



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2405 of 2023
Date of filing:	08.11.2023
First date of hearing:	01.04.2024
Date of decision:	19.05.2025

Naresh Chand

S/o Sh. Neki Ram

R/o Flat A-102, Abhinandan CGHS,

Plot no. GH-08, Sector-51,

Gurugram, Haryana-122018

Versus

.....COMPLAINANT

1. Countrywide Promoters Pvt. Ltd.

Registered Office: OT-14, 3d floor,

Next door, Parklands,

Sector-76, Faridabad,

Haryana-121004

2. BPTP Ltd.

Registered office- M-11,

Middle Circle, Connaught Circus,

New Delhi-110001

.....RESPONDENTS

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Present: - Adv. Ada Khursheed, counsel for the complainant through VC.

Adv. Hemant Saini, counsel for the respondent.

ORDER (NADIM AKHTAR –MEMBER)

1. Case of the complainant is that the Complainant is law-abiding citizen who had invested in an independent floor in the Respondent's residential project titled "Park 81", located in Sector 81, Faridabad, Haryana. The project being developed by M/s BPTP Limited and M/s Countrywide Promoters Pvt. Ltd. Project of respondent, namely, "Park 81" is a large-scale integrated development project consisting of residential and commercial facilities including floors, villas, shopping centres, schools, and hospitals.
2. That the Complainant booked a Unit No. OM13-03 (Ground Floor), admeasuring 1478 sq. ft., on 24.09.2009, and paid an initial amount of ₹3,50,000/-. The Complainant made further payments from time to time, totalling ₹42,13,287/-. Copies of booking confirmation, receipts, and proof of total payments made are annexed as Annexure P/1.
3. Despite depositing various payments, no allotment letter was issued by the Respondents. Instead, the Complainant was forced to sign a one-sided Indemnity Bond under duress. A copy of the signed Indemnity Bond is annexed as Annexure P/2.



4. That after a delay of nearly three years, Respondents executed the Floor Buyer Agreement (FBA) on 21.08.2012. The agreement made false assurances regarding timelines and possession. A copy of the Floor Buyer Agreement dated 21.08.2012 is annexed as Annexure P/3. Clause 5.1 of the FBA stipulated possession would be offered within 36 months from execution (i.e., by 21.08.2015) with a grace period of 180 days. However, the possession clause was one-sided and unfair, merely allowing "fit-out" access without actual possession.
5. The Complainant, objecting to arbitrary demands, requested regulation in demand intervals, resulting in an Addendum being executed that required a minimum 30-day interval between successive payment demands. A copy of the Addendum is annexed as Annexure P/4.
6. Despite excessive delay, Respondents issued a letter dated 15.09.2023, offering possession. The offer included an unauthorized increase in super area from 1478 sq. ft. to 1536 sq. ft. and imposed inflated charges. Payment of ₹6,00,000/- on 03.10.2023, ₹3,00,000/- on 07.10.2023, and ₹3,983/- on 09.10.2023 were made under protest. Copies of the offer of possession letter and payment proofs are annexed as Annexure P/1. The Complainant was coerced into signing a Settlement Agreement, receiving a paltry compensation of ₹4,00,000/- without waiver of the illegal charges. A copy of the Settlement



Agreement is annexed as Annexure P/6. Upon realizing the coercion and illegality, the Complainant sent a detailed email revoking the Settlement Agreement on 23.10.2023. A copy of the revocation email is annexed as Annexure P/7.

