

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

Date of decision: 03.12.2024

NAME OF THE BUILDER		KPKD BUILDTECH PRIVATE LIMITED	
PROJECT NAME		"NEWTOWN SQUARE"	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/7715/2022	Sushil Chand V/S BPTP Limited.	Abhay Jain Advocate and Harshit Batra Advocate
2.	CR/7717/2022	Sushma Jain V/S BPTP Limited.	Abhay Jain Advocate and Harshit Batra Advocate

**CORAM:**

Shri Vijay Kumar Goyal

Shri Ashok Sangwan

**Member****Member****ORDER**

1. The above complaints have been filed by the complainant/allottees 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 provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the

project, namely, "Park Serene" situated at Sector-37-D, Gurugram being developed by the respondent/promoter i.e., BPTP Limited. The issue involved in both these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question and the complainants are seeking delay possession charge at prescribed rate of interest.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Sr. No	Complain t No., Case Title, and Date of filing of complain t	Reply statu s	Unit No.	Date of execut ion of agree ment for sale/A llotme nt	Due date of possess ion, offer of possess ion	Total Considerati on / Total Amount paid by the complainan ts (In Rs.)	Relief Sought
1.	CR/7715/2022  Sushil Chand Jain V/s BPTP Ltd.  Date of Filing of complaint - 05.01.2023	Not received	K-502	Not executed  Date of allotment: 09.09.2008	09.09.2011 (calculated 3 years as per general principle of the Supreme Court Judgment)  Offer of possession: Not offered	TSC: - Rs.41,92,860 /-  AP: - Rs.4,00,000/  Date of cancellation: 27.04.2012	1. Refund 2. Legal expenses
2.	CR/7717/2022	Reply received on	J-502	Not executed	09.09.2011	TSC: - Rs.41,92,860 /-	1. Refund. 2. Litigation Cost



Sushma Jain V/s BPTP Ltd.	Not received			(calculated 3 years as per general principle of the Supreme Court Judgment)	AP: - Rs.16,00,000/-	
Date of Filing of complaint - 07.09.2022			Date of allotment: 09.09.2008	Offer of possession: Not offered )	Date of cancellation: 27.04.2012	

**Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:**

**Abbreviation Full form**

TSC- Total Sale consideration

AP- Amount paid by the allottee(s)

- The aforesaid complaints were filed against the promoter on account of violation of the agreement to sell against allotment of units in the upcoming project of the respondent/builder and for not handing over the possession by the due date, seeking delay possession charges at prescribed rate.
- It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
- Out of the above-mentioned cases, the particulars of case **CR/7715/2022 titled as Sushil Chand Jain V/S BPTP Ltd.** are being taken into consideration as lead case for determining the rights of the allottee(s) qua delay possession charges along with interest.

**A. Project and unit related details**

7. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

*CR/7715/2022 titled as Sushil Chand Jain V/S BPTP Ltd.*

S. N.	Particulars	Details
1.	Name and location of the project	"Park Serene " at Sector 37-D Gurugram
2.	Nature of the project	Group Housing Complex
3.	RERA Registered/ not registered	Not registered
4.	Unit no.	K-502 (page 37 of complaint)
5.	Unit area admeasuring (super area)	1788 sq. ft. (page no. 37 of complaint)
6.	Date of allotment	09.09.2008 (page 37 of complaint)
7.	Date of agreement for sale	Not executed
8.	Possession clause	N/A
9.	Due date of possession	09.09.2011 (calculated 3 years as per general principle of the Supreme Court Judgment)
10.	Total sale consideration	Rs. 41,92,860/-

		[as stated by the complainant on page 29 of complaint]
11.	Amount paid by the complainant	Rs.4,00,000/- [as stated by the complainant on page 29 of complaint]
12.	Occupation certificate received on	Not on record
13.	Offer of possession	Not on record
14.	Date of cancellation	27.04.2012

