

**BEFORE THE HARYANA REAL ESTATE REGULATORY  
AUTHORITY, GURUGRAM**

**Complaint no. : 3920 of 2023**  
**First date of hearing: 30.11.2023**  
**Date of decision : 07.11.2024**

1. Mrs. Indira Tiku  
2. Mr. Sidhartha Tiku  
**Both RR/O : TPD-A-F02-201, Sky**  
Terraces at Palm Drive, in Sector 66,  
Gurugram, Haryana-122018

**Complainants**

**Versus**

M/s EMAAR MGF LAND LTD.  
Office: Emaar MGF Business Park, M  
G Road, Sikanderpur Chowk, Sector  
28, Gurgaon 122002

**Respondent**

**CORAM:**  
Shri Vijay Kumar Goyal

**Member**

**APPEARANCE:**  
Sh. Gaurav Rawat  
Sh. Harshit Batra

**Counsel for Complainants**  
**Counsel for Respondent**

**ORDER**

1. The present complaint dated 23.08.2023 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the

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Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

**A. Unit and project related details**

2. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. No.	Particulars	Details
1.	Name of the project	"Sky Terraces at Palm Drive", Sector 66, Gurugram, Haryana
2.	Nature of project	Group housing colony
3.	DTCP License no.	i. 228 of 2007 dated 27.09.2007 valid up to 26.09.2019 ii. 93 of 2008 dated 12.05.2008 valid up to 11.05.2020
4.	Unit no.	A-201, Tower-A, 2 <sup>nd</sup> floor (As per page no. 41 of the complaint)
5.	Unit area	3729.37 sq. ft. (Super Area) (As on page no. 94 of the complaint) ( <b>Note:</b> Area has been increased to 3729.37 sq. ft. from 3600 sq. ft.)
6.	Allotment letter	26.10.2007 (As per page no. 51 of the reply)
7.	Date of execution of buyer's agreement	12.02.2008 (As per page no. 37 of the complaint)
8.	Date of tripartite agreement	22.02.2011 (As per page no. 145 of the reply)
9.	Possession clause	<b>14. POSSESSION</b> <b>(a) Time of handing over the Possession</b> <i>Subject to terms of this clause and subject to the Apartment Allottee having complied with all the terms and conditions of this agreement, and not being in default under any of the provisions of this agreement and compliance with all provisions, formalities, documentation etc., as prescribed by the company, the company proposes to hand over the possession of the</i>



		<p><i>Apartment/villa/penthouse by December 2010. The Apartment Allottee agrees and understands that the company shall be entitled to a grace period of ninety (90) days, for applying and obtaining the occupation certificate in respect of the Group Housing Complex.</i></p> <p><i>(Emphasis supplied)</i></p> <p>(As on page no. 55 of the complaint)</p>
10.	Due date of possession	31.03.2011 (Note: As mentioned in buyer's agreement dated 12.02.2008 plus grace period of 3 months) (Inadvertently mentioned as December 2010 in proceedings of the day dated 05.09.2024)
11.	Total sales consideration	Rs.2,02,92,720/- (As per schedule of payments on page no. 70 of the complaint)
12.	Amount paid by the complainants	Rs.2,23,84,625/- (As per SOA dated 23.11.2023 on page no. 134 of the reply)
13.	Occupation certificate	01.04.2015 (As per page no. 128 of the reply)
14.	Offer of possession	01.05.2015 (As per page no. 94 of the complaint)
15.	Unit handover letter	17.06.2015 (As per page no. 105 of the complaint)
16.	Conveyance deed	11.09.2015 (As per page no. 106 of the complaint)
17.	Date of settlement agreement	22.10.2021 (As per page no. 39 of the reply)

**B. Facts of the complaint:**

3. The complainants have made the following submissions in the complaint:
  1. That the respondent, M/s **Emaar MGF Land Ltd.** advertised about its new project namely "Sky Terraces at Palm Drive" in

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Sector 66, Gurugram. The respondent painted a rosy picture of the project in its advertisements making tall claims.

