



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2182 of 2023
Date of filing:	25.09.2023
First date of hearing:	19.10.2023
Date of decision:	08.12.2025

Ritu Chaudhari
R/o Flat no. 108, Tarang Orchids,
Sector- 28, Faridabad, Haryana-121008
Versus

.....COMPLAINANT

Tarang Infrastructure Ltd.,
Registered office-D 22/2, Sector-10,
Faridabad, Haryana-121006

.....RESPONDENT

Present: - Adv. Garvit Gupta, Counsel for the complainants through VC
None for the respondent.

ORDER:(NADIM AKHTAR –MEMBER)

1. Present complaint has been filed by the complainant on 25.09.2023 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short 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 there under, wherein, it is inter-alia prescribed that the promoter shall be responsible to fulfill 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, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No	Particulars	Details
1.	Name & location of project	"Tarang Orchids", Sector-28, Faridabad, Haryana
2.	Unit no.	108, Tower- B, 1 st Floor
3.	Date of Allotment	25.04.2012
4.	Builder buyer agreement	26.04.2012
5.	Deemed date of possession	30.03.2013 (including grace period of 180 days)
6.	Total Sale Consideration of the unit	₹89,68,500/-
7.	Amount paid by complainant	₹91,78,549/-
8.	Occupation Certificate received by the respondent	31.12.2015
9.	Possession taken by the complainant	31.07.2015

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. That the respondent offered residential units for sale in its Group Housing Project known as "Tarang Orchids", located at Sector-28, Faridabad, Haryana.

That the complainant received a marketing call from the respondent's office in January 2012 regarding booking of a residential unit in the said project. Prior to booking, the complainant had also come across various promotional materials issued by the respondent, including brochures, advertisements and other publicity documents, which highlighted the facilities and amenities to be provided in the project. The complainant was assured by the respondent's marketing team regarding timely delivery of possession and quality of construction. A copy of the brochure is annexed as Annexure C1.

4. That the respondent informed the complainant that a unit earlier allotted to one of its associates could be transferred to the complainant upon booking. Accordingly, an allotment letter dated 12.08.2011, issued originally in the name of an associate of the respondent, was shown to the complainant. The complainant thereafter received an allotment letter dated 25.04.2012, whereby Unit No. 108 in Tower-B, admeasuring 2700 sq. ft., was allotted to the complainant. The complainant thus stepped into the shoes of the original allottee. Copies of allotment letters dated 12.08.2011 and 25.04.2012 are annexed as Annexure C2 and Annexure C3 respectively.
5. That thereafter the complainant continued to make timely payments to the respondent in accordance with the construction-linked payment plan. The respondent forwarded a copy of the proposed Buyer's Agreement to the



complainant. However, the said agreement contained several unilateral, arbitrary and one-sided clauses heavily favouring the respondent, including clauses relating to delay compensation, cancellation, interest rates, refund, etc.

6. The agreement provided that in the event of delay by the allottee in payment of instalments, the respondent would charge interest @18% p.a. for up to three months of delay and @24% p.a. for delay beyond three months, whereas in the event of delay by the respondent in offering possession, the complainant would be entitled only to a nominal compensation of Rs. 5 per sq.ft. per month.
7. That the agreement also contained restrictions on the complainant's right to claim refund of amounts already paid, irrespective of the actual cost incurred by the respondent, as reflected in Clause 1.16 of the Buyer's Agreement.
8. That due to the complainant having already deposited substantial amounts from her hard-earned savings, she had no realistic option but to sign the Agreement as drafted by the respondent. Accordingly, the Apartment Buyer's Agreement dated 26.04.2012 was executed. Copy of the Agreement is annexed as Annexure C4.
9. That the total sale consideration of the unit, as per Annexure D to the Agreement, was ₹89,68,500/-, inclusive of EDC/IDC, car parking charges, power back-up charges, club membership and PLC charges. That the complainant made total payments of ₹91,78,549/- strictly as per the payment



plan and within the timelines stipulated by the respondent. At no point did the complainant default in making payments. The complainant, in fact, paid more than 100% of the total sale consideration. Copies of the payment receipts are annexed as Annexure C5 (Colly.).

