

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

Complaint no. : 5399 of 2024
Order pronounced on: 06.08.2025

Pramod Raghav
Through AR Rohit Verma
Address:- A-51, Floor-2nd, Vasant Kunj Enclave,
Delhi.

Complainant

Versus

M/s Bestech India Pvt Ltd.
Office at: Unti no.-5D, floor-5th, Assets Area-4,
Delhi Aerocity Hospitality, West Delhi, New Delhi-
110037.

Respondent

CORAM:

Ashok Sangwan

Member

APPEARANCE:

Rahul Bhardwaj (Advocate)

Complainant

Ishaan Dang (Advocate)

Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee 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(1)(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 there under or to the allottee as per the agreement for sale executed inter se.

A. Unit and project 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 possession and delay period, if any, have been detailed in the following tabular form:

S.No.	Particulars	Details
1.	Name of project	Orient Bestech Business Tower
2.	Nature of project	Commercial
3.	Location of project	Village-Khandsa, NH-8, Gurugram.
4.	DTCP Licence	Licence no. 1128 of 2006 Dated: 15.09.2006
5.	Hrera Registered	Not registered
6.	Welcome letter	24.02.2007 (As on page no. 36 of reply)
7.	Unit no.	IIT/Cyber Space no. 617, Floor-6 th (As on page no. 59 of reply)
8.	Unit area	2500 sq.ft [Super-Area] (As on page no. 59 of reply)
9.	BBA	01.07.2010 (As on page no. 57 of reply)
10.	Possession clause	Clause 14. <i>That subject to provisions of clauses 15 and 16 the possession of the said premises is proposed to be</i>

		<i>delivered by the DEVELOPER to the ALLOTTEE(S) within twenty four months from the date of this Agreement.</i> <i>[Emphasis supplied]</i> <i>(As on page no. 65 of reply)</i>
11.	Due date of possession	01.07.2012 (calculated 24 months from the date of execution of agreement)
12.	Sale consideration	Rs.62,62,500/- (As on page no. 60 of reply)
13.	Amount paid	Rs.76,54,748/- (As per S.O.A dated 19.11.2024 on page no. 95 of reply)
14.	Occupation certificate	08.05.2013 (As on page no. 34 of reply)
15.	Offer of possession	01.07.2013 (As on page no. 87 of complaint) [Note: Maintenance charges reduced from Rs.15/- per sq.ft to Rs.3 per sq.ft. w.e.f 01.09.2013 till 31.08.2014 or till the date of lease of the said space, whichever is earlier]

B. Facts of the complaint:

3. The complainant has made the following submissions: -
 - i. That sometime in the year 2010, the respondent no. 1 started the development work of its real estate cyber project in the name and style known as ORIENT-BESTECH, Business Tower, situated in sector 34, Gurugram, Haryana. The respondent no. 1 advertised the aforesaid

real estate project as a one-of-a-kind development with impeccable facilities and further promised to complete the project within a reasonable amount of time.

- II. Induced by the attractive advertisements, assurances, representations, and promises made by respondent no. 1 and believing the same to be correct and true, the complainant sought an allotment of a cyber unit in the said project. Vide, Buyer's Agreement dated 01.07.2010, respondent no. 1 allotted a cyber unit/space bearing no. 617 on 6th floor of the project admeasuring 2500 square feet to the complainant.
- III. That the respondent no. 1 allotted the said cyber unit at the basic sale price of Rs. 2,400 per sq. ft and an additional sale price of Rs. 105 per sq. ft., thereby selling the said cyber unit for a total sale consideration of Rs. 2,505 per sq.ft. i.e. inclusive of basic sale price as well as all other miscellaneous charges (including EDC, IDC % etc., and other charges). The respondent no. 1 accordingly inclusive of all the charges sold the said cyber unit/space at a total sale consideration for Rs. 62,62,500/-.
- IV. At the time of booking, respondent no.1 assured the complainant of timely delivery of the unit. Furthermore, the first or initial payment towards the said unit was made on the date of executing the Buyer's Agreement amounting to Rs. 6,00,000/-. The complainant opted for "Construction Linked Payment Plan" for the said unit and cleared the payment as and when demanded by respondent no. 1.
- V. That in addition to the said total sale consideration, the respondent no. 1 further charged the complainant of the Car Parking amounting to Rs. 7,50,000/- and amount of Rs. 3,75,000/- towards the Interest Free Maintenance Security (IFMS) at the time of execution of the Buyer's



