



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

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

Complaint no.:	356 of 2023
Date of filing:	21.02.2023
Date of first hearing:	25.04.2023
Date of decision:	24.04.2025

**Daya Shanker Chaubey S/o Sh. Prasidhhnarayan,**  
R/o Flat No. 401, B-4,  
SRS Royal Hills, Sector 87,  
Faridabad, Haryana - 121002.

....COMPLAINANT

VERSUS

**1. Designers Realtors Pvt. Ltd. Through its directors,**  
Regd Office : OT-16, 3<sup>RD</sup> Floor,  
Next Door Parklands,  
Sector 76, Faridabad, Haryana- 121004.

**2. Shalimar Town Planners Pvt. Ltd. Through its directors,**  
Regd Office: OT-15, 3<sup>RD</sup> Floor,  
Next Door Parklands,  
Sector 76, Faridabad, Haryana- 121004.

**3. Business Park Maintenance Services Pvt. Ltd. through its directors,**  
Regd Office: 3<sup>RD</sup> Floor, Next Door Parklands,  
Sector 76, Faridabad, Haryana- 121004.

.... RESPONDENT(S)

**CORAM:** **Parneet S Sachdev**  
**Nadim Akhtar**  
**Chander Shekhar**

**Chairman**  
**Member**  
**Member**

**Present:** -Mr.Saket Singh, counsel for the complainant through VC.

None for the respondents.

**ORDER (PARNEET S SACHDEV -CHAIRMAN)**

1. Present complaint has been filed on 21.02.2023 by the complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

**A. UNIT AND PROJECT RELATED DETAILS**

2. The particulars of the unit booked by the complainant, sale consideration, the amount paid by the complainant and details of project are given in following table:

S.No.	Particulars	Details
1.	Name of the project	"BPTP District 5" Block B, Sector 84, Faridabad, Haryana.
2.	Plot no. and area	A-23, measuring 135.320 Sq. Yds.
3.	Date of allotment	25.12.2019
4.	Date of Agreement to Sell	13.03.2020
6.	Date of Conveyance Deed	25.01.2022

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5.	Due date of offer of possession	30.06.2024 (unless there is delay due to force majeure) 31.10.2021 (if there is no delay or force majeure)
6.	Possession clause	<i>Clause 10.1 of the Agreement to sale- "10.1. Schedule for possession of the said Plot - The Promoter agrees and understands that timely delivery of possession of the Plot to the Allottee is the essence of the Agreement. The Promoter assures to hand over possession of the Plot on or before 30.06.2024 unless there is delay or failure due to 'force majeure, court orders, Government policy/ guidelines, decisions affecting the regular development of the Project. If, the completion of the Project is delayed due to the above mentioned conditions then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Plot. However, the Promoter shall endeavour to deliver the possession of the Plot on or before 31.10.2021. It is hereby expressly clarified that the penalty provisions under RERA shall only be applicable if the Promoter fails to give possession on or before 30.06.2024."</i>
7.	Basic sale price	₹ 52,77,480/-
8.	Amount paid by complainant	₹52,61,223/- (as per receipts)

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		attached with original complaint file.) ₹52,77,480/- (as per Respondent's written submissions)
9.	Offer of possession	Yes, on 11.12.2021.

## B. FACTS OF THE CASE AS STATED IN THE COMPLAINT

Upon perusal of the complaint, it was observed by the Authority that the complainant had originally filed the complaint on 21.02.2023. Thereafter, vide order dated 29.02.2024, it was noted that the pleadings in the original complaint were not in consonance with the reliefs sought therein. Pursuant to this, the complainant prayed for permission to amend the complaint. The said request was duly considered and allowed by the Authority vide order dated 29.02.2024. In compliance with the said order, the complainant submitted an amended complaint on 03.09.2024. Accordingly, the Authority deems it appropriate to decide the matter on the basis of a conjoint reading of the original and amended pleadings submitted by the complainant.