10. That despite execution of the agreement on terms dictated entirely by the respondent, the respondent failed to fulfil its primary contractual obligation of offering possession of the unit within the agreed time period. The delay on the part of the respondent is gross, unexplained and in breach of the contractual and statutory obligations.
11. That as per Clause 4.1 of the Agreement, the respondent was required to hand over possession of the unit on or before 30.09.2012, subject to a grace period of 180 days, which was to apply only in case of circumstances beyond control. That despite expiry of the committed date as well as the grace period, possession was not offered to the complainant. The due date of possession thus stood expired long back in the year 2012.
12. That the complainant made repeated telephonic requests and personal visits to the respondent's office to seek updates regarding possession. The complainant, along with similarly placed allottees, issued letter dated 10.05.2015 and emails dated 11.05.2015 and 05.06.2015, raising concerns regarding delay and



seeking details of completion of construction and promised amenities. Copies of the said communications are annexed as Annexures C6 to C8.

13. That the respondent repeatedly assured that possession would be delivered shortly as construction was "almost complete." The respondent continued to give shifting timelines without any concrete progress. Due to the prolonged delay, the complainant was compelled to reside in rented accommodation and incur additional expenditure, which could have been avoided had the respondent adhered to the agreed timelines. That on 22.06.2015, the complainant again visited the respondent's office. The respondent's representatives informed that the tower was allegedly complete and that the complainant could take possession after clearing an 'outstanding' amount of ₹8,35,215/-. A letter of the same date was issued to the complainant (Annexure C9). However, no formal offer of possession was issued. The said letter pertained only to a provisional fit-out possession and cannot be construed as a lawful offer of possession in absence of an Occupation Certificate. No intimation regarding grant of Occupation Certificate was ever provided.
14. That the complainant was further shocked to learn for the first time, through the said letter dated 22.06.2015, that the super area of the unit had been unilaterally increased from 2700 sq.ft. to 2970 sq.ft., without any prior notice, justification or approval details. The respondent further demanded ₹62,100/-



towards EDC/IDC and ₹3,78,000/- towards increase in basic sale price due to alleged increase in super area.

15. That this unilateral increase in area and additional demand is contrary to settled law. Hon'ble HRERA Gurugram, in *Varun Gupta vs. Emaar MGF Land Ltd.* (CR/4031/2019), decided on 12.08.2021, has held that super area cannot be changed without justification, without informing the allottee, and without sharing revised and approved building plans. That till date, no change in building plans has been communicated to the complainant, nor has any justification or approval for increase in area been provided.
16. That the respondent further demanded ₹1,48,500/- towards 'Electrification Charges', despite such charges already being included in the total price as per the Agreement. The complainant and other allottees had already paid for such services under the heads of EDC/IDC and basic sale price. That electrification, street lighting, sewage, drainage, essential services etc. fall under 'internal development works' and 'external development works' as defined in Sections 2(zb) and 2(w) of the RERA Act. HRERA Gurugram, in *Varun Gupta* (supra), has categorically held that promoters cannot levy additional electrification charges if such components are already included in EDC/IDC. That the respondent demanded these charges without providing any break-up, justification, or details of expenditure incurred. As held in *Varun Gupta*



(supra), where an allottee has already paid EDC/IDC, further charges under 'electrification' are unjustified.

17. That the respondent also failed to provide any details or documents showing payments made to concerned authorities on a proportionate basis with respect to the flat. Despite this, the respondent compelled the complainant to deposit such illegal and unjustified amounts by taking advantage of its dominant position. That the complainant, along with other similarly placed allottees, being dissatisfied with the conduct of the respondent and the various disputes arising from delayed possession, illegal charges and alleged enhancement of area, attended an official meeting with the representatives of the respondent on 01.07.2015. In the said meeting, the respondent agreed to issue a fresh demand letter, after duly taking into account: (a) all amounts payable by the respondent to the allottees on account of delayed possession; and (b) all charges payable strictly as per the terms of the Apartment Buyer's Agreement. It was mutually agreed that the revised details would be shared with the complainant on or before 07.07.2015.
18. It was further agreed that the alleged increase in super area would not be included in the immediate charges and that the complainant would be permitted to take possession of the unit without insisting upon payment towards the alleged increased area. It was also decided that any future demand



towards the alleged enhanced area shall be raised only through post-dated cheques (PDCs) to be encashed at the time of obtaining the occupation certificate/registration of the flat. The respondent also agreed that such demand shall be raised only after adjusting all receivables and payables between the parties.

