

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

Complaint no. : 4323 of 2024
Date of complaint : 05.09.2024
Date of order : 12.09.2025

Mr. Pradeep Mathur
R/o: - H.No 1019, VPO Karala Pana
Bhattpura, New Delhi

Complainant

Versus

Sana Realtors Pvt. Ltd.
Regd. Office at: H-69, Upper GF, Cannught Circus
New Delhi- 110001

Respondent No. 1

CORAM:
Arun Kumar

Chairman

APPEARANCE:
Shiv Gupta(Advocate)
Rohit Mehla (Advocate)

Complainant
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 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 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	Precision soho house, sector 67, Gurugram.
2.	Nature of the project	Commercial colony
3.	RERA registered or not registered	Registered vide registration no.
	Validity status	25.09.2022
4.	DTPC License no.	72 of 2009 in favor of hari singh and others (page 05 of compliant)
5.	Unit no.	Unit no. 505 , 5 the floor [Page 05 of complaint]
6.	Unit admeasuring	275 sq. ft. (Carpet area) 525 sq. ft. (super area) [Page 5 of complaint]
7.	Provisional allotment letter	11.01.2016 [Page 17 of complaint]
8.	Date of Builder Buyers agreement	10.04.2010 [page 20 of complaint]
9.	Possession clause	15. That the possession of the said premises is proposed to be delivered by the DEVELOPER to the ALLOTTEE(S) within Three years from the date of this Agreement. If the completion of the said Building is delayed by reason of non-availability of steel and/or cement or other building materials, or water supply or electric power or slow down, strike or due to a dispute with the construction agency employed by the DEVELOPER, lock out or civil commotion or by reason of war of enemy action or terrorist action or earthquake or any act of God or non-delivery of possession is as a result of any Act, Notice, Order, Rule or Notification of the Government and/or any other Public

		<p>or Competent Authority or due to delay in action of building / zoning plans/grant of completion / occupation certificate by any Competent Authority or for any other reason beyond the control of the DEVELOPER, the DEVELOPER shall be entitled to extension of time for delivery of possession of the said premises. The DEVELOPER as a result of such a contingency arising, reserves the right to alter or vary the terms and conditions of this Agreement or if the circumstances beyond the control of the DEVELOPER so warrant, the DEVELOPER may suspend the Scheme for such period as it might consider expedient.</p> <p>[page 30 of complaint]</p>
10.	Transfer of letter for office as endorsed to complaint	08.06.2013 [Page 49 of the complaint]
11.	Date of environment clearance	16.09.2016 [Page 46 of reply]
12.	Due date of possession	10.04.2013(as per possession clause)
13.	Total Sale Consideration	Rs. 24,12,000/-[as per reply page 1]
14.	Amount paid by the complainant	Rs. 19,92,977/-[as per reply page 1]
15.	Occupation certificate	18.07.2017 [as per 18 of reply]
16.	Offer of possession	02.09.2017 [as per page 40 of complaint]

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:
 - a. The complaints, Nitin Oberoi and Karuna Oberoi, who are husband and wife, booked a IT/ Cyber space in October 2011, with MVL Credit Holdings & Leasing Ltd. and a Unit No. 309, admeasuring 484 sq. ft. on 3rd floor of MVL I Park, Gurgaon was allotted to the complainants vide allotment letter dated 27.02.2012.

- b. That in year 2009, the respondent had flouted a commercial project under the name and style of "Precision Soho Tower" situated at Sohna Road, Sector 67, Gurugram comprising showrooms, office space(s), restaurant(s) & other space(s), in terms of the license bearing no. 72 of 2009 granted in favour of Hari Singh and others, by the Department of Town & Country Planning, Haryana.
- c. That however, from the day one, the respondent cheated the innocent buyers by assuring them that the land solely belongs to sana realtors and the license for construction of the building has also been granted in its favour by the DTCP, Haryana and this fraudulent intention is clear from the buyer's agreement which was executed between the original allottee and the respondent and subsequently endorsed in favour of the petitioner/complainant, wherein it has been wrongly averred that "Whereas the District Town and Country Planning, Haryana, had granted licence bearing No. 72 of 2009 to M/s Sana Realtors Pvt. Ltd."
- d. That the complainant for the purpose of earning his livelihood by means of self-employment was searching an office space in the month of January February, 2013 and meanwhile the complainant came in contact of a representative of the respondent who allured him to purchase an office space in their upcoming project in Sector -67, Gurugram and gave an assurance to the complainant that the respondent is very renowned in the field of construction and is known for handover of the possession of the projects on time.
- e. That finally in the month of march, 2013, the complainant came into contact of Mr. Balraj, the previous purchaser, who was willing to sell

