

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

Complaint no. : 3789 of 2022
Order reserved on : 07.01.2025
Order pronounced on : 18.02.2025

Mrs. Bimla Devi
W/o:- Dr. R.S. Balyan
R/o: - House No. 327, Defence Colony, Hisar, Haryana-
125001.

Complainant

Versus

M/s Emaar India Ltd.
(Formerly known as Emaar MGF Land Ltd.)
Address:- Emaar MGF Business Park, M.G. Road,
Sikandarpur Chowk, Sector-28, Gurugram-122002,
Haryana

Respondent

Coram:

Shri Arun Kumar
Shri Ashok Sangwan

**Chairman
Member**

Appearance:

Shri Kanish Bangia (Advocate)
Shri Harshit Batra (Advocate)

**Complainants
Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottee in Form CRA 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 to the allottee as per the agreement for sale executed inter se them.

A. Project and unit related details

2. The particulars of the project, the details of 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	Emerald floors at Emerald Hills, Sector 65, Gurugram, Haryana
2.	Total area of the project	102.7412 acres
3.	Nature of the project	Group housing colony
4.	DTCP license no.	10 of 2012 dated 21.05.2019
5.	Name of licensee	M/s Logical Developers Pvt. Ltd. and 15 others
6.	RERA Registered/ not registered	Registered vide no. 162 of 2017 dated 29.08.2017 up to 28.08.2022
7.	Provisional allotment in favour of original allottee i.e., Identity Reality Developers Private Limited.	24.07.2009 [annexure R1, page 40-41 of reply]
8.	Date of execution of buyer's agreement in favour of original allottee i.e., Identity Reality Developers Private Limited	17.03.2010 [page 45 of reply]
9.	Unit/ Plot no.	EHF-267-J-SF-012, 2 nd floor [page 46 of reply]
10.	The original allottee transferred the unit to the complainant herein vide an agreement to sell dated	09.07.2010 (Page 149 of complaint)
11.	Transfer confirmation letter in favour of complainant herein	23.07.2010 [annexure R5, page 117 of reply]
12.	Possession clause	"13. POSSESSION (a) Time of handing over the



		<p>possession</p> <p><i>Subject to terms of this clause and subject to the Allottee(s) 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 independent floor within 27 months from the date of execution of this Agreement. The Allottee(s) agrees and understands that the Company shall be entitled to a <u>grace period of 6 months, for applying and obtaining the occupation certificate in respect of the Independent Floor and/or the Project.</u></i></p>
13.	Due date of possession	17.12.2012 [Note: 6 months grace period is included]
14.	Total consideration as per statement of account dated 14.10.2019 at page 162 of complaint	Rs.52,19,059/-
15.	Total amount paid by the complainant as per statement of account dated 14.10.2019 at page 163 of complaint	Rs.52,21,228/-
16.	Occupation certificate	16.11.2016 [annexure R7, page 135-136 of reply]

17.	Offer of possession	14.04.2017 [annexure R8, page 137-150 of reply]
18.	Unit handover letter dated	17.03.2020 [annexure R9, page 155 of reply]
19.	Date of execution of conveyance deed	03.03.2021 [annexure R13, page 163 of reply]
20.	Delay compensation already paid by the respondent in terms of the buyer's agreement as per statement of account dated 14.10.2019 at page 162 of complaint	Rs.4,98,241/-

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:

- i. That in the year 2009, the respondent company issued an advertisement announcing a residential colony project called 'Emerald Hills Floors' in a land parcel admeasuring a total area of approximately 102.7412 acres, situated at sector 65, Gurugram, Haryana and thereby invited applications from prospective buyers for the purchase of units in the said project. Respondent confirmed that the project had got building plan approval from the authority.
- ii. The complainant 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 namely Emerald Hills Floors. The respondent company told the complainant 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. The respondent handed over one brochure to the



complainant which showed the project like heaven and in every possible way tried to hold the complainant and incited the complainant for payments.

