



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Date of decision:	22.01.2026
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S.No.	Complaint nos.	Complainants
1.	222 of 2021	Sh. Abhijeet Kumar Mishra, S/o Mr. JN Mishra, R/o House No. 3, Z Block, Shyam Vihar, Phase-1, Najafgarh, Delhi-110043
2.	64 of 2021	Sh. Mahipal Singh Negi, S/o Bhagwat Singh Negi, R/o 641/2, 2 nd floor, Flat No.9, Anjani Apartments, Export Enclave, Nai Basti, Devli Delhi-110062.
3.	65 of 2021	Sh. Anupam Kumar Thakur, S/o Ravindra Nath Thakur, R/o E-1905, cloud 9 Ahinsa Khand 2 Shipra Sun City, Indirapuram, Ghaziabad UP-201014.
4.	892 of 2021	Sh. Ram Mehar Singh, S/o Chatar Singh, R/o Uchana Mandi Uchana Kalan Jind, Haryana-126115.

VERSUS

R-1 Asian Developers Limited.; # W-6, 3rd floor, Naveen Shadra Colony, New Delhi-110032

R-2 Saera Auto India Private Limited; # Plot No.1, Sector-11 Dwarka, New Delhi-110075

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CORAM:	Parneet Singh Sachdev	Chairman
	Nadim Akhtar	Member
	Dr. GeetaRathee Singh	Member

Present: - Adv. Akshat Mittal, Counsel for the complainants through
VC(in all captioned complaints).

None for respondent no.1

AdvPranav Proothi, Counsel for the respondent no.2 through
VC (in all captioned complaints)

ORDER (PARNEET S. SACHDEV-CHAIRMAN)

1. This order shall dispose of application dated 08.01.2024 filed by complainants in complaint nos. 222, 64 of 2021 and applications dated 12.01.2024 in complaint nos. 65, 892 of 2021. Said applications were filed in captioned complaints before this Authority for violation or contravention of the settlement executed between complainants and respondent no.2 vide which captioned complaints were once disposed of vide order dated 04.08.2022.
2. Applications in these captioned complaints are taken up together as facts and grievances of all complaints are identical and relate to the same project of

the respondent, i.e., "Bawal Residency" being developed by the promoter namely; "Asian Developers Ltd." situated at Bawal, Haryana. Therefore, **Complaint No. 222 of 2021** titled as "**Sh. Abhijeet Kumar Mishra versus R-1 Asian Developers Ltd; R-2 Saera Auto India Pvt. Ltd**", has been taken as lead case for deciding all application filed in captioned matters.

A. BRIEF HISTORY OF THE CASES AS RECORDED IN PREVIOUS INTERIM ORDERS :

3. Vide Order dated 23.04.2024 following facts were recorded:

1. "Vide order dated 04.08.2022 captioned complaints were disposed of on the basis of statement of respondent no. 2 that settlement has been effected with liberty to the complainants to approach the Authority for reopening of their complaints in case the terms of settlement are not met by respondent no. 2.

2. Now, complainants have filed applications dated 08.01.2024 in complaint no. 222 of 2021 and 64 of 2021 and applications dated 12.01.2024 in complaint no. 65 of 2021 and 892 of 2021 seeking re-opening of the cases since the terms of settlement are not abided by respondent no. 2.

3. It is further informed that settlement dated 30.05.2022 was arrived on assurance by respondent no.2 that bank loan would be taken care of, either by them or by the respondent no. 2 and would have nothing to do with the complainants, and had also assured that the settlement amount mentioned in the settlement deed dated 30.05.2022 does not include recovery of the loan amount already disbursed, which may be recovered directly from respondent no. 1 for which respondent no. 2 was to assist the complainant. Respondent no. 2 manipulated the complainant into believing that loans of several other allottees have been taken care of by respondent no. 2 in view of



their settlement and that the home loan pertaining to the complainant would also be taken care of after execution of settlement deed."

4. Taking note of above applications and one of the prayer sought by complainants that both the respondent no.1 i.e. "Asian Developers" and 2 i.e. "Saera Auto India Pvt. Ltd." be jointly directed to refund the amount paid qua the unit in question, along with interest. Captioned complaints were re-opened and Following orders were passed:

i. **Vide order dated 19.09.2024**, Authority took note of the fact that name of respondent no. 1 as impleaded by the complainants has been struck off by registrar of companies and the company is no longer in existence. Therefore, complainants were directed to implead the directors of the company as parties to the complaint by way of filing an impleadment application as directors of M/s Asian Developers Ltd are necessary party to this complaint within two weeks with an advance copy supplied to the respondents.

