

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

**Complaint no.:** 4799 of 2023  
**First date of hearing:** 26.10.2023  
**Date of decision:** 07.01.2025

Mr. Vinod Kumar  
R/o : 515/28, Jyoti Park, Gali No. 8,  
Gurugram-122001

**Complainant**

Versus

1. M/s BPTP Limited  
**Regd. Office:** M-11, Middle Circle, Connaught  
Place, New Delhi 110001  
2. M/S Freedom Park Life Resident Welfare  
Association  
**Regd. Office:** Freedom Par Life Society,  
Sector-57, Near Gurugram University,  
Gurugram-122003

**Respondents**

**CORAM:**

Shri Arun Kumar  
Shri Vijay Kumar Goyal  
Shri Ashok Sangwan

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

**APPEARANCE:**

Sh. Gaurav Rawat  
Sh. Harshit Batra  
Sh. Sandeep Phogat

**Counsel for Complainants**  
**Counsel for Respondent No.1**  
**Counsel for Respondent No.2**

**ORDER**

1. The present complaint dated 26.10.2023 has been filed by the complainants/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 provisions of the 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	Freedom Park Life, Sector 57, Gurugram, Haryana
2	Nature of the project	Group Housing Colony
3	RERA Registered	Not registered
4	Unit no.	J-106 [Page 25 of complaint]
5	Unit area	200 sq. ft.
6	Date of booking application form	16.07.2013 [Page 25 of reply]
7	Provisional allotment letter issued on	28.01.2014 [Page 25 of complaint]
8	Date of builder buyer agreement	Not executed
9	Possession clause	---
10.	Due date of possession	NA
11	Sale consideration as per allotment letter	Rs.1,35,000/- [Page 25 of complaint]
12	Total amount paid by the complainant	Rs.2,27,924/- (As stated by the complainant in the facts at page 21 of complaint)

13	Notice of possession	14.06.2018 (Page 27 of complaint)
14	No objection certificate letter issued by the promoter to the complainant	03.09.2020 [Page 31 of complaint]
15	Conveyance deed	01.10.2018 (Page 40 of complaint)
16	Occupation certificate	16.08.2021 (Page 63 of complaint)

**B. Facts of the complaint**

3. The complainants have made the following submissions in the complaint:

- I. This is with reference to the Group Housing Colony project 'Freedom Park Life' at Sector -57, Gurugram was launched by respondent no.1 under the license, issued by DTCP, Haryana, Chandigarh and thereby invited applications from prospective buyers for the purchase of EWS unit in the said project.
- II. The complainant while searching for a EWS flat/ accommodation was lured by such advertisements and calls from the brokers of the respondent for buying a house in their project.
- III. That relying on various representations and assurances given by the respondent and on belief of such assurances, complainant booked a unit in the project by paying a booking amount, towards the booking of the said EWS unit bearing no. unit J-106, in Sector 57, having super area measuring 200 sq. ft. to the respondent and the same was acknowledged by the respondent.
- IV. That the respondent confirm the booking of the unit to the allottee vide allotment letter dated 28.01.2014, providing the details of the project, confirming the booking of the unit, allotting a unit no. Unit J-106 measuring

200 Sq. Ft (super built up area in the aforesaid project of the developer for total sale consideration of Rs. 1,35,000/- along with other Specifications of the allotted unit and providing the time frame within which the next instalment was to be paid.

- V. That at the time of booking the complainant was assured to complete the construction and handover the possession of the unit within period of 36 months from the date allotment letter i.e. 28.01.2014. That therefore the Respondent had to deliver the possession by 28.01.2017.
- VI. That as per the demands raised by the respondent, based on the payment plan, the complainant to buy the captioned unit already paid a total sum of Rs. 2,27,924.00, towards the said unit against total sale consideration of Rs. 1,35,000/-.
- VII. That the complainant after many requests and emails; received the offer of possession on 14.06.2018. 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 allotment letter. Furthermore, respondent offered the possession of the said unit without obtaining the occupation certificate as the same has been obtained on 16.08.2021.
- VIII. 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.
- IX. That it has been held by the Honourable 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 asking for charges as elaborated above, 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.