19. It was additionally agreed that the allottees, including the complainant, would be at liberty to get the alleged enhanced area verified through any agency of their choice and that any final decision regarding the enhanced area would be taken only after mutual discussions. The respondent also assured that the unit of the complainant was fully complete and that she could take physical possession. Relying on these representations, the complainant took possession on 31.07.2015. Copy of the Minutes of Meeting dated 01.07.2015 is annexed as Annexure C10. Copies of the PDCs submitted as security pursuant to the said meeting are annexed as Annexure C11 (Colly).
20. That upon taking possession, complainant and other similarly placed allottees discovered that there was no actual increase in the super area of the unit. On the contrary, the actual super area was observed to be less than the area originally offered. Further, there were several serious issues relating to poor quality of internal works within the allotted unit. The complainant, along with other allottees, immediately brought these issues to the notice of the



respondent through letters dated 15.11.2015, 05.12.2015, and 27.12.2015, clearly stating that due to non-compliance with the Minutes of Meeting dated 01.07.2015 and the serious discrepancies noticed, the complainant was not liable to make any payment towards the PDC amount.

21. Through these communications, complainant demanded: (a) refund of excess amounts paid; (b) return of the PDCs submitted; and (c) compensation for loss suffered on account of inferior workmanship and delayed possession. However, the respondent did not consider or respond to the complainant's grievances. Copies of the letters are annexed as Annexures C12 to C14.
22. That instead of resolving the issues raised, the respondent issued a letter dated 08.01.2016 informing the complainant that it intended to encash the PDCs submitted earlier. On receipt of the said letter, the complainant immediately responded through letters dated 11.01.2016, 17.01.2016, and through a legal notice dated 22.01.2016, reiterating that the respondent had no legal basis to encash the PDCs in view of its own non-compliance with the mutually agreed terms recorded in the Minutes of Meeting dated 01.07.2015. The complainant also made it clear that if any attempt was made to encash the cheques, the same would be stopped.
23. Despite clear communication, the respondent attempted to encash the PDCs, which resulted in dishonour due to stoppage of payment. Thereafter, the



respondent initiated proceedings under Section 138 of the Negotiable Instruments Act, 1881. The Hon'ble Court, vide order dated 28.01.2020, dismissed the complaints filed by respondent and acquitted the complainant of all allegations. A copy of the said order is annexed as Annexure C18. It is, therefore, established that the respondent has no legal entitlement to demand or recover any amount towards the alleged increase in EDC/IDC or enhanced area. That the complainant submits that service tax on construction services is leviable only on the value of construction service and not on the cost of land, where both are shown separately. In cases where segregation is not possible, the Government allows abatement. As per Notification No. 26/2012—Service Tax, an abatement of 75% was allowed, making tax payable only on 25% of the total purchase price. Accordingly, the complainant's service tax liability came to ₹2,77,126/-. However, by Budget 2013, abatement for units above 2000 sq. ft. was reduced to 70%, and tax rate increased from 12.36% to 14.5%. Due to delay attributable solely to the respondent, the complainant suffered an additional tax burden of ₹3,10,923/-, which she was compelled to pay. The complainant is entitled to refund of the said amount with applicable interest.

24. That the complainant submits that substantial amounts paid by her and other allottees were not utilised by the respondent in a timely and lawful manner towards completion of the project. The respondent failed to adhere to its



contractual obligations concerning timely completion and delivery of possession as per the terms of the Apartment Buyer's Agreement. Due to repeated defaults on part of the respondent, the complainant has suffered immense hardship and financial strain. The condition of the project at the site was contrary to what was represented by the respondent. Despite receiving substantial amounts from the complainant, the respondent failed to adhere to statutory and contractual timelines applicable to the project.