3. Facts of the present case pertains to the respondent no.1 promoter's project namely, "BPTP District 5" Block- B situated at Sector 84, Faridabad, Haryana. The complainant submits that the Director Town and Country Planning, Haryana issued License no. 82 of 2019 to respondent no.1 for development of said land into plotted colony under the Deen Dayal Jan



Awaz Yojna situated at revenue estate of village Kheri Kalan, Sector 84 Faridabad.

4. That the complainant booked a plot in the project of Respondent No. 1 after making payment of the consideration amount as per the advertisement issued by the developer. The complainant was allotted Plot No. A23 vide allotment letter dated 25.12.2019. A copy of the said allotment letter is annexed as **ANNEXURE C-3** with the original complaint.
5. Upon allotment, an agreement for sale concerning the plot in question was unilaterally drafted by the respondent no.1 and presented to the complainant for execution. The complainant was constrained to sign the said one-sided agreement in view of the project having been approved by DTCP Haryana under DDJAY and registered with RERA. A copy of the said agreement for sale dated 13.03.2020 is annexed as **ANNEXURE C-1** with the original complaint.
6. That the complainant avers that he had duly paid all demands raised from time to time by the developer and also paid interest on delayed payments through bank loans, irrespective of the fact that the delay was attributable to the developer.
7. That during the COVID-19 pandemic in the year 2020, when banks and the offices, including respondent's offices were not fully functional, the respondent promoter raised arbitrary and illegal demands. Further, there was a delay on the part of the respondent no.1 in supplying requisite

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documents, resulting in delays in loan approval and subsequent payments by the bank. A copy of the email dated 24.05.2021 is annexed as **ANNEXURE R-1** attached with the amended complaint. The complainant raised objections through emails and telephonic communications, as reflected in **ANNEXURE R-2** attached with the amended complaint, but the promoter, acting unilaterally, failed to consider or address the request of the complainant.

8. That the complainant was offered possession for the plot in question on 11.12.2021 and the conveyance deed for the aforementioned plot was executed on 25.01.2022, after the complainant remitted the entire consideration amount as demanded by the respondent. The complainant submitted that he had to take the physical possession of the plot solely to avoid imposition of penal charges, holding costs, or any adverse consequences upon the said unit.
9. Further, the complainant alleges that at the time of handing over possession, the respondent arbitrarily and coercively collected one year's maintenance charges despite the absence of any executed maintenance agreement with the maintenance agency.
10. It is averred by the complainant that he had inquired at the time of taking possession regarding the issuance of the Partial Completion Certificate (PCC)/Completion Certificate (CC). However, the developer's office misrepresented that the same had been issued and would be provided to the





allottees shortly. Despite several follow-ups, no written communication was furnished to him. Consequently, the complainant sought information under the Right to Information Act and was informed by the competent authority that no PCC/CC had been issued in respect of the said project. The said fact was duly brought to the notice of the respondent and the maintenance agency through multiple representations and email communications. The complainant alleges that the imposition of maintenance charges in the absence of a valid PCC/CC is not only in contravention of the terms of the Agreement for sale but also constitutes a violation of the license conditions granted by the Town and Country Planning Department, Haryana.

11. Thereafter, the complainant received one-sided maintenance agreement prepared by respondent no.1 and its appointed maintenance agency, with directions to submit a signed copy thereof. Despite raising objections, the complainant received multiple coercive and threatening calls from the offices of the developer and maintenance agency, pressuring execution of the said agreement. Copies of the relevant email communications are annexed in amended complaint as **ANNEXURE R-3**.
12. That it is further submitted by the complainant that the maintenance charges were arbitrarily doubled by the respondent immediately after adjusting the one-year maintenance charges previously collected at the time of offering possession. In this regard, a demand notice was issued to the complainant, falsely referring to the maintenance agreement, which was not by the

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complainant. A copy of the relevant email communication is annexed in amended complaint as **ANNEXURE R-4**.

13. That the complainant discovered that the Partial/Completion Certificate had not been issued for the project and raised the concern with the developer and maintenance agency, but received no response.