- X. 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 issued the physical handover advice letter dated 21.06.2018 of the unit on account of handing over the physical possession of the unit. It is pertinent to mention here that the physical keys of the said EWS unit was handed over to the complainant on 16.12.2021. Furthermore, the respondent obtained the OC on 16.08.2021 and the NOC from the RWA was obtained on 03.09.2020 and thereafter, NOC for fit outs was issued by the respondent no. 1 on 03.09.2020. It is most respectfully submitted that despite the repeated request and reminders till date basic amenities i.e. electricity, water, sewage connection has not been provided to the complainant.
- 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 conveyance deed executed dated 01.10.2018. While this sale deed acknowledges that the complainant have paid the total consideration of Rs. 2,00,250/-, towards full and final consideration of the said apartment and applicable taxes etc, it makes no provision for compensating the complainant for the huge delay in handing over the flat and project. The complainant were not given any opportunity to negotiate the terms of the said sale deed. It is most respectfully submitted that despite the repeated request and reminders till date basic amenities i.e. electricity, water, sewage connection has not been provided to the complainant. Furthermore, complainant has been restrained from entering by the respondent.

- XII. That the complainant sent various reminders to respondents stating and raising various grievance with respect to providing the basic amenities which are essential for the living in the said apartment but till date respondents have failed to provide the same.
- XIII. That complainant file a complaint against the respondent to the STP, Gurugram on which STP, Gurugram vide order dated 05.09.2022 state that The subject cited above, in this regard it is intimated that the above said complainant already handover the physical possession and make the conveyance deed on 194 of 2018.
- XIV. That all facility already made in the EWS Block as per approved site plan i.e. electricity connection, water, sewer connection but now disconnect the same by the RWA. The respondent already held meeting with RWA to resolve the matter. The RWA not interested to give the facility in EWS block i.e. electricity connection, water and sewer connection so we promise to resolve the issues within 30days.
- XV. Thereafter, on 27.04.2022 again the report on complaint of complainant was given stated that the complaint has been examined and letter issued to concerned colonizer and complainant for hearing on dated 27.04.2022. The complainant and the representative of the colonizer were present in the hearing. Worthy Senior Town Planner Gurugram directed that the representative of colonizer Gurugram will provide the basic facilities such as water, sewer and electricity connection with in a week and inform this office in the next meeting, which is likely to be held around 10/05/2022. The complainant is satisfied with the action of department.
- XVI. That despite the above said orders and report till date respondents failed to resolve the issues as raised by the complainant. Hence the present complaint. The respondents have completely failed to honour their promises and have not provided the services as promised and agreed

through the brochure, allotment letter and the different advertisements released from time to time. Further, such acts of the respondents are also illegal and against the spirit of RERA Act, 2016 and HRERA Rules, 2017. It is abundantly clear that the respondents have played a fraud upon the complainant and have cheated them fraudulently and dishonestly with a false promise to complete the construction over the project site within stipulated period and to provide the amenities. Hence, the complainant being aggrieved by the offending misconduct, fraudulent activities, deficiency and failure in service of the Respondents are filing the present complaint.

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

4. The complainant has sought following relief(s):

- I. Direct the respondent to provide electricity connection and electricity for the said unit, water and sewage connection.
- II. Direct the respondent to pay delayed possession charges from the due date of possession till date of handing over of possession i.e., when all the basic amenities are provided.
- III. Direct the respondents to provide water and sewage connection to the complainant for the said unit -.
- IV. Direct the respondents not to charge maintenance charges till the time basic amenities are not provided to the complainant.
- V. Direct the respondents not to levy any undue charges upon the complainant.
- VI. Direct the respondents to refrain them from creating any kind hindrances in the entry of the complainant in the project/society.
- VII. To set aside the offer of possession letter dated 14.06.2018 and possession letter dated 21.06.2018, 03.09.2020 and declaration.

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 No. 1**

6. The respondents have contested the complaint on the following grounds.

- a. That at this outset, it is imperative to note that the construction of the Project in question, namely, "Freedom Park Life" (*hereafter referred to as "Project"*) had already been completed in the year 2009 and the Respondent No. 1 had also obtained the occupation certificate dated 16.08.2021 with respect to the subject unit and only after obtaining the occupation certificate for the project, the respondent no. 1 initiated the procedure of handing over of the units to the respective allottees of the above-noted project of the respondent no. 1.
- b. That the complainant approached the respondent no. 1 in the year 2013 and expressed his interest in booking of a unit in the above-noted project of the respondent no. 1 and hence applied for the booking in the project vide application form dated 16.07.2013.
- c. That prior to the booking of the unit, the complainant conducted extensive and independent enquiries with regard to the project's services, amenities and facilities and only after being fully satisfied on all aspects, he took an independent and informed decision, uninfluenced in any manner by the respondent no. 1, to book the unit in question.
- d. That pursuant thereto, a unit bearing no **J-106**, admeasuring 200 sq. ft. (tentative area) was allotted vide provisional allotment letter dated 28.01.2014.
- e. That after the allotment of the said unit, the possession of the same was lawfully offered to the complainant on 14.06.2018 and thereafter the



physical possession of the same was handed over to the complainant on 21.06.2018.

