

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

Complaint no. : 4532 of 2024
Date of decision : 08.08.2025

Sophia Constructions Limited
R/o: - Blue One, Square Building, First Floor, Phase-
IV Road, Udyog Vihar, Sector 18, Gurugram

Complainant

Versus

M/s Experion Developers Private Limited
Office at: 2nd floor, Plot No. 18, Sector 32, Gurugram
122001

Respondent

CORAM:
Shri Arun Kumar

Chairman

APPEARANCE:
Shri Arun Yadav
Shri Venket Rao

Advocate for the complainant
Advocate for the respondent

ORDER

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

A. Unit and project related details

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

S. N.	Particulars	Details
1.	Name of the project	The Westerlies, Sector 108, Gurugram, Haryana
2.	Project area	100.48 acres
3.	Nature of project	Plotted
4.	RERA registered/ not registered	Registered 16 of 2020 dated 22.06.2020 valid upto 10.07.2024
5.	DTCP license no.	57 of 2013 dated 11.07.2013 valid upto 10.07.2026
6.	Plot no.	F5/11 (page 18 of complaint)
7.	Unit area admeasuring	358.89 sq. Yds. (Page 18 of the complaint)
8.	Date of execution of plot buyer's agreement	02.06.2018 (page 15 of complaint)
9.	Possession clause	ARTICLE VIII 1. Subject to the terms and conditions of this agreement, <i>the developer estimates completing the internal development works of the project in accordance with the conditions of the license and applicable laws within 2 years from the date of execution of this agreement</i> or the date of receipt of the last of all the project approvals for the commencement of development of the project from the competent authorities, whichever is later.
10.	Due date of possession	02.06.2020

		(calculated from 2 years from the date of execution of agreement)
11.	Basic price of the plot	NIL (adjusted against consideration of collaboration agreement) (as per page 24 of the complaint)
12.	Amount paid by the complainant	Fully paid as alleged by the complainant
13.	Occupation certificate/completion certificate	Not obtained
14.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint: -

- i. That the complainant is a law-abiding company, duly registered, the memorandum and article of association.
- ii. That respondent is a company incorporated under the Companies Act, 1956 having a Registered office at F-9, First Floor, Manish Plaza-I, Plot No.7, MUL, Sector 10, Dwarka, New Delhi -110075.
- iii. That as per Sec 2(zk) of the Real Estate (Regulation and Development) Act, 2016, the respondents fall under the category of "promoters" and are bound by the duties and obligations mentioned in the said act and are under the territorial jurisdiction of this Hon'ble Regulatory Authority.
- iv. That as per Section 2(d) of the Real Estate (Regulation and Development) Act, 2016, the complainant falls under the category of "allottee" and has rights and obligations under the act.
- v. That the complainant company along with various other companies entered into a collaboration agreement dated 31.10.2012 with the respondent

wherein the respondent developer was to develop a residential township by the name of "The Westerlies". The competent authority issued license no. 57 of 2013 dated 11.07.2013.

- vi. That in lieu of and as per the terms and conditions of the collaboration agreement the complainant was thereafter allotted a plot bearing no. F5/11 measuring 358.89 sq. yards or 300 sq. meters. The basic sale price and applicable rates for preferential location charges for the plot stand fully paid in terms of the collaboration agreement dated 31.10.2012 and plot buyer agreement dated 02.06.2018, even the EDC, IDC & IAC for the plot stand fully paid as clearly mentioned in Article III, clauses 1 & 3 appearing at page No.9 of the plot buyer agreement.
- vii. That the respondent developer had undertaken to develop the project within two years in accordance with the conditions of the license and applicable laws from the date of signing of the present agreement / PBA i.e. 02.06.2018 as per clause no.1 of Article VIII, of the PBA, the respondent was entitled to a grace period of six months and upon failure on the part of the respondent to deliver possession of the allotted plot to the complainant in such scenario the respondent was liable to pay to the buyers/ complainant' compensation calculated at the rate of Rs.200/- per sq. meter for every month of delay. That admittedly the respondent was to deliver the possession of the plot on or before 03.12.2020, however, the respondent has failed to deliver the possession of the plot to the complainant within the stipulated period as such has violated the provisions of the act.
- viii. That in lieu of the delay caused by the respondent to deliver the possession to the complainant, the respondent has made themselves liable to pay a delay interest penalty for the default period i.e. till the handover of the plot as per the RERA Act, 2016.