- II. That the in 2007, the respondent company issued an advertisement announcing a group housing colony project namely "Sky Terraces at Palm Drive" at Sector-66, Gurugram was launched by Emaar MGF Land Ltd., under the license no. DS-2007/24799 of 2007 dated 27.09.2007, issued by DTCP, Haryana, Chandigarh and thereby invited applications from prospective buyers for the purchase of unit in the said project. The respondent confirmed that the project had got building plan approval from the competent authority.
- III. The complainants while searching for a flat/accommodation was lured by such advertisements and calls from the brokers of the respondent for buying a house in their project. The respondent company told the complainants about the moonshine reputation of the company and the representative of the respondent company made huge presentations about the project mentioned above and also assured that they have delivered several such projects in the National Capital Region.
- IV. That the respondent issued vital brochures containing detailed specifications of the project. Apart from specifications relating to the flats, the brochures boasted the complex to be a community designed for contemporary living in a green sanctuary, setting a modern life style in a heaven of peace and tranquillity. It also indicated the arrangements of the different towers, parking space, an exclusive golf driving range, view from their flat of the golf driving range, extensive recreation facilities that celebrated the outdoors such as landscaped public areas, jogging trails,

walkways, green areas, driveways, swimming pools, gyms, clubhouse, multiple amphitheatres etc. The respondent had conducted various road shows, extensive marketing and promotion including but not limited to India and Dubai. Finding the layout plan of the project, the grand entrance, the large central green common areas, the amenities like swimming pool, gym, club house building, recreational facilities like badminton, squash, football, bowling alley and most importantly the golf driving range attractive as well as the project as a whole, the complainants booked flats and some even paid preferential location charges (PLC) for apartments facing in a certain direction in the project and started making payments to respondent.

- V. That relying on various representations and assurances given by the respondent and on belief of such assurances, specifically with a golf driving range view, original allottee booked a unit in the project by paying an amount of Rs.20,00,000/- dated 13.10.2007, towards the booking of the said unit bearing no. TPD-A-F02-201, in Sector-66, having super area admeasuring 3600 sq. ft. to the respondent dated 13.10.2007 and the same was acknowledged by the respondent.
- VI. That the respondent confirmed the booking of the unit to the original allottee providing the details of the project for the total sale consideration of Rs.2,02,92,720/- along with car parking and other specifications of the allotted unit and providing the time frame.
- VII. That a buyer's agreement was executed between the original allottee and respondent on 12.02.2008. That would include the

basic sale price, EDC, IDC, preferential location charges and exclusive right to use the dedicated car parking. Clauses of the agreement were non-negotiable, extremely one sided and prejudicial to the interests of the flat owners who had no say whatsoever in finalizing the terms and conditions of the sale.

- VIII. That the review of the buyer's agreement was also not permitted. Any complaint and questions on the amendment and changes to any of the agreements, if the allottee voiced their concerns on the buyer's agreement not being just, fair and equitable, were also not entertained. Only clerical or administrative changes were allowed in certain cases. If the buyer's did not want to proceed due to the unfair agreement, opposite party threatened to forfeit the booking deposit, which did not specify that it was not refundable. The buyers were told that the sale deed will encompass all the relevant issues at hand. It is submitted that this agreement and various clauses therein amount to an unconscionable agreement containing terms that are so extremely unjust, or overwhelmingly one-sided in favour of the party who has the superior bargaining power, that they are contrary to good conscience.
- IX. That as per clause 14(a) of the buyer's agreement, the respondent had to deliver the possession of the unit by December,2010. Therefore due date of possession comes out to be 31.12.2010.
- X. The respondent has completely failed to honour its promises and had not provided the services as promised and agreed through the brochure, BBA and the different advertisements released

from time to time. Further, such acts of the respondent is also illegal and against the spirit of Act of 2016 and Rules, 2017.