- iii. That relying on various representations and assurances given by the respondent company and on belief of such assurances, the allottee, booked a unit in the project by paying an amount of Rs.5,00,000/-, towards the booking of the said unit bearing no. EHF-267J-SF-012, in Sector 65, having super area measuring 2403 sq. ft. to the respondent and the same was acknowledged by the respondent.
- iv. That the respondent confirmed the booking of the unit to the original allottee vide allotment letter dated 24.07.2009, providing the details of the project, confirming the booking of the unit dated 24.07.2009, allotting a unit no. EHF-267J- SF-012, measuring 2403 sq. ft. (super built-up area) in the aforesaid project of the developer for a total sale consideration of the unit i.e. Rs.48,60,000/- which includes basic price, plus EDC and IDC, Car parking charges and other specifications of the allotted unit and providing the time frame within which the next instalment was to be paid. That a buyer's agreement was executed between the original allottee and respondent on 17.03.2010.
- v. That the original allottees subsequently transferred/endorsed the property in favour of the complainant vide agreement to sell dated 09.07.2010. The original allottee executed an "Agreement to Sell" in favour of the complainant herein for an appropriate consideration. The balance amount for obtaining the property which was still under construction was paid by the complainant according to the demands raised by the respondent.



- vi. That as per the demands raised by the respondent, based on the payment plan, the complainant to buy the captioned unit and paid a total sum of Rs.52,21,228/- towards the said unit against total sale consideration of Rs.48,60,000/-. That the payment plan was designed in such a way to extract maximum payment from the buyers viz a viz or done/completed. The complainant approached the respondent and asked about the status of construction and also raised objections towards non-completion of the project.
- vii. That in terms of clause 13(a) of the said buyer's agreement, respondent was under dutiful obligation to complete the construction and to offer the possession on or before 17.06.2012. That complainant approached in person to know the fate of the construction and offer of possession in terms of the said buyer's agreement, respondent misrepresented to complainants that the construction will get completed soon. The respondent despite having made multiple tall representations to the complainant, the respondent has chosen deliberately and contemptuously not to act and fulfil the promises and have given a cold shoulder to the grievances raised by the cheated allottees.
- viii. That the complainant after many requests and emails; received the offer of possession on 14.04.2017. It is pertinent to note here that along with the above said letter of offer of possession respondent raised several illegal demands on account of the following which are actually not payable as per the builder buyer agreement:

Advance monthly maintenance for 12 months of Rs.41,897/-
Electrification charges of Rs.65,167/-
Electric meter charges of Rs.27,600/-
Sewerage connection charges of Rs.316/-
Water connection charges of Rs.3,996/-
HVAT of Rs.57,288/-



Administrative charges of Rs.12,000/-
Delay payment charges of Rs.68,382/-.

- ix. That offering possession by the respondent on payment of charges which the flat buyer is not contractually bound to pay, cannot be considered to be a valid offer of possession. It would be noticed from the details provided above that those charges were never payable by the complainants as per the agreement, by the complainant and hence the offer of possession. The complainants requested the respondent to show/inspect the unit before complainant pay any further amount and requesting to provide the car parking space number but respondent failed to reply.
- x. That the respondent asked the complainant to sign the indemnity bond as prerequisite condition for handing over of the possession. She has raised objection to above said pre-requisite condition of the respondent as no delay possession charges was paid to the complainant but respondent instead of paying the delay possession charges clearly refuse to handover to possession if the complainant do not sign the aforesaid indemnity bond. Further, the complainant left with no option instead of signing the same.
- xi. That the complainant 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 physical handover of the unit. Further, respondent issued handover advice letter. Thereafter, respondent issued handover letter on account of handing over the physical possession of the unit. Thereafter, on 17.03.2020, respondent handed over the physical possession of the unit still in a distorted shape as the handover letter acknowledged by the respondent company.



