



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1150 of 2023
Date of filing:	31.05.2023
Date of first hearing:	18.07.2023
Date of decision:	12.05.2025

Mrs. Anupam Chitkara and Another,
I-10, 2nd floor, Parvana Apartments,
Sector-9, Rohini, New Delhi.

....COMPLAINANT

VERSUS

TDI Infracorp (India) Limited
Regd. Office: Upper Ground Floor, Vandana Building
11, Tolstoy Marg, Connaught Place,
New Delhi- 110001

....RESPONDENT

CORAM: Nadim Akhtar
Chander Shekhar

Member
Member

Present: - Mr. Geetansh Nagpal, Counsel for the complainants through VC.
Mr. Shivdeep, proxy counsel for Mr. Ajay Ghangas, Arguing
Counsel for the respondent through VC.

ORDER (NADIM AKHTAR - MEMBER)

1. Present complaint was filed by the complainants on 31.05.2023 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate

(Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein, it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

2. The particulars of the project, the details of sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	"Lake Drive Apartments", in TDI Lake Grove City, Kundli, Sonipat
2.	Unit no	T-13/0802,
3.	Unit area	1000 sq. ft.
4.	Date of allotment	25.04.2019
5.	Date of builder buyer agreement	Not executed
6.	Due date of offer of possession (30 months)	Not available
7.	Possession clause in BBA	Not available
8.	Total sale price	₹39,41,150/-
9.	Amount paid by the complainants	₹25,40,000/-
10.	Offer of possession	Fit out offer of possession dated 30.12.2021

3. Case of the that complainants is that complainants booked a unit namely T-13/0802 in the respondent's project, namely, "Lake Drive Apartments" at Kundli, Sonipat, Haryana by making the payment of ₹3,00,000/- vide



cheque dated 01.04.2019 for total sale consideration of ₹37,62,750/- and respondent issued receipt dated 04.04.2019. Copy of receipt is attached as Annexure C-1. Thereafter, respondent sent an allotment letter dated 25.04.2019 confirming the booking of the said unit and further provide details in which respondent increased the totals sale consideration of the unit to ₹39,41,150/- without providing any reason for the escalation from originally agreed amount. Copy of allotment is annexed as Annexure C-3. Complainants requested the respondent to execute the builder buyer agreement and sent request dated 2.09.2019, but no positive response was received from the respondent side. Copy of letter is annexed as Annexure 5.

4. On 30.12.2021, respondent issued an intimation for completion of the unit and offer of possession for fit out along with demand of ₹28,83,123/- without actually obtaining occupation certificate. Copy of letter dated 30.12.2021 is annexed as Annexure C8. Complainants are challenging the statement of account issued by the respondent vide letter dated 30.12.2021, contention of the complainants are that said demands are illegal and unjustified. For example, respondent increased the area without prior intimation, increased cost of EDC, cost increase on account of inclusion of club, interest free maintenance security plus miscellaneous expenses, inclusion of EEFC charge and other taxes., charges. Respondent issued reminder letter dated 12.05.2022 for outstanding



payment towards the unit for an amount of ₹26,21,036/-. Copy of same is annexed as Annexure C9.

5. Therefore, complainants are challenging the demands raised by the respondent and sought following reliefs from the Authority vide amendment application dated 06.05.2025:

- (i) Direct the opposite party to not to create any third party interest in the property.
- (ii) Direct the opposite party not to cancel the allotment of the unit till the final decision of this complaint.
- (iii) Direct the respondent to execute the conveyance deed in favour of the complainants as per the terms agreed between the parties and in accordance with applicable laws and regulations.
- (iv) Direct the respondent to allocate and allot two covered and reserved parking spaces to the complainants.
- (v) Direct and impose a penalty on the respondent under Section 63 of the Real Estate (Regulation and Development) Act, 2016, for the promoter's failure to execute the Builder Buyer Agreement and for collecting the entire consideration amount prior to the execution of the said agreement, in contravention of Section 13(1) of the Act.
- (vi) Direct the opposite party to pay interest at the prescribe rate for every month of delay from the due date of possession, i.e., march 2020 till Execution of conveyance deed.