- XI. The complainants have suffered a loss and damage in as much as they had deposited the money in the hope of getting the said unit for residential purposes. They have not only been deprived of the timely possession of the said golf range but the prospective return they could have got if they had invested in fixed deposit in bank. Therefore, the compensation in such cases would necessarily have to be higher than what is agreed in the BBA.
- XII. The complainants after many requests and emails, received the offer of possession on 01.05.2015. It is pertinent to note that along with the letter of offer of possession respondent raised several illegal demands which are actually not payable as per the builder buyer's agreement.
- XIII. That it has been held by the Hon'ble NCDRC, New Delhi in many cases that offering of possession on the payment of charges which the flat buyer is not contractually bound to pay, cannot be considered to be a valid offer of possession. In the present case also, asking for charges which the allottees are not contractually bound to pay is illegal and unjustified and therefore not a valid offer of possession. In fact it is a letter for demand of money rather than being an offer of possession.
- XIV. That the complainants after many follow ups and reminders and after clearing all the dues and fulfilling all one-sided demands and formalities as and when demanded by the respondent got the conveyance deed executed dated 11.09.2015. While this sale deed acknowledges that the complainants has paid the total consideration towards full and final consideration of the said

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apartment and applicable taxes etc. it makes no provision for compensating the complainants for the huge delay in handing over the unit. The complainants were not given any opportunity to negotiate the terms of the said sale deed.

- XV. That the complainants sent various reminders to respondent stating and raising various grievances with respect to grid power supply, car parking, solar panels, golf range, palm drive condominium association and HVAT. Furthermore, stating that solar panels has been installed in phase-1 of the project not in the tower of the complainants, as per the agreed terms of the booking and name of the project itself indicates that there will be golf range but till date respondent has failed to provide the same. Thereafter, various reminder emails and letters were sent to the respondent on the above mentioned issues but till date respondent failed to provide any satisfactory response to the complainants.
- XVI. The Palm Drive amenities are 24X7 Power Back up, 24X7 Security, Badminton Court, Golf Driving Range, Basketball Court, Broadband Connectivity, Club House, Covered Parking, Creche, Gym, Health Facilities, Intercom Facility, Kids Play Area, Lawn Tennis Court, Maintenance Staff, Open Parking, Recreation Facilities, Religious Place, School, Servant Quarters, Shopping Arcade, Swimming Pool, Visitor Parking.
- XVII. That the respondent asked the complainants to sign the indemnity bond as pre-requisite condition for handing over of the possession. The complainants raised objection to above said pre-requisite condition of the respondent as no delay possession charges was paid to the complainants but respondent instead of

paying the delay possession charges clearly refuse to handover to possession if the complainants do not sign the aforesaid indemnity bond.

XVIII. That the purpose of quoting this example is that not only the BBA is one sided heavily loaded in favour of the respondent but even the settlement-cum-amendment agreement is also heavily loaded in favour of the respondent. Needless to mention that such one-sided agreements have been held to be unconstitutional and hence held invalid by the Hon'ble Supreme Court and the Hon'ble High Courts in number of cases.

XIX. That the complainants are getting depressed because everyone is aware that golf view apartments are premium apartments and the complainants intend to stay amid the greens. Their dreams are getting shattered as respondent builder is not giving the golf course at the specific location which was earmarked for the golf course. The complainants requested the competent authorities to make sure that Emaar give golf course at the same location. It is pertinent to mention here that the complainants are filing present complaint not for any compensation or monetary gain, they are filling the case to have golf course at the same location where they have mentioned, even if we google palm drive plans, it comes with golf course range view.

XX. That it is demonstrably evident that opposite party has clearly deliberated the intent and designed their approach and legal documents to escape full liability. A ploy where all the wrongs are hidden and subjugated to be silenced by forcing every flat owner to sign unconscionable agreements and one sided documents. This is a pre-determined orchestrated intention to



deprive the residents and flat owners. There is absolutely no doubt that delays, broken promises and deficiency of services has occurred. Further till date, the project is still incomplete and the complainants have endured the same for over years and counting. This attempt to orchestra an escape of any liability at all is unjust. Further with the one-sided approach that opposite party must only deliver the certain features of the project and not the full promised works and full completed project completion on time must be subjugated. The complainants moving into a flat cannot discount the amenities, facilities, features and promised works have not been delivered properly till date and what they have duly paid large amount of consideration for. The delay is for total delivery not individual itemised moving parts and workings. The consideration paid by the complainants was for project completion that till date is pending.

XXI. That the complainants after losing all the hope from the respondent company, having their dreams shattered of owning a flat and having basic necessary facilities in the vicinity of the project and also losing considerable amount, are constrained to approach this Hon'ble Authority for redressal of their grievance.