- ix. That the complainant followed up with the respondent and requested the respondent to hand over the physical possession of the plot after making payment of the compensation/ delay interest penalty, as per the RERA Act, 2016 but the complainant never got any satisfactory response from the respondent. Initially, the respondent gave false hope to the complainant that the complainant would get possession of their plot very soon as all the development work was completed, but whenever the complainant paid a visit to the project site, it was found that the development work was still undergoing and was far from completion, however few days back the respondent apprised the complainant that OC/ CC has been received by it and offered the possession of the plot to the complainant without considering the penalty, for the default period, which the complainant is entitled as stipulated in RERA Act, 2016. Hence, the offer so made by the respondent without considering the delay interest penalty, as per RERA Act, 2016 and instead asking for further payments from the complainant under various categories, without considering the amounts owed to the complainant, is not a valid offer of possession.
- x. That it is more than eleven to twelve years from the date of issuance of the license and date of the collaboration agreement, and from the date of PBA there is a delay of about 3 years and 8 months, which clearly shows the negligence on the part of the builder/ developer/ respondent.
- xi. That the facts and circumstances as enumerated above would lead to the only conclusion that there is a clear deficiency in service on the part of the respondent and as such, they are liable to compensate the complainant, as per RERA Act, 2016.
- xii. That there are a clear unfair trade practice and breach of contract and deficiency in the services of the respondent, and it seems that fraud has been played with the complainant which is prima facie clear on the part of

the respondent which makes them liable under the provisions of the RERA Act.

- xiii. That the cause of action for the present complaint arose on 03.12.2020, when the respondent failed to deliver/ hand over the possession of the plot as per the plot buyer agreement. Further, the cause of action still subsisting on month to month as the respondent is not paying the mutually agreed compensation for its failure to deliver the plot within the stipulated time period and despite assurances given by them that the possession would be delivered within the agreed time as agreed under PBA.

C. Relief sought by the complainants: -

4. The complainants have sought following relief(s):
- i. Direct the respondent to immediately handover the physical possession of the plot unconditionally.
 - ii. Direct the Respondent to pay delayed possession charges as per the provision of the RERA Act 2016 to the complainant for the delayed period i.e., from December 2020 till the handing over the possession of the plot, under the provisions of the Act.

D. Reply by the respondent:

5. The respondents have contested the complaint on the following grounds:
- i. That Experion Developers Pvt. Ltd. is a renowned private limited company registered under the provisions of the Companies Act, 1956 and is engaged in the business of real estate projects across the country.
 - ii. That Sophia Construction Ltd. is a real estate company registered under the provisions of the Companies Act, 1956 and is engaged in the business of development and construction of real estate projects.
 - iii. It is apposite to mention herein that the complainant owned a land parcel admeasuring 6.283125 acres situated in the revenue estate of village

Dharampur at Sector 108, Gurgaon. That to have the Sophia Land developed, the complainant wished to integrate and collaborated with the respondent along with other landowners of adjacent land for development of a real estate project on the total land area admeasuring 100.48125 acres including the Sophia Land. Accordingly, a collaboration agreement dated 31.10.2012, recording the terms and conditions mutually agreed between the complainant, the respondent and other landowners was executed between the parties.

- iv. That under the said collaboration agreement along with contributing its land to be included in the total land on which the real estate project was to be developed, the complainant further gave the respondent the right to develop the project on its land. Hence, the respondent became the developer of the project.
- v. In consideration of the development rights granted by the complainant, a fixed saleable area was agreed to be allocated to the complainant with the liberty to sale the same to 3rd party.
- vi. It is pertinent to mention herein that in lieu and consideration of the land contributed by the complainant to develop the project and development rights granted thereof to the respondent, it was mutually agreed between the parties that the complainant shall be entitled to 1975 sq. yds. of residential plotted area for every acre of Sophia land. It was further agreed between the parties that subject to agreed terms and conditions of the collaboration agreement, the complainant shall have the right to book, allot or otherwise deal with in any manner, it's part of the saleable area.
- vii. It is also pertinent to mention herein that the collaboration agreement in clause 1.6 clearly envisages that the said collaboration agreement does not

construe any sale or conveyance of the Sophia land, or part thereof in favour of the respondent. Meaning thereby, that the owner of the land contributed by the complainant was still the complainant and the respondent has merely got development, marketing and other rights as agreed to in the collaboration agreement. Therefore, it is incumbent on the part of the respondent to allocate a fixed saleable area to the complainant with the liberty to sell the same to 3rd party, in consideration of the development rights granted by the complainant.

viii. That after the execution of the collaboration agreement, the complainant, along with the respondent and other landowners, obtained a license bearing no. 57 of 2013 dated 11.07.2013 from the DTCP for the development of total licensed land, i.e., 100.48125 acres. Hence, the complainant is also a license holder of the land.

ix. That, from a mere perusal of the aforementioned facts, it is evident that the complainant is not an allottee, but rather is a landowner/license holder/collaborator of the land on which the project is developed by the respondent in collaboration with the complainant and other landowners.

x. That the complainant is an allottee is devoid of merits also because it is a co-promoter of the project and has sold many plots in the project from its allocation of saleable area under the collaboration agreement. It is further submitted that the fact that the complainant is a promoter of the project can also be verified from the fact that an allottee of the complainant has already filed a complaint bearing no. 1363 of 2024, titled as "Vineti Sethi vs Experion Developers Pvt. Ltd. and Sophia Construction Ltd." and the same is pending adjudication before the Ld. Authority.

