



**HARERA**  
**GURUGRAM**

Complaint No. 5343 of 2022

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

**Complaint No.** 5343 of 2022  
**Date of filing** 28.07.2022  
**Date of order** 15.07.2025

1. Rajiv Sharma and  
2. Avani Sharma  
**Both R/o** Sharma Farms, VPO  
Kapashera Brijwasan Road, New  
Delhi - 110037

**Complainants**

**Versus**

Puri Construction Pvt. Ltd.  
**Regd. Office at:** 4-7B, Tolstoy  
House, 15 and 17, Tolstoy Marg,  
New Delhi - 110001

**Respondent**

**CORAM:**

Shri. Arun Kumar  
Shri Ashok Sangwan

**Chairman**  
**Member**

**APPEARANCE:**

Sanjeev Kumar Sharma (Advocate)  
Ashok Singh Rawat (Authorised Representative)

(Complainants)  
(Respondent)

**ORDER**

1. The present complaint has been filed by the complainants/allottees on 28.07.2022 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 provisions of the Act or the Rules and regulations made there under or to the allottees 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(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.	Project name and location	"Diplomatic Greens", Sector 110A & 111, Gurugram		
2.	Project area	21.01875 acres		
3.	Nature of project	Group Housing		
4.	RERA registered/not registered	Not registered		
5.	DTCP License no.	55 of 2010 dated 25.07.2010	87 of 2012 dated 29.08.2012	33 of 2013 dated 25.05.2013
	Validity status	24.07.2025	28.08.2025	24.05.2024
	Area	15.457 acres	4.268 acres	1.29375 acres



	Name of licensee	Nature Villa Promoters Pvt. Ltd. & 2 Ors.
6.	BBA with Rajiv Sharma (Complainant No. 1)	09.10.2012 [pg. 24 of complaint]
7.	Endorsement in favour of Avani Sharma (Complainant no. 2)	05.03.2018 [pg. 86 of complaint]
8.	Unit no.	1802, 18 <sup>th</sup> Floor, Tower – C3 admeasuring 2237 sq. ft. [pg. 24 of complaint]
9.	Possession clause	<b>11(a)</b> Handing possession within 42 months from date of execution of BBA + 180 days grace period.
10.	Due date of possession	09.10.2016 (48 months including the grace period)
11.	TSC as per BBA dated 09.10.2012	Rs. 2,12,46,325/- [pg. 58 of Complaint]
12.	Amount paid by the complainant	Rs. 2,21,85,788/- [pg. 24 of reply]
13.	Occupation Certificate	29.08.2016 [pg. 47 of the reply]
14.	Offer of possession	27.11.2017 [pg. 50 of reply]



15.	Conveyance Deed in favour of Avani Sharma (Complainant No. 2)	19.04.2018 [pg. 60 of complaint]
16.	Conveyance Deed in favour of Rajiv Sharma (Complainant No. 1)	22.02.2023 [Through transfer deed in blood relation during the pendency of the case]
17.	Conveyance deed in favour of subsequent allottees	25.09.2023 pg. 05 of the written submission by the respondent]

**B. Facts of the complaint**

3. The complainants have made the following submissions in the complaint:
  - a. The present complaint is filed by Mr. Rajiv Sharma and Ms. Avani Sharma, an original allottees of the Project called "Diplomatic Greens" developed or to be developed by M/s Puri Constructions (Pvt.) Ltd. on the land admeasuring 21 acres (Approx) in 3 phases in sector 110A and 111 village Choma, Gurugram. The developer obtained following licenses from director Town and Country Planning, Chandigarh, Haryana.
  - b. Revised drawing plans were submitted before the statutory body for revisions after obtaining occupancy certificate which was sanctioned and approved by the authority. Now 3<sup>rd</sup> phase of the project is to be commenced soon and complete the project under above stated licenses. The Allottee booked a flat /apartment no. 1802 Tower 3, having super area



of 2237 sq. feet in the said project. The allottee complainant executed a builder buyer agreement on 09.10.2012 with the promoter. As per clause 11(a) of the said agreement the respondent was to deliver /handover the possession with in a period of 42 months from the date of execution of the said agreement which comes out to be 09.10.2016 (including the 180 days of grace period). After obtaining occupancy certificate only the promoter developer was under the legal obligation to handover the valid possession as per terms and conditions of the BBA and amount agreed and executed up on as per the BBA.