- his office space. Finally after making enquiries from the respondent, the complainant decided to purchase the office space from Mr. Balraj.
- f. That thereafter on an application, the respondent transferred all the rights of the office space i.e. Unit No.- 505, 5th Floor in 'Precision Soho Tower' admeasuring 525 sq. ft. in the name of complainant on 22.03.2013 in consideration of the original allottee having paid all amount due from him till date and as such the complainant stepped into the shoes of the original allottee. Further the respondent without any objection, endorsed the buyer's agreement dated 10th April, 2010 in favour of the complainant vide endorsement dated 22.03.2013.
- g. That as per the terms and conditions of the buyer's agreement the super area of the premises is 525 sq. ft. and the rate is 3950/- per sq. ft. EDC & IDC, thus the consideration was Rs. 20,73,750/- in addition to Rs. 2,25,750/- for EDC & IDC thereby totalling to Rs. 22,99,500/-.
- h. That at the time of purchasing the said office space, the complainant paid some part of whole of the amount to the previous buyer, which was paid by the previous buyer to the respondent and balance amount was paid directly to the respondent. Hence, the respondent transferred and duly endorsed all the receipts dated 8.12.2012, 14.12.2009, 6.04.2010, 13.10.2011, 17.01.2012, 26.03.2012, 20.06.2012, 4.09.2012, 4.09.2012, 9.03.2013 in the name of the complainant vide a letter dated 08.06.2013.
- i. That the respondent had represented and promised that the building would be a modern architectural piece that would serve as a home as well as an office space. The respondent had further represented that the building would be of world class category and would be running

24x7 schedule, including 7 CCTV backed high tech security cameras, high tech fire detection system, high speed elevators, air conditioned complex, parking space and also assured wi-fi, laundry, coffee health club, spa, swimming pool etc.

- j. That it is not out of place to mention here that it was assured by the officials of the respondent at the time of endorsing of the agreement of the office-space that possession will be handed over to the complainant within 6 months from the date of endorsement of the builder buyers agreement i.e. by 21 september 2013, because the possession of the unit/space was supposed to be given originally by 9th april 2013 to the original allottees, fully completed in all respects.
- k. That further the clauses of the builder buyer agreements are one sided which stands proved from the clause no. 10 whereby the interest to be charged by the respondent was fixed @ 18% per annum, for default in payment.
- l. That further as the buyer's agreement is one sided, same tantamount to unfair trade practice, as per the settled provisions of law. the respondent failed to complete the construction of premises within time, as per the terms and conditions of the buyer's agreement and thus there is deficiency of service on the part of respondent as held by the Hon'ble Supreme court held in case titled as Secretary, Bhubneshwar Development Authority versus Susanta Kumar Mishra reported in (2009) 4 SCC 684.
- m. That at the time of booking and at the time of execution of BBA by the previous buyer the respondent was not having any building plans approved/sanctioned as the same were sanctioned on 27.05.11. As to the best of the knowledge of the complainant, the main reason for

delay in the construction and in handing over the physical possession was delay in acquiring the approvals and sanctions for the project from the competent Authority. Further despite collection of money from the allottees, the respondent did not timely completed the project for the reason that it transferred the money of this project to some other project and had cheated the allottees of this project including but not limited to the complainant.

- n. That as per the agreement, the respondent had allotted a super area of the premises as 525 sq. ft. for the office space, but now the fact has come in the knowledge of the Complainant that they are only allotting a carpet area of 275 sq. ft., which is against the law and the guidelines/ policy. In fact as per the rules as applicable to the State of Haryana, reduction and addition of area can only be upto 10%. It is clear deception and cheating on the part of respondent since it has intentionally not mentioned in any of the paragraphs of the buyers agreement that the final carpet area will be 275 sq. ft.
- o. That even the respondent has not built the proper car parking space as per the lay-out plan and even the respondent has sold out the space of common toilet to make the monetary profit. The area demarcated for the toilets is less than the sanctioned one and only half of the toilets are available on each floor. Further the required common toilets are not available within the complex as per the sanctioned plan. The respondent even sold the area earmarked for toilets and the said fact was duly published in the newspaper at a large scale.
- p. That one of the buyers has submitted various complaints before the government bodies regarding the flaws in the project, but even then, the respondent is successful in taking occupation certificate from the

office of dtcp, haryana on 18.07.2017 for an incomplete building, by using his links and collusion with the government officials. However, the said occupation certificate is conditional and the respondent/land owners have to fulfil the conditions as mentioned in the completion certificate. it is clearly stated in condition no. 9 of the occupation certificate that "any violation of the above said conditions shall render this occupation certificate null and void

