

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

Complaint no. : 4492 of 2023
Date of order : 10.09.2025

Radha Krishan

Address: Gouse no.-22, Village Dhumaspur,
Gurugram, Haryana.

Complainant

Versus

M/s Golden bricks Constructions Private Limited

Office at: - 7, Paschim Enclave, Main Rohtak Road,
New Delhi.

Also At: 87, Directing road of Sector-46-47, Medanta
Road, Gurugram.

Respondent

CORAM:

Ashok Sangwan

Member

APPEARANCE:

Satvir Singh Hooda (Advocate)

Dhruv Rajpal (Advocate)

Complainant

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(4)(a) of the Act wherein it is inter alia prescribed that the promoter

shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale executed inter se.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainant, 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	"Golden Arcade & Damas-The Studio"
2.	Project location	Sector-67, Gurugram.
3.	Project type	Serviced apartments
4.	HRERA registered/ not registered	Not registered
5.	DTCP Licence no.	Licence no. 18 of 2010 Dated-10.03.2010
6.	Allotment letter dated	25.03.2013 (As on page no. 47 of complaint)
7.	Date of apartment buyer agreement [Between original allottee and respondent]	10.10.2012 (As on page no. 14 of complaint)
8.	Agreement to sell [note: between original allottee and complainant]	10.12.2012 (As on page no. 18 of reply)
9.	Unit no.	514, Floor-5 th

		(As on page no. 16 of complaint)
10.	Unit area admeasuring	524.28 sq.ft [Super-Area] (As on page no. 16 of complaint)
11.	Possession clause	Clause 8 POSSESSION 8.1 Time of handing over the Possession (a) The Developer proposes to hand over possession of the unit within a period of twenty four (24) months from the date of signing of this Agreement. The Buyer(s) agrees and understands that the Developer shall be entitled to a grace period of Ninety (90) days, after the expiry of twenty four(24) months or such extended period , for applying and obtaining the OCCUPATION CERTIFICATE, in respect of the COMMERCIAL COMPLEX. [Emphasis supplied]
12.	Due date of possession	10.01.2015 [Calculated 24 months from the date of signing of the agreement plus 90 days]
13.	Total sale consideration	Rs.47,26,828/ (As on page no. 17 of complaint)
14.	Amount paid by the complainant	Rs.35,18,754/-
15.	Occupation certificate	25.01.2017 (As per the copy of Occupation certificate submitted by the

		respondent during proceedings)
16.	Offer of possession	14.01.2017 (As on page no. 80 of reply)

B. Facts of the complaint

3. The complainant has made the following submissions: -

- I. That the complainant came into contact with Mr. Karan Bhatia who told the complainant that he had booked a shop / Studio Apartment No.514 in the project "Golden Arcade & "Damas The Studio", Sector-67, Gurugram and the Buyer's Agreement was executed on 10.10.2012, showing the total sale consideration of Rs.47,26,828/-. After booking the said property, due to some unavoidable circumstances and financial position he was not able to continue with the said booking, therefore, he requested the complainant to buy the subject studio apartment / shop from him. Thereafter an agreement to sell was executed between Mr. Karan Bhatia and Mr. Rohit Khatana i.e. son of complainant, mutually consented by the respondent and the complainant. The booking amount already paid to the builder was reimbursed by the buyer to Mr. Rohit Khatana.
- II. That apart from issuing a payment receipts on different dates, acknowledging the receipt of amount, the respondent issued an Allotment Letter on 25.03.2013 carrying the details of unit allotted and also the details of amount to be deposited by the complainant time to time as per payment plan opted by the complainant. An offer of possession letter dated 14.04.2017 was also issued by the respondent to the complainant.
- III. That the complainant without making any kind of delay always deposited the amount as required under the payment plan/schedule opted by the

complainant immediately on receipt of letters from the respondent and in total the complainant had paid an amount of Rs.35,18,754/- in the following manners:-

- (i) Rs.4,00,000/- at the time of booking was paid as booking amount on 01.07.2012 through cheque no.000002
 - (ii) Rs.1,50,000/- at the time of booking was paid as booking amount on 24.09.2012 through cheque no.000005
 - (iii) Rs.6,33,003/- through cheque no.145681 dated 12.12.2012, Receipt no.217 dated 15.12.2012.
 - (iv) Rs.2,95,751/- through cheque no.145682 dated 16.01.2013, Receipt no.312 dated 18.01.2013
 - (v) Rs.5,20,000/- through cheque no.145687 dated 14.05.2013, Receipt no.509 dated 28.05.2013.
 - (vi) Rs.5,00,000/- through cheque no.527780 dated 23.08.2013
 - (vii) Rs.5,00,000/- through cheque no.145692 dated 15.01.2014
 - (viii) Rs.5,20,000/- through cheque no.145698 dated 16.06.2014
- Rest amount of Rs.12,08,074/- was to be paid to the respondent at the time of possession as committed by the respondent i.e. 24 months from the date of signing of this agreement i.e. from 10.10.2012 with the grace period of 90 days.

- IV. That from the above said timely payments made by the complainant in favor of the respondent leaves no iota of doubt that the complainant has been very sincere and honest while complying with the terms and conditions of the letter of allotment dated 25.03.2013 as well as of Buyer Agreement dated 10.10.2012 as the same was agreed and settled to be payable at the time of offer of possession complete in all respect of the said unit by the respondent.
- V. That on account of not constructing the above said unit within a stipulated period of 27 months, the complainant contacted the respondent several times to inquire after the progress of construction of the booked studio apartment/shop and asked to handover the peaceful physical possession of the above said studio apartment/ shop on committed period to the complainant but to no purpose at all. And that so much so, the

respondents failed to hand over the physical possession of the above said unit to the complainants till date.

