

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

Complaint no.: 3123 of 2023

Date of filing: 12.07.2023

Date of order: 22.07.2025

1. Vimallesh Sharma
 2. Richa Sharma (Through Power of Attorney Holder)
- Both R/o:** H -424 C, 2nd Floor, Vice Roy Luxury Apartments, Palam Vihar, Gurgaon

Complainants

Versus

M/s. Cosmos Builders & Promoters Ltd.
Regd. Office: 4, Battery Lane, Rajpur Road, Civil Lines, Delhi-110054

Respondent

CORAM:

Shri Arun Kumar
Shri Ashok Sangwan

Chairman
Member

Appearance:

Shri Venket Rao (Advocate)
Shri Dharmender Sehrawat (Advocate)

Complainants
Respondent

ORDER

1. The present complaint has been filed by the complainant-allottees in Form CRA 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 to the allottee as per the agreement for sale executed inter se them.



A. Project and unit related details.

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. N.	Particulars	Details
1.	Name of the project	"Executive Apartments", Palam Vihar, Gurugram.
2.	Nature of project	Group housing colony
3.	RERA registered/not registered	Not registered
4.	DTCP License no.	5 of 1992, 118 of 1992 and 5A of 1994. (taken from BBA page 40 of complaint)
5.	Date of flat buyer's agreement	27.02.2006 (As on page no. 39 of complaint)
6.	Unit no.	B- 1709, Tower- B, in 17 th floor (As on page no. 43 of complaint)
7.	Unit area admeasuring	254 sq. ft. [Common Area] 864 sq. ft. (built up area) 1100 sq. ft. [Saleable area] (As on page no. 43 of complaint)
8.	Possession clause	Clause 29. POSSESSION a. Time of handing over the Possession <i>That subject to terms of this clause and subject to the Flat Allottee(s) having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement and complied with all provisions, formalities, documentation etc., as prescribed by the Developer, the Developer proposes to hand over the possession of the Flat within a period of twenty four(24) months from the date of signing of this agreement. The Flat Allottee(S) agrees and understands that the Developer shall be entitled to a grace period of 90 days, after the expiry of twenty-four (24) months, for applying and obtaining the Occupation certificate in respect of the Group Housing Complex.</i> [Emphasis supplied] (As on page no. 54 of complaint)



9.	Due date of possession	27.05.2008 (Calculated 24 months from the date of agreement plus 90 days)
10.	Demand for Electric connection charges on 30.09.2008	Rs.1,63,000/- (As on page no. 75 of complaint)
11.	Total sale consideration	Rs.27,45,000/- (As per payment plan at page no. 70 of the complaint)
12.	Amount paid by the complainant	Rs.29,13,156/- (As alleged by the complainant at page no. 31 of the complaint)
13.	Letter seeking handover of possession by complainant	28.09.2011 (As on page no. 82 of complaint)
14.	Reminder for handover of possession by complainant	16.11.2011 (As on page no. 83 of complaint)
15.	Occupation certificate	19.01.2011 (Page no. 17 of the reply)
16.	Offer of possession	02.08.2011 (As on page no. 79 of complaint)
17.	Demand along with offer of possession	Rs.1,63,000/- [electric connection charges] Rs.1,62,800/- [possession amount] (As on page no. 79 of complaint)

B. Facts of the complaint.

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

- That around 2006, the respondent launched the group housing project 'Executive Apartments' situated at Palam Vihar, Gurugram on the land admeasuring to 1.04 acres in village Chauma, District Gurgaon and had actively promoted the project to attract the public at large.
- That the respondent through its marketing representatives and agents represented that they are developers of great repute. The complainant was looking for a unit and henceforth, approached by the respondent whereby the respondent assured that the instant project is going to be one of the finest

and best residential complex to reside in. The respondent claimed that it will be a suitable place for their forever home.