25. That the respondent, by failing to comply with the terms of the Agreement as well as the mutually agreed terms recorded in the Minutes of Meeting dated 01.07.2015, has compelled the complainant to pursue the matter without redressal. The conduct of the respondent is in violation of the provisions of the Real Estate (Regulation and Development) Act, 2016. Complainant had earlier approached the Permanent Lok Adalat, Faridabad, by filing Complaint No. 2187/2016. The said complaint was dismissed vide order dated 09.08.2022, solely on the ground of lack of pecuniary jurisdiction. The complainant was expressly granted liberty to pursue her remedies before any competent forum. Copy of the order dated 09.08.2022 is annexed as Annexure C19.
26. That the respondent has violated several provisions of the RERA Act, 2016 and Haryana RERA Rules, 2017. Under Section 18 of the Act read with Rules 15(1) and 15(3) of the Haryana Rules, the respondent is liable to pay interest to



the complainant for every month of delay until handing over of lawful possession and execution of the conveyance deed.

27. That as on date, the respondent has failed to execute the Conveyance Deed in favour of the complainant, despite the fact that the complainant has already paid the entire sale consideration as per the Agreement. The refusal of the respondent to execute the Conveyance Deed merely on the basis of disputed and unjustified illegal charges. Under Section 17(1) of the RERA Act, 2016, the promoter is duty-bound to execute the Conveyance Deed within the prescribed period after issuance of the occupancy certificate.
28. That it is relevant to mention that similarly placed allottees of the same project filed complaints before the National Consumer Disputes Redressal Commission. Vide order dated 04.01.2023, the Hon'ble Commission held that: (a) the respondent was liable to pay interest @6% per annum on the deposited amount for delay from February 2013 to July 2015; (b) the demand for enhancement of flat area was unjustified; and (c) the respondent must execute the Sale Deed. Copy of the said order is annexed as Annexure C-20.
29. That the cause of action in the present case is continuous and recurring, arising from the respondent's persistent failure to hand over possession with all lawful compliances, failure to pay compensation for delay, and refusal to refund illegally charged amounts. The cause of action has further arisen when, about a



week prior to filing the present complaint, the respondent again refused to pay delayed compensation and refund illegal charges despite repeated requests of the complainant.

30. Complainant has also filed an application dated 14.07.2025, for placing on record additional documents, such as Statement of account attached along with offer of possession issued by the respondent, complete copy of occupation certificate and copy of Notification No. 26/2012/Service tax pertaining to abetment scheme. The Authority has duly taken the said application on record for consideration and adjudication of the present matter.

C. RELIEF SOUGHT

31. In view of the facts mentioned in the captioned complaint, the complainants pray for following reliefs:

- i. The Respondent is liable to make payment of the delayed possession charges from due date to hand over the possession i.e 30.09.2012 till the actual date of handover of the unit as per the prescribed rate of interest as per the provisions of RERA Act, 2016 read with Haryana RERA Rules, 2017.
- ii. The respondent is liable to refund excess service tax of Rs. 3,10,923/- paid by the Complainant due to the lapse on the part of the respondent.



- iii. The respondent is liable to refund excess service tax of Rs. 1,48,500/- paid by the Complainant due to the lapse on the part of the respondent.
- iv. The respondent be directed to revoke the statement attached along with letter dated 22.06.2016.
- v. The respondent be directed not to demand any amount towards the increased/enhanced super area and enhanced EDC/IDC from the Complainant.
- vi. The respondent be directed to get the conveyance deed of the unit signed and registered as per Section 17 of the RERA Act, 2016.
- vii. Any other relief which this Hon'ble Forum deems appropriate and suitable be also granted to the complainant.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Respondent has filed a detailed reply on 02.09.2024, pleading therein:-

32. That the Complainant has not approached this Hon'ble Authority with clean hands. The Complainant has deliberately suppressed material and relevant facts which were necessary for proper adjudication of the present dispute. By withholding crucial documents and details, the Complainant is guilty of *suppressio veri* and *suggestio falsi*. Complainant has levelled false, incorrect and baseless allegations upon the Respondent with the intention to mislead this Hon'ble Authority. Therefore, on account of deliberate concealment and



misrepresentation, the present complaint is liable to be dismissed at the very threshold.

