

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

Complaint no. : 17 of 2024
First date of hearing: 01.03.2024
Date of Decision: 25.04.2025

Mr. Manpreet Singh

Address: - House No. 895, Sector-40, Gurgaon

Complainant

Versus

M/s Classic Infra solutions Pvt. Ltd

Address: Room No. 205, Welcome Plaza,
S-551, School Block-II, Shakarpur, Delhi-110092

Respondent

CORAM:

Shri Vijay Kumar Goyal

Member

APPEARANCE:

Shri Krishna Saroff

Shri Himanshu Singh

Advocate for the complainant

Advocate for the respondent

ORDER

1. The present complaint dated 12.01.2024 has been filed by the complainant under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale executed inter se.

A. Project and unit related details

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the

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possession, delay period, if any, have been detailed in the following tabular form:

| S. N. | Particulars | Details |
|-------|--------------------------------|--|
| 1 | Name of the project | Paras Irene, Sector- 70A |
| 2. | Area of the project | 27.4713 acres |
| 3. | Nature of the project | Residential group housing project |
| 4 | Unit no. | 06/06-01, t-06, 6 th floor |
| 5 | Unit area | 2150 sq. ft. |
| 6 | Date of allotment | 09.05.2012 [Page 14 of the reply] |
| 7 | Date of buyer's agreement | 10.10.2012 [Page 15 of the reply] |
| 8 | Possession clause | <i>3.1 within a period of 42 months with an additional grace period of 6 months from the date of execution of this agreement or date of obtaining all licenses or approval for commencement of construction whichever is later subject to force majeure.</i> |
| 9 | Due date of possession | 10.10.2016 [calculated from the date of agreement] ➤ Grace period is allowed |
| 10 | Total sale consideration | Rs. 1,32,54,350/- |
| 11 | Amount paid by the complainant | Rs. 1,32,54,350/- |
| 12 | OC received on | 19.05.2017 [Page 103 of the reply] |

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|----|-----------------------|---|
| 13 | Offer of possession | 29.06.2017 [Page 86 of the reply] |
| 14 | Conveyance deed dated | 28.02.2018 [Page 58-84 of the reply] |

B. Facts of the complaint

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

- i. That on 10th October 2012, the Complainant booked a residential flat, being Apartment No. 01, located on the 6th Floor of Tower No. 06, with a super area admeasuring 2150 sq. ft. (equivalent to 199.74 sq. meters), in the residential project of the Respondent known as "Paras Irene", situated at Sector-70A, Gurugram (hereinafter referred to as "the said Unit"). The booking was done by executing a Builder Buyer Agreement (hereinafter referred to as "BBA"), and an initial payment of ₹22,84,912/- was made by the Complainant at the time of booking.
- ii. The Respondent assured the Complainant that the rate charged was competitive and in consonance with the then-prevailing statutory rates, with no hidden charges involved. It was further assured that the pricing structure would be transparent and that the Complainant would not be burdened with any extra or unforeseen charges. The Respondent also categorically represented that possession of the said Unit would be handed over within 42 months from the date of execution of the BBA, i.e., by 9th April 2016.
- iii. Relying upon the aforesaid representations and assurances, the Complainant booked the said Unit. As per the terms of the BBA, the total sale consideration for the said Unit was fixed at ₹1,32,54,350/-, which, as per the Respondent, included all applicable taxes and/or other statutory dues as on the date of execution of the agreement.

- iv. Subsequent to the execution of the BBA, the Respondent unilaterally and arbitrarily increased the basic sale consideration of the said Unit from ₹1,32,54,350/- to ₹1,42,82,491/-, without assigning any valid reason or justification for the same. Despite the unjustified increase, the Complainant, under protest and in good faith, deposited the entire revised amount of ₹1,42,82,491/- with the Respondent on various dates as and when the respective payment demands became due. A true copy of the payment statement issued by the Respondent confirms that the Complainant made the following payments:
- ₹1,29,17,904/- as principal amount;
 - ₹2,52,522/- deposited by way of fixed deposit towards VAT;
 - ₹11,02,698/- acknowledged by the Respondent through duly issued receipts.
- v. It later transpired that the Respondent had been charging an inflated rate towards External Development Charges (EDC), which exceeded the statutory rates prescribed by the competent authorities. In order to ascertain the veracity of the amounts actually deposited with the Department of Town and Country Planning (DTCP), Haryana or other relevant authorities on account of EDC and Internal Development Charges (IDC), the Complainant had, since 2015, repeatedly sent emails to the Respondent seeking clarification and a detailed break-up of the deposits made. However, despite numerous requests, the Respondent failed to provide any satisfactory or transparent response.
- vi. As per Clause of the BBA, the Respondent was obligated to hand over possession of the said Unit within 42 months from the date of execution of the agreement, i.e., on or before 9th April 2016 (the