In compliance of the same, an amended memo was filed by the complainants in all the captioned complaints on 30.10.2024, wherein 5 respondents were made party to the captioned complaints, which are named below:

- Asian Developers Ltd., W-6, 3rd Floor, Naveen Shadra Colony, New Delhi – 110032

- Saera Auto Pvt. Ltd., Plot No. 1, Sector 11, Dwarka New Delhi – 110075
- Dinesh Kumar Sharma s/o Sh. Om Prakash Sharma, R/o B 304, NRI Residency, PariChowk, Omega-I, Greater Noida (UP)- 201310
- Deepak Gusain S/o Sh. Dinesh Singh Gusain R/o 422, 4th Floor, Sector 19, Vasundra, Sahibabad, Ghaziabad, Uttar Pradesh; currently at Bondsi Jail Gurugram, 938W+4XG, Near RTC, Dist Gurgaon, Bhondsi, Haryana 122102.
- Nitin Kumar Sharma S/o Sh. VedPrakash R/o 501-A, Jivan Apartment, GH-7, Sector-7, Vasundhra, Ghaziabad, UP- 201012 currently at Tihar Jail, 625 LIG VikasPuri New Delhi, Tihar Central Jail, Janakpuri, Delhi-110058

(i) **Vide order dated 05.12.2024:** In compliance, notices were issued to the respondents on 27.11.2024 and same got successfully delivered to the respondent no.3 on 29.11.2024 but notice to the respondent no. 4 & 5 were returned undelivered. Counsel for Complainant was directed to serve dasti notice to serve upon Mr. Deepak Gusain and Mr. Nitin Kumar Sharma (respondent no. 4 & 5).

(ii) **Vide order dated 20.03.2025:** Ld. counsel for complainant informed that despite his best efforts the notices could not be served so he requested for substituted service of notice by way of publishing it in the newspaper.

(iii) **Vide order dated 03.07.2025:** it is recorded that in pursuance of order dated 20.03.2025 publication was duly effected on 17.06.2025. Despite service by publication, none appeared on behalf of respondent no. 4 and 5 but none appeared for them.

“3. It was further submitted by the Ld. counsel for the complainants that the main complaint was earlier disposed of vide order dated 04.08.2022, based on a settlement agreement dated 30.05.2022 executed between the complainants and respondent no. 2. The settlement was effected based on two key terms: firstly, that respondent no. 2 would disburse the agreed settlement amount, which has been paid. Secondly, that respondent no. 2 would assist the complainants in pursuing action against respondent no. 1.

4. It is alleged by the ld. counsel for the complainants that instead of extending the agreed assistance, respondent no. 2 shared the settlement deed with the Delhi High Court and the Economic Offences Wing, which aided respondent no. 1's directors in securing bail, despite the settlement not being executed with respondent no. 1. Owing to respondent no. 2's non-compliance with the settlement terms,

particularly the failure to assist the complainants, the matter was reopened. He further added that despite sufficient opportunities, respondent no. 4 and 5 have failed to appear. Accordingly, it is prayed that the matter may now be proceeded ex- parte against them.

5. During the course of hearing, the Authority posed a query to the counsel for 6. the complainants drawing attention to the fact that the settlement deed was executed with respondent no. 2 and that certain amounts had already been disbursed pursuant thereto. It was further observed that Clause 2 of the said agreement specifically stipulates that the complainants are at liberty to recover the outstanding loan amount from respondent no. 1 directly. Upon being confronted with this aspect, the ld. counsel for the complainants duly acknowledged and admitted the same. Since respondent no. 1 as per records on the MCA portal, has been struck off from the register of companies, now question arises as to "whether the directors of a struck-off company can be held personally liable for the liabilities of the said company and can this Authority adjudicate upon their settlement?"

6. ***

7. On the other hand, ld. counsel for respondent no. 2 appeared and raised three preliminary objections. Firstly, he contended that the present complaint is not maintainable before this Authority in view of Clause 10 of the settlement

agreement, which confers exclusive jurisdiction upon the courts at New Delhi. He submitted that the complainants cannot be permitted to selectively rely upon certain clauses of the agreement while disregarding others. Secondly, he questioned the maintainability of the complaint on the ground that the complainant has already encashed the settlement amount, and therefore, cannot seek to reopen the matter. Thirdly, he submitted that the present Authority lacks jurisdiction to adjudicate upon the subject matter of the settlement agreement, as doing so would effectively require specific performance of contract. A relief which lies within the exclusive domain of civil courts. With respect to the complainant's allegation that respondent no. 2 failed to assist in recovery from respondent no. 1, he submitted that he had merely responded to a written query from the Economic Offences Wing, Delhi, regarding the existence of the settlement agreement, and had furnished the same in compliance with the said enquiry.

