of the plot. The complainant has

substantiated their claim by providing receipts annexed as Annexure C3 in order to demonstrate that payment of the full sale consideration over the period from 1963 to 1998. The payment information is also substantiated by the account statement given on page 11 of the complaint file. This fact has also been admitted by the respondent. Despite this, the respondent has failed to execute the conveyance deed and hand over possession of the plot to the complainant, leading to unnecessary and unreasonable delay. As per Section 17(1) of the Real Estate (Regulation and Development) Act, 2016:

> *"The promoter shall execute a registered conveyance deed in favor of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment or building, as the case may be, to the allottee and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws."*

30. Further, Section 11(4)(f) of the Act states:

> *"The promoter shall execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this"*

31. Authority observes that these provisions impose a statutory obligation on the promoter to execute the conveyance deed and hand over possession of the property to the allottee upon completion of payment. The complainant has fulfilled their obligations by paying the full sale consideration, as evidenced by the attached receipts, and no further dues are pending on their part. The failure of the respondent to execute the conveyance deed and hand over possession constitutes a clear violation of Sections 17 and 11(4)(f) of the Act.

32. Additionally, it is a well-settled principle that promoters cannot indefinitely withhold the execution of conveyance deeds or possession of properties without valid reasons. In ***Fortune Infrastructure v. Trevor D'Lima [(2018) 5 SCC 442], judgement dated 12.03.2018***, the Hon'ble Supreme Court held that unreasonable delay in handing over possession and executing conveyance deeds amounts to a deficiency in service, entitling the allottee to appropriate relief.

33. In light of the above, the Authority directs the respondent to execute the conveyance deed in favour of the complainant and hand over possession of the plot without any further delay. The respondent shall complete these actions within four weeks from the date of this order, failing which penalties as prescribed under the RERA Act may be imposed.

G.III Complainant's grievance regarding the delay interest is that "the company must pay interest on the present market value of the plot for the delayed period (w.e.f. completion of the colony/project or wef date of final payment)".

34. Authority observes with regard to delay interest that the complainant has sought relief in the form of interest on the present market value of the plot for the alleged delay in possession. In order to decide on the issue, the factual matrix needs to be appreciated. The final payment for the plot was made in 1998, yet the present complaint was only filed in 2022 i.e 24 years after the cause of action first arose. No plausible explanation for this prolonged inaction has been provided in the written pleadings or oral arguments. Moreover, there is no evidence on record, such as reminders or correspondences, to show that the complainant actively pursued their grievance regarding the alleged delay during this time.

35. The principle of laches, which prevents a party from asserting stale claims after unreasonably delaying action, applies squarely to the present case. Reliance is placed upon judgement dated 18.04.2024 passed by Hon'ble Apex Court in Civil Appeal nos. 5027 of 2024 (@ Special leave Petition (civil) no. 30152 of 2018) ***Mrinmoy Maity***

versus Chhanda Koley and others. Relevant part of the judgement is reproduced below for reference:-

> *"9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.*
>
> *10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.*
>
> *11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the*

dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court. This Court in the case of ***Tridip Kumar Dingal and others v. State of W.B and others.****, (2009) 1 SCC 768 has held to the following effect:*

> *"56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.*
>
> *57. If the petitioner wants to invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhume matters which have already been disposed of or settled or where the rights of*

third parties have accrued in the meantime (vide ***State of M.P. v. Bhailal Bhai [AIR 1964 SC 1006 : (1964) 6 SCR 261], Moon Mills Ltd. v. Industrial Court [AIR 1967 SC 1450]*** *and* ***Bhoop Singh v. Union of India [(1992) 3 SCC 136 : (1992) 21 ATC 675 : (1992) 2 SCR 969]****). This principle applies even in case of an infringement of fundamental right (vide* ***Tilokchand Motichand v. H.B. Munshi [(1969) 1 SCC 110], Durga Prashad v. Chief Controller of Imports & Exports [(1969) 1 SCC 185]*** *and* ***Rabindranath Bose v. Union of India [(1970) 1 SCC 84]).***

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose."

12. It is apposite to take note of the dicta laid down by this Court in ***Karnataka Power Corportion Ltd. and another v. K. Thangappan and another, (2006) 4 SCC 322*** *whereunder it has been held that the High Court may refuse to exercise extraordinary jurisdiction if there is negligence or omissions on the part of the applicant to assert his right. It has been further held thereunder:*

"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken

in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in ***Durga Prashad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769]****. Of course, the discretion has to be exercised judicially and reasonably.*

7. What was stated in this regard by Sir Barnes Peacock in ***Lindsay Petroleum Co. v. Prosper Armstrong Hurd [(1874) 5 PC 221 : 22 WR 492] (PC at p. 239)*** *was approved by this Court in* ***Moon Mills Ltd. v. M.R. Meher [AIR 1967 SC 1450]*** *and* ***Maharashtra SRTC v. Shri Balwant Regular Motor Service [(1969) 1 SCR 808 : AIR 1969 SC 329]*** *. Sir Barnes had stated: "Now, the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in*

taking the one course or the other, so far as it relates to the remedy."

8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed ***in Rabindranath Bose v. Union of India [(1970) 1 SCC 84 : AIR 1970 SC 470]*** *that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.*

9. It was stated in ***State of M.P. v. Nandlal Jaiswal [(1986) 4 SCC 566 : AIR 1987 SC 251]*** *that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is*

invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."

13. Reiterating the aspect of delay and laches would disentitle the discretionary relief being granted, this Court in the case of ***Chennai Metropolitan Water Supply & Sewerage Board and others v. T.T. Murali Babu, (2014) 4 SCC 108*** *has held:*

"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix."

36. Based on the aforementioned facts and legal precedents by the Hon'ble Supreme Court, the Authority finds that the complainant's failure to act within a reasonable time demonstrates a lack of diligence, and the delay of 24 years renders the claim untenable. Consequently, this relief

sought by the complainant with regards to delay interest stands dismissed on the grounds of delay and laches.

37. In respect of relief clause (iv) & (v) of para 11 of this order, it is clarified that said relief has neither been argued nor pressed upon by complainant's counsel at time of hearing. Therefore, in the absence of any formal arguments or submissions on these issues, no adjudication has been made in respect to such reliefs.

H. DIRECTIONS OF THE AUTHORITY

38. Hence, the Authority hereby passes this order and issue following directions under Section 37 of the HRERA Act, 2016 to ensure compliance of obligation casted upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

    (i) Demand for ₹34,00,000 (₹Thirty-Four Lakhs Only) raised on account of security deposit, stands quashed and respondent is not entitled to recover the same from the complainant.

    (ii) The Respondent Company is further directed to execute the conveyance deed in favour of the complainant and hand over possession of the plot within four weeks from the date of uploading of this order.

39. **Disposed of**. File be consigned to the record room after uploading of this order on the website of the Authority.

DR. GEETA RATHEE SINGH
[MEMBER]

NADIM AKHTAR
[MEMBER]

PARNEET S SACHDEV
[CHAIRMAN]