deemed date of possession). However, possession was actually offered by the Respondent only on 29th June 2017—after an inordinate and unexplained delay of nearly 14 months. Notably, the timing of possession—just two days prior to the implementation of the Goods and Services Tax (GST) regime on 1st July 2017—demonstrates a malafide and strategic intent to avoid additional liabilities arising from GST, while passing undue burden on to the Complainant.

- vii. It is pertinent to note that under applicable law and government notifications, the EDC/IDC payable by a developer cannot exceed the rates prescribed in the Letter of Intent issued at the time of grant of licence by DTCP, Haryana. Any additional amount, including interest or penal charges on delayed EDC/IDC payments, if incurred by the developer, cannot be passed on to allottees. As per Notification No. HUDA.CCF.ACCTT-I-2010/44973 dated 23/11/2010, the statutory EDC rate prevalent in 2012 was ₹307.79 per sq. meter. However, the Respondent illegally charged ₹361/- per sq. meter at the time of BBA execution.
- viii. The excess amount charged towards EDC, amounting to ₹1,14,401/-, has neither been refunded nor adjusted in the final account statement. This conduct amounts to embezzlement of funds and is a clear instance of unfair trade practice and deficiency in service within the meaning of the Consumer Protection Act.
- ix. The Respondent unlawfully demanded a sum of ₹49,450/- from the Complainant towards labour cess, which is statutorily the liability of the builder and not of the homebuyer. Labour cess is collected by the government at the time of approval of building plans and is calculated

at 1% of the estimated cost of construction of the entire project. The wrongful recovery of this amount from the Complainant amounts to unfair trade practice and unjust enrichment by the Respondent.

- x. The Respondent further demanded ₹3,17,308/- from the Complainant towards VAT. The Complainant had already paid ₹64,786/- for the period up to 31/03/2014, as duly acknowledged by the Respondent. Furthermore, the Complainant submitted a fixed deposit of ₹2,52,522/- for the period after 01/04/2014, which was to be kept as lien until final assessment by the tax authorities. The Respondent, without any intimation or consent, prematurely encashed the said FD, despite the absence of final VAT assessment. This amounts to misappropriation and misuse of funds and reflects fraudulent intent and gross deficiency in service.
- xi. Despite multiple representations regarding various defects in workmanship in the said Unit, the Respondent executed the conveyance deed and handed over possession on 28/03/2018 without addressing the said issues. On the same date, the Respondent also issued a letter confirming that all dues had been settled and that no disputes or claims remained in respect of the Unit. However, this was contradicted by subsequent conduct of the Respondent.
- xii. Despite confirming that no outstanding dues or claims were pending, the Respondent wrongfully demanded additional CAM (Common Area Maintenance) and club usage charges for a prior period of two years, which had already elapsed. These demands were not only retrospective but also made after full and final settlement.
- xiii. In response to the Complainant's detailed explanation via email dated 22/04/2020—stating that he had received possession only on

28/03/2018 and had already paid two years' advance maintenance and club charges—the Respondent vide email dated 26/04/2020 arbitrarily classified residents into two categories:

- Those who paid 2 years' advance within 90 days from offer of possession (28/06/2017);
- Those who did not.

- xiv. This classification was unjustified, especially considering the Respondent itself delayed possession by 14 months without explanation or compensation. The Respondent imposed liability for CAM and club usage charges from 15/10/2017 for the first category and 13/08/2017 for the second, placing the Complainant in the latter category, even though possession was given only on 28/03/2018. This is arbitrary, discriminatory, and in violation of the principles of natural justice.
- xv. As per the BBA, possession was to be delivered by 09/04/2016. However, possession was offered only on 30/06/2017, and actually delivered on 28/03/2018. The Complainant is therefore entitled to compensation for the delay from 09/04/2016 to 29/06/2017, at a reasonable interest rate.