- iii. That on 06.02.2006, the complainants after believing upon the claims and assurances provided by the respondent through its representatives, vide application form dated 06.02.2006, booked residential unit in the project, with an exclusive right to use of one covered/surface parking space.
- iv. That on 27.02.2006, respondent executed a one-sided and arbitrary builder buyer agreement with the complainants, wherein the respondent allotted a residential space bearing no. 1709, 17th floor in tower 'A' and 'B' in the project having a built up area of 846 sq. ft. and common area of 254 sq. ft. Complainant further paid an amount of Rs. 2,69,500/- towards the total sale price of Rs.27,45,000/- as acknowledged by the respondent in clause 1.2 (d) of the agreement. the complainant also paid an amount of Rs.3,700/- vide cheque bearing no. 329121 dated 08.03.2006, making a total payment of Rs.2,73,200/- towards the booking of said unit.
- v. That as per clause 29 of the agreement, the respondent promised to handover the possession of the unit within a period of 24 months from the date of signing the agreement which comes out to be 27.02.2008.
- vi. That the respondent, before two months of date of possession, i.e. on 07.12.2007, sent a letter dated 07.12.2007 informing the complainants that the completion of project is delayed because of some unforeseen and unavoidable circumstances and consequently, it will delay the delivery of possession to 4 to 5 months. The complainants were given a vague explanation of delay by the respondents, without any proper explanation of the unforeseen and unavoidable circumstances. moreover, the delay was told to be of 4 to 5 months, but the respondents failed to deliver the possession even after passing of the said period and when persuaded by the

complainants, respondent instead of answering with a proper explanation, again gave the complainants a vague reason for delay.

- vii. The respondent sent a letter dated 30.09.2008, exclusively charging the complainants with the electricity connection charges, stating that the units will be ready for possession shortly and therefore, the complainants are required to pay electricity connection charges amounting to Rs.1,63,000 at the earliest.
- viii. That the respondent again sent a letter dated 01.04.2009, for the payment of electricity connection charges. The respondent was not having the occupation certificate and was making false claims to hand over possession after receiving electricity connection charges. The complainants were not willing to pay the electricity connection charges until the offer of valid possession after receipt of occupation certificate.
- ix. That the respondents obtained occupation certificate for towers A & B on 19.01.2011, i.e., after 2 years and 3 months of charging the complainants with electricity connection charges. Even after obtaining the occupation certificate, the respondent failed to offer and hand over the possession of the unit and execute the conveyance deed due to which the complainants could not provide the requisite documents for disbursal of loan amount to "M/s Axis Bank Ltd." (bank).
- x. Upon not receiving the documents, the bank sent a letter dated 15.03.2011 to the complainants threatening them to submit the necessary documents failing which legal action will be taken against the complainants. Again on 23.07.2011, the complainants received a loan recall letter from the legal representative of the bank who threatened the complainants of legal action and recalled the loan facility availed by the complainants. Due to the default on account of the respondent, the complainants suffered huge financial

harassment and even till date the respondent has not come forward to execute conveyance deed.

- xi. That the respondent after the delay of approximately 3 years 7 months, offered the possession of the unit vide offer of possession letter dated 02.08.2011, received by complainants on 04.08.2011, with a condition to pay outstanding dues of Rs.3,25,800/- which includes electricity connection charges of Rs.1,63,000/- and possession charges of Rs.1,62,800/- respectively.
- xii. That the complainants vide cheque bearing no. 222392 dated 08.08.2011, paid outstanding dues of Rs.3,25,800/- to the respondent. the respondent issued a receipt dated 11.08.2011, acknowledging the payment of electricity connection charges and possession charges. Complainants also paid an additional maintenance charges and electricity charges for the months of April to July 2011, amounting to Rs.8,856/-. The respondent issued the receipt dated 11.08.2011 for the same. The respondent has exclusively claimed the payment of the electricity connection charges from the complainants, as an explicit and necessary condition for handing over possession. Thus, making the respondent liable for providing the same.
- xiii. As per section 11(4)(d) the respondent is responsible for providing and maintaining the essential services, on reasonable charges. The electricity and water connections are an essential service and the respondent has taken explicit charges for the same. Herein the respondent has taken all the charges for essential service but failed to provide the said services, thus violated the statutory rights of the complainant.
- xiv. After payment of the outstanding dues, complainants visited the office of respondent, wherein the complainants were forced to sign the letter stating that the construction work has been completed and possession is handed

over to the complainants. Complainants refused to sign the said false statements and requested the respondent to complete the construction, so that the complainants can take possession of the unit. The same concern was raised by the complainants in their letter dated 28.09.2011, but it remained unanswered.