- q. That the respondent has from the very beginning raised unnecessary demands of additional edc/idc/eedc, extra vat, service tax, maintenance charges, ifms charges, etc., but now the respondent is forcing the complainant to execute bond mentioning therein that no dispute will be raised by complainant in future in respect of size, area, quality of construction or other dues. It is pertinent to mention here that the respondent has failed to offer the possession to the complainant yet and furthermore failed to complete the project as it is still deficient of the basic amenities as committed in the advertisement and brochure and as per their assurances.
- r. That all the fears of the complainant turned to reality, when he received a demand letter dated 22 march 2015, in which total amount due is shown as Rs. 4,34,412/-, although at the time of issuance of the notice the respondent was not having any occupation certificate. Surprisingly, as per the said letter, the consideration of the space/Unit was increased to Rs. 25,17,000/-, whereas as per the buyer's agreement, the agreed cost of the office space was only Rs. 20,13,650/-. The respondent without any justification increased the consideration of the Office Space/Unit by Rs. 4,34,412/-. The complainant raised objections against the demand raised by the

respondent, to which the respondent officials withdraw the said notice, stating that the final demand, if any, in terms of the builder buyer agreement, shall be issued after obtaining occupation certificate. The respondent however till date has neither issued any letter of offer of possession nor any demand letter has been issued to the complainant.

- s. That despite repeated requests, when the respondent miserably failed to complete the project in stipulated time, the complainant along with other allottees time and again reminded the respondent to complete the project in time and to deliver possession of their units complete in all respect, but to no avail. The project is lacking in each and every aspect and is deficient of facilities as promised and agreed.
- t. That as per the buyer's agreement, although the respondent undertook to handover the possession of the premises within 3 years from the date of execution of agreement i.e. on or before 9th march 2013 and in the case of complainant, it is till 21st september 2013, yet the respondent has till date not completed the said project in all respects. The hope of the complainant and other buyers turned into anxiety and despair as the respondent did not listen to their demands and request to complete the project thoroughly. The above lack lustre attitude of the respondent in demanding payments without completing the work as well as without fulfilling its promises and assurances made at the time of soliciting the complainant to book the said premises including timely offer of possession and quality of construction to be provided to its customers.
- u. That it is not out of place to mention here that the balcony constructed in the project is also not as per the sanctioned plan and

is dangerous, as not even 02 persons can freely move at a single point of time in the said balcony. Further the building though complete is not in habitable condition and is damaged due to use of sub-standard construction material.

- v. That as on today, the office space allotted to the complainant is without any electrical wiring and tiles. Further doors/windows have not been installed in the space/Unit despite repeated request and reminders of the complainant.
- w. That because of the delay and latches and wrongful acts on the part of the Respondent, the complainant is the only aggrieved party as the Respondent is beneficiary party in all accounts. The complainant has already paid an amount of Rs. 21,35,333/- to the respondent i.e. their full and final amount as per the builder buyer agreement and no other amount has to be paid for any other heads. Although the complainant has already paid in excess of the settled amount, which he was supposed to pay before receiving the possession of the allotted unit.
- x. That the respondent is not considering the loss accrued to the complainant on account of their fault. It is submitted that the complainant is entitled to receive the compensation for delay in offer of possession from the respondent as the aforesaid loss is directly connected due to the persistent and continuing deficiency in service on the part of the respondent. However the complainant is further entitled to the damages on account of harassment, mental agony, litigation charges which was initiated on account of fault of the respondent, for which the complainant reserves its right to file a separate complaint for the compensation.

- y. That it is pertinent to mention here that in a petition filed by another allottee of the project before National Company Law Tribunal, Sh. Sudhir Kumar Agarwal was appointed as an Interim Resolution Professional, wherein the respondent claimed that they had already obtained Occupation certificate of the Project on 18.07.2017. Further neither the project was complete in all respect on the said date and even if for the sake of arguments, it is treated as validly issued occupation certificate, no valid offer of possession has been made to the complainant till though the same was to be handed over till 2013.
- z. That it is the apparent that the respondent with malafide intention is using the huge hard earned money of the complainant and other allottees to gain undue profit to it and to cause undue loss to him.
- aa. That this Authority has territorial jurisdiction over the present complaint as the property & Project is situated within the territorial jurisdiction of District Gurugram.