33. The Complainant has concealed the fact that she is already in actual physical possession of the unit since 2015. The Complainant was issued a *Physical Fit-Out Letter* dated 22.06.2015. In pursuance of the same, the Complainant took possession of Unit No. 108, First Floor, Tower-B on 31.07.2015.
34. The Complainant further executed a Confirmation/Declaration dated 26.07.2015 wherein she expressly acknowledged that she had taken exclusive, peaceful physical fit-out possession of the unit along with keys and two car parking spaces (one open and one covered). The Complainant further declared that she had inspected the unit and would not raise any claims regarding super area, dimensions, construction quality, workmanship, or other specifications in terms of the Apartment Buyer Agreement dated 26.04.2012.
35. Furthermore, the Complainant executed an Indemnity Bond-cum-Undertaking dated 28.07.2015 whereby she agreed to abide by all terms and conditions of the Agreement, including timely payment of all dues and other charges. The Complainant has intentionally concealed the above possession documents while filing the present complaint in order to create a false narrative and to derive undue benefit. Such suppression shows malafide intent, and hence the



complaint is an abuse of the process of law and deserves dismissal with exemplary costs.

36. The Complainant has further concealed that she took possession of the unit without clearing the total sale consideration and statutory charges. The total payable amount is Rs. 94,20,677/-, consisting of:

- i. Basic cost – ₹75,60,000/-
- ii. PLC – ₹3,37,500/-
- iii. EDC/IDC – ₹6,21,000/-
- iv. Car parking – ₹2,50,000/-
- v. Power backup – ₹1,00,000/-
- vi. Club membership – ₹1,00,000/-
- vii. STP charges – ₹1,48,500/-
- viii. Gas connection – ₹6,000/-
- ix. Service tax – ₹2,97,677/-
- x. Total: ₹94,20,677/-

37. Out of the above noted payable amount, the Complainant has not paid an outstanding amount of ₹10,47,740/-, inclusive of delayed interest. These dues have been consistently reflected in the Respondent's books and in the Account Statement. After obtaining the Occupation Certificate dated 31.12.2015, the Respondent vide reminder letters dated 25.09.2016, 14.10.2017, repeatedly



called upon the Complainant to clear outstanding dues and execute the Conveyance Deed. However, till date, the Complainant has neither paid the dues nor taken steps for execution of the Conveyance Deed. Therefore, the allegation of "harassment" is completely misplaced. Rather, it is the Respondent who has been prejudiced because the Complainant is using the unit since 2015 without paying the full consideration, and still raising frivolous claims.

38. The Complainant has not produced even a single piece of credible evidence such as invoices, bills, expert reports, architect inspection reports, or contractor records to substantiate her alleged claims of repair expenses or construction defects. Hence, no relief can be granted on mere bald allegations, and the complaint deserves dismissal on this ground alone.
39. The Complainant also concealed the fact that she failed to pay mandatory Service Tax, resulting in the Respondent receiving a Show Cause Notice dated 11.11.2013 from the Directorate General of Central Excise Intelligence, wherein service tax liability was demanded on sale of residential units. Several other buyers in the project have duly paid service tax at later stages, as reflected from Receipts dated 08.08.2015 and 10.02.2016 issued to other allottees such as Ms. Poonam Dawar and Ms. Veera Dua. The Respondent is



still ready to execute the Conveyance Deed in favour of the Complainant subject to clearance of all pending dues, including service tax and interest.

40. While the Complainant seeks relief under Section 18 of the RERA Act, she has ignored that Section 19 casts duties upon an allottee to make timely payments and comply with contractual terms. The Complainant has failed to fulfil her statutory duties under Section 19, including the obligation to make payments as per the Agreement and clear all dues.
41. The Complainant has been residing in the project since 2015 and is a member of the Tarang Flat Owners Association, which had earlier filed Complaint No. 398 of 2019 before this Hon'ble Authority alleging deficiencies in common areas. After negotiations, a settlement dated 03.07.2022 was reached between the RWA and the Respondent, under which the Respondent paid Rs. 45,00,000/- towards repair works in the project. The same were duly carried out and recorded in the proceedings. This Hon'ble Authority thereafter disposed of the complaint vide order dated 09.08.2022. Once the repair works in the project were already completed pursuant to settlement with the RWA, the present individual complaint alleging "poor workmanship" is misconceived, contradictory and not maintainable.
42. The Complainant has not complied with the terms of allotment nor adhered to the rules and regulations applicable to the project. As clearly reflected from the



reminder letter dated 14.10.2017 as well as the Account Statement maintained by the Respondent, the Complainant has failed to make the due payments along with interest payable thereupon. The Complainant, despite being in physical possession of the unit, has continuously defaulted in clearing outstanding dues. Therefore, the allegation of any illegality on part of the Respondent is misconceived and unsustainable.