7. As per Sections 18(1)(a) and 19(4) of the RERA Act, 2016, and the Hon'ble Supreme Court's ruling in *Newtech Promoters and Developers Pvt. Ltd. v. State of UP & Ors.*, the Complainant is entitled to either refund with interest or delayed possession compensation. The conduct of the Respondents—ranging from coercive documentation, delayed agreement, arbitrary charges, to unilateral modifications—constitutes unfair trade practice, causing severe financial loss and mental harassment.
8. Complainant has sought following reliefs:
 - i. To pass an order for delay interest on paid amount of ₹32,31,614.20/- along with pendente lite and future interest from 21.08.2015 till actual possession thereon at the prescribed rate of interest.
 - ii. To direct the respondent to adjust the delay in last demand and immediately hand over the physical possession of unit in habitable condition with all amenities.
 - iii. To direct the respondent to quash the one-sided clauses from BBA.



- iv. To pass an order for refund of GST amount levied upon the Complainant and taken the benefit of input credit by builder.
- v. To pass an order for refund of GST amount levied upon the Complainant due to delay Possession by the Builder as the due date of possession was of before the imposition of GST.
- vi. To direct the Respondents not to raise any further demands from the Complainant till the final disposal of the present complaint case.
- vii. Pass such other and further orders as this Hon'ble Regulatory Authority may deem fit and proper in the facts and circumstances of the present case.

B. REPLY ON BEHALF OF RESPONDENT

That the respondents assert that the present complaint is not maintainable before this Hon'ble Authority on multiple legal and factual grounds, as elaborated hereinbelow:

- 9. The present complaint is entirely baseless, frivolous, and filed with ulterior motives. The Complainant has suppressed material facts and misrepresented the contractual terms to mislead this Hon'ble Authority. The complaint is an abuse of the judicial process, especially since the parties have already amicably settled all disputes.



10. That Respondent No. 2 is neither a necessary nor a proper party to the present dispute. No specific allegations or reliefs have been sought against Respondent No. 2. Therefore, Respondent No. 2 ought to be deleted from the array of respondent parties.
11. On merits, complaint is premature. As per Clause 5.1 of the duly executed Floor Buyer Agreement dated 21.08.2012, annexed as Annexure R3, possession of the unit was to be delivered within 36 months from the date of sanction of building plans or execution of the Agreement, whichever is later, with an additional grace period of 180 days. The building plans were sanctioned on 14.12.2023. Accordingly, the due date for possession is 14.06.2027. Therefore, the present complaint filed before this date is premature and liable to be dismissed. In support of this, reliance is placed on *Neetu Soni vs. Imperia Wishfield Pvt. Ltd.* and *S. Vijayakumar & Ors. vs. Imperia Wishfield Pvt. Ltd.*, both decided by RERA Gurugram, and *Newtech Promoters vs. State of UP* (2021), where the Hon'ble Supreme Court held that refund or possession claims can only arise after the stipulated possession timeline expires.
12. The Complainant and the Respondent had already amicably settled all disputes vide Settlement Deed dated 27.09.2023, annexed as Annexure R6. As per Clause 2.3 of the Settlement Deed, Respondents waived off interest..



Clause 2.4 provided compensation of ₹4,00,000/- as a goodwill gesture, which, has been complied by the respondent. Clause 2.5 recorded payment of ₹9,03,983/- by the Complainant towards balance dues. The Complainant also undertook, under Clause 4, not to raise any future disputes. The Complainant acted upon this Settlement by making the entire due payment of ₹9,03,983/- by making payments on 03.10.2023, 07.10.2023, and 09.10.2023, and the corresponding Payment Receipts are annexed collectively as Annexure R7. In light of this, the present complaint is barred by accord and satisfaction. Judicial precedents including *Arifur Rahman Khan vs. DLF Southern Homes* and *P.K. Uberoi vs. Vigneshwara Developwell Pvt. Ltd.* (Delhi HC) support the proposition that no claims lie after a voluntary and acted-upon settlement.

13. Further, the Respondents faced unavoidable delays due to force majeure events such as the ban on sand mining by the Hon'ble Supreme Court in *Deepak Kumar vs. State of Haryana* (2012) and NGT orders in O.A. No. 171/2013, which severely impacted construction activities. Additionally, the nationwide COVID-19 lockdowns from 25.03.2020 and state restrictions during the second wave in 2021 along with Environment Pollution (Prevention and Control) Authority bans on construction during high pollution periods, delayed construction timelines. These events fall squarely



within the definition of “force majeure” under Clause 14 of the FBA (Annexure R3).