### B. Facts of the complaint

8. The complainants have made the following submissions: -

- I. The grievance of the complainant relates to Breach of Contract, False promises, gross unfair trade practices and deficiencies in the services committed by the respondent in regard to the **Flat no. K-502, Tower K**, measuring a super area of 1788 square feet in the Project '**Park Serene**' situated at Sector - 37 D, Gurugram, Haryana, bought by the complainant paying his hard-earned money.
- II. That the respondent is a company duly incorporated under the companies Act, 1956 as amended up to date and is being sued through its Chairman cum Managing Director. The respondent is carrying out business as builder, promoter and colonizer and is inter alia engaged in development and construction activities.
- III. That the respondent collected the amount from gullible and naive buyers including the complainant and kept on promising the complainant for the delivery of possession of his flat on time. The complainant has paid a total of Rs.4,00,000/- till 2008 for the flat. The

respondent failed to complete the construction of the project on time and failed to offer the legitimate possession of the flat to the complainant.

- IV. That the respondent issued an allotment letter dated 9<sup>th</sup> September, 2008 for allotment of Flat No. J-502 in Tower J to the Complainant in the project 'Park Serene'. The Respondent vide letter dated 4<sup>th</sup> May, 2009 changed the allotted flat of the complainant from Flat No. J-502 to Flat No. K-502. The complainant made payments as per the payment plan opted by the complainant and requested the respondent repetitively for early possession of the flat for his residence. But, it came as an utter shock to the complainant when he found out that the construction activities of his tower were not even started till 2011. The respondent kept raising demands but no construction of his tower was visible at project site. The complainant wrote various letters to the respondent from time to time, requesting the respondent to complete the construction of the flat at the earliest and also offered to make the payment of the entire balance amount to get the possession immediately, as the complainant was in dire need of the flat for residential purpose. The complainant being aggrieved by the actions of the respondent, got issued a legal notice dated 8<sup>th</sup> November, 2011 to the respondent through his advocate for delivery of possession of the allotted flat at the earliest as he needed the flat for residence purpose.
- V. That the complainant initially booked the flat by paying Rs.4,00,000/- at the time of application in 2008, but no construction of his Tower was started till 2011. The complainant made the payment of

Rs.12,00,000/- having cheque no. 023971 dated 18<sup>th</sup> January, 2012 of ICICI Bank to the respondent for the allotted flat.

- VI. That during 2012 when the prices of the flats had started increasing, the respondent cancelled the allotment of the complainant vide letter dated 27<sup>th</sup> April, 2012 on illegal and bogus grounds with malafide intentions to earn more money by reselling the Flat of the complainant. On cancelling the flat of the complainant, the respondent refunded the booking amount of Rs.4,00,000/- by issuing a fresh cheque, no. 848497 dated 18<sup>th</sup> April, 2012 of Punjab National Bank in the name of the complainant and returned the uncashed cheque of Rs.12,00,000/- having cheque no. 023971 dated 18<sup>th</sup> January, 2012 of ICICI Bank, to the complainant along with the cancellation letter. The complainant objected the illegal cancellation and returned both the cheques, cheque no. 848497 dated 18<sup>th</sup> April, 2012 of Rs.4,00,000/- and uncashed cheque no. 023971 dated 18<sup>th</sup> January, 2012 of Rs.12,00,000/- to the respondent and requested for the possession of the flat. The respondent had neither encashed the cheque of Rs.12,00,000/- nor has returned it back to the complainant.
- VII. That the respondent failed to execute the flat buyer agreement with the complainant till date, since no agreement was executed, so, to safeguard the interest of the complainant, the period for delivery of possession is taken as three (3) years from the date of allotment of the Flat as per the view of the general principle given by the Hon'ble Supreme Court Judgement in **Civil Appeal No. 3533-3544 of 2017** titled as *Fortune Infrastructure & Another versus Trevor D'Lima and Others*. Thus, the date of possession comes out to be 9<sup>th</sup> September, 2011. Now, even after a delay of more than eleven (11)

years and three (3) months, the respondent has failed to offer the legitimate possession of the flat to the complainant till date.