43. Complainant voluntarily executed the Apartment Buyers Agreement dated 26.04.2012 after fully understanding each of its clauses. The Agreement was neither one-sided nor based on untenable terms as falsely alleged. The Complainant, after having accepted and acted upon the Agreement for several years, cannot now dispute its validity or allege arbitrariness.
44. Complainant herself took possession of the dwelling unit pursuant to the Physical Fit Out Letter dated 22.06.2015 despite having failed to make complete payment towards the purchase of the unit.
45. After obtaining the Occupation Certificate dated 31.12.2015, the Respondent repeatedly requested the Complainant to clear dues and execute the Conveyance Deed through reminder letters dated 25.09.2016 and 14.10.2017. Despite repeated communications, the Complainant neither cleared the dues nor came forward for registration of the Conveyance Deed. The Respondent has always been willing to compensate the Complainant strictly in terms of the



Apartment Buyers Agreement dated 26.04.2012 The Account Statement, which also reflects the delayed compensation amount, shows that even after adjustments, the Complainant still owes ₹10,47,740/- plus further interest.

E. ARGUMENTS OF LEARNED COUNSEL FOR THE COMPLAINANTS

46. Learned counsels for complainant reiterated their respective submissions as advanced on the previous date of hearing. He further stated that an order passed by Hon'ble NCDRC has been annexed by the complainant in the complaint book, wherein a clear directions was given by Hon'ble NCDRC, that respondent cannot charge enhanced super area from the complainant. He requested the Authority to consider the same in captioned complaint as well.

F. ISSUE FOR ADJUDICATION

47. Whether the complainant is entitled to reliefs sought by her or not?

G. OBSERVATIONS AND DECISION OF THE AUTHORITY

48. The Authority has perused the documents on record. It is an undisputed fact that the complainants booked Unit No. 108, Tower-B, measuring 2,700 sq. ft., in the real estate project "Tarang Orchids," Sector-28, Faridabad, Haryana, developed by the promoter, Tarang Infrastructure Ltd., for a total sale consideration of ₹89,68,500/- vide allotment letter dated 25.04.2012. The Apartment Buyer Agreement (ABA) was executed between the parties on 26.04.2012, and the complainants have paid a total amount of ₹91,78,549/- in



respect of the unit. The respondent obtained the Occupation Certificate (OC) from the Department of Town and Country Planning on 31.12.2015. The complainant was issued a Physical Fit-Out Letter dated 22.06.2015, pursuant to which she took possession of the unit on 31.07.2015.

49. As per Clause 4.1 of the Apartment Buyer Agreement dated 26.04.2012, the Respondent was under an obligation to complete the construction of the said unit *"the seller proposes to handover the possession of the Flat to the purchaser up till 30-09-2012 positively. Purchaser agrees and understands that the seller shall be entitled to a grace period of 180(One hundred and eighty) days after the expiry of 30-09-2012."* Accordingly deemed date of handing over of possession in captioned complaint including grace period of 180 days comes out to be 30.03.2013.
50. The issue that arises for adjudication before this Authority is whether the present complaint is maintainable when all material events namely, the allotment of the unit, execution of the Apartment Buyer Agreement, due date of possession, grace period, fit-out possession, actual possession, and issuance of the Occupation Certificate, occurred much prior to the enforcement of the Real Estate (Regulation and Development) Act, 2016, which came into force on 01.05.2016.