14. In light of the above, being aggrieved by the conduct of the respondents, complainant has filed the present complaint before this Hon'ble Authority for seeking the reliefs as prayed as under

### **C. RELIEFS SOUGHT**

15. The complainant in his complaint has sought following reliefs:

- (i) Direct the promoter to not ask any maintenance till the receiving of completion certificate and refund the advance paid amount along with delayed interest for serious deficiency in service as per HRERA rule. As the respondent has violated contravened the provisions of the Act and breach of agreement between promoter and buyer and Rules & Regulations made there under.
- (ii) Introduce new maintenance agency after issuance of completion certificate in accordance with DDJAY policy and prepare the maintenance agreement with consent of allottees in compliance to the license (FORM LC-5) issued for project and as per RERA act.
- (iii) Direct the concerned authority to take action against developer for violation of license terms and conditions.

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- (iv) Direct the respondent-developer to pay compensation for harassment and unfair trade practices and legal expenses in favor of the complainant.
- (v) Any other relief / further direction as this Honorable Court may deem fit in the present facts and circumstances.

**D. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

Notice of the complaint was duly served to the respondents on 22.02.2023 and successfully delivered to Respondent no. 2 and 3 on 24.02.2023. Notice was not delivered to respondent no.1 due to incomplete address. The first hearing was held on 25.04.2023, during which Mr. Hemant Saini, had put appearance on behalf of respondent no.1 and 3 and requested time to file a reply. Reply to the original complaint was received on 02.08.2023. However, on direction of Authority vide order dated 29.02.2024, complainant filed an amended complaint on 03.09.2024. Further, vide order dated 14.11.2024, the respondent was given opportunity to file a reply to the amended complaint. Till date no reply has been received from the respondents. Furthermore, it is noted that Id. Counsel for respondent no.1 and 3 has not been appearing since last two hearings. In view of the above, the Authority deems it appropriate to consider reply dated 02.08.2023 which is already taken on record and proceed to decide the present complaint.

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Ld. counsel for the respondents filed a detailed reply on 02.08.2023 pleading therein as under :-

16. That the complainant approached the respondent for allotment of a residential plot in the project of the respondent namely 'BPTP District 5 Block B' at Sector-84, Faridabad, Haryana and was allotted a plot bearing No.A23, having an area of 135.320 sq.yards situated in Block No. B, in the Project BPTP DISTRICT 5 BLOCK B, along with pro rata share in the common areas vide the Allotment Letter, dated 25.12.2019. In accordance with this, the complainant opted for the instalment payment plan and paid a total sum of ₹52,77,480/- towards the said plot.
17. That it is submitted that the complainant voluntarily accepted the terms of the Booking Form, Allotment Letter, Agreement to Sell, and Conveyance Deed, and conducted due diligence prior to taking possession of the plot, without being induced by any misrepresentation or assurance from the respondent.
18. Further, the respondent has stated that the complaint is not maintainable as the complainant has approached this Authority with unclean hands, having wilfully suppressed material facts, including the respondent's application for the Completion Certificate dated 04.08.2021, which is still under process due to reasons beyond the respondent's control.
19. It is admitted by the respondent that offer of possession of the said plot was made to the complainant after duly complying with the provisions of the Agreement for



Sale, in accordance with HRERA Rules, 2017, and after obtaining the approved zoning plan on 10.12.2021. Consequently, the Conveyance Deed was executed with the Complainant on 25.01.2020.

20. That the respondent has relied on clause 14 of the conveyance deed dated 25.01.2020, whereby the complainant had agreed that the upkeep and maintenance of common/ open areas and facilities in the said project shall be discharged by the respondent through maintenance agency until the local authorities take over these responsibilities, and therefore, the complainant cannot raise this issue.
21. In addition, the respondent submitted that the Conveyance Deed executed between the parties constitutes the entire agreement with respect to the subject matter and supersedes all prior agreements, representations, and understandings.
22. The complainant, by executing the necessary documents, gave consent that they would have no objection to the Respondent carrying out development activities on vacant land parcels outside the Respondent's plot, thereby implying that the Complainant lacks locus standi to initiate the present complaint.
23. Moreover, as per Licence No. 82 of 2019 dated 30.07.2019 issued by the Directorate of Town and Country Planning, Haryana, the Respondent is obligated to maintain roads, open spaces, public parks, and public health services within the project for a period of five years from the issuance of the Completion Certificate, unless relieved earlier. After this period, the respondent is required to transfer the

same to the Government or local authority, in accordance with Section 3(3)(a)(iii) of the Haryana Development and Regulation of Urban Areas Act, 1975.