XXII. That the present complaint is within the prescribed period of limitation.

**C. Relief sought by the complainants:**

4. The complainants have sought following relief(s):
  - a. Direct the respondent to deliver the Golf Driving Range at the designated location as promised at the time of booking.

- b. Direct the respondent to provide the amenities and golf driving range at the designated location as per brochure and layout plan provided at the time of booking.
  - c. Direct the respondent to refund the FD deposited with respondent as prerequisite condition for getting the conveyance deed.
  - d. To initiate penal proceedings against the respondent on account of violation of various provisions of the Act of 2016 and for not getting the project registered.
  - e. To order to set aside the one-sided indemnity bond and settlement agreement signed by the respondent from the complainants under undue influence.
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the act to plead guilty or not to plead guilty.

**D. Reply by the respondent:**

6. The respondent has contested the complaint on the following grounds:
- I. That, at the outset, it is most humbly submitted before this Authority that the complainants while searching for a residential accommodation, approached the respondent and expressed interest in the booking of an apartment in the residential group housing colony developed by the respondent known as "Sky Terraces at Palm Drive" situated in Sector 66, Gurgaon, Haryana. Prior to the booking, the complainants conducted extensive and independent enquiries with regard to the project, only after being fully satisfied on all aspects, they took an independent and

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- informed decision, uninfluenced in any manner by the respondent, to book the unit in question.
- II. That thereafter the complainants vide an application form applied to the respondent for provisional allotment of the unit. Pursuant thereto, unit bearing no. TPD-A-F02-201, admeasuring 3600 sq. ft. (tentative area) was allotted vide provisional allotment letter dated 26.10.2007, and thereafter a builder buyer's agreement dated 12.02.2008 was executed between the parties.
- III. That after the execution of the agreement and the completion of the project, the respondent, in his most *bonafide* conduct had offered the possession of the unit to the complainants vide offer of possession dated 01.05.2015.
- IV. That the respondent earnestly requested the complainants to obtain possession of the unit in question. That the complainants, after many requests and reminders had taken the possession of the said unit on 17.06.2015 and had executed the conveyance deed on 11.09.2015 but despite taking possession of the said unit and execution of the conveyance deed, the complainants filed a complaint bearing number CC/1032/2015 before the Hon'ble National Consumer Dispute Redressal Commission issuing the claims as raised in the present complaint. During the pendency of the previous complaint both the parties agreed to settle all their disputes amicably. A settlement agreement dated 22.10.2021 was executed between both the parties wherein it was specifically agreed by the complainants that all grievances, concerns stand redressed to the entire satisfaction of the complainants.

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- V. Moreover, the said complaint is liable to be dismissed as per Section 11 of the Civil Procedure Code, 1908. That as per Section 11 of CPC, when a matter in issue which has already been decided by the Hon'ble Court, then the trial between the same parties in respect of the same matter shall not be allowed. The rule of res judicata is based on the principle that no person should be vexed twice for the same cause of action.
- VI. That the instant complaint is preferred in complete contravention of their earlier representations and documents executed. The present frivolous complaint has been filed with the *mala fide* intention to mount undue pressure upon respondent thereby compelling it to succumb to their unjust and illegitimate demands. That no cause of action has arisen or subsists in favor of the complainants to institute or prosecute the instant complaint. The complainants had preferred the instant complaint on absolutely false and extraneous grounds in order to needlessly victimize and harass the respondent.
- VII. That in accordance with the facts and circumstances noted above, the present claim is barred by limitation. The Article 113 of Schedule I of the Limitation Act is applicable and the present complaint was filed after 3 years from the execution of the settlement agreement and 8 years of execution of conveyance deed. Moreover, after the execution of the conveyance deed, the contractual relationship between the parties stands fully satisfied and comes to an end. That there remains no claim/grievance of the complainants with respect to the agreement or any obligation of the parties thereunder. That after the execution of the conveyance deed, the parties are estopped from making

any claims at this instance. This Hon'ble Authority in **CR/2031/2022 Case titled as Madan Lal Khurana and Sudha Khurana Vs Emaar MGF Land limited** dismissed a case vide order dated 08.09.2022 where the allottee approached the Authority years after the conveyance deed had been executed. This Authority disposed the matter noting it to be barred by limitation.