- VIII. That the complainant, Sushil Chand Jain was approached by the sale representatives of the respondent company, who made tall claims about the project 'Park Serene' as the world class project. The complainant was invited to the sales office and was lavishly entertained and promises were made to him that the possession of his flat would be handed over in time including that of parking, parks, club and other common areas. The complainant was impressed by their oral statements and representations and ultimately booked a residential flat in the project 'Park Serene' in Sector 37 D, Gurugram by paying Rs.4,00,000/- as booking amount via cheque no. 193935 dated 6<sup>th</sup> March, 2008. The respondent issued Receipt no. 1400022125 dated 7<sup>th</sup> March, 2008 to the complainant.
- IX. That the complainant booked the residential flat via brokers, Orion Realtors & Developers who promised to offer a discount of 4.25% to the complainant on booking the residential flat in the project 'Park Serene'.
- X. That the Respondent issued an Allotment Letter dated 9<sup>th</sup> September, 2008 to the complainant and allotted flat No. J-502 in Tower J measuring a super area of 1788 square feet in the project 'Park Serene'.
- XI. That the respondent issued a letter dated 4<sup>th</sup> may, 2009 wherein the respondent changed the allotted flat of the complainant from J-502 in Tower J to K-502 in Tower K, measuring the same super area of 1788 square feet in the project. The respondent also offered various benefits to the complainant - (a) timely payment discount of 10% on the



uncalled BSP with every upcoming instalment, (b) additional discount of 10% on uncalled BSP on Pre/Upfront payment, (c) enhanced the compensation on delayed delivery from Rs.5/- per square feet to Rs.10/- per square feet per month and (d) 12 months free maintenance to first 50 occupants.

- XII. That on 4<sup>th</sup> may, 2009, the respondent informed the complainant via demand letter that the excavation work has been started on the project site and has been going in full swing. Therefore, a demand of Rs.11,03,305/- was raised for the allotted flat to be paid by the complainant.
- XIII. That On receipt of the letter of the respondent dated 4<sup>th</sup> May, 2009, the complainant expressed his concerns with the respondent via letters dated 25<sup>th</sup> July, 2009 and again on 8<sup>th</sup> October, 2010 that the complainant was in dire need of the flat for his residence and request the respondent to complete the construction and handover the possession at the earliest. The complainant also offered to pay the balance amount in single stretch in case the respondent is ready to early handover the possession of the flat.
- XIV. That the complainant being aggrieved by the actions of the respondent, got issued a legal notice dated 8<sup>th</sup> November, 2011 to the respondent through his advocate for delivery of possession of the allotted flat at the earliest as he needed the flat for residence purpose.
- XV. That the complainant in dire need of a place for residence, made the payment of Rs.12,00,000/- via cheque no. 023971 dated 18<sup>th</sup> January, 2012 to the respondent. The complainant requested the respondent via Letter dated 18<sup>th</sup> January, 2012, to deliver the possession of the Flat

at the earliest as the flat was required for his family residence and offered to make the payment of the balance amount immediately.

- XVI. That when no receipt was received by the complainant on payment of Rs.12,00,000/-, the complainant wrote a letter dated 28<sup>th</sup> February, 2012 to the respondent, requesting the respondent to issue the acknowledgement receipt against the cheque of Rs.12,00,000/- sent by the complainant on 18<sup>th</sup> January, 2012 via registered post. The complainant was concerned as the complainant was also receiving various SMS and calls from property dealers asking for the sale of allotted Flat. The complainant again requested the respondent to issue the receipt of Rs.12,00,000/- and handover the possession of the Flat at the earliest.
- XVII. That the respondent sent a reply dated 27<sup>th</sup> April, 2012 through an Advocate on the legal notice of the complainant dated 8<sup>th</sup> November, 2011 wherein respondent clearly denied its failures to fulfil its obligations of completing the construction on time and deliver the possession, even after repetitive requests made by the complainant. On the contrary, the respondent terminated the allotted flat of the complainant due to non-payment and returned the uncashed cheque of Rs.12,00,000/- of the complainant having cheque no. 023971 dated 18<sup>th</sup> January, 2012 along with a fresh cheque of booking amount of Rs.4,00,000/- having cheque no. 848487 dated 18<sup>th</sup> April, 2012 in the name of the complainant.
- XVIII. The complainant objected to the illegal cancellation made by the respondent via letter dated 27<sup>th</sup> April, 2012 as the cancellation of the flat was made to fulfil the malafide intentions of the respondent. The respondent knew that the prices of the flats had started increasing