- f. It is categorical to note at this stage that after taking the physical possession of the said unit, the complainant inspected the unit and satisfied himself with respect to all the facilities and amenities of the unit and only after being completely satisfied with the same, had taken the physical possession on 21.06.2018.
- g. It is significant to note at this stage that all the services and amenities alleged by the complainant in the present matter were already completed by the respondent no. 1 in the year 2009 and were handed over to the respondent no. 2, i.e., Freedom Park Life Resident Welfare Association vide letter 15.12.2013. That after the handover to RWA, the respondent no. 1 ceases to have any effect on the same and the present complaint against the respondent no. 1 does not survive.
- h. That it is categorical to note at this stage that after obtaining the physical possession of the said unit, the conveyance deed dated 01.10.2018 was also executed between the complainant and the respondent no. 1. That as per clause 3 of the conveyance deed dated 01.10.2018, it is categorically noted that the complainant took over the physical possession of the said unit only after complete inspection and only after being completely satisfied with the unit.
- i. That the respondent No. 1 had already completed the construction of the said project and had obtained the occupation certificate on 16.08.2021 and therefore is not liable to pay any delayed possession charges to the complainant.
- j. That with prejudice, the present complaint is barred by limitation as the possession was given in 14.06.2018 and even if the complainant had any grievances, whatsoever, then the issue can be raised at a reasonable period

of time after taking over of the physical possession of the unit but the complainant approached this forum in the year 2023, i.e, after 5 years of taking of the physical possession and hence, the present complaint is liable to be dismissed on this ground alone.

7. All other averments made in the complaint were denied in toto.
8. 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 submissions made by the parties.

**E. Reply by the respondent No. 2.**

- I. That the complainant has not approached the Hon'ble Authority with clean hands as he has suppressed the material facts from the Hon'ble Authority in the present complaint. The true facts are that the said Project "Freedom Park Life" was developed by Respondent No. 1 & M/s Countrywide Promoters Pvt. Ltd. and the Occupation Certification was issued on 27/07/2009.
- II. That an electrical scheme was sanctioned on 29.07.2008 by DHBVN for sanctioned load for the entire complex as 5148 KW (5.1 MW) with contract demand load was 4950 KW and connection was released in Feb 2013. The load required for BPTP is 5817 KW (5.8 MW) and installed capacity is 4800 KW i.e. 3 transformers of 1600 KW each and balance requirement is 1017 KW. Which is not provided till date. The load installed at the site is not even sufficient for the residents of RWA. The executive engineer (operations Sub-Urban Division DHBVN issued a notice dated 23.9.2013 to BPTP vide Memo No. 12669/80 to deposit Rs. 11.16 crore for furnish bank guarantee of Rs. 16.74 crore towards inadequate infrastructure as per DHBVN norms of 2006. However instead of depositing the same or complying the directions; BPTP asked Respondent No. 2/RWA to pay the same.

