BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no. : 494 of 2025
Order pronounced on : 09.10.2025

1. **Santosh Chawla**
   R/o: 1/10, Jaidev Park, East Punjabi Bagh, S.O. West Delhi, Delhi-1100026
2. **Anju Bajaj**
   R/o: 32, Ishwar Nagar, East Friends Colony, Sriniwaspuri S.O. South Delhi, Delhi-110065
3. **Seema Ahuja**
   R/o: E-11/10, Vasant Vihar, South West Delhi, Delhi-110065
4. **Anupma Puri**
   R/o: AG 33, Shalimar Bagh, North West Delhi, Delhi-110088
5. **Atika Chawla**
   R/o:- 1/10, Jaidev Park, East Punjabi Bagh, S.O. West Delhi, Delhi-1100026

Complainants

Versus

1. **M/s Bestech India Pvt. Ltd.**
   Address: - Plot No, 51, Bhagwan Mahavir Marg, Sector-44, Gurugram, Haryana.
2. **Orient Craft Limited**
3. **M/s Olympus Realtors Private Limited**
   Address: - Plot No. 80- P, Near Hero Honda Chowk Flyover, Block B, Sector-34, Gurgaon, Haryana-122001

Respondents

Coram:
Shri Arun Kumar — **Chairman**
Shri P.S. Saini — **Member**

Appearance:
Shri Ravinder Singh Yadav — Advocate for the Complainant
Shri Ishan Dang — Advocate for the Respondent No. 1
None — For Respondent no. 2

ORDER

1. The present complaint has been filed by the complainant/allottee 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, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.No.	Particulars	Details
1.	Name of the project	Orient Bestech Business Tower
2.	Project location	Village - Khandsa, NH-8, Gurugram, Haryana
3.	Project type	IT/Cyber Space
4.	HRERA registered/ not registered	Not registered
5.	Date of buyer agreement	26.11.2009 (As per page no. 24 of the complaint)
6.	Unit no.	608, 6th Floor (As per page no. 26 of the complaint)
7.	Unit area admeasuring	2500 sq.ft (As per page no.26 of the complaint)
8.	Possession clause	**14.** *That subject to provisions of clauses 15 and 16 the possession of the said premises is* ***proposed to be delivered by the DEVELOPER to the ALLOTTEE***

		within 24 months from the date of this Agreement....xxxx (As per page no. 32 of the complaint)
9.	Due date of possession	26.05.2012 (Calculated from date of execution of agreement i.e., 26.11.2009 + 6 months grace period) ***(Grace period of 6 months is allowed being unconditional)***
10.	Sale consideration	Rs.51,62,500/- (As per page no. 48of the complaint)
11.	Amount paid by the complainant	Rs. 54,23,723/- (As per SOA dated 24.02.2025 at page 130 of reply
12.	Occupation Certificate	08.05.2013 (As mentioned in offer of possession at page 125 of reply)
13.	Offer of possession dated	01.07.2013 (As per page no. 125 of the reply)

B. Facts of the complaint

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

i. That the complainants had some savings which they wanted to invest at some place from where they could get some running monthly income to help run their livelihood and bear day to day expenses.

ii. The complainants saw the advertisement of the project launched by the respondents under the name and style of "ORIENT BESTECH BUSINESS TOWERS," GURGAON. The complainants visited the office of the respondents and after going through all the negotiations with the respondents, and especially to lease out the entire building/floor/ or any part thereof including the aforesaid cyber unit after getting possession

within 24 months from the date of this agreement i.e. 26.11.2009, the complainants agreed to book an IT/CYBER space in project launched by the respondents' company.

iii. On 26.11.2009, the builder buyer agreement was executed between the complainants and the respondents. In the said builder buyer agreement, the description of the allotted property was given as Unit No.608, Sixth floor, of the complex called "ORIENT BESTECH BUSINESS TOWERS" admeasuring 2500 sq. ft.at the basic sale price of Rs. 1855/- (1750+105) per sq. ft for a total sale consideration of Rs 46,37,500/-.

iv. The complainants had made the payment of RS 4350000/- from time to time as on 27/4/2010 and respondents had issued various payment receipts on its letter head in favour of the complainants. That the respondents in terms of BBA were bound by law to hand over the possession on 26.11.2011(on completion of 24 months) but respondents miserably failed to meet with the terms and conditions of the BBA. On 08.05.2013 the respondents informed the complainants that an occupation certificate vide 206/JD(BS)/2013/39003 dated 08.05.2013 has been issued by the office of directorate of town and country planning, Haryana.