C. The complainant is seeking the following relief:

4. The complainant has sought following relief(s):
- i. Direct the respondent to refund the excess EDC amount i.e. Rs. 1,14,401/- along with interest @ 21% p.a from the date of payment that is 28.07.2017 till the date of payment to the complainant.
 - ii. Direct the Respondents to refund the excess ECC amount i.e. Rs. 15,000/- along with interest @ 21% p.a from the date of payment that is 28.07.2017 till the date of payment to the complainant;

- iii. Direct the Respondents to refund the excess EEC amount i.e. Rs. 1,09,650/- along with interest @ 21% p.a from the date of payment till the date of payment to the complainant;
- iv. Direct the Respondents to refund the excess VAT amount i.e. Rs. 3,17,308/- along with interest @ 21% p.a from the date of payment till the date of payment to the complainant;
- v. Direct the Respondents to refund the excess Labour cess amount i.e. Rs. 49,450/- along with interest @ 21% p.a from the date of payment that is 28.07.2017 till the date of payment to the complainant.

D. Reply filed by the respondent.

5. The respondent had contested the complaint on the following grounds:
 - I. That it is not denied that the Respondent has developed a group housing project known as "Paras Irene" in Sector 70A, Gurugram, and obtained requisite licenses from DGTCP. However, the issue in dispute is not the mere completion of the project, but the delayed possession, arbitrary cost escalations, and illegal demands, which are in gross breach of the Builder Buyer Agreement (BBA) and the Consumer Protection Act, 2019.
 - II. The Complainant admits having entered into the BBA dated 10.10.2012 and making payments as per the terms of the agreement. However, the Respondent unilaterally and arbitrarily increased the sale consideration from ₹1,32,54,350/- to ₹1,42,82,491/- without giving any legal or contractual justification. This is a clear breach of the agreed terms and a case of unfair trade practice.
 - III. While the Respondent attempts to stress the importance of timely payments by the Complainant, it is noteworthy that the Complainant duly made all payments as per the payment schedule, including

excess and disputed demands under protest. In contrast, the Respondent defaulted in meeting its essential obligation — handing over timely possession and adhering to transparent financial dealings.

- IV. The Respondent's generalized justification of "dynamic process" and unspecified "circumstances" as the cause of delay cannot absolve it of liability. The BBA clearly stipulates possession within 42 months from execution (i.e., by 09.04.2016). However, possession was offered on 29.06.2017 and handed over on 28.03.2018, amounting to an unjustified delay of 14–23 months.
- V. The Respondent failed to disclose any force majeure event or statutory bar that hindered timely delivery. Under consumer law, such vague deflections do not amount to valid justification. The Complainant is therefore entitled to compensation for this delay.
- VI. While the Respondent argues that the parties are bound by contract, it conveniently ignores that the contract does not authorize:
- Arbitrary increase in sale price,
 - Excess EDC/IDC/ECC/HEC charges,
 - Unjustified levy of VAT and labour cess, or
 - Imposition of CAM/club charges for periods before possession.
- VII. Furthermore, Section 2(1)(r) of the Consumer Protection Act categorically defines such conduct as "unfair trade practice."
- VIII. The issuance of Occupation Certificate (OC) dated 23.06.2017 does not nullify the Respondent's delay in offering possession. The delay between the agreed delivery date (09.04.2016) and OC (23.06.2017) remains unexplained. The mere existence of OC also does not excuse:

- Failure to rectify workmanship defects,
- Demand of charges post-OC but pre-possession,
- Non-disclosure of financial statements on EDC/IDC.

IX. The fact that other allottees took possession is irrelevant to the Complainant's legal claims based on distinct contractual and statutory violations.

X. The Respondent denies overcharging but fails to counter the specific documentary evidence provided by the Complainant, including:

- Overcharged EDC: ₹1,14,401/- (based on 2010 notification),
- Unjustified VAT: ₹3,17,308/- (FD encashed unilaterally),
- ECC: ₹15,000/-, EEC: ₹1,09,650/-, Labour cess: ₹49,450/-,
- Arbitrary maintenance and club charges before 28.03.2018.

XI. The Complainant has already substantiated these with receipts, bank statements, and official communication, while the Respondent has made only blanket denials without any computation or statutory backing.