- III. According to DHBVN guidelines, whenever the sanctioned loan is more than 5 MW, a 33 KV sub-station is required to be constructed by the Builders i.e. Respondent No. 1 and M/s Countrywide Promoters Pvt. Ltd., but they have neither provided sub-station nor provided 100% power back up and RWA is managing the shortfall with the help of two Gen Set of 1010 KVA till date and a writ petition bearing CWP No. 22243 of 2012 is also pending before the Hon'ble Punjab & Haryana High Court in this regard wherein Builder BPTP and DHBVN both are parties to the same wherein it was pointed out by the RWA that the requisite load has not been provided by the Builder and DHBVN and the said petition is still pending adjudication.
- IV. That the builder's M/s Countrywide Promoters Pvt. Ltd. & M/s BPTP Ltd. only provided 11 KV to the said housing complex and other utilities as Nursery School, Shopping Area, Twin Basement for parking and two Community Centres/Club have also not been constructed by the Builders, as per original approved plan. Thereafter, the Managing Committee of Freedom Park Life AOA has filed a writ petition bearing CWP No. 22243 of 2012 against the Builder M/s Countrywide Promoters Pvt. Ltd. before the Hon'ble Punjab & Haryana High Court, wherein DHBVN accept the instructions and agreed that the electrical infrastructure provided by the builder to the society is not as per norms and the builder for saving cost, avoided the construction of 33 KV substations and compromised the needs of the apartment owners. The DHBVN issued notice vide Memo No. 12669/90 dated 20.09.2013 to M/s BPTP Ltd. (Countrywide) for furnishing the cost/bank guarantee on account of inadequate development of electrical infrastructure in BPTP housing and violation of the conditions of license issued in the name of respondent no. 1 and also to provide land to DHBVN for constructing the substation, but the same was not done on the part of respondent no. 1 till date. In sanction load letter to FPL dated 29.07.2008, it

is also clearly mentioned that, "EWS load shall be fed through 11/433 V pole mounted transformer through a separate connection". So, the Builder will have to provide separate connections for EWS also through separate feeder, as mentioned in the said letter.

V. That the answering respondent no.2 has intimated to Respondent No. 1 for construction of 33 KV electrical substation vide their letters dated 12.01.2016 & 19.02.2016 respectively. That DTCP Haryana issued demand notice to the Builder on 24.12.2015 for electrical infrastructure in reference to the letter bearing Memo No. Ch. 109/SE/C-118-G dated 19.08.2015 issued by the Chief Engineer DHBVNL, Hissar. During the year 2021, a 1250 KVA transformer has been delivered at site by the Builder and proposed/demanded to install it with the existing infrastructure for giving supply to EWS through 11 KV power supply infrastructure installed inside the Society, which is already less for the residents and it is clear by the calculation of load taken by the transformer and Gen set is insufficient.

1) Total Transformer's installed at site - Qty 3x1600 KVA = 4800 KVA  
=  $4800 \times 0.8 = 3840$  KVA (less than 4 MW)

2) Total DG sets installed at site - Qty 3x1010 KVA = 3030 KVA  
=  $3030 \times 0.8 = 2424$  KVA (around 2.5 MW).

VI. That the stand taken by BPTP and DHBVN that due to change in policy the load required by RWA is lesser than earlier recorded and hence they are capable to provide supply/connection to EWS. With greatest respect it is submitted that the above approach of BPTP as well as DHBVN is contrary to the Haryana Electricity Regulatory Commission Order dated 20.02.2015 passed in case No. HERC/PRO-21 & 23 of 2013 titled as Ansal Buildwell vs DHBVN & Ors. *wherein the Hon'ble HERC while passing the order framed a specific issue as to "whether the electrical layout plan and the electrical infrastructure approved for a colony of a developer/colonizer will require revision if during the course of development by the developer/agency, norms of*

*calculating ultimate load are revised?" While answering this issue the Hon'ble HERC interalia analyzed the provisions of Electricity Act, 2003, and HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) Regulations, 2005 as well as the license granted by DTCP held that:- "the developer is required to install the electrical infrastructure determined as per electrical layout plan approved by the Distribution Licensee in accordance with the applicable load norms during the course of development of the colony/Group Housing Societies/residential/non-residential areas as per terms and conditions of the licence(s) granted by the Director, Town and Country Planning, Haryana and Agreement entered there under as well as the provision of the Single Point Supply Regulations, 2013."*

- VII. That the aforesaid order is yet to be set aside by the Appellate Authority and hence binding till date. Hence in the given circumstances, the claim of BPTP and DHBVN about revised demand and load of RWA society is a fallacy and contrary to the said HERC order. The load available RWA is itself insufficient and hence cannot provide the same to Applicant or to any other person.
- VIII. That the inadequacy in infrastructure is the difference between the calculations of the area for load to be assessed per flat area. That is when BPTP/Countrywide calculates the load requirement, they conveniently take the carpet area of the flats for purposes of showing reduced load requirements. However, when payments are taken from homeowners, it is always the super area that the residents pay for - whether it is EDC, IDC, electrical infrastructure etc. Therefore, the load requirements change if the size of the dwelling unit is calculated in carpet area instead of super area.
- IX. Invariably since the matter of load being insufficient is still pending adjudication before the Hon'ble High Court of Punjab & Haryana in the write

petition filed by the RWA, no such directions can be passed in the present matter as on date.

- X. That the builder has not provided any space to install additional transformer in the existing infrastructure. RWA of society requested builder to provide grant/permission of honorable high court and DHBVN authorities for installing the same, keeping in mind that the case is still pending in honorable high court and the colonizers will surely be provided justice by Honorable high court as builder not followed the HERC and DHBVN norms and leave colonizers suffering and fighting with them.

9. All other averments made in the complaint were denied in toto.

10. 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 submissions made by the parties.

#### **F. Jurisdiction of the authority**

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

##### **F. I Territorial jurisdiction**

12. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by The Town and Country Planning Department, Haryana 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.

##### **F. 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)(a)**

**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

**G. Findings on the relief sought by the complainant.**

15. It has been contended by the respondent that on execution of conveyance deed, the relationship between both the parties stands concluded and no right or liabilities can be asserted by the respondent or the complainant against the other. Therefore, the complainants are estopped from claiming any interest in the facts and circumstances of the case.

16. The Authority is of view that on execution of a sale/ conveyance deed, only the title and interest in the said immovable property (herein the allotted unit) is transferred. However, the conveyance deed does not conclude the relationship or marks an end to the liabilities and obligations of the promoter

towards the said unit whereby the right, title and interest has been transferred in the name of the allottee on execution of the conveyance deed.

17. The authority has already taken a view in in **Cr no. 4031/2019 and others tiled as Varun Gupta V/s Emaar MGF Land Limited and others** has observed as under:

*"47. ...the authority observes that the execution of a conveyance deed does not conclude the relationship or marks an end to the liabilities and obligations of the promoter towards the said unit whereby the right, title and interest has been transferred in the name of the allottee on execution of the conveyance deed."*

18. After consideration of all the facts and circumstances, the authority holds that even after execution of the conveyance deed, the complainant allottee cannot be precluded from his right to seek delay possession charges from the respondent-promoter.

**G.I Delay possession charges.**

19. In the present complaint, the allottee intends to continue with the project and are seeking delay possession charges as provided under the proviso to section 18(1) of the Act.
20. **Due date of possession:** As per the documents available on record, no BBA has been executed between the parties and the due date of possession cannot be ascertained. A considerate view has already been taken by the Hon'ble Supreme Court in the cases where due date of possession cannot be ascertained then a reasonable time period of 3 years has to be taken into consideration.
21. In the instant case, the promoter has allotted a plot in its project vide allotment letter dated 28.01.2014. In view of the above-mentioned reasoning, the date of allotment ought to be taken as the date for calculating the due date of possession. Therefore, the due date of handing over of the possession of the plot comes out to be 28.01.2017.



22. The complainant is seeking delayed possession charges 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 14.06.2018 and his conveyance deed executed on 01.10.2018, 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 26.03.2023.
23. As discussed earlier, the possession of the unit was to be offered after completion of the project but the same was offered only on 14.06.2018 after receipt of occupation certificate and ultimately leading to execution of conveyance deed of the same on 01.10.2018. The present complaint seeking delay possession charges and other reliefs was filed on 26.10.2023 i.e., beyond three years w.e.f. 14.06.2018. But in view of authoritative pronouncement of the hon'ble apex court in suo-moto proceedings vide order dated 10.01.2022, the period in between 15.03.2020 till 28.02.2022 would stand excluded while calculating the period of limitation.
24. It is important to note that the conveyance deed of the unit was executed between the parties on 01.10.2018 and the present complaint was filed on 26.10.2023. There has been complete inaction on the part of the complainant for a period of more than five years till the present complaint was filed in October 2023. The complainant remained dormant of his rights for more than 5 years and they didn't approach any forum to avail his rights. 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 consumers. However, this cannot be stretched to the extent that the basic principles of jurisprudence are ignored, especially when the complainants have already availed themselves of the aforementioned benefits before the execution of the conveyance deed.

25. 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.
26. 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.
27. 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 as the law is not meant for those who are dormant over their rights. 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 relief sought by the complainant with regard to the delay possession charge in the complaint is not maintainable and the same is declined.