8. In rebuttal, *Id.* counsel for the complainants submitted that as far as the issue of maintainability and jurisdiction is concerned, the agreement in question contains standard-form clauses and the invocation of exclusive jurisdiction cannot override the substantive rights of the complainant particularly when such jurisdictional clauses are not freely negotiated. He further submitted that the present complaint has been filed pursuant to liberty granted by this Authority

vide order dated 04.08.2022, wherein the earlier complaint was disposed of on the basis of settlement, with specific liberty to revive proceedings in case of non-compliance with the settlement terms by respondent no. 2. Secondly, with respect to the objection raised regarding the liability of respondent no. 2 and whether the directors of respondent no. 1 can be held personally liable, *Id. counsel submitted that he shall place relevant documents on record to assist this Authority on the issue.* Thirdly, so far as the objection relating to the scope of jurisdiction of this Authority under the Real Estate (Regulation and Development) Act, 2016 vis-a-vis specific performance of contract is concerned, it was submitted that the complainant is not seeking specific performance but is merely praying for compliance of the settlement agreement already acted upon partially, which squarely falls within the Authority's domain.

9. Arguments heard. Authority directs *Id. counsel for complainants to submit the relevant documents by 25.08.2025.*"

5. In compliance complainant has filed common application on 02.12.2025 stating clarification in terms of order dated 03.07.2025 and for placing on record copy of payments/transactions inter-se respondent no.1 and its erstwhile Directors and details regarding criminal proceedings initiated by the respondent no.2 against the complainants.

B. FACTS AS PER APPLICATION DATED 02.12.2025:

6. That the aforesaid complaints are pending before this Hon'ble Bench and are now posted for 04.12.2025. That the Hon'ble Bench had raised two queries to the complainant as to whether the directors of a struck off company can be held personally liable for the liabilities of the said company and as to whether the authority can adjudicate upon the settlement.
7. That as such, the instant application is a humble attempt on part of the complainant to address the said query, as well as to place on record the vital documents viz. details of the payments/transactions inter-se the respondent no. 1 i.e. Asian Developers Limited and its erstwhile Directors (Annexure A-1), as well as for placing on record the newly found details regarding the criminal proceedings initiated by the respondent no. 2 Sacra Auto India Pvt. Ltd., against the complainants (Annexure A-2).
8. That qua the first query, it is humbly submitted that while the respondent no. 1 Asian Developers Ltd has been struck off by the ROC, it is the Directors/Erstwhile Directors would still be personally liable for the defaults. It is hereby pertinent to submit that the payments received by the Asian Developers Ltd from the complainants and similarly situated allottees have been transferred from the bank account of Asian Developers Ltd to the Directors of the said company. As such, once the Directors have received the

amounts personally, they should not be allowed to escape their liabilities towards the allottees.

Furthermore, even as per section 69 of the Act, the said Directors/Erstwhile Directors would be deemed guilty of the offense committed by the Asian Developers Ltd under the Act, and deserves to be proceeded against and punished accordingly.

Further, the strike off in Companies Act does not erase liability of the Directors. As per section 248(7) of Companies Act, 2013, it is clearly stipulated as follows:-

"248. (7) The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section (5), shall continue and may be enforced as if the company had not been dissolved"

The complainants have been able to fetch certain record of the payment transactions so far (inter-se Asian Developers Ltd and its Directors), and the same is being placed on record as Annexure A-1-colly.

9. That further, qua adjudication upon settlement, it is humbly submitted that settlement was only entered inter-se the complainant and the respondent no. 2 (Saera) and never with the respondent no. 1 (Asian), and the respondent no. 2 itself would expect the complainant herein to pursue the matter against the respondent no. 1 and no loss would be caused to respondent no. 2 owing to the same.
10. That further, regarding adjudication qua the settlement inter-se the respondent no. 2 and the complainants, it is humbly submitted that adjudication qua any settlement has not been prayed for, and the complainant would not bother this Hon'ble Bench to adjudicate upon any settlement. However, vide order dated 04.08.2022, this Hon'ble authority had granted specific liberty to the complainants to approach the authority for reopening of the complaint in case the terms of settlement are not met. The relevant portion of the said order is being reproduced hereunder for ready reference:-

"5. Despite availing time, both parties have failed to file settlement deeds in the registry of office. Therefore, on the basis of the statement of learned counsel for respondent no. 2 i.e M/s Saera Auto India Ltd, above captioned cases are disposed of with a liberty to the complainants to approach the Authority for reopening of their



complaint in case the terms of settlement are not met by respondent no. 2. Order be uploaded on website and files be consigned to record room."

11. That the pecuniary aspect of the settlement has been complied with by the respondent no. 2 in as much as the amounts mentioned therein have been paid by them to the complainants. However, the only issue remains is that the settlement was entered under the pretext and on assurance by the respondent no. 2 that the Bank Loan taken by the complainant qua the unit in question, would be dealt with and taken care of by respondent no. 2, as they have been doing with other similarly situated allottees as well. However, owing to failure of respondent no. 2 to settle the issue with the Bank, the complainant is facing DRT proceedings initiated by the Bank, and is facing acute harassment thereunder. Essentially the complainant had taken loan qua the flat in question which was disbursed by the bank to the respondent no. 1 i.e. Asian Developers Ltd. but since the complainant has been left without the unit in question, owing to defaults on part of the respondents, as such, the complainant is unnecessarily burdened to pay back the loan amount which has not even been utilized by him and is still with the respondent no. 2

On perusal of the settlement deed, it is clearly mentioned that the settlement amount does not include the recovery of the loan amount directly disbursed by bank to Asian Developers Ltd, which may be recovered directly from Asian Developers Ltd. Though, it is reiterated that the respondent no. 2 had assured to take care of the said bank issue itself on behalf of the complainant and to clear the bank dues on its own.