24. The Respondent further submits that the Complainant never pursued a refund and has consistently expressed the intention to take possession of the plot. The Complainant executed the Conveyance Deed, thereby relinquishing all rights to institute any legal proceedings against the respondent concerning the plot.
25. Thus, the respondent asserts that the present complaint is frivolous, vague, and vexatious, based on false and baseless allegations, and is not maintainable. The respondent respectfully submitted that the complaint be dismissed as devoid of merit.

#### **E. ISSUES FOR ADJUDICATION**

Whether complainant is entitled to the reliefs sought or not?

#### **F. OBSERVATIONS AND DECISION OF THE AUTHORITY**

26. In light of the facts of the case and perusal of document placed on record, Authority observes that admittedly allottee booked a plot in the project of respondent namely; "BPTP District 5" Block- B situated at Sector 84, Faridabad, Haryana and was allotted Plot No. A23 admeasuring vide allotment letter dated 25.12.2019. Further, the parties executed an agreement to sell dated 13.03.2020. Subsequently, the respondents made an offer of possession dated 11.12.2021.to the complainant. Finally, conveyance deed against the said plot was executed on 25.01.2022. There is no dispute regarding the fact that the



complainant has taken peaceful possession. In furtherance of it, the reliefs are bifurcated and are being dealt as follows:-

- a. ***Direct the promoter to not ask any maintenance till the receiving of completion certificate and refund the advance paid amount along with delayed interest for serious deficiency in service as per HRERA rule. As the respondent has violated contravened the provisions of the Act and breach of agreement between promoter and buyer and Rules & Regulations made there under.***

The complainant has averred that the respondent in connivance with its appointed maintenance agency has unilaterally drafted a maintenance agreement that is alleged to be one-sided in nature. It has further been contended that relying upon such agreement, the respondent has arbitrarily enhanced the maintenance charges. The complainant assert that since the said maintenance agreement was never executed or signed by them, the respondent lacks the legal authority to impose such charges upon them.

In contrast, the respondent has placed reliance on Clause 14 of the Conveyance Deed dated 25.01.2020, wherein the complainants expressly agreed and undertook that the upkeep and maintenance of the common areas, open spaces, and facilities within the project shall be carried out by the respondent through its designated maintenance agency, until such time the same is taken over by the competent local authority.

With respect to the issue of imposition of maintenance charges, the Authority observes that the complainant had taken physical possession of the plot in question on 11.12.2021 and had thereafter executed the Conveyance Deed on

25.01.2022. It is pertinent to note that the complainant was fully cognizant at the time of execution of the said deed and that the completion certificate for the project had not been obtained by the respondent. Despite such knowledge, no objection was raised by the complainants at the time of execution, and the deed was executed without any express reservations in this regard.

Furthermore, it is an established and logical consequence that certain expenditures towards the maintenance of common areas and essential services are inevitable and any allottee who has taken possession of the unit is obligated to bear such reasonable charges. It is also relevant to highlight that the complainants have not specifically challenged the quantum of the maintenance charges demanded by the respondent.

In light of the above circumstances, the relief sought by the Complainants for seeking refund of the maintenance charges paid, along with interest, and adirection restraining the Respondent from levying maintenance charges until the receipt of a partial completion certificate is found to be devoid of merit and is accordingly not tenable.