6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

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

E.I Territorial jurisdiction

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8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District, therefore this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

9. Section 11(4)(a) of the Act provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

- (a) *be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

10. So, in view of the provisions of the Act of 2016 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 complainant at a later stage.

F. Findings on the relief sought by the complainant.

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- F.I Direct the respondent to refund the excess EDC amount i.e. Rs. 1,14,401/- along with interest @ 21% p.a from the date of payment that is 28.07.2017 till the date of payment to the complainant.
- ii. Direct the Respondents to refund the excess ECC amount i.e. Rs. 15,000/- along with interest @ 21% p.a from the date of payment that is 28.07.2017 till the date of payment to the complainant;
- iii. Direct the Respondents to refund the excess EEC amount i.e. Rs. 1,09,650/- along with interest @ 21% p.a from the date of payment till the date of payment to the complainant;
- iv. Direct the Respondents to refund the excess VAT amount i.e. Rs. 3,17,308/- along with interest @ 21% p.a from the date of payment till the date of payment to the complainant;
- V. Direct the Respondents to refund the excess Labour cess amount i.e. Rs. 49,450/- along with interest @ 21% p.a from the date of payment that is 28.07.2017 till the date of payment to the complainant.
11. On the above-mentioned reliefs sought by the complainant, is being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
12. That the Complainant was allotted Unit No. 06/06-01, situated on the 6th Floor of Tower No. 06, admeasuring 2150 sq. ft. of super area, in the residential project of the Respondent known as "*Paras Irene*", located at Sector-70A, Gurugram, Haryana. The said allotment was made vide Provisional Allotment Letter dated 09.05.2012. Subsequently, an Apartment Buyer's Agreement was duly executed between the Complainant and the Respondent on 10.10.2012, thereby confirming the terms and conditions governing the said allotment.

13. As per clause 3.1 of the agreement the respondent was directed to handover the possession of the unit by October 2016 and a grace period of 6 months for applying and obtaining the occupation certificate in respect of the complex. The said grace period is allowed in terms of order dated 08.05.2023 passed by the Hon'ble Appellate Tribunal in ***Appeal No. 433 of 2022 tilted as Emaar MGF Lamd Limited Vs Babia Tiwari and Yogesh Tiwari*** wherein it has been held that if the allottee wishes to continue with the project, he accepts the term of the agreement regarding grace period of three months for applying and obtaining the occupation certificate. The relevant portion of the order dated 08.05.2023, is reproduced as under:-

*"As per aforesaid clause of the agreement, possession of the unit was to be delivered within 24 months from the date of execution of the agreement i.e. by 07.03.2014. As per the above said clause 11(a) of the agreement, a grace period of 3 months for obtaining Occupation Certificate etc. has been provided. The perusal of the Occupation Certificate dated 11.11.2020 placed at page no. 317 of the paper book reveals that the appellant-promoter has applied for grant of Occupation Certificate on 21.07.2020 which was ultimately granted on 11.11.2020. It is also well known that it takes time to apply and obtain Occupation Certificate from the concerned authority. As per section 18 of the Act, if the project of the promoter is delayed and if the allottee wishes to withdraw then he has the option to withdraw from the project and seek refund of the amount or if the allottee does not intend to withdraw from the project and wishes to continue with the project, the allottee is to be paid interest by the promoter for each month of the delay. In our opinion if the allottee wishes to continue with the project, he accepts the term of the agreement regarding grace period of three months for applying and obtaining the occupation certificate. **So, in view of the above said circumstances, the appellant-promoter is entitled to avail the grace period so provided in the agreement for applying and obtaining the Occupation Certificate.** Thus, with inclusion of grace period of 3 months as per the provisions in clause 11 (a) of the agreement, the total completion period becomes 27 months. Thus, the due date of delivery of possession comes out to 07.06.2014."*

14. Therefore, in view of the above judgement and considering the provisions of the Act, the authority is of the view that, the promoter is entitled to avail the grace period so provided in the agreement for

applying and obtaining the occupation certificate. Therefore, the due date of handing over of possession comes out to be 10.10.2016 including grace period of 6 months.