during 2012 and in the greed to earn more money by reselling the flat of the complainant, the respondent cancelled the flat on fraudulent and bogus grounds. The complainant wrote a Letter dated 2<sup>nd</sup> May, 2012 to the respondent objecting and declining the illegal cancellation made by the respondent and thereby, sent back both the cheques, of Rs.4,00,000/- and Rs.12,00,000/- to the respondent and requested to handover the possession of the flat to the complainant at the earliest.

- XIX. That the complainant sent various letters to the respondent time and again to inquire about the delivery of possession of his flat but no response was received by the respondent. The respondent did not clear the cheque of Rs.12,00,000/- sent by the complainant for the flat and was not replying to any contentions made by the complainant.
- XX. That the complainant filed a complaint in the Permanent Lok Adalat against the respondent for its illegal and fraudulent actions and not delivering the possession of the flat to the complainant on time. The complaint was dismissed by the Permanent Lok Adalat on the grounds of pecuniary jurisdiction.
- XXI. That from 2013 till 2021, the complainant kept sending payments for the flat to the respondent via various cheques, for getting the possession of the flat at the earliest as the complainant needed the flat for residence. The complainant sent various letters, emails, made various phone calls, visited the offices of the respondent and requested the respondent to accept the payments and deliver the possession of his flat, but the respondent did not respond to the requests of the complainant.
- XXII. That the complainant has approached the respondent and pleaded for delivery of possession of his flat on various occasions as he needed the

flat for his residence. The respondent did not reply his letters, emails, personal visits, telephone calls, seeking information about the status of the project and delivery of possession of his flat, thereby the respondent violated Section 19 of the Act, 2016.

XXIII. That the complainant intends to withdraw from the project. As per the obligations on the respondent/promoter under Section 18 of the Act, 2016 read with Rules 15 and 16 of the Rules, 2017, on the failure of the Respondent to handover the possession of the flat, the complainant seeks return/refund of the deposited amount along with prescribed rate of interest from the date of payment till the entire amount is realised. The respondent/promoter has neglected his part of obligations by failing to offer a legitimate and rightful possession of the flat in time. The complainant reserves his right to seek compensation from the promoter.

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

9. The complainants have sought following relief(s):
  - i. Direct the respondent to deliver legal, legitimate and lawful possession of the flat to the complainants along with delayed possession interest at prescribed rate as per the Act, which is to be paid by the respondent from the due date of possession till the date of actual handover of possession.
10. The present complaint was filed on 05.01.2023. On 28.07.2023, the counsel for the respondent states that the complaint is not maintainable and they have moved an application for non-maintainability of complaint on 05.10.2023 after supplying a copy of the same to the counsel for the complainant. The counsel for the complainant filed a reply to the application on 15.03.2024. It is important to note that till

date no reply have been filed by the respondent but filed the written arguments on maintainability 24.05.2024.