- c. It is pertinent to note that complainant was ready to pay the valid and bonafide demand of the promoter respondent excluding the false, illegal, unjust demands as per the demand letter being raised by him for handing over the possession.
- d. Such escalation made at the time of handing over the possession for the time of construction is false, illegal and defrauding all the allottees of the project. It is proven lie as the statistics clearly shows that value of steel during construction of the project never increased. Which can be verified from the market as well or the proofs rendered by the complainant at the time of arguments. Increase in the prices of U.S dollars in market is no ground for escalating the price.
- e. Changing of HVAT is also illegal because it is promoter/builder himself who has to deposit such HVAT from his own sources under amnesty scheme notification issued by the Haryana Excise and Taxation department in September 2016 which is upheld by the Hon'ble HRERA Gurugram itself.
- f. Otherwise also the promoter builder is late by 11 months for offer of possession and handing over the possession at one pretext or the other.

The allottee has paid Rs.2,21,85,788/- as per the statement of account issued by the promoter builder himself which calls for delay possession interest on the amounts received by him calculated legally. That the complainant also reserves her right to file separate complaint for compensation as and when required before the appropriate forum/ authority.

**C. Relief sought by the complainants:**

4. The complainants have sought following relief(s)
  - a. Delay possession interest as per rule 15 of the RERA act be awarded to the complainant till handing over of possession.
  - b. 4% escalation cost illegal charged from the complainant in during undue pressure of declining possession be refunded back to the complainant along with interest.
  - c. Refund HVAT amount charged from the allottees with interest.
  - d. Legal charges of ₹1,50,000/- for cost of litigation.
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:
  - a. That the present complaint has been filed seeking Delay Possession Charges ("DPC") for the Unit bearing no. C3-1802 (herein "Said Unit") in the project Diplomatic Greens situated at Sector-110A and 111, Gurgaon, Haryana (herein "Said Project").
  - b. That the subsequent allottee, Ms. Avani Sharma had sold the Said Unit vide Sale Deed no. 7494 dated 29.9.2023 to another allottees; (a) Mr. Rahul





Sharma and (b) Ms. Priti Varshney during the proceedings of the present case.

- c. That the original allottee Mr. Rajiv Sharma herein Complainant entered into an Apartment Buyer's Agreement ("ABA/BBA") dated 9.10.2012 with the Respondent and Ms. Avani Sharma being subsequent transferee got the unit allotted in her favour vide transfer dated 05.03.2018.
- d. That the Respondent applied for Occupation Certificate (OC) for the Said Project on 20.4.2016 and received OC on 29.8.2016 before enactment of RERA Act, 2016.
- e. That the Respondent thereafter offered possession vide offer of possession letter dated 27.11.2017 and thereafter the Conveyance Deed was executed on 19.4.2018 in favour of subsequent allottee; Ms. Avani Sharma without any demur or protest.
- f. That the Respondent as a goodwill gesture provided compensation / discounts / waivers by way of credit notes twice i.e. 1st credit note was passed on 21.12.2017 for an amount of Rs. 2,18,143/- and 2nd credit note was passed on 15.3.2018 for an amount of Rs. 72,427/-, the same is highlighted/ seen at Statement of Account.
- g. That Further the Complainant Mr. Rajiv Sharma at the time of filing of complaint was not the allottee of the Said Unit as he had already transferred the Said Unit in favour of Ms. Avani Sharma. Further as per the judgment passed by Ld. State Consumer Disputes Redressal Commission, Panchkula in the matter titled as **"Daya Singh & Viraj Gaur Vs. Puri Construction Pvt. Ltd."**;

*"Ld. Commission held that there was no privity of contract between Respondent and subsequent allottee. Original allottee has already transferred all his rights, title and interest in the*

*said apartment to subsequent allottee. The original allottee was neither an allottee nor a consumer as he had already relinquished all his rights, title and claims whatsoever in favour of subsequent allottee."*

- h. That the Complainant is guilty of concealment of material facts from this Hon'ble Authority. The Complainant has concealed the fact of sale of Said Unit from subsequent allottee; Ms. Avani Sharma to another allottees vide Sale Deed no. 7494 dated 29.9.2023 during the proceedings of the present case/litigation just for availing monetary benefits from the Respondent, hence the Complaint is liable to be dismissed.
- i. That the present complaint is defective as the same was filed by the complainant who was not the owner of the said unit at the time of filing of the present complaint hence the complaint being defective is liable to be dismissed outrightly.
- 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 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**

- 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.

**E. 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) 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.*

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.