- xv. The complainants sent a letter dated 16.11.2011, to the respondent, stating that the construction work of the unit is yet to be completed as there are lot of shortcomings, such as the door connecting from inside the flat to the EWS flat, electrical fittings are not working, glasses of balcony windows and doors are lying on the floor etc. The respondent instead of rectifying the shortcomings of the unit, sent a letter dated 21.12.2011, wherein the respondent made false claims of completing the unit for possession and handing it over to complainants as per the agreement. Although, the possession was not handed over to the complainants and it was merely on papers. This clearly shows the malafide intention of the respondent, as they were just concerned to complete the documentation of the unit as per the agreement, instead of actually carrying out the obligations as per the agreement. Further, respondent compelled the complainants to sign the pre-printed indemnity bond which was completely one sided and in favour of respondent.
- xvi. That the complainants went to take physical possession of the flat on 22.12.2011, however, the concerned officers of the respondent refused to hand over physical possession stating that the respondent has given instructions to not handover the keys to the complainants until they sign "indemnity bond". The complainants had already made all the payments till 11.12.2011 to the respondent and were still being denied their rightful

possession. Being aggrieved, the complainants raised the said concern through letter dated 23.12.2011, but the letter remains unanswered.

- xvii. Further, being aggrieved by the conduct of the respondent, complainants filed a complaint bearing no. 47 of 2012, before the Ld. District Consumer Dispute Redressal Forum, Gurgaon against the respondent, seeking directions against the respondent for completion of the unit, to not compel the complainants to sign indemnity bond and for compensation. The Ld. consumer forum vide its order dated 07.02.2014, directed the respondent to pay the delay possession charges of Rs.1,70,500/- along with the litigation of Rs.5,000/- and mental harassment charges of Rs.30,000/-.
- xviii. That after the passing of order dated 07.02.2014, the complainants kept on visiting the office of respondent, for possession and payment of due amount, but the respondent kept on dilly dallying the compliance of order of Ld. consumer forum. The respondent was harassing the complainants even after the court directions. The complainants sent an email dated 27.07.2015, requesting the respondent to give physical possession with the keys, to the complainants, as per their stand taken before the Ld. consumer forum, but the email remained unanswered.
- xix. That the complainants again sent email dated 13.08.2015, requesting the respondent to give physical possession with the keys at the earliest to the complainants, as per their stand taken before the ld. consumer forum, but the respondent again ignored the said request of the complainants. the complainants kept on chasing the respondent for a long time but no response was ever received.
- xx. That the complainant filed an execution petition bearing no. 173 of 2018, wherein the complainant sought the execution of order dated 07.02.2014, passed by Ld. consumer forum in complaint no. 47/2012.



- xxi. Thereafter, while the execution petition was ongoing, the respondent with the intention to deceive the complainants and the Id. consumer forum, handed over the keys of unit to the complainant in the court by creating an illusion that the unit is complete. The complainants, believing the respondent, accepted the keys, on the pretext that the construction was complete and thus withdrew the petition by order dated 15.05.2019. The complainants were in utter shock when they visited the unit, as the unit was in chaos and was not in a habitable condition. The complainants only received the keys in the Id. consumer forum and was unaware of the false representations made by the respondents in respect of the construction of the unit.
- xxii. As per annexure iv of the builder-buyer agreement, the respondent promised to deliver the unit for possession with the specified specifications, mentioned below:
- wall finish:** internal walls plastered and painted with pleasing shades of oil bound distemper; pop cornices and mouldings, and fan circles in drawings/dining and all the bedrooms.
 - toilets:** dado up to 7'-10' height of glazed/ceramic tiles; cp fittings of standard brand; wash basin, with stone counter english type w/c
 - kitchen:** flooring: ceramic tiles; dado: up to 2'0' height of glazed tiles; platform: pre-polished black granite platform with stainless steel sink; wood work: modular kitchen cabinet; r.o water supply for kitchen
 - doors & windows:** main entrance shall be panel door and other doors shall be one side teak polished flush doors with hardwood frame; window shall be power/anodised aluminium with matching fittings; stylish wooden cupboard in bedrooms (as per floor plans).
 - electrification:** copper concealed wiring, provisions of lights, plug points tv and telephone points in drawing dining and all the rooms; designer fancy lights; 100% power backup etc.
- xxiii. That in the Id. consumer forum, only key of the unit was handed over to the complainant by the respondent and the complainant was unaware of the actual condition of the unit. The complainant was represented by the



respondents that the unit is completed in all respects of possession. The complainant only got an opportunity to visit and inspect the unit, after the getting the keys before the Ld. consumer forum.