v. As per clause 14 of the BBA, the respondents were liable to complete the construction of the project within 24 months from the date of execution of BBA i.e. 26.11.2009. The construction of the project was to be completed by November-2011, but the construction of the project was completed in the year 2013. Respondents have further informed that company is making sincere efforts to source a prospective lessee for the captioned premises as and when the terms and conditions of the lease are finalized with the prospective lessee, a formal lease deed shall be executed with the lessee as per the terms and conditions of BBA executed on 26.11.2009 but from 08.05.2013 to till date the respondents have neither handed over the

possession of the unit nor sourced a prospective lessee. Hence the delay of 13 years (163 months). However, there was deadline mentioned and till date there has been no further headway to lease the property.

vi. In view of the above, it can be safely concluded that the respondents have deliberately and knowingly neither handed over the possession of the unit nor sourced a prospective lessee just to harass and grab the hard-earned money of the complainants. The complainants have tried every possible way to obtain the possession of the unit. he aforesaid and conduct of the respondents have caused a lot of physical harassment, mental agony, and huge financial loss to the complainants.

C. Relief sought by the complainant

4. The complainant has filed the present compliant for seeking following reliefs:

i. Direct the respondent to pay the delayed possession charges on the total amount paid by the complainant at the prescribed rate of interest.

5. On the date of hearing, the authority explained to the respondent /promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act and to plead guilty or not to plead guilty.

D. Reply by the respondent no.1

6. The respondent has raised certain preliminary objections and has contested the present complaint on the following grounds:

i. That the present complaint is not maintainable in law or on facts. The provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the 'Act') are not applicable to the project in question. The occupation certificate in respect of the project was issued by the competent authority on 08.05.2013, i.e. well before the notification of the Haryana Real Estate Regulation and Development Rules 2017 (hereinafter referred to as the 'Rules'). Thus, the project in question is not an 'Ongoing Project" under Rule 2(1)(o) of the Rules. This Hon'ble Authority does not have the jurisdiction to entertain and decide the

present complaint. The present complaint is liable to be dismissed on this ground alone.

ii. The complaint is barred by limitation and liable to be dismissed on this ground as well. Symbolic possession of the unit was offered by to the complainants as far back as on 01.07.2013. The so-called cause of action, if any, arose in favour of the Complainants more than 10 years ago. The complaint is liable to be dismissed as time barred.

iii. Shri Ramesh Kumar Chawla and Smt. Santosh Chawla (Complainant No 1), hereinafter referred to as the allottees, had approached Bestech and expressed their interest in booking a unit in the duly licensed Information Technology Park known as "Orient Bestech Business Tower" located on NH8 in Village Khandsa, Gurgaon, Haryana, hereinafter referred to as "the Project".

iv. By letter dated 27.07.2007, Bestech confirmed the allotment in favour of the allottees. Along with the said letter, a copy of the payment plan was enclosed as well as receipts acknowledging the payment made by the allottees. It is pertinent to mention herein that the allottees had opted for a construction linked payment plan in which the first two instalments were time bound and the remaining instalments were payable upon achievement of the construction milestone indicated therein.

v. In accordance with the payment plan applicable to the allottees, Bestech issued demand letters calling upon the allottees to make payment of instalments as per the payment plan. Under cover of letter dated 18.02.2009, the buyer's agreements were sent to the allottees for execution. The allottees defaulted in timely payment of installments. Consequently, reminders for payment and demand notice dated 02.04.2009, 11.05.2009, 12.06.2009 and 25.06.2009 were issued to the allottees.

vi. The answering respondent, Bestech received a legal notice dated 30.05.2009 from the complainants whereby Bestech was informed that Mr. Ramesh Kumar Chawla had expired on 28.06.2008 leaving behind the complainants as his legal heirs. A copy of the death certificate was enclosed as well as copies of agreements in terms of which complainants no. 2 to 5 had transferred their right to rental income from the unit in question in favour of their mother, complainant no. 1 during her lifetime. Bestech was requested to record the names of the complainants no. 2 to 5as co allottees to the extent of the share of Mr. Ramesh Kumar Chawla in the said unit.