**G.II Direct the respondent to provide electricity connection and electricity for the said unit, water and sewage connection.**

28. It is important to note that the subject project was handed over to the respondent no. 2 i.e. Freedom Park Life Resident Welfare Association vide letter dated 15.12.2013. Vide order dated 10.04.2024 passed by the Authority, the RWA which is managing the water and electricity services within the project was directed to restore the water and electricity connection to the complainant within period of 3 days. During proceeding dated 16.04.2024, it was observed by the Authority that the RWA has not complied with the aforesaid orders rather has moved an application stating that complaint against respondent no. 2 (RWA) is not maintainable.
29. The respondent no. 2 filed an application to review/recall/modify of order dated 10.04.2024, stating that the project was handed over to the RWA/respondent no. 2 on 15.12.2013 i.e., much before enactment of the Act of 2016, that the Act of 2016 is not a retrospective law and will be applicable prospectively and hence, not applicable on RWA/respondent no. 2. Secondly, the present case was heard in the absence of representation of respondent no. 2 on 10.04.2024 and its counsel and without affording proper opportunity of hearing and without considering the objections and the plea taken by the RWA in its response passed the said order which needs to be recalled/modified/reviewed. Further, the Act of 2016, has no applicability to the RWA and no such directions can be passed and the order is an inadvertent error and hence needs to be set aside/recalled and modification as per law. It was further stated that as per sanctioned load letter to FPL dated 29.07.2008, it is clearly mentioned that "EWS load shall be fed through 11/433 V pole mounted transformer through a separate connection" and in view of the same, the builder will have to provide separate connection to EWS. A writ petition bearing no. CWP No. 22243 of 2012 is also pending before Punjab and Haryana High Court, Chandigarh.

30. The complainant had filed a reply of the application filed by the respondent no. 2 and stating that the conveyance deed was executed in favour of the complainant on 01.10.2018 and despite the repeated request and reminders, till date the basic amenities i.e., electricity, water, sewage connection has not been provided to the complainant. Furthermore, complainant has been restrained from entering by the respondent no.2. The complainant file a complaint against the respondent to the STP, Gurugram on which STP, Gurugram vide order dated 05.09.2022 stated that all facilities were already made in the EWS Block as per approved site plan i.e. electricity connection, water, sewer connection but now the same has been disconnected by the RWA. The company held meeting with RWA to resolve the matter. The RWA is not interested to give the facility in EWS Block i.e. electricity connection, water and sewer connection so we promise to resolve the issues within 30 days. Thereafter, various other matting was held but with no fruitful outcome.
31. The respondent no. 2 states at bar that the subject project was developed by respondent no. 1 and the load required is 5817 KW (5.1 MW), same is not provided till date. On the contrary, respondent no. 1 states that all the amenities and services were duly completed by respondent no. 1 way back in the year 2009, project duly handed over to the respondent no 2 vide letter dated 15.12.2013. It further states that the respondent no. 1 provided electricity infrastructure as required by the competent authority.
32. After consideration of all the facts and circumstances, the Authority is of view that the respondent no. 2 has raised the plea that the respondent no.1 did not provide the adequate load requirements for the units constructed and hence no new electric connection can be released to the complainant-allottee. It has been further argued that the load available to the Residents' Welfare Association (RWA) is insufficient to meet the needs of the complainants and other residents. However, it is pertinent to note that, subsequent to the

submission of the application for obtaining the certificate, the competent authority, after conducting a thorough enquiry, issued the occupation certificate. This issuance of the occupation certificate signifies that not only all the units are completed and habitable but are also equipped with all essential amenities and facilities. Furthermore, the respondent no. 2 has no authority under any law to disconnect the electricity connection of the complainant which is against the principle of natural justice and against the spirit of law as laid down in case "Dilip through LRS vs Satish Others" wherein the Hon'ble Apex Court has clearly observed that "it is well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived". Further, Hon'ble Punjab and Haryana High Court in case of Prakash v. Balkar Singh, 2022 SCC OnLine P&H 3733, decided on 19-12-2022, the bench of Manjari Nehru Kaul, J., held that *electricity being a basic necessity, is an integral part of right to life as enshrined under Article 21 of the Constitution of India. Therefore, as long as the petitioner is in possession of the suit property, he cannot be deprived of electricity.* The authority hereby directs the respondents to provide an electricity connection to the complainant in the EWS Block. This connection is essential for the allottee, and despite the complainant having paid more than the basic consideration for the unit, the electricity supply has not been established. This failure to provide a basic utility service is inconsistent with the obligations owed to the allottee and must be rectified forthwith.