- xii. That no negotiations were permitted in relation to the buyer's agreement dated 17.03.2010. The complainant was told that the sale deed will encompass all the relevant issues at hand. That this agreement and various clauses therein amount to an unconscionable agreement that is an 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. The term of a contract will not be final and binding if it is shown that the flat purchasers had no option but to sign on the dotted line, on a contract framed by the builder.
- xiii. That the present complaint sets out the various deficiencies in services, unfair and/or restrictive trade practices adopted by the respondent in sale of their unit and the provisions allied to it. The modus operandi adopted by the respondent, from the respondent point of view may be unique and innovative but from the allotted point of view, the strategies used to achieve its objective, invariably bears the irrefutable stamp of impunity and total lack of accountability and transparency, as well as breach of contract and duping of the allottee, be it either through not implementing the services/utilities as promised in the brochure or through not delivering the project in time.
- xiv. That the complainant is the one who has invested their life savings in the said project and are dreaming of a home for themselves and the respondents have not only cheated and betrayed them but also used their hard-earned money for their enjoyment. As per section 18 of the Act, 2016, the promoter is liable to pay delay possession charges to the allottees of a unit, building or project for a delay or failure in handing over of such possession as per the terms and agreement of the sale.

xv. That the cause of action accrued in favor of the complainant and against the respondent on diverse dates when the complainant was first offered the flat, subsequently a letter of allotment letter was issued to the complainant and when again the respondent entered into their respective agreement, it also arose when the respondent inordinately and unjustifiably and with no proper and reasonable legal explanation or recourse delayed in informing the status of construction and continuously asking for the intimation amount to the complainant and beyond any reasonable measure is continuing to this day, it continues to arise as the complainant has not been provided the necessary possession of his/her unit being the moral and legal responsibility of respondent and the respondent have not been provided till date and the cause of action is still continuing and subsisting on day to day basis.

C. Relief sought by the complainant

4. The complainant has filed the present compliant for seeking following reliefs:
- i. Direct the respondent to pay delay possession charges as per RERA Act 2016.
 - ii. Declare the offer of possession as invalid and direct the respondent to reissue a valid offer of possession.
 - iii. Direct the respondent to return the charges that have been illegally charged based on offer of possession which was not a valid one for having increase demands which were not a part of BBA.
 - iv. It is most respectfully prayed that this Hon'ble Authority be pleased to order the respondent not to charge anything irrelevant which has not been agreed to between the parties as stated in the interim relief, which for the sake of brevity is not being repeated.

5. On the date of hearing, the authority explained to the respondent/promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act and to plead guilty or not to plead guilty.

D. Reply by the respondent

6. The respondent has raised certain preliminary objections and has contested the present complaint on the following grounds:
- i. That the complainant has approached the Authority with unclean hands. That the claims of the complainant are not genuine, and have been outreached and concocted, thus, by reason of approaching the Authority with unclean hands and suppressing material facts. That the complainant is estopped by her own acts, conduct, acquiescence, laches, omissions etc. from filing the present complaint.
 - ii. That the original allottee i.e., Identity Reality Developers Private Limited being interested in the real estate development of the respondent, known under the name and style of "Emerald floors at Emerald Hills" situated at Sector 65, Gurugram, Haryana tentatively applied for provisional allotment and were consequently allotted unit no. EHF-267-J-SF-012 on Second floor of in block/building no. Jemma, having a super area of 1380 sq. ft. vide provisional allotment letter dated 24.07.2009 and consequently through the buyer's agreement dated 17.03.2010.
 - iii. That thereafter the original allottee transferred the unit to the complainant vide an agreement to sell dated 09.07.2010. The erstwhile allottee and the complainant executed indemnity cum undertaking and affidavit to give effect to the said transfer, accepting which, the respondent confirmed the transfer on 23.07.2010.
 - iv. That according to the clause 13(i) of the buyer's agreement, the delivery of possession of the Unit was proposed to be within 27 + 6 months from

the date of execution of agreement subject to force majeure and compliance of all the terms and conditions by the allottees including but not limited to the timely payment of the total price payable in accordance with the payment plan. That however, it is pertinent to note that the agreement and the endorsement of the complainant was made prior to the enactment of the Act of 2016. The complainant entered into the shoes of the allottee from the date of confirmation of such transfer, i.e., 23.07.2010, accordingly, the due date should be computed from the said date, ascertaining which, it comes out to be 23.04.2013. That this date was only proposed and extended in terms with the agreement.