12. That further, the complainant has challenged the settlement on one more ground, viz. non compliance of settlement provision contained in para E (4) (iv) of the settlement deed, under which, the respondent no. 2 had specifically agreed to assist the complainant in any/all cases that the complainant may file against respondent no. 1 i.e. Asian Developers Ltd. However, rather than helping the complainant, the confidential settlement arrived at inter-se the respondent no.2 and the complainant, was illegally and wrongly used by the Director of respondent no. 1 Asian Developers Ltd. before the Hon ble Delhi High Court in the Bail matter, to mislead the Court and wrongly portray that the entire lis has been settled inter-se the respondents and the complainant. It was learnt that the said settlement has wrongly and unilaterally being shared by the respondent no. 2 to assist the respondent no. 1 and its Directors.

13. That it is humbly submitted that the matter does not relate to adjudication upon the settlement, but rather primarily observing that there are two components of any settlement viz. quantitative/pecuniary and qualitative. At the cost of repetition, it is submitted that the qualitative aspect in as much as the essence of the settlement still remains to be complied with by the respondent no. 2.
14. That moreover, it has recently being learnt that respondent no. 2 has initiated criminal proceedings against the complainant before Ld. Chief Metropolitan Magistrate, Saket Courts, Delhi. The same again go against the essence of settlement, if any. The documents qua the same are being annexed herewith as Annexure A-2.
15. That as such, it is humbly submitted that the Court may kindly reopen the complaint, for proper adjudication thereupon, particularly when there has been no settlement between Asian Developers Ltd and the complainant, and for the reasons mentioned herein, and otherwise in the interest of justice.

C. REPLY FILED BY RESPONDENT NO.2 on 24.09.2024:

16. The preliminary objection of the answering Respondent No.2 (M/s Saera Auto India Pvt. Ltd.) is that of lack of Jurisdiction of this Hon'ble Authority. It is humbly submitted that in the present case, the parties have agreed and

signed a Settlement Agreement dated 30.05.2022 once the settlement agreement has been entered into between the parties and it has been agreed by the Parties in the Settlement Agreement at Para 10, that if there are any disputes under the settlement agreement, the Courts at New Delhi shall have exclusive jurisdiction. Copy of the Settlement Agreement dated 30.05.2022 is annexed herewith as ANNEXURE-1.

17. That the Settlement Agreement dated 30.05.2022 between the Complainant and the Answering Respondent No.2 herein was entered into after multiple rounds of negotiations which included the respective Counsels for both the Parties and the Parties put down the agreed terms in writing and after careful consideration and understanding both parties signed the Settlement Agreement and the Complainant herein received the Demand Draft of the full and final settlement at the time of signing of the Settlement Agreement a fact which is not disputed by the Complainant / Applicant herein.
18. It has been alleged by the Complainant / Applicant in the Application under response, that it was assured by the Answering Respondent No.2 that the loan of the Complainant would be taken care of, either Asian Developers or by Saera Auto. The said allegation of the Applicant / Complainant is absolutely false and contrary to record. It has been clearly mentioned in the

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settlement agreement dated 30.05.2022 in Para 2 that the Complainant herein shall be at liberty to recover the loan amount directly from M/s Asian Developers.

19. It is humbly submitted that if there is any term or condition of the Settlement Agreement which according to the Complainant is being violated then the Complainant as per the Settlement Agreement is to approach the courts at Delhi and not this Hon'ble Authority. It cannot be the case that the Complainant seeks to enforce the terms of the Settlement on the Answering Respondent No.2 and at the same time violate and not adhere to the terms of the Settlement themselves.
20. By way of the present applicant the Complainant is attempting to expand the scope of this Hon'ble Authority into that of interpretation of terms of a Settlement Agreement, which is the statutory obligation of Civil Courts not this Hon'ble Authority.

Preliminary Submission:

- i. The Answering Respondent herein humbly submits that it was agreed between the parties via the Settlement Agreement dated 30.05.2022 that Saera Auto shall assist the Complainant in cases filed by the

Complainant against M/s Asian Developers, the underlying intent was to assist the Complainants in the Writ Petitions the Complainants intended / planned to file against the errant bank, its officials and Asian Developers to fasten the liability of the loan onto M/s Asian Developers, a plan of action which was suggested by the Counsel for the Respondents Mr. Nikunj Hurria to the Respondents. The Answering Respondent herein has never been asked and has never refused to assist the Complainants in any case filed by the Complainants thus making the present application misconceived apart from lacking territorial jurisdiction since parties have agreed to the exclusive jurisdiction of the Courts at New Delhi as per the same settlement that the complainant relies on.

- ii. It cannot be the case of the Complainants that they seek to enforce one clause of the Settlement on the Answering Respondent herein and ignore the other clauses which bind them. Once it has been agreed between the parties by way of a signed settlement agreement that the Courts at Delhi shall have exclusive jurisdiction over any dispute out of the Settlement Agreement then the jurisdiction of this Hon'ble Authority stands ousted. The Settlement agreement between the parties was entered into in Delhi, the payment was made in Delhi, the

Complainant resides in Delhi, the Answering Respondent has its registered office in Delhi, the agreement categorically states the jurisdiction of the Courts shall be exclusively Delhi thus this Hon'ble Authority shall have no jurisdiction to adjudicate and interpret the settlement agreement herein.

- iii. It has further been agreed that the settlement between the Parties is full and final settlement and pursuant to the present settlement neither parties can claim any monetary or any other payment payments whatsoever and there remain no dues whatsoever once the said settlement stood executed. It has further been recorded in the Settlement Agreement that "8. Whereas each of the parties has participated in drafting and negotiation of the present Settlement Agreement. Accordingly, for all purposes this settlement Agreement shall be deemed to have been drafted jointly. "Thus, evidencing that there is no other / underlying commitment except that which stands recorded in writing.
- iv. The Complainant seeks to establish a novel precedent and broaden the ambit and scope of the Real Estate (Regulation and Development) Act, 2016 ("RERA Act") by praying to this Hon'ble Authority to interpret the terms of an agreement entered into between the

Complainant and the Answering Respondent. The Complainant is attempting to carve a new law for himself and expand the purview and scope of the RERA Act by approaching this Hon'ble Authority to interpret the terms and conditions of an agreement entered into between the Complainant and the Answering Respondent. However, it is worth noting that the legislature enacted the RERA Act specifically for adjudication of disputes pertaining to builder-buyer relationships.

- v. The settlement agreement entered into between the Complainant and the Answering Respondent is a separate contract and the Answering Respondent has completed all of its obligations as per the terms and conditions of the Settlement Agreement. Therefore, the answering Respondent seeks to most humbly and respectfully raise the objection that this Hon'ble Authority lacks the authority and the jurisdiction to adjudicate upon the disputes which pertain to the settlement agreement executed between the Parties.
- vi. It is thus humbly submitted that this Hon'ble Authority may kindly be pleased to dismiss the present application of the Applicants and relegate them to the dispute resolution mechanism under the Settlement Agreement i.e. the Civil Court of appropriate jurisdiction at New Delhi.

D. APPLICATION FILED BY RESPONDENT NO.2 ON 04.12.2025:

21. That the present application is being filed before this Hon'ble Authority to establish that the Applicant/Respondent No. 2 did not collude with Respondent No. 1 to defraud any homebuyers and that the Applicant/Respondent No. 2 is itself a victim. Though the Applicant/Respondent No. 2 has produced sufficient material before this Hon'ble Authority to establish that it had no relationship with Respondent No.1 barring the authority that it had delegated to Respondent No. 1 to undertake construction of a housing complex on its land.
22. That on 04.04.2018 one of the defrauded homebuyers, Mr. R.S. Rohilla had filed a complaint with Economic Offences Wing, Delhi Police alleging that Respondent No. 1 and Respondent No. 2 had colluded to defraud several homebuyers by selling flats in a housing complex which could have only been used as a residential complex for employees of the Applicant/Respondent No.2. In fact, the Respondent No. 1 had sold flats to third party home buyers the employees of Applicant/Respondent No. 2 despite being clear that the flats were only meant for residential purpose of the employees of applicant/Respondent no.2.
23. That Respondent No. 1 relied upon a forged and fabricated undertaking dated 09.07.2012 and a forged and fabricated memorandum of understanding

dated 16.11.2012 to show and establish that the Applicant/Respondent No. 2 had authorized it to undertake sale of flats. Though the Applicant/Respondent No.2 had consistently pleaded that the said documents had been forged and fabricated by respondent no.1 and it had never given any such authority to anyone, the homebuyers before this Hon'ble Authority kept attempting to mislead this Hon'ble Authority into believing that Respondent No. 1 and Applicant/Respondent No. 2 colluded.