- Agreement duly exhibited in Annexure-I of the agreement, thereby, making a total sale consideration of the cyber unit to Rs. 73,87,500/.
- VI. That the complainant without any default and failure on his part and by adhering the terms and conditions of the Buyer's Agreement, cleared the entire payment within the stipulated time period as and when demanded by the respondent.
- VII. However, despite receiving the entire amount, respondent no. 1 has miserably failed to comply with the terms and conditions of the Buyer's Agreement, even after receiving more than 100% of the total sale consideration well before the offer of possession. It is further submitted that the complainant has diligently paid his dues as and when the demands for the payments were raised by the respondent.
- VIII. As per Clause 14 of the Buyer's Agreement, the possession of the cyber unit was to be delivered within 24 months i.e. by 01.07.2012. However, the respondent no. 1 has failed to hand over possession of the cyber unit/space alongwith all promised appurtenant infrastructure, amenities and services duly developed as promised by the respondent to the complainant even after a huge delay of more than 12 years.
- IX. That what is unfortunate and alarming is that respondent no. 1 despite receiving the Occupation Certificate from the competent authority on 08.05.2013, has miserably failed to offer possession of the unit. That the respondent after receiving the Occupation Certificate from the competent authority duly intimated the complainant of the same vide a letter dated 01.07.2013, wherein, the respondent no. 1 requested the complainant to settle and clear the dues. In furtherance to this, the respondent no. 1 assured and promised to make their sincere efforts to source the cyber unit a prospective Lessee(s) for the premises for

which the complainant solely purchased the unit, so that it shall generate some monetary income.

- X. That the respondent no. 1 demanded maintenance charges till the date of lease of the said space. The respondent no. 1 started demanding maintenance charges before handing over of possession of the unit which is against the provisions of law and further it is a settled law that the maintenance charges of any premises shall only be payable by the allottee once the promotor has provided or handed over the physical possession of the unit.
- XI. That the same letter further fails to mention anything regarding the offer of possession in near future by respondent no. 1 which clearly exhibits that the respondent no. 1 had no intention to hand over the possession of the unit.
- XII. Thereafter, without any offer of physical possession and also any efforts to lease the premises, the maintenance agency i.e. M/s Park View Facilities Pvt. Ltd. (hereinafter referred as respondent no. 2) has been continuously and effortlessly demanding the maintenance charges from the complainant since 2013 till date and has been harassing the complainant with the burden of financial stress to pay unwarranted charges that are not only bad in law but rather illegal. The respondent no. 1 before handing the possession of the cyber space/unit of the complainant has already collected the Interest Free Maintenance Charges (IFMS) from the complainant, which is ought to be collected at the time of offer of possession.
- XIII. That the alarming fact is that the respondent no. 2 since 2013 has raised and demanded the maintenance charges to the tune of Rs.79,35,587/-, which is almost equal to the price of the property of the complainant in the project. The maintenance charges are the

charges, charged either annually or monthly, applicable to be paid by the owner/allottee once he/she has taken possession of the property/unit.

XIV. Moreover, the complainant visited his unit in the project last year to check and, to their utter shock and dismay they found out that the unit is in complete bare-shell nature and no work has been done in the unit and the respondent no. 1 has made not a single effort to lease the premises for which the unit was solely purchases thereby causing huge monetary loss to the complainant.

XV. The complainants continued to follow up with the respondent(s) through various correspondences expressing their dismay towards the maintenance charges levied by the respondent no. 2 and wrote a letter dated 28.06.2024 showing their concern and demanding the physical possession of the property. In lieu of the letter sent by the complainant to respondent no. 1, the respondent no. 1 replied on 29.06.2024, stating that physical possession is not possible and can't be given to the complainant.

C. Relief sought by the complainant:

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

- i. Direct the respondent to give possession to the complainant within 6 months of the filing of this complaint, of the fully developed unit.
- ii. Direct the respondent(s) not to charge and harass the complainant by levying unnecessary charges towards the maintenance charges without providing the physical possession of the unit.
- iii. Directing the respondent(s) to withdraw all the maintenance charges sent to the complainant as the same are not only bad in law but rather illegal in nature.
- iv. Direct the respondent to provide the delayed possession interest @ prescribed rate from the due date of possession i.e. 01.07.2012

till the actual date of possession of the unit (complete in all respects alongwith all amenities, services and appurtenant infrastructure duly developed and put in place by the respondent(s).

- v. Direct the respondent(s) to pay to the complainant interest on the amount of Rs 76,32,500/- paid by the complainant.
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.

6. The respondent has contested the complaint on the following grounds:
- I. That the present complaint is not maintainable in law or on facts. The provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the 'Act') are not applicable to the project in question. The occupation Certificate in respect of the project was issued by the competent authority on 08.05.2013, i.e. well before the notification of the Haryana Real Estate Regulation and Development Rules 2017 (hereinafter referred to as the 'Rules'). Thus, the project in question is not an 'Ongoing Project" under Rule 2(1)(o) of the Rules. This Hon'ble Authority does not have the jurisdiction to entertain and decide the present complaint. The present complaint is liable to be dismissed on this ground alone.
 - II. That the complaint is barred by limitation and liable to be dismissed on this ground as well. Symbolic possession of the unit was offered to the complainant on 01.07.2013. The so called cause of action, if any, arose in favour of the complainant more than 10 years ago. The complaint is liable to be dismissed as time barred.