- xxiv. That when the complainants visited unit on 15.05.2019, they took photographs of the degradable condition of the unit. From the photographs it can clearly be seen that the unit handed over to the complainants does not have any of the specifications promised by the respondent, such as the kitchen does not have pre-polished black granite platforms, R.O water supply; toilets does not have a hot and cold water system, wash basin with stone counter; doors and windows are also not as per the promised specifications; there is no electricity supply and no finishing of the unit. The respondent has charged the complainants with maintenance and electricity connections charges but still the same is not provided to the complainants.
- xxv. That the respondent sent an email dated 29.05.2019, for providing the pan details of complainant, so that the respondent can issue TDS certificate. In reply, complainant sent an email dated 30.05.2019, providing the pan details and also pointed out that after receiving the flat keys in Ld. consumer forum, they visited the unit and found it in a very bad condition. The complainants further requested the respondent to repair the unit, as they need to shift in the unit at earliest. The complainants also requested the respondent to provide a no dues certificate towards the maintenance dues till 15.05.2019 as the unit was on 15.05.2019 only.
- xxvi. That the respondent is obligated by Section 11(4)(a) of Act, 2016 to perform all their obligations, responsibilities and functions under this act or the rules made thereunder or as per the agreement for sale. That electricity and water are basic amenities, and their connection details need to be published by the developer in the RERA website also. Respondent herein has deprived the



complainants of such basic amenities. Further this proves the fact that the respondent has neither discharged their liability as per the act nor as per the agreement of sale.

- xxvii. That the complainants vide an application dated 17.06.2019, requested the cosmos executive apartments association apprising the association that they have requested the respondent to clear all the dues towards maintenance charges till 15.05.2019 (i.e. the date of handing over of keys of the unit) and provide no dues certificate until 15.05.2019. the complainants further requested the association to install electricity and water connection in their unit. Though the electricity connection charges were already paid to the respondent, the complainants, having no other option, again agreed to pay the said charges to the association to get the connection of electricity and water supply. However, no electricity and water connections were provided to the complainants.
- xxviii. the complainants vide email dated 23.06.2019, again requested the respondent to provide no dues certificate from the association towards maintenance charges, which is a necessary for getting water and electricity connection from the association. the complainant also requested for repairing the unit as it is not in a habitable condition. however, the respondent ignored the said request of the complainants and no action was taken by the respondent company.
- xxix. the complainant again sent a letter dated 26.06.2019, to the respondent stating that they have not received no dues certificate till now, which is a necessary document for getting water and electricity connection. the complainants expressed their resentment over not receiving any response from the respondent regarding the requests made. The association is not providing the electricity connection to the complainant despite having paid

the charges towards the same nor the respondent is making any effort to provide electricity connection in the complainants unit.

- xxx. That the complainants sent a reminder vide email dated 08.07.2019 to respondent, requesting to provide electricity connection and no dues certificate towards maintenance dues.
- xxxi. That the complainant sent a letter dated 21.07.2019, to the association stating that the keys were handed over to the complainant on 15.05.2019 in the Ld. consumer forum, and reminded the association that the complainants through various previous emails and letters have requested for installation of electricity and water connection but no action has been taken till date. The complainants further requested for installation of electricity and water connection as they want to shift in the unit immediately as non-availability of the said essential services, the complainants are facing a grave financial loss of Rs. 25,000/- per month. On the same day i.e. 21.07.2019, the complainants sent a reminder to the respondent and requested the respondent to provide the no dues certificate as being requested since long and to repair the defects in the flat.
- xxxii. Despite the above request, the respondent being at a dominant position, ignored all the requests of the complainant and did not even bother to issue the letter of offer of possession or any other communication regarding the status of the unit allotted to the complainant.
- xxxiii. That the electricity is a basic facility for premises and occupants of the premises shall have the right to use their property in an effective manner. This Authority while restoring the electricity connection, in the CR/6030/2019, titled as "hibiscus apartments owners associations vs. ss group private limited", observed that

"the occupants of these shops have a right to use their property in a proper effective manner with provision of basic facilities such as power."

- xxxiv. That as per section 14(3), if the allottee within five (5) years of handing over of possession, brings to the notice of the promoter any structural defect, or any defect in workmanship, quality or provision of services or any other obligations as per the agreement for sale, then it is the duty of promoter to rectify such defects without any further charge. In this case, the respondent has not rectified any of its defects, even after four years of continuous requests from the complainants. It is pertinent to note that the complainants have not taken physical possession of the unit till now as the unit is not in a hospitable and liveable condition.
- xxxv. As per the Rules 2(u) of the HARERA rules, the structural defect means any defect which is established to have occurred on negligence, use of inferior materials or non-adherence to the regulatory codes of practice.
- xxxvi. That the unit key handed over to the complainants before the Ld. consumer forum, was just a farce created by the respondent, by handing over an incomplete and inhabitable unit to the complainants. The respondent expects the complainants to live in the unit without any electrical or water connections, or any finishing, which is a basic need to live in a comfortable residential space.
- xxxvii. That as per clause 30 of the agreement, the process of handing over of possession is inclusive of preparing and executing the conveyance deed, to convey the title of the flat, in favour of complainants, which is till date not executed by the respondent. Also, as per section 11(4)(f) of the act, 2016, it's the duty of the promoter to execute conveyance deed of the plot in favour of allottee.
- xxxviii. Further, the respondent has failed to execute the conveyance deed till date for the unit of the complainants. pertinent to mention that the execution of