**D. Written submissions by the respondent.**

11. The respondent has contested the complaint on the following grounds.
- i. That the complainant after conducting his own due diligence and after being fully satisfied with the quality of projects developed by the respondent, applied for allotment of residential unit in the Project "Park Serene" situated at Sector- 37D Gurugram, Haryana, vide booking form dated 07.03.2008 and had paid an amount of Rs. 4,00,000/- towards booking amount. The Complainant willingly opted for construction linked payment plan.
  - ii. That the complainant after conducting his own due diligence and after being fully satisfied with the quality of projects developed by the respondent, applied for allotment of residential unit in the project "Park Serene" situated at Sector- 37D Gurugram, Haryana, vide booking form dated 07.03.2008 and had paid an amount of Rs. 4,00,000/- towards booking amount. The complainant willingly opted for construction linked payment plan.
  - iii. That the respondent raised demand vide demand note dated 09.09.2008 as per payment plan opted by the complainant payable on or before 24.09.2008 however, the complainant did not come forward to make payment of the outstanding dues. Thus, the respondent issued reminder 1 dated 12.11.2008, reminder 2 dated 18.12.2008 and subsequently reminder 3 dated 26.03.2009) however, the complainant willingly continuously breached the terms of booking form and allotment letter by failing to make payment of outstanding dues despite repeated reminders and follow ups.

- iv. That the respondent company being a customer-oriented company in order to give another opportunity to the complainant raised demand vide demand note dated 04.05.2009, payable on or before 03.06.2009, but to no avail.
- v. That complainant is a chronic defaulter who time and again failed to make payment of outstanding dues despite being given ample opportunities by the respondent, thus the respondent was constrained to cancel the allotment of the complainant vide termination letter dated 27.04.2012 thereby, seizing all rights of the complainant. That in the meantime the complainant sent belated cheque amounting to Rs. 12,00,000/-, without any prior intimation to the respondent.
- vi. That as per the terms of booking form and allotment letter, the respondent was entitled to forfeit earnest money, interest and brokerage, however, without prejudice to its rights, bonafidely in good faith the respondent company refunded the whole amount paid by the complainant i.e. Rs. 4,00,000/- without any deductions vide cheque bearing no. 848497 dated 18.04.2012 and further returned cheque amounting to Rs. 12,00,000/- back to the complainant.
- vii. That the present complaint is barred by limitation and on this ground alone deserves to be outrightly dismissed. The allotment was terminated vide termination letter dated 27.04.2012 and the present complaint has been filed on 05.01.2023 i.e. after 10 years 8 months and 9 days to be precise.
- viii. That the present Complaint is infructuous and deserves to be dismissed. That without prejudice to its rights, bonafidely in good faith the respondent company refunded the whole amount paid by

the complainant i.e. Rs. 4,00,000/- without any deductions vide cheque bearing no. 848497 dated 18.04.2012 and further returned cheque amounting to Rs. 12,00,000/- back to the complainant.

**E. Jurisdiction of the authority**

The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

12. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. 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**

13. 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.*

14. 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.1 Direct the respondent to deliver legal, legitimate and lawful possession of the flat to the complainants along with delayed possession interest at prescribed rate as per the Act, which is to be paid by the respondent from the due date of possession till the date of actual handover of possession.**

15. The complainant states that the respondent issued an allotment letter dated 9th September, 2008 for allotment of flat no. K-502 in Tower K to the complainant in the project 'Park Serene'. The respondent kept raising demands but no construction of his tower was visible at project site. The complainant being aggrieved by the actions of the respondent, issued a legal notice dated 8th November, 2011 to the respondent through his advocate for delivery of possession of the allotted flat at the earliest as he needed the flat for residence purpose. The complainant paid Rs. 4,00,000/- against the sale consideration of Rs. 41,92,860/-.
16. During 2012 when the prices of the flats had started increasing, the respondent cancelled the allotment of the complainant vide Letter dated 27<sup>th</sup> April, 2012 on illegal and bogus grounds with malafide intentions to earn more money by reselling the flat of the complainant. on cancelling the flat of the complainant, the respondent refunded the booking amount



of Rs.4,00,000/- by issuing a fresh cheque, no. 848497 dated 18<sup>th</sup> April, 2012 of Punjab National Bank in the name of the complainant and returned the uncashed cheque of Rs.12,00,000/- having cheque no. 023971 dated 18<sup>th</sup> January, 2012 of ICICI Bank, to the complainant along with the cancellation letter. The complainant objected the illegal cancellation and returned both the cheques, cheque no. 848497 dated 18<sup>th</sup> April, 2012 of Rs.4,00,000/- and uncashed cheque no. 023971 dated 18<sup>th</sup> January, 2012 of Rs.12,00,000/- to the respondent and requested for the possession of the flat.