vii. The complainants executed transfer documents for transfer of the 50% share in the unit of Mr Ramesh Kumar Chawla, in favour of complainants no 2 to 5. Under cover of letter dated 19.08.2009, the buyer's agreement was sent to the complainants for execution. That the previous buyer's agreement that had been sent by Bestech to Mr. Ramesh Kumar Chawla and complainant no. 1 vide letter dated 18.02.2009 was never executed.

viii. Buyer's agreement was eventually executed by the Complainants only on 26.11.2009. The buyer's agreement was willingly and consciously executed by the complainants after fully understanding and accepting its terms and conditions. The complainants were provisionally allotted IT/cyber space no.608 on the 6th Floor of the said project admeasuring 2500 sq. ft. approximately. Executed copies of the buyer's agreements were returned to the Complainants under cover of letter dated 28.11.2009.

ix. That initially the 4th floor of the project had been identified for such allottees who wanted to avail possession of the units booked by them for their own use. Such units have been duly partitioned by construction of intervening walls, provisioning of electrical wiring, internal fixtures, fittings etc at the cost of the allottees. At the time of booking it was communicated to the allottees that in case of units meant for self-use, in

addition to the bare shell cost of the unit for self-use, the allottees would also be liable to bear the charges towards the necessary works including construction of partitions, electrical wiring, internal fixtures, fittings etc in accordance with clause 4.3 of the buyer's agreement. The allottees were not prepared to make payment for such works and as such opted for a unit on the 6th Floor, ear marked for leasing. Accordingly, IT space /cyber unit bearing no 608, located on the 6thfloor of the project and earmarked for leasing was allotted to the allottees, which allotment was duly accepted by the allottees by execution of the buyer's agreement in respect of the unit.

x. Clauses 14, 15 and 16 of the buyer's agreement deal with IT spaces/cyber units that are intended to be leased out to proposed lessees to be identified by Bestech. In such cases physical possession of the IT space/cyber unit is not intended to be offered to the allottee. Instead, Bestech is authorised by the allottee to identify a suitable lessee, at its absolute discretion, and to negotiate the terms and conditions of lease on behalf of the allottee. Upon identification of a lessee by Bestech, the period stipulated in the contract for delivery of possession shall not apply. The allottee in such case shall be entitled to rent paid by the lessee and shall not be entitled to possession of the cyber unit. respondent no. 1 craves leave of this Hon'ble Authority to refer to and rely upon the said amongst other clauses of the buyer's agreement, at the time of addressing arguments in the matter.

xi. that Clause 14 of the buyer's agreement provides that subject to timely payment of sale consideration by the allottee and subject to delays caused due to reasons beyond the power and authority of the developer, possession of the unit was proposed to be offered within 24 months from the date of execution of the buyer's agreement.

xii. After competition of construction, Bestech made an application for issuance of occupation certificate on 26.10.2012 and the same was issued

on 08.05.2013. That Bestech cannot be held liable for time taken by statutory authorities in issuing the occupation certificate and other approvals. Upon receipt of the occupation certificate dated 08.05.2013, symbolic possession of the unit was offered to the Complainants vide letter dated 01.07.2013. The complainants were called upon to make payment of outstanding amount as per the attached statement of account. It was also mentioned in the said letter that as a gesture of goodwill, maintenance charges had been reduced from Rs.15/- per sq. ft. to Rs.3/- per sq. ft. w.e.f. 01.09.2013 till 31.08.2014 or date of lease which ever was earlier.

xiii. The complainants as well as several other allottees in the project who had also booked units intended to be leased out, had also sought possession of their units. Under these circumstances, as a gesture of good will, Bestech decided to earmark the 3rd and 5th floor of the project, in addition to the 4th floor, for self-use so that possession of the units located on these floors could be handed over to the concerned allottees including the complainants if the complainants were interested in a unit for self-use.

xiv. Without prejudice it is stated that Bestech orally communicated to the complainants that possession of a unit earmarked for self-use could be allotted to them in place of the presently allotted unit. However, such a unit in bare shell condition could not be handed over to the Complainants and that Bestech was willing to construct partitions, electrical wiring, fittings, fixtures and other works necessary to make the unit suitable for self-use. In such case, the complainants would be required to make payment for the said work in accordance with clause 4.3 of the buyer's agreement. The complainants were also reminded that the project being a Cyber Park, the unit could only be utilized for the IT/Cyber usage purposes in accordance with the usage as permitted by Government Authorities. The complainants did not provide their consent for allotment of an alternate unit on another floor and to make payment for work to make the alternate the unit suitable

for self-use and instead orally requested Bestech to continue its efforts locate a suitable lessee for their unit.

xv. That nothing further was heard from the complainants thereafter until the institution of the present false and frivolous complaint.