conveyance is a statutory right of the allottee. As per Section 17(1) of the act, 2016, for transfer of title to the allottee, the promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in common areas.

- xxxix. That by act and omissions the respondent has violated various provisions mentioned in the RERA act, 2016. that by act of providing wrong, incorrect and misleading advertisement and information in regard to the aforesaid project the respondent herein has violated the provision of Section 12 of the Act, 2016.
- xl. That the complainant booked this residential unit for the purpose of living there, but the conduct and services of the respondent has made it impossible to achieve. The respondent is disregarding the aims and objective of the real estate act, 2016, which provides for sale in an efficient manner and here the respondent has clearly failed to do so.
- xli. That the complainants have been running pillar to post for the completion of unit in respect of finishing and providing water and electricity charges, but to no avail. Moreover, the complainant also requested for execution of conveyance deed, but the respondent keep on dilly-dallying it and has not executed till date.
- xlii. Further, the respondent is also liable to clear the maintenance dues till 15.05.2019 i.e. the date of handing over the keys of the unit and to provide NOC from the association of clearance of maintenance dues till 15.05.2019.
- xliii. That the respondent has failed to adhere the provisions of the RERA Act, 2016 and thus liable to be punished under the provisions of the RERA Act. Hence, as per the facts and averments the complainant herein is entitled for the relief of execution of conveyance deed and to provide electrical and water connections etc. To the complainant in the unit.

- xliv. That the respondent has made false and frivolous assurances and promises to the complainants. The complainants had already faced a lot of financial distress due to the malafide act of the respondent. The present case is a clear exploitation of innocence and beliefs of the complainant and an act of the respondent to arbitrarily relocate the unit of the complainant and to reduce the size of the unit is illegal and the respondent also failed to hand over possession along with all the promised specifications. The unit which was to be handed over to the complainant, is sold to some other buyer by the respondent with malafide intention to gain unlawful enrichment which has caused immense loss to the complainant.
- xlv. That the respondent is a habitual defaulter and has defaulted in his obligations and responsibilities since inception of booking of the unit. respondent has also defaulted by not delivering the possession of the apartment in time and in habitable condition.

C. Relief sought by the complainant:

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

- a. Direct the respondent to provide the complainants with the electric and water connections in their unit.

OR

- b. Direct the respondent to transfer the amount collected towards Electric and Water connection charges to the Association, so that the Association may install Electricity and Water Connection in the unit of the Complainants.
- c. Direct the respondent to clear the maintenance dues till 15.05.2019 and provide the Complainant No Dues Certificate towards maintenance payable to the Association.
- d. To burden the respondent with the liability of payment of Maintenance charges till 15.05.2019 i.e. the date of handing over of the keys of the unit;
- e. To direct the respondents to remove the defects in the residential Unit.
- f. Direct the respondent to execute the Conveyance Deed in favour of the Complainants

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 contested the complaint on the following grounds:

- a. That there is no jurisdiction of RERA in this matter as it pertains to a flat no. B-1702 in executive apartments Palam Vihar Gurgaon, the occupation certificate of the project i.e. tower A and B was issued by DTCP on 19.11.2011.
- b. The RERA Act allows for refund of money and compensation when the developer fails to hand over the possession of the property as per the terms and conditions of the agreement for sale. Possession of the unit was offered to complainant on 02.08.2011.
- c. That the respondent has purchased the FSI of tower A and B from Ansal Properties and Infrastructures Ltd. The complainant took the keys of the flat in 2018 before the consumer court in execution petition No. 173 of 2018 in complaint no. 47/2012 and withdrew the petition.
- d. That the delay in handing over of the possession was due to the factors that were beyond the control of the respondent. Further, the complainant was well aware about the delay and the same was duly accepted by them.