- xi. It is reiterated herein that as per the mutually agreed terms and conditions of the PBA, it was agreed between the complainant and the respondent that as a consideration of development rights in favor of the respondent, the complainant shall be entitled to 1975 sq. yds. of residential plotted area for every acre of Sophia land, with a right to sell the same to 3rd party, meaning thereby, that the complainant was entitled to be allocated plots in the project, with a right of selling the same to 3rd parties.
- xii. That in Article XI of the PBA, it is also agreed between the complainant and the respondent that the complainant can transfer the plot in question in the present complaint to any 3rd party subject to the terms of the collaboration agreement.
- xiii. That from a mere perusal of the aforementioned submissions, it is evident that the PBA was executed between the parties solely for the reason of allocation of the plot to the complainant in compliance of the collaboration agreement, so that the complainant can sell the same further to any 3rd party.
- xiv. It is pertinent to mention herein that the relationship between the complainant and the respondent is not that of builder and allottee. That the complainant and the respondent are both co-promoters/license holders of the project. That alleged grievances of the complainant do not arise from the PBA, which is an extension of the collaboration agreement but rather arise from the collaboration agreement itself.
- xv. It is reiterated herein that the alleged dispute between the parties arises out of the collaboration agreement, which does not fall under the purview of the Ld. Authority as the same is a civil dispute; therefore, the Ld. Authority is

barred from exercising its jurisdiction over matters that are of civil in nature.

xvi. That there is no delay on the part of the respondent in development of the project. Further, substantial time was consumed in obtaining various approvals for the development of the project. Thereafter, there were other force majeure situations which arose from time to time including ban of NGT on construction & development works, Covid, etc.

xvii. It is most humbly submitted that as of date the respondent has fulfilled its obligation under the collaboration agreement and has developed the project as per the terms and conditions of the collaboration agreement. That post completing the construction of the project, the respondent has also obtained the part completion certificates dated 22.03.2018 and 30.01.2024.

xviii. That from a mere perusal of the aforementioned submissions, it is abundantly clear that the present complaint is not maintainable as it miserably fails to establish any promoter-allottee/builder-buyer relationship between the complainant and the respondent and the alleged dispute is of civil in nature. That without prejudice to the contentions raised herein, it is most humbly submitted that the complainant has no cause of action to file a complaint before the RERA Authority against the respondent.

6. 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 submissions made by the complainant.

D. Jurisdiction of the authority

7. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below:

D.I Territorial jurisdiction

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

D.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)**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.

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 complainants at a later stage.

E. Findings on the relief sought by the complainants.

E.I Direct the respondent immediately handover the physical possession of the plot.

E.II Direct the respondent to pay delay possession as per the RERA Act.

11. The respondent Company approached the complainant collaborate with him in the execution and completion of the said plotted residential complex on the said land and executed the Development/Collaboration Agreement dated 31.10.2012 with the respondent. In terms of the collaboration agreement, the complainant is entitled to get 6.28 acres of plot for the collaboration land.
12. Thereafter, plot buyers' agreement was executed between the parties on 02.06.2018 and possession was to be handed over by 02.06.2020. The respondent allotted plot no. F5/11 of 358.89 sq. yds in The Westerlies, Sector 108, Gurugram to the complainant.
13. Now the question arises, whether the complainant is allottee or not as the unit has been allotted in terms of the collaboration agreement. As per the provisions of the Real Estate (Regulation and Development) Act, 2016, the term "allottee" is defined under Section 2(d), a person to whom a plot, apartment, or building has been allotted, sold, or otherwise transferred by the promoter, and includes a person who subsequently acquires the said allotment through sale, transfer, or otherwise. In the present case, if the complainant has been allotted a unit pursuant to a collaboration agreement, it is essential to ascertain whether such allotment confers upon the complainant the legal status of an allottee within the meaning of the Act. Mere allocation of a unit under a collaboration agreement, in the absence of an agreement for sale or any registered conveyance deed, may not ipso facto render the complainant an allottee under the Act. But in the present case, the unit was allotted by the promoter and such allotment carries a vested legal right or interest in the property.

14. In the present complaint, the complainant intends to continue with the project and is seeking delay / possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

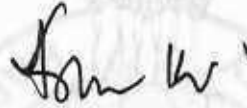
*18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —
.....Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."*

15. It is pertinent to mention here that the complainant did not pay any consideration to the respondent-promoter under the terms of the collaboration agreement executed between the parties. As per the agreed terms and the documented payment plan, the amount of sale consideration is explicitly mentioned as NIL. Furthermore, the available records clearly indicate that no monetary payment was ever made by the complainant to the respondent towards the cost of the unit. Since the claim for delayed possession charges typically arises under Section 18(1)(a) of the RERA Act, where an allottee is entitled to compensation for delay in possession only if consideration has been paid, the complainant is not entitled to any relief under this provision. Therefore, in the absence of any financial contribution from the complainant, the claim for DPC is not maintainable. However, the respondent is directed to handover the possession of the unit to the complainant within one month and also to execute the conveyance deed in favour of the complainant within 2 months.

F. Directions of the authority

16. 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):

- i. The respondent is directed to handover possession of the plot in question within one months after obtaining completion/part completion certificate from the competent authority.
 - ii. The respondent is directed to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.
17. Complaint stands disposed of.
 18. File be consigned to registry.



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 08.08.2025

HARERA
GURUGRAM