- (vii) Direct the opposite party to pay the interest so accrued from the date of delivery of the possession i.e., march 2020 till the date of final order ,payable within 90 days from the date of order.
- (viii)Direct the Opposite Party to withdraw all illegal and unjustifiable demands made in the offer of possession dated 25.02.2019.
- (ix) Direct the opposite party to compensate the complainants on account of mental agony and mental harassment caused to the complainants for so much delay in the project to the tune of ₹5,00,000.00.
- (x) Direct the opposite party to compensate the complainants on account of litigation cost incurred by the complainants for filing of this complaint to the tune of ₹2,00,000.00.
- (xi) It is most respectfully prayed that this Hon'ble Authority be pleased to order the Respondent to pay the balance amount due to the complainants from the Respondent on account of the interest, as per the guidelines laid in the RERA, 2016.
- (xii) It is most respectfully prayed that this Hon'ble Authority be pleased to order the Respondent to not to charge any charges which the Complainants are not legally bound to pay as per RERA.
- (xiii)Pass such other or further order(s), which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case
6. Respondent in its reply dated 30.10.2023 stated that complainants are an investors and not a consumer. Complainants have not come with clean



hands and have concealed the material facts from this Authority. That the complainants have merely alleged in the complaint about delay on part of the respondent in handing over the possession of the flat booked by the complainants. However, no delay on part of the respondent in fulfilling its obligations and the delay and modifications, if any have been caused due to the reasons beyond the control of the respondent.

7. That the Respondent has made huge investments in obtaining approvals and carrying on the construction and development of the project and despite several adversities has completed the construction of the project and has offered possession of the unit to the complainants on 04.07.2023 and has sent the offer of possession along with statement of account to the complainants. Copy of Offer of Possession dated 04.07.2023 along with postal receipt is Annexure R1 and Final Statement of Account dated 04.07.2023 is Annexure R2.

That the complainants were not punctual in making timely payment of installments and interest is chargeable on account of delay. The outstanding amount of the unit is ₹29,57,653/- as on 19.07.2013 but the complainants has not came forward to make the payment and take possession of the unit. Many factors including the Covid pandemic, restriction of constructions activity in NCR due to pollution and Farmer's Agitation impacted the developed as it resulted in stoppage of construction work for more than 2 years in the past. All the above are



reasons which were beyond the control of the respondent and are force majeure circumstances.

8. That despite receipt of offer of possession dated 04.07.2023, the complainants never came forward to make payment of balance amount and take possession of the unit. Again a letter dated 19.07.2023 was sent to the complainants along with Final Statement of Account. Copy of Offer of Possession dated 19.07.2023 along with postal receipt is Annexure R3 and Final Statement of Account dated 19.07.2023 is Annexure R4. That no illegal demands have been raised by the respondent while offering possession of the unit to the complainants. The amount on account of increase in area and proportionate increase in EDC charges have been rightly demanded by the respondent from the complainants. Also EFFC is not included in the basic cost of unit and is payable by the complainants. The complainants are also liable to pay maintenance charges and open car parking charges. The respondent has rightly demanded the club membership charges, IFMS and misc. expenses from the complainants. The GST and stamp duty charges are payable as per government rules.
9. Therefore, complainants have made false and baseless allegations with a mischievous intention to retract from the terms and conditions duly agreed between the parties. That there is no cause of action in favour of the complainants to institute the present complaint.



10. During oral arguments on 12.05.2025, learned counsel for the complainants reiterated the facts of the complaint and stated that during the proceedings of present complaint, settlement deed has been executed between the parties on 08.08.2024, however, now respondent is not abiding by the terms and conditions of the settlement deed. Therefore, said deed be declared void and case be decided on merits. On the other side, ld counsel for respondent stated that respondent is not running away from its liabilities and ready to abide the terms of settlement deed.