14. The Complainant is also guilty of contractual default, having delayed multiple payments including those due at the 1st floor slab casting (March 2013) and for brickwork (May 2013). Despite these defaults, Respondents waived off penalties and continued construction. Further, the Complainant executed an Undertaking and Affidavit accepting the tentative nature of the super area and layout modifications, which is annexed as Annexure R4. Clauses 2.2 and 2.15 of the FBA also provide that the super area is tentative.
15. Most importantly, Respondents have already offered possession of the subject unit to the Complainant vide Possession Letter dated 15.09.2023, which is annexed as Annexure R5. Thus, the grievance of delay does not survive and the complaint filed by the complainant has become infructuous.

C. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

16. Learned counsel for the complainant reiterated the factual background of the case and submitted that the complainant had booked Plot No. OM-130 pursuant to an allotment letter dated 24.09.2009. Thereafter, a Floor Buyer Agreement (FBA) was executed between the parties on 21.08.2012, i.e., nearly three years after the initial allotment. As per Clause 5.1 of the FBA, the



respondent was obligated to deliver possession of the unit within 36 months from the date of execution of the agreement. Accordingly, the stipulated date for handing over possession would be 21.08.2015. However, despite the lapse of considerable time, the respondent has failed to hand over possession of the unit till date. Further, the complainant contended that the respondent has arbitrarily increased the area of the unit from 1498 sq. ft. to 1536 sq. ft. and has also levied cost escalation charges. Additionally, the respondent has charged ₹1,48,632/- towards Goods and Services Tax (GST) in the year 2015, although GST was not in force during that period. It was therefore argued that the respondent had no authority to levy GST prior to its enactment and implementation. In light of these facts, the complainant prayed that the Authority direct the respondent to refund the GST amount collected in violation of law.

17. Upon being queried by the Authority regarding his willingness to take possession of the unit, learned counsel for the complainant submitted that since the respondents have now obtained the occupation certificate from the competent authority, complainant is willing to accept possession. However, he also requested that the Authority to strike down the arbitrary and one-sided clauses of the Floor Buyer Agreement. In response to the Authority's further query as to whether any contemporaneous protest was recorded by the



complainant against such clauses, counsel submitted that no objections were raised at the time of signing, as the terms were not explained to the complainant. The complainant also prayed that the Authority direct the respondents for execution of the conveyance deed in his favor.

18. In response, learned counsel for the respondents placed heavy reliance on the Settlement Deed dated 27.09.2023, annexed as Annexure R-6 (pages 110 to 116 of the reply). He submitted that the said settlement was voluntarily and mutually executed by both the parties, and the complainant had affixed his signatures on every page, thereby indicating his consent to all its terms and conditions. It was argued that once such a comprehensive settlement has been reached and executed, the complainant cannot now seek to repudiate it merely because he has changed his mind. In support of this contention, he relied upon the judgments in *Bharati Knitting Co. v. DHL Worldwide Express Courier*, and *"Arifur Rahman Khan v. DLF Southern Homes, 2020 SCC OnLine SC 667* to argue that once parties settle a dispute, they are estopped from reopening it. He further referred to specific clauses of the Settlement Deed. He highlighted that as per page 111 of the reply, the revised total sale consideration was mutually agreed at ₹45,35,597/-, and Clause 2.2 clearly stipulated that the final area of the unit stood revised from 1478 sq. ft. to 1536 sq. ft. Under Clause 2.4, the respondent company also agreed to pay a one-



time lump-sum compensation of ₹4,00,000/- to the complainant for the delay in handing over possession. Moreover, the complainant has already paid the balance amount of ₹9,03,983/- post settlement. It was also argued that Clauses 2.2 and 2.15 of the FBA permit the variation of unit area and that all grievances of the complainant stood resolved under the terms of the settlement. Therefore, no other document or argument can override the binding nature of the said Settlement Deed.