E. Jurisdiction of the Authority.

7. The respondent has raised preliminary objection regarding jurisdiction of Authority to entertain the present complaint. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below:

E.I Territorial jurisdiction

8. 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.

E.II Subject matter jurisdiction

9. 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.

10. 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 complainant at a later stage.

F. Findings on the relief sought by the complainants

F.I Direct the respondent to provide the complainants with the electric and water connections in their unit.

OR

F.II Direct the respondent to transfer the amount collected towards Electric and Water connection charges to the Association, so that the Association may install Electricity and Water Connection in the unit of the Complainants.

F.III Direct the respondent to clear the maintenance dues till 15.05.2019 and provide the Complainant No Dues Certificate towards maintenance payable to the Association.

F.IV To burden the respondent with the liability of payment of Maintenance charges till 15.05.2019 i.e. the date of handing over of the keys of the unit;

F.V To direct the respondents to remove the defects in the residential Unit.

F.VI Direct the respondent to execute the Conveyance Deed in favour of the complainants.

11. The complainants contend that they entered into a builder buyer agreement with the respondent on 27.02.2006 for a total sale consideration of Rs. 27,45,000/-. As per Clause 29 of the agreement, possession was to be handed over within 24 months, i.e., by 27.02.2008. However, even after obtaining the occupation certificate on 19.01.2011, the respondent failed to hand over actual possession, execute the conveyance deed, provide a no dues certificate, or ensure water and electricity connections. The respondent also failed to complete the finishing and specifications of the unit.
12. On contrary the respondent submits that there is no jurisdiction of RERA Authority as it pertains to a Flat No. B-1702 in executive apartments Palam Vihar Gurgaon, for which the occupation certificate of the project i.e. Tower A & B was issued by DTCP on 19.11.2011(*sick:19.01.2011). The RERA Act allows for refund of money and compensation when the developer fails to hand over the possession of the property as per the terms and conditions of the agreement for sale. The possession of the unit was offered to complainant on 02.08.2011 and prays for the dismissal of complaint for lack of cause of action.
13. The complainants through present complaint are seeking relief for directing the respondent to provide electricity and water connections in the unit or transfer the collected charges to the association for installation of the same, Execution of the conveyance deed in their favour, Clearance of maintenance dues till 15.05.2019 and issuance of a no-dues certificate and Removal of defects in the unit.

14. It is pertinent to note that the complainants had earlier filed a Complaint No. 47 of 2012 before the District Consumer Disputes Redressal Forum, Gurugram. The Consumer Forum passed an order dated 07.02.2014, directing the respondent to pay compensation for delay and mental harassment as submitted by the complainants in their complaint. Subsequently, the complainants filed an execution petition (Execution No. 173 of 2018) for enforcement of that order. The said execution petition was withdrawn by the complainants on 15.05.2019 (Annexure C-18). In its order dated 15.05.2019, it was recorded that the complainants were handed over the keys of the unit and stated that they had no further dues and were fully satisfied, leading to the withdrawal of the execution proceedings.
15. Thereafter, the complainants sent a letter dated 17.06.2019 (Annexure C-22) to the President of the Cosmos Executive Apartment Association, wherein they confirmed that possession of the unit had been received on 15.05.2019. In the same letter, they requested the installation of electricity and water connections and expressed their willingness to pay the applicable charges from the date of installation.
16. The Authority also notes that the Occupation Certificate for the project was obtained by the respondent on 19.01.2011, well before the commencement of the Act, 2016. Since the unit was handed over in May 2019 and the Occupation Certificate was issued prior to the enforcement of the Act, the complainants themselves confirmed satisfaction and possession of the subject unit in order dated 15.05.2019, the Authority is of the considered view that most of the reliefs sought in this complaint are not maintainable before the Authority under the provisions of the Act, 2016. The complainants are at liberty to approach the appropriate forum w.r.t to the reliefs sought herein.

17. However, as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under obligation to get the conveyance deed executed in favour of the complainants. Whereas as per Section 19(11) of the Act of 2016, the allottee are also obligated to participate towards registration of the conveyance deed of the unit in question.

G. Directions of the Authority.

18. Hence, the Authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act:

- i. The respondent is directed to execute the conveyance deed in favor of the complainants subject to the payment of applicable stamp duty, registration and other statutory charges as per applicable local laws within a period of three months.
- ii. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.


19. Complaint as well as applications, if any, stand disposed off accordingly.

20. File be consigned to registry.



(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram



(Arun Kumar)
Chairman

Date: 22.07.2025