C. Relief sought by the complainants: -

- 4. The complainants have sought following relief(s):
 - i. Direct the respondent to deliver the physical possession of the Unit No.-505 on 5th Floor admeasuring 525 sq.ft. in the complex called ""Precision Soho Tower", Sohna Road, Sector 67, Gurugram, Haryana, duly completed in all respects and in terms of specifications mentioned in the buyer's agreement, to the petitioner within 30 days;
 - ii. Direct the respondent to pay the penalty/compensation for the period of delay in offering possession of the Unit at the rate the respondent charged from the complainant;
 - iii. Direct the respondent not to charge any extra amount beyond the actual amount agreed by the parties while signing the buyer agreement.

- iv. Direct the respondent to provide all the facilities and amenities including car parking, toilets, as per the sanctioned Lay-out plan and brochure, as committed by them at the time of booking of the office space
 - v. Direct the respondent to provide the proper car parking to each and every owner and to provide the common toilets as per the sanctioned lay-out plan;
 - vi. Direct the respondent to refund the excess payment made by the complainant, with applicable rate of interest;
 - vii. Direct the respondent to get the area of the office space/unit demarcated/measured in the presence of architect of the Authority;
 - viii. Direct the respondent to change the balcony grills/railings of the project which have been junked due to use of sub-standard material;
 - ix. Direct the respondent to pay the amount paid by the complainant for the aforementioned unit in lieu of fake carpet area i.e. suit property along with interest from the date of payment till the decision of the present complaint/Petition.
 - x. Direct the respondent to pay Rs. 1,10,000/- as litigation charges;
 - xi. Direct the respondent to place on record all the sanctions, approvals, ledger account pertaining to the project to scrutinize the receipts and expenses incurred on the project including payments made to M/s ACME and M/s Sensys contractors.
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

- I. That the present complaint filed by the complainant is liable to be dismissed as the present project does not fall within the purview of RERA as the occupation certificate in respect of the present project by DTCP vide memo No. ZP-589/SD (BS)/2017/17063 dated 18/07/2017 In Form BR-VII. The Occupation Certificate was also containing the Description of the Building of the aforesaid project As "License No. 72

of 2009 dated 26/11/2009 Total Area measuring 2.456 Acres Sectors 67, Gurugram developed by M/s. Sana Realtors Pvt. Limited.

- II. That the present complaint filed by the complainant is not maintainable as the occupancy certificate is already issued and even the complainant is revised offer of possession of the unit in question on 02/09/2017 as VAT was replaced after introduction of GST.
- III. That the complainant was also intimated that the possession as well as sale deed of the property was ready to be executed subject to the payment of the balance sale consideration of Rs. 3,47,826/-and to make the payment of maintenance charges.
- IV. That the present complaint is not maintainable as the provision of section 19 (6) of Real Estate (Regulation and Development) Act 2016 was not complied by the complainant, which says every allottee, who has entered into an agreement to take or sale the apartment, plot or building shall be responsible to pay the necessary payments including registration charges, municipal taxes water and electricity charges, maintenance charges, ground rent and other charges etc, however since after the possession was offered i.e. on 02/09/2017 the complainant failed to take the possession and het the Unit Registered. On account of the failure on the part of the complainant to comply with the terms of the agreement the opposite party / respondent is till date holding and maintaining the unit which otherwise was the responsibility of the opposite party.
- V. That as per the clauses 41 & 42 of the buyer agreement the complainant shall be liable to pay as and when demanded by the respondent the stamp duty, registration charges and other legal and incidental charges for execution and registration of conveyance deed,

however the complainant had failed to act as per the agreement despite correspondence dated 02/09/2017 on offer of possession, 05/12/2018 & 12/01/2019 which was duly communicated to the respondent.