15. In the present matter, it is an admitted that the Occupation Certificate (OC) in respect of the subject unit was obtained by the Respondent on 19.05.2017, and possession was formally offered to the Complainant vide Offer of Possession Letter dated 29.06.2017. Subsequently, the Conveyance Deed was executed on 28.02.2018. The present complaint, however, has been instituted on 12.01.2024, i.e., nearly 6 years after the offer of possession and execution of the conveyance deed.
16. During proceeding on 25.04.2025 the respondent stated that the complaint is barred by limitation as the complaint has filed by the complainant after lapse of more than 6 years from the date of execution of conveyance deed. As discussed earlier, after the unit was allotted to the complainant on 09.05.2012, a buyer's agreement in this regard was executed on 10.10.2012. Though the possession of the unit was to be offered on or before 10.10.2016 after completion of the project but the same was offered only on 29.06.2017 after receipt of occupation certificate on 19.05.2017 and ultimately leading to execution of conveyance deed of the same on 28.02.2018. So, limitation if any, for a cause of action would accrue to the complainant w.e.f. 29.06.2017 (date of offer of possession) and not from 28.02.2018. Therefore, the limitation period of three years was expired on 29.06.2020. The present complaint seeking reliefs was filed on 12.01.2024 i.e., beyond three years w.e.f. 29.06.2017.
17. There has been complete inaction on the part of the complainant for a period of more than 7 years from the offer of possession till the present

complaint was filed in January 2024. The complainant remained dormant of his rights for more than 7 years and he 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 an extent that basic principles of jurisprudence are to be ignored and are given a go by especially when the complainant/allottees have already availed aforesaid benefits before execution of conveyance deed.

18. 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.

19. 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.

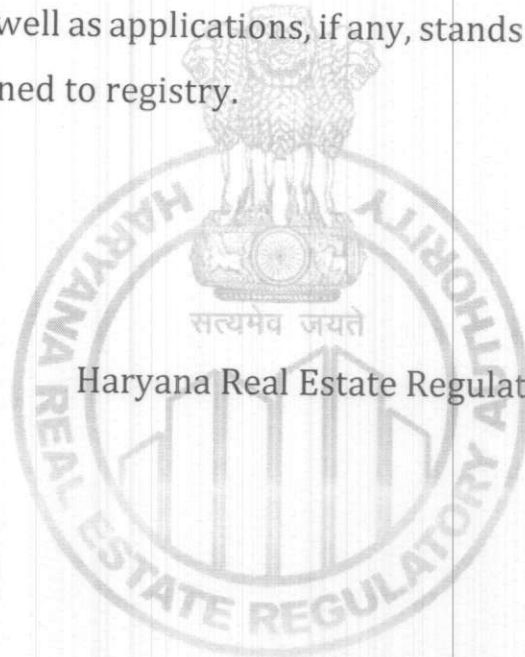
20. In the light of the above stated facts and applying aforesaid principles, the authority is of the view that the present complaint is not maintainable after such a long period of time as the law is not meant for those who are dormant over their rights. Moreover, the clause 3 of the conveyance deed dated 28.02.2018 is also relevant and reproduced hereunder for ready reference:

The VENDEE confirms and acknowledges having taken over/received actual. physical and vacant possession of the said Apartment. Before taking over possession of the said Apartment, the VENDEE has physically inspected and verified the said Apartment and fully satisfied himself about the construction, various installations in the said Apartment such as construction work, electrification work, sanitary fittings. water and sewage connection etc. and all items of work, quality of workmanship, materials. specifications, fittings and fixtures used and provided therein and the VENDEE confirms that it has no complaint or claims against the same. The VENDEE further confirms that it shall not raise any objections or make any claims against the First Party in future in respect of items of works or allege any of it not to have been carried out or completed for any reason whatsoever including any delay in handing over possession of the said Apartment and such claims or objection, if any shall be deemed to have been waived by the VENDEE.

21. Therefore, after execution of the conveyance deed the complainant-allottee cannot dispute any amenities provided to the him by the respondent and any charges paid by him as per builder buyers agreement other than statutory benefits if any pending. Once the

conveyance deed is executed and accounts have been settled, no claims remain. So, no directions in this regard can be effectuated at this stage.

22. It is a principle of natural justice that nobody's right should be prejudiced for the sake of other's right, when a person remained dormant for such an unreasonable period of time without any just cause. In light of the above, the complaint is not maintainable, and the reliefs sought are declined.
23. Complaint as well as applications, if any, stands disposed off accordingly.
24. File be consigned to registry.




(Vijay Kumar Goyal)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 25.04.2025

HARERA
GURUGRAM