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 preliminary objections raised by the respondent regarding jurisdiction of the authority to entertain the present complaint stands rejected. The authority observed 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, Haryana the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with office 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 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 as per provisions of section 11(4)(a) of the Act 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 objections raised by the respondent

F.I Objection regarding maintainability of complaint on account of complaint being barred by limitation.

12. The respondent no. 1 has filed the reply on 22.05.2025, which is taken on record and raised the preliminary objection in its reply that the complaint is not maintainable being barred by limitation. It is necessary to deal with the preliminary objection before proceeding with the reliefs sought by the complainants.

13. On consideration of the documents available on record, the authority observes that the complainant herein was allotted a unit bearing no. 608, 6th floor admeasuring 2500 sq. ft., in project of the respondent named "Orient Bestech Business Tower" situated at village- Khandsa, NH-8, Gurugram and an apartment buyer's agreement was also executed between the complainant herein and the respondent regarding the said allotment on 26.11.2009. The occupation certificate for the subject unit has been obtained by the respondent promoter on 08.05.2013 and the possession has been offered on 01.07.2013..

14. The complainants are seeking delayed possession charges from the respondents while the respondent no.1 on the other hand is pleading that the present complaint is barred by limitation as the complainant has got the offer of possession on 01.07.2013. The complainant has been in settled possession of their unit since 2013 and the present complaint has been filed after more

than 12 years, which amply proves that the present complaint has been filed with malafide intentions to extort money from the respondent. The complainant has remained silent and had no grievances in this entire period of 12 years. Thus, it was submitted that the present complaint deserves to be dismissed at the very threshold. Both the parties through their respective counsels advanced submissions with regard to the maintainability of the compliant on the ground of the limitation.

15. After the unit was allotted to the complainant, a buyer's agreement in this regard was executed on 26.11.2009. Though the possession of the unit was to be offered on or before 26.05.2012 after completion of the project but the same was offered only on 01.07.2013 after receipt of occupation certificate on 08.05.2013. So, limitation if any, for a cause of action would accrue to the complainant w.e.f. 01.07.2013. So far as the issue of limitation is concerned, 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. In the present matter the cause of action arose on 01.07.2013 when the possession was offered to the complainant by the respondent. The complainant has filed the present complaint on 10.02.2025 which is 12 years approx. from the date of cause of action. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be stretched to an extent that basic principles of jurisprudence are to be ignored

and are given a go by especially when the complainant/allottees have already availed aforesaid benefits before execution of conveyance deed.

17. One such principle is that delay and latches are sufficient to defeat the apparent rights of a person. In fact, it is not that there is any period of limitation for the authority to exercise their powers under the section 37 read with section 35 of the Act nor it is that there can never be a case where the authority cannot interfere in a manner after a passage of a certain length of time but it would be a sound and wise exercise of discretion for the Authority to refuse to exercise their extraordinary powers of natural justice provided under section 38(2) of the Act in case of persons who do not approach expeditiously for the relief and who stand by and allow things to happen and then approach the court to put forward stale claims. Even equality has to be claimed at the right juncture and not on expiry of reasonable time.

18. Further, as observed in the landmark case i.e. ***B.L. Sreedhar and Ors. V. 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. Moreover, the Authority in case bearing no. ***2480 of 2023 titled as Mrs. Ritu Lal Vs M/s Emaar India Limited decided on 10.12.2024,*** has also dismissed the complaint being barred by limitation on the ground that they have approached the Authority after unreasonable delay despite offer of possession and execution of conveyance deed.

19. 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 after such a long period of time. The procedure of law cannot be allowed to be misused by the litigants even in cases where allottees have availed certain benefits prior to the execution of conveyance deed. It is a principle of natural

justice that nobody's right should be prejudiced for the sake of other's right, when a person remained dormant for such an unreasonable period of time without any just cause. In light of the above, the complaint is not maintainable and the same is declined.

20. Complaint as well as applications, if any, stands disposed off accordingly.

21. File be consigned to registry.

(P.S. Saini)
Member

(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 09.10.2025