- VI. That as per clause 8 of the buyer agreement "the time of payment of installments as stated in schedule of payment and applicable stamp duty, registration. fee, maintenance and other charges payable under this agreement as and when demanded is the essence of this agreement" and as the same has not been paid by the complainant in the present matter, hence the present complaint is not maintainable and is liable to be dismissed.
- VII. It is respectfully submitted that the delay in handing over possession of the project was beyond the respondent's control, as per clause 15 of the agreement, which exempts delays caused by circumstances outside the respondent's control. the respondent has diligently executed the project, and the delays were primarily due to external factors, including high tension wires i.e. initially, 66 kv electricity lines were located on the project land. Despite the respondent applying for their removal in 2008, prior to obtaining the license, the process of shifting the lines by hvpnl took over two years. Then in 2012, a Punjab and Haryana High Court order prohibited the use of groundwater, halting construction activities across the area. this delay was beyond the respondent's control and is well-documented by government departments and media. The project was completed in 2015, with the application for the occupancy certificate submitted in may 2015. The occupancy certificate was eventually issued in july 2017, with delays attributed to compliance requirements from authorities. The

respondent has fulfilled its obligations with due diligence, and the delays were attributable to factors outside its control. Relevant documents supporting these facts are annexed for the Hon'ble Commission's consideration. No illegality or negligence can be attributed to the respondent under these circumstances.

- VIII. That as there is no willful delay on the part of the respondent and the delay if any is only attributable to the complainant, hence the complainant is not liable to pay any delay possession charges.
- IX. That the respondent deliberately is not taking the possession of the property in question and have filed the present complaint with the sole purpose to harass the respondent and to create undue pressure and to extort illegal money from the respondent, hence the present complaint is not maintainable and is liable to be dismissed with heavy cost.
- X. That the present complaint filed by the complainant is liable to be dismissed as in the projects wherein the occupation certificate is issued prior to the enactment of HRERA, hence the complaint is not maintainable.
- XI. That the fire noc for the project was issued on 09.09.2015 and an application for issuance of occupancy certificate was submitted with the DTCP on 18/05/2015 and lastly on account of administrative reasons the same was delayed for about two years and was lastly issued by DTCP vide memo No. ZP-589/SD (BS)/2017/17063 on 18/07/2017.issuance of fire noc clearly indicates that the project was complete in all respect in the year 2015.
- XII. That the present complaint filed by the complainant is liable to be dismissed as the complainant was sent a provisional demand letter dated 22/05/2015 whereby the complainant was requested to make

the outstanding payment as the respondent had already applied for occupation certificate and the same shall be received shortly, still the complainant did not make payment. After the receipt of occupation certificate, the respondent sent a letter dated 02/09/2017 to the complainant and requested the complainant to make balance payment and take the possession of the unit no. 505 in the aforesaid project of the respondent, but the complainant did not make any payment as the complainant wanted to cause unlawful losses to the respondent intentionally. The respondent also sent subsequently reminder letters to the complainant on 05/12/2018 & 12/01/2019 for taking the possession of the unit as the project is complete after the possession was offered on 02/09/2017. There is no act which is left to be completed on the part of the respondent as per the contract hence the complaint is not maintainable

- XIII. That the complaint before the Authority is beyond the limitation period, hence the present complaint is liable to be dismissed. The complainant way back in the year 2017 was offered possession still the complainant has not come forward to take the possession. The complaint of the complainant is only with Malice and is nothing more than Malicious Prosecution. Referring to the provisions of Limitation Act the maximum period as per Article 113 of the Limitation Act is three years and the same has already elapsed.
- XIV. That the present complaint is not maintainable as per the provision of Section 19 (6) of Real Estate (Regulation and Development) Act 2016.
- XV. That the complainant has filed the present complaint, after concealing material and true facts with sole aim to mislead the Authority and to

harass the defendant, therefore the complainant is not entitled to get any relief from the Authority.

- XVI. That the present petition filed by the plaintiff is nothing other than the abuse of process of law, hence the present petition is liable to be dismissed.
- XVII. That the present complaint is neither properly filed nor verified as per the provision of the RERA Act, hence the same is liable to be dismissed.
- XVIII. That the jurisdiction of the Authority is respectfully denied, as the present project does not fall within the scope of the Real Estate (Regulation and Development) Act, 2016. The occupation certificate for the project in question has already been issued by the competent authority. Specifically, vide Memo No. ZP-589/SD (BS)/2017/17063 dated 18/07/2017 in Form BR-VII, the department of town and country planning granted the occupation certificate for the project. The oc provides the description of the building as "license no. 72 of 2009 dated 26/11/2009, total area measuring 2.456 acres, sector 67, Gurugram, developed by M/s. Sana Realtors Pvt. Limited."
- XIX. That it is submitted that the complaint filed by the complainant is liable to be dismissed as the project does not fall within the ambit of RERA. The respondent had applied to DTCP for the grant of the occupation certificate on 18/05/2015, and the same was granted on 18/07/2017, prior to the commencement of the RERA Rules, which were notified on 28/07/2017. It is pertinent to note that these rules cannot be applied retrospectively to a project that was completed and had already been granted the occupation certificate before the rules came into effect.