- v. Despite the default caused by the complainant in fulfilling their obligations, the respondent did not default and instead completed the construction of the project without having regular payment of monies by the complainant. That the complainant, hence, is liable for all the defaults caused by her. That the respondent gave multiple request letters and reminders in case of delays caused in making payments against the unit, in which circumstance, the proposed due date of delivery of possession is liable to be extended. That as is known and practically understood that regular and timely payments by the allottees are pertinent towards the completion of a real estate project, yet, without the same being done in the present case, the respondent has shown exemplary conduct as a real estate promoter which should be duly taken into account.
- vi. That the respondent, despite defaults on part of the complainant, earnestly fulfilled its obligation under the buyer's agreement and completed the project as expeditiously as possible in the facts and circumstances of the case. The default committed by the complainant and various factors beyond the control of the respondent are the factors



responsible for delayed implementation of the project. The respondent cannot be penalized and held responsible for the default of its customers or due to force majeure circumstances. Thus, it is most respectfully submitted that the present complaint deserves to be dismissed at the very threshold.

- vii. That the respondent has complied with all of its obligations, not only with respect to the buyer's agreement with the complainant but also as per the concerned laws, rules and regulations thereunder and the local Authorities. That despite innumerable hardships being faced by the respondent, the respondent completed the construction of the project and applied for the occupation application before the concerned Authority and successfully attained the occupation certificate dated 16.11.2016. That once an application for grant of occupation certificate is submitted to the concerned statutory authority to respondent ceases to have any control over the same. The grant of occupation certificate is the prerogative of the concerned statutory Authority and the respondent does not exercise any influence in any manner whatsoever over the same. The delay caused due to the non-issuance of the occupation certificate by the statutory authority while calculating the period of delay. Therefore, it is respectfully submitted that the time period utilized by the concerned statutory Authority for granting the occupation certificate is liable to be excluded from the time period utilized for implementation of the project.
- viii. That thereafter, only after obtaining the requisite permissions, the respondent legally offered the possession of the unit to the complainants on 14.04.2017. However, the complainant miserably delayed in taking the possession. Consequently, a number of reminders were given to the complainant requesting for taking the possession. That the delay caused



by the complainant in taking possession of the unit which was offered on 14.04.2017 is solely attributable to the complainant. That the complainant vide its letter dated 07.10.2019 duly accepted the offer of possession sent by the respondents. Furthermore, the complainant vide the same letter accepted the delay caused by her in taking the possession and requested the respondents to waive off the holding charges.

- ix. That the complainant is a wilful defaulter and has defaulted in timely remittance of the instalments demanded by the respondent as per the payment plan. That the respondent were even constrained to issue a cancellation notice dated 13.01.2011 to the complainant as the complainant was not coming forward to make the timely payments of the instalments demanded by the respondent as per the payment plan. However, as a goodwill gesture and in order to retain the customer, the said cancellation notice was revoked by the respondent after the complainant paid the instalment after considerable delay. This clearly reflects the malafide acts on part of the complainant. Furthermore, the complainant vide its letter dated 14.10.2019 has even admitted to being in default in timely remittance of payment on several occasions as per the mutually agreed payment plan. Subsequently, the complainant has further accepted, without any duress, that she is not entitled for the compensation for delay in offer of possession, as per the terms and conditions of buyer's agreement. As a goodwill gesture, the respondent has credited an amount of Rs.4,98,241/- towards compensation credited on offer of possession and duly discharged its duty as per the terms and conditions of the buyer's agreement. Furthermore, the respondent even waived off the holding charges to the extent of Rs.3,14,205/- as a goodwill gesture and the same has been duly accepted by the



complainant. At this instance, it is further pertinent to mention herein, that the complainant vide its letter dated 14.10.2019 agreed to not raise any further claim against the said unit and withdraw any present claim/complaint, if any filed against the respondent.