11. After going through complaint, reply and rival contentions, Authority observes that the complainants booked a unit in the real estate project; "Lake Drive Apartment", in TDI Lake Grove City, Kundli, Sonipat being developed by the promoter namely; "TDI Infracorp (India) Limited" and in consonance to the same, complainants were allotted unit no. T-13/0802 via allotment letter dated 25.04.2019. No Builder Buyer Agreement was executed between the parties. Thereafter, respondent issued offer for fit out alongwith statement of account, however, complainants challenged the said statement of account stating that it is not valid offer of possession as it was without occupation certificate from competent Authority and accompanied with illegal and unjustified demands. During the pendency of present complaint, settlement deed has been duly executed and mutually signed between the parties on 08.08.2024.



12. Now, the issue which arises is that whether the present complaint is maintainable under RERA in view of a duly executed **Settlement Deed dated 08.08.2024** entered into by the Complainants and the Respondent.

13. Authority has carefully examined the settlement deed dated 08.08.2024, which is placed on record by the complainants vide application dated 03.02.2025. Authority observes that it is an undisputed and admitted fact that the complainants and the respondent voluntarily entered into a **Settlement Deed dated 08.08.2024** for full and final resolution of all disputes, claims, and grievances relating to Unit No. T-13/0802 in the project of the respondent. The key terms and conditions of the Settlement Deed are summarized as follows:

“Clause 11 That the Second Party being satisfied with the settlement & resolution regarding the grievances, shall not take any legal step or further pursue the above said complaint against the First Party.”

Clause 15 That all the parties undertake to abide by the terms and conditions of the present settlement that they shall not institute any proceedings before any court/forum or authority in respect of the Said Flat in future and shall not challenge or work in derogation of the present settlement of this issue.”

14. The Complainants unequivocally declared that he would not undertake 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.

15. 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. The Authority has also cross checked the signatures done on the complaint book and the signatures on the settlement deed which are same. Moreover, there is **no evidence of mental incapacity, undue influence, or procedural unfairness** in the negotiation or execution of the settlement 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.

16. 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, 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.

17. This position on the finality and enforceability of voluntary settlements is well-settled in law and finds authoritative support in the judgment of the Hon'ble Supreme Court in *Wg. Cdr. Arifur Rahman Khan & Ors. v. DLF Southern Homes Pvt. Ltd.*, decided on 24.08.2020 and reported in **2020 SCC OnLine SC 667**. In **para 37** of the judgment, the Supreme Court observed:

"However, the cases of the eleven purchasers who entered into specific settlement deeds with the developers have to be segregated. ... These eleven flat purchasers having entered into specific deeds of settlement, it would be only appropriate and proper if they are held down to the terms of the bargain. We are not inclined to accept the contention... that the settlement deeds were executed under coercion or undue influence since no specific material has been produced on record to demonstrate the same."



The Court unequivocally held that where a settlement deed is **voluntarily and specifically executed** and **no evidence** of coercion, fraud, or undue influence is adjudicated, the signatory **cannot repudiate the settlement unilaterally**. This pronouncement aligns precisely with the present case as the Complainants voluntarily signed the Settlement Deed after due deliberation. There is **no credible evidence** produced to suggest that the Settlement Deed was signed under any form of coercion, fraud, misrepresentation, or undue influence. As per the binding precedent in *Arifur Rahman Khan*, once a voluntary settlement is reached and acted upon, it **cannot be set aside at the whim of a party** unless it is expressly vitiated in a competent forum—and that is clearly not the case here.


18. As per the reasoning mentioned above, Authority deems it fit not to open the settlement deed executed between the parties and therefore, reliefs claimed by the complainants cannot be granted. Thus, the Authority is not commenting on the merits of this case at this stage.

19. The complainants are also seeking compensation on account of mental agony/harassment and cost of legal charges. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & Ors.*" (supra,), has held that an allottee is entitled to claim compensation



& litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

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


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CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]