- VI. That instead of admitting their fault/negligence on account of not offering the possession of the said studio apartment / shop to the complainant, respondent kept on issuing reminders for illegal demand of payment regularly. The respondent had crossed all the limits by keeping aside all the provisions of law of the land and without bothering having any fear of natural justice of law, they kept on sending their illegal demands to the complainant regularly.
- VII. That on account of not getting the possession of the above said unit allotted to the complainant within the stipulated period of 27 months, the complainant had suffered a huge monetary loss for the past more than 9 years.
- VIII. That the complainant approached the respondent many a times to inquire after the progress made in the construction of the said unit and handing over the physical possession of the said studio apartment / shop. But the respondents did not even bothered to respond the buyer and paid no heed to his request.
- IX. That till date the respondents had failed to complete the said project on the assured time and date. The respondent had backed out from their assurances / promises and kept on misappropriating the huge hard earned money of the complainant.
- X. That as the respondent has failed to discharge its liabilities to complete the project and to handover the peaceful physical possession of the allotted studio apartment / shop to the complainant within the stipulated time and thus have cheated the complainant to invest her hard earned money. The respondent is involved in the swindling and embezzlement of funds not only of the complainant, but several other peoples at large.

Therefore, the respondent is liable to pay the refund of entire amount of Rs.3518754/- to the complainant with compound interest @ 24 % per annum till handing over the physical possession of the unit to the complainant.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - i. Direct the respondent to refund the entire amount of Rs.35,18,754/- alongwith interest @ 24% p.a.
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 initially the Buyer's Agreement was executed between the original allottee Mr. Karan Bhatia and the respondent after which the original allottee entered into an Agreement to Sell with the complainant and the respondent endorsed name of the complainant in its records.
 - II. That till date the complainant has not cleared the dues and instead of clearing the dues, the complainant has come before the Authority seeking relief just to cause wrongful gain to himself and wrongful loss to the respondent.
 - III. That time and again, the respondent requested the complainant to take physical possession of the unit by clearing all the outstanding dues but the complainant had not paid any heed towards it and did not come forward to take the physical possession of the same.
 - IV. That the respondent vide various letter informed the complainant to get the property registered in his name after the payment of amount which

were due and payable by the complainant and various emails were also sent by the respondent.

- V. That there was a delay in handing over the possession as the respondent has not received the water supply of the Govt. and the clause 8.1 of the agreement supports the view of the respondent.
- VI. That the respondent has already offered the possession of the suit property to the complainant in the year 2017 subject to deposition of the remaining amount. Further there are certain dues which are pending qua maintenance/holding charges of the premises apart from balance payment due and payable by the complainant.
- VII. That the present complaint is barred by law of limitation as the project in question was completed way back in 2017 and the offer of possession was offered to the complainant in April 2017 and the present complaint has been filed in the year 2023 as such the present complaint is liable to be rejected outrightly.
- VIII. That no cause of action has arisen in favour of the complainant as the complaint against the respondent is not maintainable before the Authority and therefore, the complainant cannot invoke the jurisdiction of this Authority to pray for any relief against the respondent.
- IX. That the complainant has instituted this complaint because his interest in the property that he purchased has been shifted to some other property that is the reason he has dragged the respondent in this litigation.
- X. That the delay in the possession and execution of documents is caused because the complainant could not provide the respondent with the necessary documents and also the required payments which have to be made to the respondent for giving the possession of the said unit which were required to get the property registered.

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

E. Jurisdiction of the authority

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)(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;

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.

F. Findings on the objections raised by the respondent.

F.I. Whether the complaint is barred by limitation or not?

12. In the present complaint, the Builder Buyer's Agreement was executed on 10.10.2012 between the original allottee (Mr. Karan Bhatia) and the respondent and the same was later endorsed in favour of the complainant and the allotment letter was issued in favour of the complainant on 25.03.2013.
13. As per clause 8 of the agreement, the respondent was to offer possession of the unit to the allottee within 24 months from the date of signing of the agreement. The agreement was executed on 10.10.2012, also a grace period of 90 days was agreed between the parties and the same is granted to the respondent, being unqualified. Thus, the due date comes out to be 10.01.2015.
14. The respondent has raised an objection that the present complaint is barred by limitation. The respondent has offered possession of the unit to the complainant on 14.01.2017, on which the cause of action for claiming the delay compensation has arisen. The present complaint has been filed on 27.09.2023, after a gross delay of more than 6 years. The complainant cannot be allowed to sleep over its rights indefinitely and wake up at any time as he pleases. The respondent cannot be held at gunpoint for indefinite period of time.
15. The Authority is cognizant of the view that the law of limitation does not strictly apply to the Real Estate Regulation and Development Authority Act of 2016. However, the Authority under section 38 of the Act of 2016, is to be guided by the principle of natural justice. It is universally accepted maxim

and the law assists those who are vigilant, not those who sleep over their rights. Therefore, to avoid opportunistic and frivolous litigation a reasonable period of time needs to be arrived at for a litigant to agitate his right. This Authority of the view that three years is a reasonable time period for a litigant to initiate litigation to press his rights under normal circumstances.

16. 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.
17. 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.
18. 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.

19. 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.
20. 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.
21. File be consigned to the registry.

Dated: 10.09.2025



(Ashok Sangwan)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram