



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1775 of 2023
Date of filing:	08.08.2023
First date of hearing:	05.09.2023
Date of decision:	20.01.2026

Deepika Bansal

260/16, Baroda Road, Gohana

.....COMPLAINANT

Versus

Jai Krishna Artec J.V

Jai Krishna Artec J.v, 8-B

Hansalya Building, Bara Khamba Road

15, Connaught Place, New Delhi-11000

.....RESPONDENT

Present: - Adv. Saurav Sapra, Counsel for the Complainant through VC.
Adv. Vishnu Anand, Counsel for the Respondent through VC.

ORDER (DR. GEETA RATHEE SINGH)

1. Present complaint is filed by the complainant under Section 31 of the 'Real Estate (Regulation & Development) Act, 2016' (hereinafter referred as RERA, Act of 2016) read with Rule 28 of the 'Haryana Real Estate (Regulation & Development) Rules, 2017' for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made

thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS-

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

S.No	Particulars	Details
1.	Name of the project	Greenwood City, Sector 26 and 27, Sonipat.
2.	RERA registered/not registered	Registered
3.	Registration no.	HRERA-PKL-SNP-15-2018
4.	Plot no.	Plot no.33 Block B,239 sq. yds.
5.	Date of plot buyer agreement	27.11.2012(Unsigned) 03.08.2022(Signed)
6.	Deemed date of possession as provided in plot buyer agreement	N/A
7.	Possession clause in BBA	N/A
8.	Total sale consideration	₹19,56,318

Rathee

S.No	Particulars	Details
9.	Amount paid by complainant	₹21,21,810
10.	Offer of possession	20.08.2019

B.FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. Facts of the case are that the complainant had applied for booking in an upcoming project of the respondent proposed to be developed at Sector 26, 26-A & 27, Sonapat, Haryana in the year 2006 upon payment of ₹ 4,30,000/- as the booking amount. There upon, in the month of September 2008, the complainant was allotted Plot No. B-33, admeasuring 263 sq. yards, in the project of the respondent namely "Green Wood City".
4. That the complainant continued making payments towards the plot in question but the respondent failed to execute a plot buyer agreement in respect of the said unit. It was only after a lapse of more than six years that a plot buyer agreement was executed between the respondent and the complainant on 27.11.2012 for a total sale consideration of ₹ 16,74,108/- , however it was not signed between the parties. That the complainant has made a total payment of ₹ 20,32,733/- against the unit in question.
5. It is submitted that the respondent had promised to deliver possession of the booked within 24 months from the date of booking. However, the respondent failed to deliver peaceful possession of the unit on the agreed date and



continued to remain in default till December, 2022. Thus, the default in handing over possession continued for more than 15 years.

6. That in view of the failure on the part of the respondent in timely delivery of possession, the complainant along with a bunch of other allottees had preferred a complaint seeking possession of their respective units before the National Consumer Dispute Redressal Forum, New Delhi in the year 2017. However, in June 2022 the lead applicant settled the matter with the respondent and withdrew the entire complaint without addressing the complainant's grievances and without obtaining the complainant's consent. It is pertinent to mention that no settlement has ever been arrived at between the complainant and the respondent, and the grievances of the complainant are still pending adjudication. Hence, the principle of res judicata does not apply to the present complaint.
7. That possession of the unit was offered to the complainant in the month of December 2022, after an inordinate delay of 13 years, without any sufficient cause or justification. Moreover, the respondent denied providing any interest or compensation to the complainant for its continuous defaults committed in breach of the BBA. The complainant had accepted the said possession only to secure her interests and further executed conveyance deed with the respondent qua the said unit. The complainant has paid the complete amount of ₹20,32,733/ by the year 2014 however, the respondent has outrightly



denied providing any relief or compensation as provided under the applicable laws. Hence, the present complaint.

C. RELIEF SOUGHT


8. Complainant sought following relief:

- i. To direct the respondent to pay the delayed possession charges as per prescribed interest rate for the default period on the amount paid by the complainant since February 2008.
- ii. To direct the respondent to pay ₹1,00,000/- for the cost of present complaint.
- iii. To pass such other order or further order(s), which the Hon'ble Authority may deem fit and proper.

D REPLY SUBMITTED ON BEHALF OF RESPONDENT-

Respondent filed its reply on,29.04.2024 wherein it is pleaded that:-

9. In the year 2012, the respondent issued a plot buyer agreement in relation to the said plot to the complainant for signatures. Despite several requests and reminders from the respondent, the complainant neither visited the office of the respondent nor signed and executed the plot buyer agreement dated 27.11.2012. A copy of the unexecuted plot buyer agreement dated 27.11.2012 is annexed herewith and marked as **Annexure R-3**.
10. Thereafter, in the year 2017, the complainant filed a complaint bearing No. CC/3346/2017, titled "Vijay Kumar Goel & Others v. Jai Krishna Artee JV",



before the Hon'ble National Consumer Disputes Redressal Commission (NCDRC), inter alia, seeking interest on account of alleged delayed possession in respect of the same plot.

11. Without prejudice to the above, the present complaint is also barred under Order II Rule 2 of the Code of Civil Procedure, 1908, as the complainant had earlier filed Complaint No. CC/3346/2017 before the Hon'ble NCDRC on the same cause of action.
12. It is submitted that the relief sought by the complainant pertains to delayed possession charges, for which the appropriate forum under the Act is the Adjudicating Officer.
13. That the respondent had issued a letter dated 20.08.2019, offering possession of the said plot to the complainant and requesting the complainant to take possession thereof. However, the complainant failed and neglected to come forward to take possession of the said plot. A copy of the possession offer letter dated 20.08.2019 is annexed herewith and marked as **Annexure R-7**.
14. That the complainant failed to respond and/or take possession of the said plot, the respondent issued several reminder letters dated 23.09.2019, 30.12.2019, 03.06.2020 and 14.12.2021, from time to time, requesting the complainant to take possession of the said plot. The complainant neither responded to the said reminder letters nor took possession of the said plot.



Copies of the reminder letters issued by the respondent are annexed herewith and marked as **Annexure R-8 (Colly)**

15. During the pendency of Complaint No. CC/3346/2017, the parties arrived at a mutual and amicable settlement, pursuant to which an amount of ₹49,663/- (Rupees Forty-Nine Thousand Six Hundred and Sixty-Three Only) was paid to the complainant towards full and final settlement of all claims. In view of the said full and final settlement, the complainant withdrew Complaint No. CC/3346/2017. The said withdrawal was in terms of the settlement arrived at between the parties, which is final, binding and conclusive. Accordingly, by virtue of the doctrine of res judicata, the present complaint is not maintainable, as the same cause of action has already been adjudicated upon and settled between the parties.
16. Subsequently, pursuant to the settlement arrived at between the parties, the complainant executed an Affidavit-cum-Undertaking dated 15.06.2022, wherein the complainant categorically stated that all accounts stood fully settled with the respondent in respect of the said plot and that no further demands and/or claims, including claims relating to delayed possession charges/interest, survived against the respondent.
17. In furtherance of the said settlement, a fresh Plot Buyer Agreement dated 13.08.2022 was executed between the complainant and the Respondent. Thereafter, a conveyance deed dated 13.12.2022 was duly executed in favour of the complainant in respect of the said plot. In this regard, a



handing over of possession letter dated 30.01.2023 was also issued. Copies of the Plot Buyer Agreement dated 13.08.2022, Conveyance Deed dated 13.12.2022 and possession letter dated 30.01.2023 are annexed herewith and marked as **Annexure R-13, Annexure R-14 and Annexure R-15**, respectively.

18. In view of the execution of the conveyance deed and the express terms of settlement, the complainant is estopped in law from raising any claim against the respondent in relation to the said plot for any period prior to 13.12.2022, i.e., the date of execution of the conveyance deed present complaint is therefore, barred by the principle of estoppel and is liable to be dismissed.

E REJOINDER TO REPLY BY THE COMPLAINANT

19. The complainant has filed a rejoinder dated 18.12.2024 to the reply filed by the respondent, wherein the complainant denied that any settlement having been effected between the parties and contended that no valid settlement agreement was ever executed with the consent and also denied having withdrawn any complaint against the respondent pursuant to any settlement and submitted that no consent, authorization, or reliable document evidencing such withdrawal has been placed on record by the respondent.
20. It is further submitted that the complainant was never made aware of any settlement allegedly arrived at between the respondent and other allottees and that the complainant was not a party to any such settlement. Therefore,



doctrine of res judicata is not applicable in this case. It is also submitted that the earlier consumer complaint was not dismissed after adjudication on merits and, therefore, the rights and liabilities of the complainant were never finally determined by any competent forum.

21. The complainant asserted that this Hon'ble Authority has the jurisdiction and competence to adjudicate upon the rights and liabilities of the parties, as the same have not been adjudicated by any court or forum till date also stated that no compensation towards delayed possession was ever received as contemplated under the provisions of the RERA Act and that the statutory right to seek compensation has neither been waived nor settled.

22. The complainant objected to the veracity of the documents relied upon by the respondent and submitted that the authenticity of the said documents must be verified before placing any reliance upon them. It was alleged that the respondent has relied upon forged and fabricated documents which were never executed or consented to by the complainant and that such documents cannot be relied upon in the present proceedings.

23. The complainant further submitted that even the affidavits relied upon by the respondent require verification from the records of the notary public and that the notarial register must reflect the signatures of the complainant.

24. It is contended that the burden lies upon the respondent to prove the genuineness and veracity of the documents relied upon by it and that erring



builders cannot be permitted to misuse documents to defeat the legitimate rights of innocent allottees.

F ISSUES FOR ADJUDICATION

25. Whether the complainant is entitled to delay interest for the delay caused in delivery of possession terms of Section 18 of Act of 2016?