19. In rebuttal, learned counsel for the complainant submitted that under Clause 2.6 of the Settlement Deed, respondents were under an obligation to hand over physical possession of the unit within 120 days from the date of execution of the deed. She contended that since possession has still not been delivered, the respondent has failed to perform its obligations under the Settlement Deed and hence the complainant is justified in seeking its revocation.
20. To this, learned counsel for the respondent responded that the complainant is attempting to renege on a validly executed settlement merely because complainant now believes that he could secure better terms by initiating fresh proceedings. He argued that this opportunistic change of position is driven solely by personal gain and is devoid of legal merit. The respondents have complied with all obligations under the Settlement Deed, including receipt of



final payment and the complainant is now estopped from reopening the matter.

D. ISSUE FOR ADJUDICATION

21. Whether the present complaint is maintainable under RERA, Act 2016 in view of a duly executed and acted upon Settlement Deed dated 27.09.2023 entered into by the complainant and the Respondents?

E. OBSERVATIONS AND DECISION OF AUTHORITY

22. The Authority has gone through rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both the parties, Authority observes that the complainant booked a unit in the real estate project; "Park-81, Faridabad" being developed by the promoter namely; "Countrywide Promoters Pvt. Ltd. and BPTP Ltd." and in consonance to the same, complainant was allotted unit no. OM13-03, ground floor in the project known as "Park-81, Faridabad through allotment letter dated 24.09.2009. Floor Buyer Agreement was executed between the parties on 21.08.2012. Complainant has paid a total sum of ₹42,13,287/- against the total sale consideration of the unit. Offer of possession was made by the respondent to the complainant on 15.09.2023. Lastly, settlement deed has been duly executed and mutually signed between the parties on 27.09.2023.



23. The issue which has to be adjudicated by the Authority is whether the present complaint is maintainable under RERA in view of a duly executed and acted upon Settlement Deed dated 27.09.2023 entered into by the Complainant and the Respondent.

24. To adjudicate the same, Authority has carefully examined the settlement deed dated 27.09.2023, which is annexed by the complainant as Annexure- P-6 to the complaint and is also annexed by the respondents as Annexure R-6 to the reply. Authority observes that it is an undisputed and admitted fact that the Complainant and the Respondents voluntarily entered into a Settlement Deed, dated 27.09.2023 for full and final resolution of all disputes, claims, and grievances relating to Unit No. OM-13-03 in the Respondent's project. The key terms and conditions of the Settlement Deed are summarized as follows:

Clause 2.3: The Respondent expressly agreed to waive all unpaid interest and penalty amounts that may have accrued against the Complainant up to the date of the settlement.

Clause 2.4: The Respondent undertook to pay a lump sum amount of ₹4,00,000/- to the Complainant as a measure of compensation and goodwill in lieu of delays in handing over possession.

Clause 2.5: The Complainant agreed to make a final settlement payment of ₹9,03,983/- towards the total consideration of the unit.



The Complainant unequivocally declared that he had no further claims, demands, or grievances against the Respondent and undertook not to initiate or continue any legal proceedings, claims, or complaints in relation to the said unit or any of its terms. The Authority takes note of the categorical and comprehensive nature of these clauses, which clearly indicate that the settlement was intended to operate as a full and final discharge of all contractual and statutory claims, extinguishing the earlier cause of action between the parties.

25. The Authority has further observed that the Complainant acted in accordance with the Settlement Deed and took steps in furtherance of the settlement:
- i. The Complainant made the final settlement payment in three instalments on 03.10.2023, 07.10.2023, and 09.10.2023, thereby fulfilling his financial obligations under the settlement.
 - ii. Complainant also accepted compensation of ₹4,00,000/- without protest as agreed in the settlement deed.

These facts demonstrate that the Complainant acted upon the settlement and acquiesced to its terms through his conduct. The principle of "accord and satisfaction" therefore applies, which in legal terms denotes a mutual agreement that discharges pre-existing obligations through a new contract that has been acted upon.



26. As per established principles under the Indian Contract Act, 1872, once a contract is voluntarily entered into and acted upon by both parties, it assumes binding legal force. A Settlement Deed executed with mutual consent operates as such a contract. It can only be invalidated if it is challenged before a competent **civil court** and declared void on limited and recognized legal grounds such as: Coercion, Fraud, Misrepresentation, Undue influence and Mistake of fact or law. In the present case, no such challenge has been made before any civil court, nor has the Complainant produced any evidence of vitiating factors. There is no allegation supported by affidavit or contemporaneous documentation to establish that the Complainant was forced, misled, or defrauded into signing the Settlement Deed. The Complainant's signatures appear on every page of the document, further suggesting that the terms were duly acknowledged and accepted at the time of execution. Moreover, there is no evidence of mental incapacity, undue influence, or procedural unfairness in the negotiation or execution of the agreement. The absence of such vitiating elements precludes the Authority from interfering with the terms of a valid private contract. This Authority reiterates that: RERA is a statutory forum for redressal of violations of promoter obligations under the RERA Act. It is not a substitute for a civil court and cannot exercise powers of judicial review over private contracts



voluntarily entered into by the parties. Once the dispute has been contractually resolved out of the court and the terms have been acted upon, RERA cannot entertain a fresh complaint to override, vary, or annul such settlement—unless a civil court has declared the settlement deed to be vitiated or void. To allow otherwise would be tantamount to RERA sitting in appeal over valid contracts, which is beyond the legislative mandate and would amount to judicial overreach.

27. Under Section 31 of the Real Estate (Regulation and Development) Act, 2016, this Authority is empowered to adjudicate complaints related to non-compliance with statutory duties imposed upon promoters under the Act, the Rules, or the Regulations made thereunder. However, where parties voluntarily enter into a private settlement that resolves all outstanding claims, and the same is subsequently acted upon, the Authority cannot reopen or set aside such a settlement unless there is a continuing statutory breach or the agreement itself stands vitiated under law.
28. This position is well-settled in law and supported by decision of the Hon'ble Supreme Court in the case titled as "*Arifur Rahman Khan v. DLF Southern Homes*, 2020 SCC OnLine SC 667" wherein the Supreme Court held that once a settlement is arrived at voluntarily, a party cannot unilaterally withdraw from it unless it is vitiated by coercion, fraud, or misrepresentation.



29. Having derived benefits under the Settlement Deed—namely, waiver of dues, receipt of compensation, the Complainant is estopped in law from challenging the validity of the same at a later date. To allow otherwise would encourage parties to reopen settled contracts for personal gain, which would be contrary to the principles of commercial certainty, contractual sanctity, and the rule of law. The doctrine of waiver and promissory estoppel squarely applies in this case.
30. After thorough consideration, Authority concludes that the present complaint lacks merit and appears to be an attempt to misuse of legal proceedings for personal gain. This case is an example of litigation pursued in bad faith, aimed at exerting undue pressure on the respondent rather than addressing genuine grievances. Furthermore, under the Real Estate (Regulation and Development) Act, 2016, the legislation is intended to protect allottees who suffer due to the unfair practices of real estate promoters, not to facilitate unjust enrichment at the expense of developers who have acted in accordance with the law. Given that the complainant received a discount and refund as per the terms of the agreement, the relief sought is not maintainable under HRERA Act, 2016.
31. Thus, Authority decides to dispose of the captioned **complaint as dismissed**.



32. Hence, the captioned complaint is accordingly disposed of as dismissed in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


NADIM AKHTAR
[MEMBER]