VIII. That moreover, after the execution of the conveyance deed, the contractual relationship between the parties stands fully satisfied and comes to an end.

IX. That in light of the *bona fide* conduct of the respondent, all demands made as per the buyer's agreement executed between the parties, the peaceful possession having been taken by the complainants, non-existence of cause of action, claim being barred by limitation and the frivolous complaint filed by the complainants, this complaint is bound to be dismissed with costs in favor of the respondent.

7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority:**

8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire

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Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

### **E.II Subject-matter jurisdiction**

Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

#### **Section 11**

.....  
(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;

#### **Section 34-Functions of the Authority:**

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

9. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

### **F. Findings on the relief sought by the complainants:**

**F.I To initiate penal proceedings against the respondent on account of violation of various provisions of the Act of 2016 and for not getting the project registered.**

10. The occupation certificate of the project in which the subject unit of the complainant was received way back in 2015 itself i.e., before commencement of the Act of 2016 and Rules, 2017. Therefore, the above sought relief by the complainant becomes redundant.



- F.II Direct the respondent to deliver the Golf Driving Range at the designated location as promised at the time of booking.
- F.III Direct the respondent to provide the amenities and golf driving range at the designated location as per brochure and layout plan provided at the time of booking.
- F.IV Direct the respondent to refund the FD deposited with respondent as prerequisite condition for getting the conveyance deed.
- F.V To order to set aside the one-sided indemnity bond and settlement agreement signed by the respondent from the complainants under undue influence.
11. On the above-mentioned reliefs sought by the complainant, are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
12. The complainants were allotted a unit bearing no. A-201, 2<sup>nd</sup> floor, admeasuring 3729.37 sq. ft. in project of the respondent named "The Palm Drive" at Sector-66, Gurugram vide allotment letter dated 26.10.2007 and an apartment buyer's agreement was also executed between the complainants and the respondent regarding the said allotment on 12.02.2008.
13. As per clause 14(a) of the agreement the respondent had agreed to handover the possession of the unit by December 2010 and a grace period of 90 months for applying and obtaining the occupation certificate in respect of the complex. The said grace period is allowed in terms of order dated 08.05.2023 passed by the Hon'ble Appellate Tribunal in **Appeal No. 433 of 2022 tilted as Emaar MGF Land Limited Vs Babia Tiwari and Yogesh Tiwari** wherein it has been held that if the allottee wishes to continue with the project, he accepts the term of the agreement regarding grace period of three months for applying and obtaining the occupation certificate. The relevant portion of the order dated 08.05.2023, is reproduced as under:

*"As per aforesaid clause of the agreement, possession of the unit was to be delivered within 24 months from the date of execution of the agreement i.e.*



by 07.03.2014. As per the above said clause 11(a) of the agreement, a grace period of 3 months for obtaining Occupation Certificate etc. has been provided. The perusal of the Occupation Certificate dated 11.11.2020 placed at page no. 317 of the paper book reveals that the appellant-promoter has applied for grant of Occupation Certificate on 21.07.2020 which was ultimately granted on 11.11.2020. It is also well known that it takes time to apply and obtain Occupation Certificate from the concerned authority. As per section 18 of the Act, if the project of the promoter is delayed and if the allottee wishes to withdraw then he has the option to withdraw from the project and seek refund of the amount or if the allottee does not intend to withdraw from the project and wishes to continue with the project, the allottee is to be paid interest by the promoter for each month of the delay. In our opinion if the allottee wishes to continue with the project, he accepts the term of the agreement regarding grace period of three months for applying and obtaining the occupation certificate. **So, in view of the above said circumstances, the appellant-promoter is entitled to avail the grace period so provided in the agreement for applying and obtaining the Occupation Certificate.** Thus, with inclusion of grace period of 3 months as per the provisions in clause 11 (a) of the agreement, the total completion period becomes 27 months. Thus, the due date of delivery of possession comes out to 07.06.2014."