- III. That the complainant had approached respondent and evinced an interest in purchasing area in the duly licensed Information Technology Park known as "Orient Bestech Business Tower" located on NH8 in Village Khandsa, Gurgaon, Haryana.
- IV. That the complainants were provisionally allotted IT/cyber space No 617 on the 6th Floor of the said project admeasuring 2500 sq. ft. approximately. By letter dated 04.02.2008, the complainant was informed that construction of the project had commenced and as per the applicable payment plan, the complainant was called upon to make payment of installment payable upon achievement of the construction milestone, start of foundation.
- V. That by letter dated 08.09.2008, the complainant was called upon to make payment of installment payable upon completion of ground floor roof slab as per the applicable payment plan. That by letter dated 04.11.2008, the complainant was called upon to make payment of instalment payable upon achievement of the construction milestone, on completion of 3rd floor roof slab, as per the applicable payment plan.
- VI. That by letter dated 09.12.2008, the complainant was called upon to make payment of instalment payable upon achievement of the construction milestone, on completion of 5th floor roof slab, as per the applicable payment plan. That by letter dated 14.02.2009, the complainant was called upon to make payment of instalment payable upon achievement of the construction milestone, on completion of top floor roof slab, as per the applicable payment plan.
- VII. That by letter dated 12.06.2009, the complainant was called upon to make payment of instalment payable upon achievement of the construction milestone, on completion of internal

plastering/flooring, as per the applicable payment plan. That in the meanwhile, the Buyer's Agreement was forwarded to the complainant for execution under cover of letter dated 18.02.2009. The Buyer's Agreement was willingly and consciously executed by the complainant on 01.07.2010.

- VIII. That initially the 4th floor of the project had been identified for persons who wanted to avail possession of the units booked by them for their own use. Such units have been duly partitioned by construction of intervening walls, provisioning of electrical wiring, internal fixtures, fittings etc at the cost of the allottees.
- IX. That at the time of booking it was communicated to the complainant that in case of units meant for self use, in addition to the bare shell cost of the unit for self use, the complainant would also be liable to bear the charges towards the necessary works including construction of partitions, electrical wiring, internal fixtures, fittings etc in accordance with clause 4.3 of the buyer's agreement. The complainant was not prepared to make payment for such works and as such opted for a unit on 6th Floor, ear marked for leasing. Accordingly IT space /cyber unit bearing no 617, located on the 6th floor of the project and earmarked for leasing was allotted to the complainant, which allotment was duly accepted by the complainant by execution of the buyer's agreement in respect of the unit.
- X. That spaces meant for self use and those earmarked for leasing are dealt with differently in the buyer's agreement. Units such as the unit allotted to the complainant meant to be leased out by the respondent to prospective lessees are sold on bare shell basis, without any partitions and not capable of independent use as prospective lessees

prefer to take entire floors of the building on lease and carry out fit outs/interiors as per their individual convenience.

- XI. That clause 17 provides that where an allottee is desirous of obtaining possession, in that case, the respondent has the absolute discretion to allot a different cyber unit situated on a floor which may be subsequently identified for self users in the project.
- XII. That clause 18 of the buyer's agreement provides that where the option of lease is not availed by the developer and possession is delivered to the allottee, in such case, the allottee upon taking possession of the said premises shall not have any claim against the developer in respect of any item of work, design, specification, building material etc.
- XIII. That Clause 14 of the buyer's agreement provides that subject to timely payment of sale consideration by the complainant and subject to delays caused due to reasons beyond the power and authority of the respondent, possession of the unit was proposed to be offered within 24 months from the date of execution of the buyer's agreement.
- XIV. That after completion of construction, the respondent made an application for issuance of occupation certificate on 26.10.2012 and the same was issued on 08.05.2013. It is submitted that the respondent cannot be held liable for time taken by statutory authorities in issuing the occupation certificate and other approvals. Upon receipt of the occupation certificate dated 08.05.2013, symbolic possession of the unit was offered to the complainants vide letter dated 01.07.2013. It was also mentioned in the said letter that as a gesture of goodwill, maintenance charges had been reduced from

Rs.15/- per sq. ft. to Rs.3/- per sq. ft.w.e.f. 01.09.2013 till 31.08.2014 or date of lease which ever was earlier.