17. The complainant further states that the complaint is maintainable in view of the fact that the matter was disposed of by the Permanent Lok Adalat in the year 2014 on grounds that the case may be filed before the competent court. Thereafter, the complainant followed up the matter with the respondent through numerous letters which have been placed on record.

18. On the contrary, the respondent states that as per the payment plans demands dated. 09.09.2008 of Rs. 4,38,572/- was raised followed by reminder dated 12.11.2008; 18.12.2008; 26.03.2009. The complainant failed to make any payment despite repeated reminders. Then again new demand dated. 04.05.2009 of Rs. 6,61,962/- was raised along with the previous outstanding of Rs. 4,38,572/-. Thus, the respondent was constrained to cancel the unit on 27.04.2012 and the present complaint is barred by limitation. That the complainant in 2012 sent cheque no.

024001 dated. 09.01.2012 of Rs. 12,00,000/- . However, the same cannot acceptable to the respondent at such a belated stage. It is pertinent to note that the respondent as a gesture of goodwill also fully refunded the entire booking amount of Rs. 16,00,000/- to the complainant without any deduction of delay payment charge/earnest money/interest/brokerage.

19. The counsel for the respondent further states that there is a delay of more than 10 years in filing the complaint and the same is hopelessly barred by limitation. He further states that the cancellation occurred in April 2012 and the amount deposited by the complainant was refunded alongwith the cancellation letter through a cheque. However, the counsel for the complainant states that the said cheque was returned to the respondent immediately on receipt.
20. On the documents and submission made by both the parties, the Authority observes that the complainant filed a complaint in Permanent Lok Adalat against the respondent in the year 2014. The complaint was dismissed by the Permanent Lok Adalat on the grounds of pecuniary jurisdiction. Furthermore, the Authority was established in 2018 and the complainant approached the Authority in 2022 after a lapse of four years from establishment of the authority. The complainant remained dormant over his rights for a long time before and even after establishment of proper forum also. 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 the 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.

21. Further, as observed in the landmark case i.e. *B.L. Sreedhar and Ors. V. K.M. Munireddy and Ors. [AIR 2003 SC 578]*, the Hon'ble Supreme Court held that "*Law assists those who are vigilant and not those who sleep over their rights.*" Law will not assist those who are careless of their rights. In order to claim one's right, one must be watchful of his rights. Only those persons, who are watchful and careful of using their rights, are entitled to the benefit of law. Only those persons, who are watchful and careful of using his/her rights, are entitled to the benefit of law.
22. The Authority is of the view that the present complaint wherein seeking delay possession charges alongwith prescribed rate of interest and setting aside of cancellation is not maintainable after such a long period of time of more than 10 years. It is a principle of natural justice that nobody's right should be prejudiced for the sake of other's right, when a person remained dormant for such an unreasonable period of time

without any just cause. In light of the above, the present complaint filed by the complainant is not maintainable. However, the respondent counsel stated at bar during the course of hearing that they are ready to revalidate the cheque already issued for the refund of the amount paid by the complainant without interest.

**G. Directions of the authority**

23. Hence, in view of the factual as well as legal positions detailed above, the complaint filed by the complainant seeking above reliefs against the respondents is not maintainable.
24. The respondent builder is directed to revalidate the cheque(s) already issued for the refund of the amount paid by the complainant within 60 days.
25. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
26. Complaint stands disposed of.
27. File be consigned to registry.



Ashok Sangwan  
Member



Vijay Kumar Goyal  
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 03.12.2024