- b. Introduce new maintenance agency after issuance of completion certificate in accordance with DDJAY policy and prepare the maintenance agreement with consent of allottees in compliance to the license (FORM LC-5) issued for project and as per RERA act.***

As regards as the abovementioned relief, the complainant has further sought a direction to introduce a new maintenance agency after the issuance of the



Completion Certificate, in accordance with the Deen Dayal Jan Awas Yojna (DDJAY) policy and to execute a fresh maintenance agreement with the consent of the allottees, in compliance with the conditions stipulated in the license (Form LC-5) issued for the project and as per the provisions of the Real Estate (Regulation and Development) Act, 2016. In this regard, the Authority provided an opportunity to the ld. counsel for the complainant to clarify the specific statutory provision under which such relief has been sought before this Authority. However, Ld. Counsel for the complainant was unable to demonstrate or satisfy the Authority as to the existence of any enabling provision under the Act that would empower this Authority to grant such a direction.

It is imperative to note that the relief sought pertains to administrative and policy-level decisions which fall outside the statutory jurisdiction and adjudicatory powers conferred upon this Authority under the Real Estate (Regulation and Development) Act, 2016. The Authority is bound to act within the four corners of the Act and cannot exercise jurisdiction over matters that do not fall within its statutory mandate.

Accordingly, this relief sought by the complainants is found to be beyond the scope of this Authority's jurisdiction and, therefore, cannot be adjudicated upon by the Authority.

***c. Direct the concerned authority to take action against developer for violation of license terms and conditions.***

The complainant has requested that direction may be issued to concerned authority to take action against developer for violation of license terms and conditions. In this regard, Authority observes that it is important to consider that who is the competent Authority for issuance of license and whether RERA has jurisdiction to direct the competent authority in the process of issuing or revoking a license, or even to examine whether there is any violation of the license terms and conditions or not? It is pertinent to note that as per the scheme of the *Haryana Development and Regulation of Urban Areas Act, 1975*, the competent authority for granting and regulating licenses for development of colonies is the Director, Town and Country Planning, Haryana. Reference can be made to section 8 of the Act which is reproduced below for reference:

***Section 8 – Cancellation of Licence***

*"If the colonizer breaches any of the conditions of the licence or the provisions of this Act or the rules made thereunder, the Director may, by an order in writing and for reasons to be recorded in such order, cancel the licence granted to him after affording him an opportunity of being heard."*

It is clear that Section 8 empowers the Director to cancel a license in case of breach of any condition of the license or contravention of any provision of the Act or rules made thereunder. Section 10 further prescribes penalties for unauthorized development or violation of license conditions.

Also, as per Section 37 of RERA Act of 2016, Authority for the purpose of discharging its functions under the provisions of said Act or rules or regulations



made thereunder, *issue directions to the promoters or allottees or real estate agents*, as the case may be, as it may consider necessary and such directions shall be binding on all concerned. Meaning thereby, under RERA Act, 2016, directions can be issued to *promoters or allottees or real estate agents* and not to the Government.

Therefore, this Authority has no jurisdiction to interfere in the process of issuance or cancellation of licenses granted under a separate statutory regime, i.e., the *Haryana Development and Regulation of Urban Areas Act, 1975*. The determination of whether a violation of license conditions has occurred and the consequent enforcement or penal action, is exclusively within the domain of the Director, Town and Country Planning, Haryana.

Accordingly, while the complainant's grievance may be genuine, this Authority is not empowered under the RERA framework to issue any direction to the Director, Town and Country Planning, Haryana, for initiating action against the developer for alleged violations of the license. The complainant is, however, at liberty to approach the said competent authority for redressal of the grievance under the appropriate provisions of law.

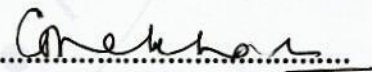
***d. Direct the respondent-developer to pay compensation for harassment and unfair trade practices and legal expenses in favor of the complainant.***

In respect of this relief, the complainant is seeking compensation on account of mental agony, physical harassment caused to the complainant, deficiency in



services. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. & ors.*" (supra,), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

27. In view of aforesaid observations, present complaint stands **Disposed of**. File be consigned to the record room after uploading of the order on the website of the Authority.

  
CHANDER SHEKHAR  
[MEMBER]

  
NADIM AKHTAR  
[MEMBER]

  
PARNEET S SACHDEV  
[CHAIRMAN]