G OBSERVATIONS OF THE AUTHORITY

26. After hearing arguments advanced by both parties and pursuing documents placed on record, it is observed that a unit had been booked by complainant in an upcoming project of the respondent being developed at Sector 26, 26-A & 27, Sonapat, Haryana by the complainant in the year 2006. That the complainant was allotted a plot bearing no. B-33, admeasuring 263 sq. yards, in the project named as "Green Wood City". It has been alleged by the complainant that despite raising demands towards the sale consideration the respondent failed to execute a plot buyer agreement till 2012. A copy of an unsigned Plot buyer agreement dated 27.11.2012 has been placed on record by the complainant. Both parties allege that the other failed to execute/sign the same. That till the year 2017 no substantive document qua the said unit was executed between the parties. In 2017, the complainant along with other allottees preferred a complaint against the answering respondent before the Hon'ble National Consumer Dispute Redressal Commission, New Delhi bearing no. 3346 of 2017 seeking possession of the



booked unit along with delay interest for the delay caused in delivery of possession. During the pendency of said complaint the respondent had issued an offer of possession to the complainant on 20.08.2019, which the complainant did not accept. It is submitted by the respondent that the complainant as well as the other allottees amicably settled the dispute and based on this settlement complaint no. 3346 of 2017 was disposed of before the Hon'ble NCDRC in terms of settlement deed vide order dated 30.06.2022. A copy of the settlement deed dated 13.06.2022 executed between the present complainant and respondent is annexed as Annexure R-9. After execution of the settlement deed both parties executed a fresh plot buyer agreement dated 13.08.2022. Subsequent to that a conveyance deed was executed between the parties on 13.12.2022 and a handing over agreement was issued on 30.01.2023.

The complainant has filed the present complaint assailing the settlement dated 13.06.2022 arrived at between the parties and seeking delayed possession interest for the delay caused in handing over of possession.

27. Upon thorough appreciation of the submissions made and documents placed on record by the parties, it is observed that the present complainant had initially preferred a complaint before the Hon'ble National Consumer Dispute Redressal Commission for redressal of her grievances. The complainant had pursued the said complaint for five long years which



ultimately resulted in resolution of dispute by way of amicable settlement arrived between the present complainant and the respondent on 13.06.2022, on grounds of which the Consumer complaint was disposed of as settled vide order dated 30.06.2022. The complainant has contended this settlement on grounds of being a forged document. In this regard it is observed that the subsequent to signing of this settlement deed the complainant had further executed an affidavit cum undertaking(dated 15.06.2022) , a plot buyer agreement(dated 13.08.2022) and a conveyance deed(dated 13.12.2022) in respect of the plot in question with the respondent. Subsequent to the order of Hon'ble Consumer Commission, the complainant went on to further execute two additional documents with the respondent qua the plot in question which were in line with the settlement deed, thereby solidifying the settlement arrived at between the parties. The complainant was very much aware of the order dated 30.06.2022, however, not once has the complainant challenged the said order on grounds of the said settlement document being forged. The complainant has not questioned the terms of the settlement deed and neither preferred any appeal against the order dated 30.06.2022 passed by the Hon'ble National Consumer Dispute Redressal Commission in case the complainant was genuinely aggrieved by the fact that the matter had been wrongly disposed of. Complainant has not filed any document to show that th complainant had exercise her rights as per available law against the wrongful dismissal of her claim before the National Consumer Dispute



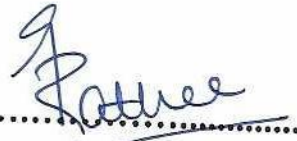
Redressal Commission or pursued any criminal action against the answering respondent for wrongful deceit.

28. Instead, the complainant after availing a cooling of period from 13.12.2022 (date of execution of conveyance deed) till 08.08.2023 (date of filing of present complaint) chose an altogether different forum seeking relief of payment of delayed possession interest and hiding critical facts from this Authority. Apart from a bald assertion that the documents relied upon by the respondent were fabricated, no substantive evidence was produced by complainant to fortify the factum that the complainant had in anyway been wronged. As per the material available on record, the complainant has been enjoying peaceful possession of her unit since 30.01.2023 in terms of the settlement arrived at between the parties. This complaint seems to be an afterthought just to seek wrongful gains on the basis of law of the land. Prior to the filing of the present complaint, the complainant has never challenged the settlement deed dated 13.06.2022 and/or the order dated 30.06.2022 passed by the Hon'ble National Consumer Dispute Redressal Commission.
29. Considering the order of the Hon'ble National Consumer Dispute Redressal Commission dated 30.06.2022 which is already on record and wherein the parties have amicably settled the matter Authority observes that the matter in present complaint already stands decided and disposed of. In case of any grievance/dispute against the orders of Hon'ble National Consumer Dispute



Redressal Commission dated 30.06.2022 complainant may prefer an appeal or avail other legal remedy as per relevant criminal laws.

30. Case is **Disposed of** with liberty to pursue the appropriate remedy as per law. File be consigned to the record room after uploading of the order on the website of the Authority.



DR. GEETA RATHEE SINGH

[MEMBER]