24. During the investigation into the complaint the Economic Offences Wing, Delhi ("EOW") issued a notice to the Applicant/Respondent No. 2's authorized representative and director Mr. Manjeet Johar to join investigation and respond to the allegations. The Applicant/Respondent No. 2 submitted a detailed reply to the EOW's notice on 11.05.2018, clearly setting out its non-involvement in the alleged fraudulent activities. It is relevant to mention that the above-mentioned complaint culminated into F.I.R. No. 0152 of 2018 dated 24.07.2018. A true copy of F.I.R. No. 0152 of 2018 is annexed herewith and marked as Annexure - 1.
25. That recently a supplementary chargesheet has been recently filed in the aforementioned F.I.R by the EOW. Through the course of their investigation, the Investigating Authority asked Director of Respondent No. 1, Mr. Dinesh Sharma to produce original alleged Memorandum of



Understanding dated 16.11.2012, the document through which Respondent No. 1 claims to have received the authorization from the Answering Respondent to undertake sale of flats. He was not able to produce the said document in original. Owing to this, the Investigating Authority then issued a notice under applicable law, to Mr. Vikas Sihaag, the individual who had allegedly signed the alleged Memorandum of Understanding dated 16.11.2012 as a witness, to join the investigation and clarify whether he had in fact signed the said document as a witness. It is pertinent to highlight that Mr. Vikas refused having signed the said document as a witness. This clearly establishes the forged and fabricated nature of the Memorandum of Understanding dated 16.11.2012. The relevant portion of the chargesheet filed by the Investigating Authority is reproduced herein below:

“-Alleged Dinesh Sharma (Director of ADL) was asked to provide original alleged MOU claimed by him, however, he could not produce the same. During to join investigation to examine him regarding this MOU, regarding allowing Me imestigation, witness of alleged forged MOU, namely VikashSihag was sent notice replied that he never signed this document. Asian Developers Ltd. to sale the flats, having his signature as witness and he replied that he never signed this document”

The relevant section of the supplementary charge sheet filed by the EOW in the trial proceedings emanating from FIR NO. 0152 of 2018, is annexed herewith and marked as Annexure - 2.

26. That the findings of the EOW investigation clearly establish that Respondent No. 1 played a fraud upon the homebuyers and the Applicant/Respondent No.2.
27. It is reiterated that the Applicant/Respondent No. 2 settled the matter amicably with the complainant to put a quietus on all disputes so that it could make use of its land. The same was a commercial call which the Applicant/Respondent No. 2 had taken. It was only pursuant to a mutually agreeable settlement that the captioned complaint had been disposed of by this Hon'ble Authority.
28. The complainant is now attempting to reagitate a settled issue by attempting to establish collusion between Respondent No. 1 and the Applicant/Respondent No. 2 when in fact none exists as can be established from the above annexed documents.
29. The present application is bona fide and has been filed in the best interest of justice. The documents annexed with this application could not be annexed earlier as the supplementary chargesheet has been filed by the EOW only on 29.05.2025.

30. In view of the facts and circumstances mentioned above the Respondent No.

2/Applicant most humbly prays as follows:

- (a) Allow the present application and take on record the annexures filed along with this application;
- (b) Consequently, dismiss the captioned matter as settled;
- (c) Pass any other order which this Hon'ble Authority may deem fit and proper as per the facts and circumstances of the present case.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANTS AND RESPONDENT

31. Ld. counsel appearing on behalf of both parties reiterated the arguments as stated in para 3 to 30 of this order.

F. ISSUE FOR ADJUDICATION

- Whether the present complaint is maintainable under RERA, Act 2016 in view of a duly executed and acted upon Settlement Deed dated 30.05.2022 entered into by the complainants and the Respondent?
- Whether the complainants can be granted the reliefs claimed?

G. OBSERVATIONS AND DECISION OF AUTHORITY

32. The Authority has gone through rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both the parties, Authority observes that the complainants booked a unit in the real estate project; "Bawal Residency" being developed by the promoter namely; "Asian Developers Ltd." and in consonance to the same, complainant was allotted unit no. A4/301- Tower A, vide Builder Buyer Agreement executed between the parties on 16.03.2016. Complainants have paid a total sum of ₹38,94,122/- against the total sale consideration of the unit of ₹ 41,17,550/-. Thereafter, a settlement deed has been duly executed and mutually signed between the complainant and respondent no. 2 on 30.05.2022.

33. Authority has carefully examined the settlement deed dated 30.05.2022, which is annexed by the complainant as Annexure B to the complaint and is also annexed by the respondents as Annexure 1 to the reply. Authority observes that it is an undisputed and admitted fact that the Complainants and the Respondent voluntarily entered into a Settlement Deed dated 30.05.2022 for full and final resolution of all disputes, claims, and grievances relating to Unit No. A-4/301 in the Respondent's project namely 'Bawal Residency', Bawal. The key terms and conditions of the Settlement Deed are summarized as follows:

Clause A- WHEREAS, the First Party entered into an agreement with M/s Asian Developers Ltd. (the builder / promotor for the Project "Bawal Residency") for purchase of flat No. A4/301 (Hereinafter referred to as the Flat) of Bawal Residency, situated at plot No. 16, Sector-2, IMT Bawal, Haryana (hereinafter referred to as Project). The details of flat is as below:

(i) Flat No. A4 201 (ii) Configuration:..... (iii) Area:) 1290 Sq. ft. The First Party paid a total amount of INR. 38,94,122/- (including the bank loan) to M/s Asian Developers Ltd. towards the purchase of the flat.