**G.III. Direct the respondents to provide water and sewage connection to the complainant for the said unit.**

33. As per the condition stipulated in point 3 of the occupation certificate dated 16.08.2021, the respondents are hereby directed to ensure the provision of water supply. This obligation will continue until such time that the Haryana

Shahari Vikas Pradhikaran (HSVP) or any other competent authority makes these services available according to their established scheme.

**G.IV Direct the respondents not to charge maintenance charges till the time basic amenities are not provided to the complainant.**

34. The complainant sought the relief w.r.t. maintenance charges. Clause 14 of the conveyance deed provides terms regarding maintenance charges, same is reproduced below:

*"14.The Vendee agrees and acknowledges that Vendors, in consonance with all the applicable rules, regulations and laws framed by the governmental authorities from time to time, shall be entitled to demand maintenance charge on pro- rata basis as may be determined by the Vendors for maintaining various services and facilities such as street lighting, area security, maintenance of external sewer and bulk water/electricity supply and distribution systems, garbage disposal and scavenging of streets and public places and such like services and cost towards administrative set up to run the services and purchase of equipment and machinery required to provide these services and depreciations thereof in the said Colony until the same are handed over to a local body for maintenance."*

35. As per the abovementioned clause 14 of the conveyance deed dated 01.10.2018 executed between the parties the complainant/allottee herein agreed that the respondent shall be entitled to demand maintenance charges on pro-rata basis. Therefore, the respondent is correct in raising demand with regard to maintenance charges. As alleged by the complainant that the said services as per the clause 14 of the conveyance deed are not yet provided by the respondent till date and same are not chargeable by the respondent. The respondent shall only charge the maintenance charges from the complainant only after providing basic amenities to the complainant/allottee and furnishing the details with regard to pro-rata share.

**G.V Direct the respondents not to levy any undue charges upon the complainant.**

**G.VI Direct the respondents to retrain them from creating any kind hindrances in the entry of the complainant in the project/society.**

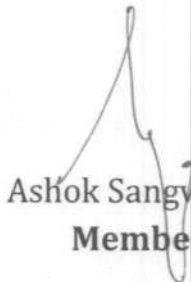
**G.VII To set aside the offer of possession letter dated 14.06.2018 and possession letter dated 21.06.2018, 03.09.2020 and declaration.**

36. The above mentioned reliefs no. G.V, G.VI & G.VII as sought by the complainant is being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected.
37. It is important to note that the conveyance deed was executed between the parties on 01.10.2018. The conveyance deed is a legal document that transfers the title of property from one party to another, signifying the completion of the property transaction especially regarding payments related to the purchase price, taxes, registration fees, and any other contractual financial commitments outlined in the agreement. However, despite the conclusion of the financial obligations, the statutory rights of the allottee persist if any provided under the relevant Act/Rules framed thereunder. Execution of conveyance deed is a sort of entering into a new agreement which inter alia signifies that both parties are satisfied with the considerations exchanged between them, and also that all other obligations have been duly discharged except the facts recorded in the conveyance deed.
38. It is pertinent to mention here that the complainant took the possession and got the conveyance deed executed, without any demur, protest or claim. The complainant has neither raised any grievance at the time of taking over the possession or at the time of execution of the conveyance deed, nor reserved any right in the covenants of the conveyance deed. Also, it is a matter of record that no allegation has been levelled by the complainant that conveyance deed has been got executed under coercion or by any unfair means.
39. The Authority is of view that after the execution of the conveyance deed between the complainant and the respondent, all the financial liabilities between the parties come to an end except the statutory rights of the allottee including right to claim compensation for delayed handing over of possession and compensation under section 14 (3) and 18 of the RERA Act, 2016. In view of the above, the complainant cannot press for any other relief with respect to

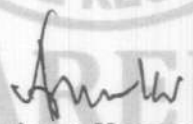
financial transaction between the parties after execution of conveyance deed except the statutory obligations specifically provided in the Act of 2016.

**H. Directions of the authority**

40. 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 decided in terms of paras 15 to 39 above. Ordered accordingly.
41. The respondent shall only charge the maintenance charges from the complainant only after providing basic amenities to the complainant/allottee and furnishing the details with regard to pro-rata share.
42. Complaint stands disposed of.
43. File be consigned to registry.

  
Ashok Sangwan  
Member

  
Vijay Kumar Goyal  
Member

  
Arun Kumar  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 07.01.2025