14. Therefore, in view of the above judgement and considering the provisions of the Act, the authority is of the view that, the promoter is entitled to avail the grace period so provided in the agreement for applying and obtaining the occupation certificate. Therefore, the due date of handing over of possession comes out to be 31.03.2011 including grace period of 90 days.
15. In the present complaint, the occupation certificate was received from the competent authority on 01.04.2015 and possession of the unit was offered to the complainants herein vide offer of possession letter dated 01.05.2015. Further, the possession of the unit was handed over to the complainants herein vide unit handover letter dated 17.06.2015. Also, the conveyance deed dated 11.09.2015 was also executed by it in favour of the complainants in respect of the said unit. The complainants have filed the present complaint after a long delay on 23.08.2023.



16. The respondent has raised an objection with regard to dismissal of complaint that the complaint is barred by limitation as the complaint has filed by the complainants lapsed of almost 8 years from the date of execution of conveyance deed. Though both the parties through their respective counsel advanced submissions with regard to the maintainability of the complaint on the ground of the limitation. As discussed earlier, after the unit was allotted to the complainants on 26.10.2007, a buyer's agreement in this regard was executed on 12.02.2008. Though the possession of the unit was to be offered on or before 31.03.2011 after completion of the project but the same was offered only on 01.05.2015 after receipt of occupation certificate on 01.04.2015 and ultimately leading to execution of conveyance deed of the same on 11.09.2015. So, limitation if any, for a cause of action would accrue to the complainants w.e.f. 01.05.2015 and not from 11.09.2015. Therefore, the limitation period of three years was expired on 01.05.2018 and accordingly, the period between 15.03.2020 till 28.02.2022 as excluded by the Hon'ble Supreme Court in its order dated 10.01.2022 in MA No. 21 of 2022 of Suo Moto Writ Petition Civil No. 3 of 2020 shall not be excluded while calculating the period of limitation as the limitation expired prior to the beginning of the said period.
17. As noted above, the possession of the subject unit was offered to the complainant on 01.05.2015 after obtaining occupation certificate on 01.04.2015. Thereafter, the conveyance deed of the unit was executed between the parties on 11.09.2015 and the present complaint was filed on 23.08.2023 before this Authority. There has been such a long unexplained delay in pursuing the matter. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of

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consumers. However, this cannot be stretched to an extent that basic principles of jurisprudence are to be ignored and are given a go by especially when the complainant/allottees have already availed aforesaid benefits before execution of conveyance deed.

18. One such principle is that delay and laches are sufficient to defeat the apparent rights of a person. In fact, it is not that there is any period of limitation for the authority to exercise their powers under the section 37 read with section 35 of the Act nor it is that there can never be a case where the authority cannot interfere in a manner after a passage of a certain length of time but it would be a sound and wise exercise of discretion for the authority to refuse to exercise their extraordinary powers of natural justice provided under section 38(2) of the Act in case of persons who do not approach expeditiously for the relief and who stand by and allow things to happen and then approach the court to put forward stale claims. Even equality has to be claimed at the right juncture and not on expiry of reasonable time.
19. The counsel for the respondent in his reply and also vide proceedings of the day dated 05.09.2024 brought to the notice of the Authority that both the parties entered into a settlement agreement on 22.10.2021 in pursuance of the order dated 07.12.2021 of Hon'ble NCDRC and an amount of Rs.45,50,000/- mentioned in para 1 at page no. 41 of the reply has been paid as full and final settlement of all disputes. And as per the said order of Hon'ble NCDRC, if any grievance remains, the application for recall of the order in terms of settlement lies only before Hon'ble NCDRC.
20. In the light of the above stated facts and applying aforesaid principles, the authority is of the view that the present complaint is not maintainable before this Authority after such a long period of time as

the law is not meant for those who are dormant over their rights. The procedure of law cannot be allowed to be misused by the litigants even in cases where allottees have availed certain benefits in terms of settlement agreement dated 22.10.2021 in pursuance of the order of Hon'ble NCDRC. In light of the above, the complaint is not maintainable and the same is declined.

21. Complaint stands disposed of accordingly.
22. File be consigned to registry.

  
**(Vijay Kumar Goyal)**  
**Member**

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 07.11.2024

**HARERA**  
**GURUGRAM**