- x. That at this instance, it is pertinent to note that the complainant caused delay in taking possession of the unit which was offered on 14.04.2017, however, the complainants took the possession on 17.03.2020, i.e., with a delay of almost 3 years, through which time, the unit was lying vacant which had caused grave losses to the respondent and accordingly, the complainant is liable to pay holding charges. After having enjoyed the unit for 2.5 years and raising no protests, whatsoever, the complainant cannot rightly file the present complaint. That the occupancy certificate of the project was attained and the offer of possession was made before the coming into force of all the sections of the Act. Accordingly, no interest can be given to the complainant and the present complaint is liable to be dismissed.
- xi. Thereafter, the absolute title over the unit was transferred to the complainant through the conveyance deed dated 03.03.2021. Since 2.5 years, the complainant has been living in peaceful possession of the unit and now, after over two years, they have come to the authority with the claim of delay possession charges which clearly shows their fraudulent and deceptive motive to wrongfully gaining from the respondent. That the complainant should not be entitled to claim the interest on the delayed possession. Thus, the present complaint is devoid of any cause of action and is nothing but an abuse process of law. It is submitted that a contract is deemed to be concluded after execution of the conveyance deed and hence the present complaint is liable to be dismissed with

heavy costs. That after having slept on their rights for a number of years, the complainant cannot be rightly allowed to have the present claims.

- xii. Moreover, without accepting the contents of the complaint in any manner whatsoever, the bonafide conduct of the Respondent has to be highlighted. That as per the buyer's agreement delay compensation shall only be given to allottees who have not defaulted and/or breached any of the terms of this agreement or who have not defaulted in payment of installments as per the schedule of the payment incorporated in the agreement. That even though the complainants has defaulted in payment of installments, the respondent credited Rs.47,314/- as credit memo on account of EPR and Rs.4,98,241/- as credit memo on account of compensation on IOP. This shows the goodwill and bonafide intention of the respondent. Without prejudice to the rights of the respondent, delayed interest if any has to be calculated only on the amounts deposited by the allottees /complainants towards the basic principal amount of the unit in question and not on any amount credited by the respondent, or any payment made by the allottees/complainants towards delayed payment charges (DPC) or any taxes/statutory payments etc.
- xiii. That in light of the bona fide conduct of the respondent, benefits having been taken by the complainants, non-existence of cause of action, non-applicability of the Act, complaint being barred from limitation and the frivolous complaint filed by the complainant, this complaint is bound be dismissed with costs in favour of the respondent.
7. Copies of all the relevant documents have been filed and placed on the 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.

8. The respondent has filed the written submissions on 20.01.2025, which is taken on record and has been considered by the Authority while adjudicating upon the relief sought by the complainant.

E. Jurisdiction of the Authority

9. The preliminary objections raised by the respondent regarding jurisdiction of the Authority to entertain the present complaint stands rejected. The Authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

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

11. Section 11(4)(a) of the Act 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.

12. 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 as per provisions of section 11(4)(a) of the Act leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Observations of Authority with regard to maintainability of complaint on account of complaint is barred by limitation.

13. The respondent has filed the reply on 06.10.2022, which is taken on record and raised the preliminary objection in its reply that the complaint is not maintainable being barred by limitation. It is necessary to deal with the preliminary objection before proceeding with the reliefs sought by the complainant.