B. ***

C. ***

Clause D : AND WHEREAS, now the parties are willing to enter into an out-of-court amicable settlement for the dispute arisen on account of controversies and now wish to commit the terms of their accord into this Settlement Agreement.

ClauseE: AND WHEREAS, each party has been apprised of its rights regarding the settlement, and enters into the settlement freely and voluntarily. Now, Therefore, in consideration of the premises and mutual promises contained herein, the parties agree as follows:

1. This settlement is Without Prejudice to the rights and contentions of the parties. Neither this Settlement Agreement nor anything contained within it shall be admissible in any proceeding as evidence of liability or wrong doing on the part of either party. However, this settlement agreement may be introduced in any proceeding instituted to enforce its terms.

2. Consideration for the settlement of the disputes and controversies, the Second Party shall pay to the First Party an amount of Rs. 8, 07,500/- ("Settlement Amount") to be paid at the time of signing of this agreement, which includes any/all monetary payments or dues of any kind relating to the Controversies and constitutes the absolute full and final settlement of any / all disputes between the parties. However, it

is clarified that the aforementioned amount does not include recovery of the Loan Amount, disbursed directly by the Bank to Asian Developers Ltd., which may be recovered directly from Asian parties in their complaint pending before the RERA.

(ii) The second party may present this settlement agreement in respective police station/EOW for quashing the complaint/FIR qua the Second Party and the First party has no objection for the same, if filed by the first party against the second party.

(iii) The first Party undertakes to assist in withdrawal / quashing of any / all cases filed by him, if any before the various Courts and Police stations.

(iv) The second party shall assist the first party in any / all cases that the first party may file against M/s Asian Developers.

(v) The Parties shall hereinafter have no dispute / dues / complaint against each other, the parties shall not initiate any litigation against each other in any forum/ court / tribunal and all the pending complaints / litigation against the parties shall stand settled pursuant to this agreement.

(vi) The present settlement is binding upon both parties and both parties undertake to abide by this settlement in full.

5. WHEREAS No rights of either of the Parties under this Settlement Agreement shall be assigned without the express written consent of the other Party, which consent may only be given in accordance with applicable laws and regulations.

6. This Settlement Agreement, along with all annexure hereto constitutes the entire agreement between the parties concerning the aforesaid settlement and release of claims.

7. WHEREAS if any portion of the present Settlement Agreement are held to be invalid and/or un-enforceable for any reason whatsoever, then all the other remaining portions of the Settlement Agreement shall nevertheless remain valid and enforceable to the extent they can be given effect without the aforesaid invalid and /or un-enforceable portions.

8. WHEREAS each of the parties has participated in the drafting and negotiation of the present Settlement Agreement. Accordingly, for all the purposes, this Settlement Agreement shall be deemed to have been drafted jointly by the parties.

9. WHEREAS the present Settlement Agreement will be executed in two number of copies, each of which shall be deemed to be counterpart original. Each party will have one original copy of this agreement.

10. This Settlement is being entered into at New Delhi and thus Courts at New Delhi shall have exclusive jurisdiction over the disputes if any under this settlement agreement.

11. WHEREAS each person signing this Settlement Agreement hereby represents and warrants that he or she has the authority to bind the entity on behalf of which he or she has signed.

34. The complainant in settlement deed has unequivocally declared in Clause 2(v) that “*the Parties shall hereinafter have no dispute/dues/complaint against each other, the parties shall not initiate any litigation against each other in any forum/ court/ tribunal and all pending complaints/ litigation against the parties shall stand settled pursuant to this agreement.*” The Authority takes note of the categorical and comprehensive nature of this clause, which clearly indicates that the settlement was intended to operate as a full and final discharge of all contractual and statutory claims, extinguishing the earlier cause of action between the parties.

35. The Authority has further observed that the complainants acted in accordance with the Settlement Deed and took steps in furtherance of the settlement, in compliance of Clause 2 of the settlement agreement, it was mutually settled

by the parties that “.....the second party shall pay to the First party an amount of Rs. 8,07,500/- (the settlement amount) to be paid at the time of signing of this agreement, which includes any/all monetary payments or dues of any kind relating to the controversies and constitutes the absolute full and final settlement of any/all disputes between the parties.”. It is admitted by the complainant as well as respondent that an amount of ₹8,07,500/- as agreed by both the parties had already been received by the complainant as per settlement agreement. The fact demonstrates that the complainant as well as respondent acted upon the settlement and acquiesced to its terms through their conduct. The principle of "accord and satisfaction" therefore applies, which in legal terms denotes a mutual agreement that discharges pre-existing obligations through a new contract that has been acted upon.