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 submission made by the complainants.

E. 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.

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) 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.

F. Findings on the relief sought by the complainants.

- F.I** Direct the respondent to deliver the physical possession of the unit no.-505 on 5th floor admeasuring 525 sq.ft. in the complex called "Precision Soho Tower", Sohna Road, Sector 67, Gurugram, Haryana, duly completed in all respects as per the specifications and in terms of the building code to the petitioner immediately.
- F.II** Direct the respondent to pay the penalty/compensation for the period of delay in actual offering of possession of the unit at the rate the respondent charged from the complainant;
- F.III** Direct the respondent not to charge any extra amount beyond the actual amount agreed by the parties while signing the buyer agreement.
- F.IV** Direct the respondent to provide all the facilities and amenities including car parking, toilets, as per the sanctioned lay-out plan and brochure, as committed by them at the time of booking of the office space
- F.V** Direct the respondent to provide the proper car parking to each and every owner and to provide the common toilets as per the sanctioned lay-out plan;
- F.VI** Direct the respondent to refund the excess payment made by the complainant, with applicable rate of interest;
- F.VII** Direct the respondent to get the area of the office space/unit demarcated/measured in the presence of architect/engineer of the Authority
- F.VIII** Direct the respondent to change the balcony structure/grills/railings of the project which have been junked due to use of sub-standard material;
- F.IX** Directing the respondent to pay the amount paid by the appellant for the aforementioned unit in lieu of fake carpet area i.e. suit property along with interest from the date of payment till the decision of the present appeal.
- F.X** Directing to pay the compensation for mental, physical and financial harassment faced by the appellant from the day of purchase/allotment till the decision of present appeal along with interest in favour of the appellant and against the respondent.
- F.XI** Directing to pay the litigation cost of present complaint in favour of the petitioner/complainant and against the respondent;
- F.XII** To call for the records of the instant case before the Haryana Real Estate Regulatory Authority, Gurugram so that the documents can be scrutinized by

judicial mind and several other allottees could be safeguarded from the illegal modus of respondent;

Directing the respondent to bring their ledger account pertaining to payments disbursed in favour of M/s ACME and M/s Sensys contractors, which will prove the stages of constructions;

11. The above-mentioned reliefs sought by the complainant are being taken together, as the findings in one relief will necessarily affect the outcome of the others and the same being interconnected.
12. On consideration of the documents available on record, the authority observes that the complainants herein was allotted a unit bearing no. 505, 5th floor, admeasuring 275 sq. ft., in project of the respondent named "Precision Soho House" situated at Sector-67, Gurugram vide apartment buyer's agreement with the original allottee was executed on 10.04.2010 and subsequently a transfer letter dated 08.06.2013 was executed between the complainants herein and the respondent. The occupation certificate for the subject unit has been obtained by the respondent promoter on 18.07.2017 and the possession has been offered on 02.09.2017.
13. In line with the aforesaid facts and submissions made by the parties and documents placed on record, the Authority observes that the unit was allotted to the complainant on 08.06.2013, through transfer letter between the complainant and the respondent. Though the possession of the unit was to be offered on or before 10.04.2013 after completion of the project but the same was offered only on 02.09.2017 after receipt of occupation certificate on 18.07.2017. So, limitation if any, for a cause of action would accrue to the complainant w.e.f. 02.09.2017. 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.

14. 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 prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.
15. In the present matter the cause of action arose on 02.09.2017 when the possession was offered to the complainant by the respondent. The complainant has filed the present complaint on 05.09.2024 which is 7 years 0 month and 03 days from the date of cause of action. In the present case the three year period of delay in filing of the case also after taking into account the exclusion period from 15.03.2020 to 28.02.2022 would fall on 16.08.2022. In view of the above, the Authority is of the view that the present complaint has not been filed within a reasonable time period and is barred by the limitation.
16. 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.
17. 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.

18. 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.
19. Complaint as well as applications, if any, stands disposed off accordingly.
20. File be consigned to registry.

**(Arun Kumar)**

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.09.2025