14. On consideration of the documents available on record, the Authority observes that the original allottee i.e., Identity Reality Developers Private Limited was allotted a unit bearing no. EHF-267-J-SF-012, 2nd floor, admeasuring 1380 sq. ft., in project of the respondent named "Emerald floors at Emerald Hills" situated at Sector-65, Gurugram vide provisional allotment letter dated 24.07.2009 and an apartment buyer's agreement was also executed between the original allottee and the respondent regarding the said allotment on 17.03.2010. Thereafter, the original allottee i.e., Identity Reality Developers Private Limited sold it's unit to the first subsequent allottee i.e., complainant (Bimal Devi) vide agreement to sell dated 09.07.2010 and the same was endorsed by the respondent/promoter through nomination letter dated 23.07.2010. The occupation certificate for the subject unit has been obtained by the respondent promoter on 16.11.2016 and the possession has been offered on 14.04.2017. Further, at the time of offer of possession, an amount of Rs.4,98,241/- has already been paid by the respondent to the

complainant towards compensation for delay in handing over of possession and the unit handover letter was issued on 17.03.2020 and conveyance deed was executed between the parties on 03.03.2021.

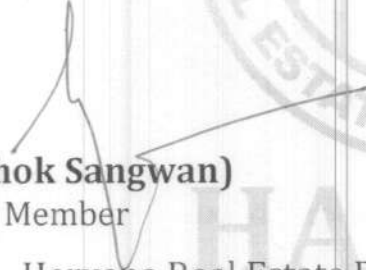
15. The complainant is seeking delayed possession charges and other relief for illegal demands raised from the respondent while the respondent on the other hand is pleading that the present complaint is barred by limitation as the complainant has got the offer of possession on 14.04.2017 and his conveyance deed executed on 03.03.2021, the transaction between the complainant and the respondent stands concluded upon the execution of the conveyance deed and the complainant has filed the present complaint after a long delay on 10.06.2022 i.e., lapsed of 5 years, 1 month and 27 days (1883 days) of the offer of possession and after 1 years, 3 months and 7 days (646 days) after the execution of conveyance deed. Thus, the claim of the complainants is not maintainable. Both the parties through their respective counsels advanced submissions with regard to the maintainability of the complaint on the ground of the limitation.
16. After the unit was allotted to the original complainant on 24.07.2009, a buyer's agreement in this regard was executed on 17.03.2010. Though the possession of the unit was to be offered on or before 17.12.2012 after completion of the project but the same was offered only on 14.04.2017 after receipt of occupation certificate on 16.11.2016 and ultimately leading to execution of conveyance deed of the same on 03.03.2021. So, limitation if any, for a cause of action would accrue to the complainant w.e.f. 14.04.2017 and not from 03.03.2021. So far as the issue of limitation is concerned, the Authority is cognizant of the view that the law of limitation does not strictly apply to the Real Estate Regulation and Development Authority Act of 2016. However, the Authority under section 38 of the Act of 2016, is to be guided by

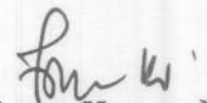
the principle of natural justice. It is universally accepted maxim and the law assists those who are vigilant, not those who sleep over their rights. Therefore, to avoid opportunistic and frivolous litigation a reasonable period of time needs to be arrived at for a litigant to agitate his right. This Authority of the view that three years is a reasonable time period for a litigant to initiate litigation to press his rights under normal circumstances.

17. It is also observed that 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** have held that the period from 15.03.2020 to 28.02.2022 shall stand excluded for purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.
18. In the present matter the cause of action arose on 14.04.2017 when the possession was offered to the complainant by the respondent. The complainant has filed the present complaint on 10.06.2022 which is 5 years 1 month and 27 days from the date of cause of action. In the present case the three year period of delay in filing of the case also after taking into account the exclusion period from 15.03.2020 to 28.02.2022 would fall on 14.07.2020. In view of the above, the Authority is of the view that the present complaint has not been filed within a reasonable time period and is barred by the limitation.
19. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of 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.
20. 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.

21. 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 after such a long period of time. The procedure of law cannot be allowed to be misused by the litigants even in cases where allottees have availed certain benefits prior to the execution of conveyance deed. 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 complaint is not maintainable and the same is declined.
22. Complaint as well as applications, if any, stand disposed off accordingly.
23. File be consigned to registry.


(Ashok Sangwan)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 18.02.2025