36. Further, Ld. counsel for the complainant contended that the earlier Complaint No. 222 of 2021 had been filed by the complainant against both Respondent No.1, namely *Asian Developers Ltd.*, and Respondent No.2, namely *Saera Auto India Pvt. Ltd.*, whereas the present application dated 08.01.2024 proceeds on the plea that the Settlement Agreement dated 30.05.2022 was entered into only with Respondent No.2 and not with Respondent No.1. The Authority observes that the original Complaint No. 222 of 2021 was filed by the complainant seeking reliefs arising out of the same cause of action,

namely, the booking and allotment of Unit No. A-4/301, Tower-A, pursuant to the Builder Buyer Agreement dated 16.03.2016, and the alleged defaults connected therewith. The reliefs in the said complaint were sought jointly and severally against both Respondent No.1 and Respondent No.2. It is an admitted position on record that, with respect to the very same unit and the very same cause of action, the complainant consciously and voluntarily entered into a Settlement Agreement dated 30.05.2022, pursuant to which the disputes were stated to be fully and finally resolved. Once the complainant decided to settle the disputes arising from the allotment of the said unit and accepted consideration thereunder, the original cause of action stood exhausted and extinguished. The Authority is of the considered view that the complainant cannot be permitted to bifurcate or revive the same cause of action by contending that the settlement was executed only with Respondent No.2, particularly when the initial complaint itself was founded on a composite cause of action and reliefs were sought against both the respondents. The execution of the Settlement Agreement brought a quietus to the lis arising from the Builder Buyer Agreement dated 16.03.2016, and consequently, no surviving cause of action remains for adjudication before this Authority.



37. Further, the Authority observes that the Settlement Agreement dated 30.05.2022 was arrived at by the mutual consent of both the parties. The same is evident from Clause 8 of the Settlement Agreement, wherein the parties have expressly recorded as: "*WHEREAS each of the parties has participated in the drafting and negotiation of the present Settlement Agreement. Accordingly, for all purposes, this Settlement Agreement shall be deemed to have been drafted jointly by the parties.*" A bare reading of the aforesaid clause clearly establishes that the Settlement Agreement was not a unilateral or standard-form document imposed by one party upon the other, but was the result of conscious negotiations and mutual deliberations between the parties. By incorporating this clause, the parties unequivocally acknowledged that they were fully aware of the contents, implications, and legal consequences of the settlement and that the terms thereof were voluntarily accepted. Consequently, the complainant cannot now be permitted to contend that the settlement was entered into without free consent or that the terms of the agreement are open to reinterpretation before this Authority.

38. As per established principles under the Indian Contract Act, 1872, once a contract is voluntarily entered into and acted upon by both parties, it assumes binding legal force. A Settlement Deed executed with mutual consent operates as such a contract. It can only be invalidated if it is challenged before

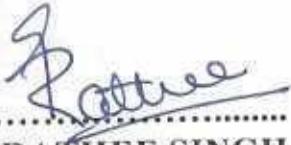
a competent **civil court** and declared void on limited and recognized legal grounds such as: Coercion, Fraud, Misrepresentation, Undue influence and Mistake of fact or law. In the present case, no such challenge has been made before any civil court, nor has the Complainant produced any evidence of vitiating factors.

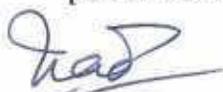
39. Further, the Complainant's signatures appear on the document,-suggesting that the terms were duly acknowledged and accepted at the time of execution. This Authority reiterates here that: RERA is a statutory forum for redressal of violations of promoter obligations under the RERA Act. It is not a substitute for a civil court and cannot exercise powers of judicial review over private contracts voluntarily entered into by the parties.
40. This position on the finality and enforceability of voluntary settlements is well-settled in law and finds authoritative support in the judgment of the Hon'ble Supreme Court in *Wg. Cdr. Arifur Rahman Khan & Ors. v. DLF Southern Homes Pvt. Ltd.*, decided on 24.08.2020 and reported in **2020 SCC OnLine SC 667**. In para 37 of the judgment, the Supreme Court observed:
"However, the cases of the eleven purchasers who entered into specific settlement deeds with the developers have to be segregated. ... These eleven flat purchasers having entered into specific deeds of settlement, it would be only appropriate and proper if they are held down to the terms of the

bargain. We are not inclined to accept the contention... that the settlement deeds were executed under coercion or undue influence since no specific material has been produced on record to demonstrate the same."

As per the binding precedent in *Arifur Rahman Khan*, once a voluntary settlement is reached and acted upon, it cannot be set aside at the whim of a party unless it is expressly vitiated in a competent forum—and that is clearly not the case here.

41. In view of aforesaid observations, the Authority concludes that the captioned cases are not maintainable under RERD Act, 2016.
42. Thus, Authority decides to dispose of the captioned **complaints as dismissed**. Files be consigned to the record room after uploading of the order on the website of the Authority.


.....
DR. GEETA RATHEE SINGH
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]


.....
PARNEET S. SACHDEV
[CHAIRMAN]