- XV. That since the complainant did not come forward to make payment of balance amount as demanded by the respondent in accordance with the Buyer's Agreement, reminder dated 29.11.2014 and final notice dated 07.05.2015 were issued by the respondent.
- XVI. That vide letter dated 12.04.2017, the complainant was called upon to remit an amount of Rs.1,12,862/- towards HVAT liability. That the complainant addressed a letter dated 12.03.2024 to the respondent seeking, *inter alia*, possession of the allotted IT/Cyber space and waiver of accrued maintenance charges. Since the unit booked by the complainant is not earmarked for self use and hence could not be handed over to the complainant, although under no obligation to do so and as a gesture of goodwill, the respondent orally communicated its willingness to accommodate the complainant by allotment of another cyber unit on a different floor which is meant for self use.
- XVII. That the respondent further sent a reply dated 29.06.2024, drawing the attention of the complainant to clauses 15 and 16 of the buyer's agreement in terms of which physical possession of the allotted unit could not be handed over to the complainant. The complainant was reminded that that the unit booked by the complainant was not intended for self use but to be leased out as a part of a larger transaction involving other units on the floor as well. The respondent further informed that post Covid 19 pandemic, almost all corporates preferred work from home concept for their employees and consequently lesser enquiries were being received from proposed lessees. The complainant was informed that the Respondent would keep the complainant duly apprised about any progress in leasing out

the unit and that in the meanwhile. The complainant was once again requested to clear his outstanding dues towards maintenance charges for the maintenance of the common areas and services of the project, in accordance with the buyer's agreement.

XVIII. That the respondent, on its part, made diligent efforts to identify a suitable lessee to take on lease the cyber unit allotted to the complainants as well as other units located in the building but was unable to do so due to prevailing market conditions/water logging on the service road leading to access to the project.

7. Copies of all the relevant documents have been filed and placed on 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:

8. The Authority has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E. I Territorial jurisdiction

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

10. 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)

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.

11. 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 objections raised by the respondent**G.1 Objection regarding complaint being barred by limitation**

12. The respondent no. 1 has raised an objection that the present complainant deserves to be dismissed being barred by limitation as the Occupation certificate was issued by the competent authorities way back on 08.05.2013 i.e., much prior to the enactment of the Act, 2016, thus the Authority does not have the jurisdiction to entertain the present complaint.
13. The Authority observes that the complainant had approached the respondent expressing interest in the project titled 'Orient Bestech Business Tower,' situated at Village Khandsa, Gurugram. Pursuant thereto, Unit No. 617, an IT/Cyber space on the 6th floor measuring 2500 sq. ft., was allotted to the complainant. A Buyer's Agreement was executed between the parties on 01.07.2010. The total sale consideration, as mutually agreed, was Rs. 62,62,500/-, against which

the complainant has made payments amounting to Rs. 76,54,748/- till date. The respondent obtained the Occupation Certificate on 08.05.2013, and possession of the said unit was subsequently offered to the complainant on 01.07.2013.

14. The complainant remained inactive in asserting his rights for over a decade and failed to approach any appropriate forum within a reasonable time to seek redressal. The delay in initiating proceedings remains unexplained and is inordinate. While it is true that one of the underlying objectives of the Real Estate (Regulation and Development) Act, 2016 is to safeguard the interests of consumers, such protection cannot be extended to the extent of disregarding established principles of law and jurisprudence.
15. One such settled principle is that delay and laches can, by themselves, constitute a ground to defeat even an otherwise legitimate claim. It is not that the Act prescribes a strict limitation period for the Authority to exercise its powers under Section 37 read with Section 35, nor can it be said that the Authority is absolutely barred from exercising its jurisdiction after a lapse of time. However, it is a prudent and judicious exercise of discretion for the Authority to decline invocation of its extraordinary powers under Section 38(2) of the Act in cases where a party, having knowledge of its rights, remains passive and only seeks intervention after an unreasonable delay. Even the principle of equality before law requires that such relief be sought at an appropriate stage, and not after allowing the matter to become stale through inaction. Even equality has to be claimed at the right juncture and not on expiry of reasonable time.
16. Further, as observed in the landmark case i.e., ***B.L. Sreedhar and Ors. Vs. 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.

17. In view of the foregoing facts and upon application of the settled principles of law, this Authority is of the considered opinion that the present complaint is not maintainable, having been filed after an inordinate and unexplained delay. The law does not favour those who sleep over their rights. The Real Estate (Regulation and Development) Act, 2016 has been enacted to regulate the real estate sector in an orderly manner and to ensure timely redressal of genuine grievances. Entertaining such delayed claims would not only defeat the purpose of the Act but may also open a floodgate of stale and speculative litigation.
18. The legal process cannot be permitted to be misused by litigants who, despite having knowledge of their rights, fail to act within a reasonable time. It is a well-established principle of natural justice that one's dormant conduct should not be allowed to prejudice the settled rights of others. Accordingly, and in light of the above discussion, the present complaint stands dismissed.
19. File be consigned to the registry.



(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 06.08.2025