**F. Findings on the relief sought by the complainants.**

- F.1. Delay possession interest as per rule 15 of the RERA act be awarded to the complainant till handing over of possession.**
- F.2. 4% escalation cost illegal charged from the complainant in during undue pressure of declining possession be refunded back to the complainant along with interest.**
- F.3. Refund HVAT amount charged from the allottees with interest.**
- F.4 Legal charges of ₹1,50,000/- for cost of litigation.**



12. On consideration of the documents available on record, the Authority observes that the original allottee i.e., complainant No. 1 was allotted flat no. 1802, C3, admeasuring 2200 sq. ft. approx. in the project of the respondent named "Diplomatic Greens" situated at Sector-110A & 111, Gurugram vide BBA dated 01.11.2010. The occupation certificate for the subject unit has been obtained by the respondent promoter on 29.08.2016 and the possession has been offered on 27.11.2017 to complainant no. 1. The unit was further transferred in the name of complainant No. 2 on 05.03.2018 and the conveyance deed was executed between the complainant no. 2 and respondent on 19.04.2018.
13. For a proper adjudication of the matter, it is necessary to take note of the chronology of events relating to the transfer and possession of the unit. The following table of dates and events is of material significance, as it reflects the sequence of actions undertaken by the parties during the last few years.

Sr. No.	Date of the Event	Event
1.	09.10.2012	Original Allottee Mr. Rajiv Sharma entered into Apartment Buyer's Agreement (ABA/BBA) with the Respondent
2.	29.08.2016	OC received by Respondent (before enactment of RERA Act, 2016)
3.	27.11.2017	Offer of Possession issued by Respondent to the Original Allottee i.e., complainant no.1
4.	05.03.2018	Transfer of unit in favour of Ms. Avani Sharma (complainant no. 2)



5.	19.04.2018	Conveyance Deed executed in favour of Ms. Avani Sharma (complainant no. 2)
6.	28.07.2022	Complaint filed by the Complainants.
7.	22.02.2023	Transfer Deed No. 13466 executed by Ms. Avani Sharma transferring the unit to Mr. Rajiv Sharma
8.	25.09.2023	Sale Deed No. 7494 executed by Ms. Rajiv Sharma transferring the unit to Mr. Rahul Sharma & Ms. Priti Varshney (third party)
9.	14.05.2024	The Hon'ble Authority had directed the Complainants to amend the memo of parties in the present complaint.
10.	27.06.2024	However, the said direction has not been complied with by the Complainants.

14. Moreover, it is observed that the present complaint has been filed by Mr. Rajiv Sharma and Ms. Avani Sharma. However, the record reflects that at the time of filing of the complaint, Mr. Rajiv Sharma was no longer the allottee of the subject unit, having already transferred all his rights, title, and interest in favour of Ms. Avani Sharma and the sales customer ledger dated 03.03.2023 reflects only the name of Ms. Avani Sharma.
15. Further, it is noted that vide order of this Authority dated 14.05.2024, the counsel for the complainant was specifically directed to amend the memo of parties within 15 days from the date of the said order, so as to bring on record the correct and necessary parties in whose favour the rights and interest in the subject unit now vest. However, despite the lapse of



considerable time, the complainant has failed to comply with the said direction properly and has not carried out the amendment as directed. Such non-compliance not only reflects negligence on the part of the complainant but also renders the present proceedings defective and not maintainable in law.

16. Later, on 22.02.2023, Ms. Avani Sharma has subsequently transferred his rights and interest in the said unit to Mr. Rajiv Sharma through Transfer Deed No. 13466.
17. Now, it is an admitted position that Mr. Rajiv Sharma has subsequently transferred his rights and interest in the said unit to Mr. Rahul Sharma and Ms. Priti Varshney vide registered sale deed bearing no. 7494 dated 29.09.2023 with sale consideration Rs.2,12,00,000/-, thereby relinquishing all his rights, title and claim in favour of the consequent allottees. The complaint, therefore, is not maintainable and is liable to be dismissed.
18. It is also observed that the Hon'ble Supreme Court in its order dated 10.01.2022 in MA NO. 21 of 2022 of Suo Moto Writ Petition Civil No. 3 of 2020 have held that the period from 15.03.2020 to 28.02.2022 shall stand excluded for purpose of limitation as may be prescribe under any general or special laws in respect of all judicial or quasi-judicial proceedings.
19. In the present matter the cause of action arose on 27.11.2017 when the offer of possession was made by the respondent. The complainants have filed the present complaint on 28.07.2022 which is 4 years, 8 months and 1 day from the date of cause of action. The present complaint has been filed on 28.07.2022. Even after taking into the account the exclusion period from 15.03.2020 to 28.02.2022, the complaint has not been filed within a



reasonable period of time nor has the complainants explained any grounds for the delay in filing the same.

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 before the authority.
21. The Complaint stands disposed of accordingly.
22. File be consigned to registry.

(Ashok Sangwan)  
Member

(Arun Kumar)  
Chairman

**Haryana Real Estate Regulatory Authority, Gurugram**  
**Dated: 15.07.2025**

**HARERA**  
**GURUGRAM**