51. The Authority observes that the allotment of the unit was made in 2012, the Apartment Buyer Agreement was executed in 2012, and the stipulated due date of possession, including the grace period, expired in 2013. Thereafter, the complainant was issued fit-out possession on 22.06.2015 and took actual physical possession on 31.07.2015. The Occupation Certificate for the project was also obtained on 31.12.2015. All alleged disputes relating to payments, service tax, and deficiencies likewise pertain exclusively to the pre-RERA period. The complainant has admittedly been residing in the unit since 2015. Thus, the entire transaction between the parties, including handover of possession and completion of the project, stood concluded well before the commencement of the RERA Act.
52. The Authority further focuses on the fact that the complainant has been already residing in the unit booked by her since 2015. It is also pertinent to mention that the complainant executed a Confirmation/Declaration dated 26.07.2015, wherein she expressly acknowledged that she had taken exclusive and peaceful physical fit-out possession of the unit along with the keys and two car parking spaces (one open and one covered). The complainant further declared that she had inspected the unit and would not raise any claims regarding super area, dimensions, construction quality, workmanship, or other specifications in terms of the Apartment Buyer Agreement dated 26.04.2012. Furthermore, the



complainant executed an Indemnity-cum-Undertaking dated 28.07.2015, whereby she agreed to abide by all terms and conditions of the Agreement, including timely payment of all dues and other charges. Upon perusal of both these documents, it is revealed that both were signed by the complainant, acknowledging the content thereof. Additionally, the Indemnity-cum-Undertaking dated 28.07.2015 was attested by a Notary, Faridabad, providing it with further legal sanctity

53. It is significant to note that the complainant accepted possession of the unit in 2015 and executed two acknowledgments confirming her satisfaction with the unit, after which she commenced residing in the same unit. The possession was also accompanied by the Occupation Certificate dated 31.12.2015. The receipt of the Occupation Certificate by the respondent confirms that the unit was fit for residence. The complainant has admittedly been in peaceful occupation and enjoyment of the unit since 2015. The ultimate fact that possession was given to the complainant with her full knowledge demonstrates that the cause of action had already been exhausted before the enforcement of the RERA Act, 2016.
54. In view of these undisputed facts, the cause of action, if any, had already crystallized and stood exhausted before the RERA Act came into existence, as all material obligations between the parties including construction, offer of




possession, acceptance of possession, payment of dues, and issuance of the Occupation Certificate had reached finality prior to the enforcement of the Act. Once a cause of action has fully matured and the contractual relationship has attained completion under the pre-existing legal regime, such disputes cannot be revived, reopened, or re-agitated under a subsequently enacted statute which was not in force at the time of occurrence of the events in question.

55. In the present case, not only was the Occupation Certificate issued before the commencement of the Act, but the complainant has also been in uninterrupted physical occupation of the unit since July 2015. The grievances raised in the present complaint relating to alleged delays, excess charges, service tax issues, and workmanship defects, all pertain to the period prior to 2016 and are fully attributable to the pre-RERA regime.
56. Furthermore, a statute which was not in existence at the time when the events occurred cannot confer a fresh cause of action or reopen contractual obligations that had already attained finality under the then-prevailing legal framework. The rights and liabilities of the parties must be determined in accordance with the law as it stood when the cause of action arose. In the present matter, the project had already been completed, certified, and handed over to the complainant well before the commencement of the RERA Act,



2016. Possession was accepted in 2015, and the Occupation Certificate was issued on 31.12.2015 nearly one and a half years prior to the Act becoming operational on 01.05.2016.

57. Once possession is taken and the project is duly certified as complete, any grievance relating to delay, taxation, enhanced charges, or alleged deficiencies stands governed exclusively by the contractual terms and the applicable pre-RERA statutory framework. Such matters cannot be revived or projected as RERA violations many years later. Accordingly, the complainant cannot, in the year 2023, invoke the provisions of the RERA Act, 2016 to seek delayed-possession interest, refund of service tax paid under a prior regime, or to challenge demands that pertain entirely to a period when the Act had no application in law.
58. Further, perusal of the file also reveals that the Resident Welfare Association of the project had earlier preferred Complaint No. 398 of 2019 before this Authority regarding deficiencies in common areas. The same was disposed of vide order dated 09.08.2022 after a mutually agreed settlement, and the respondent carried out the necessary repair works. Thus, any issue relating to project deficiencies already stands settled and cannot be reopened through an individual complaint after a concluded settlement.



59. The Authority further observes that the complainant took physical possession of the unit on 31.07.2015 without raising any objections at the time. Had the complainant been dissatisfied with the unit, or had any grievances regarding its specifications, construction quality, or other aspects existed, the same ought to have been raised at the time of taking possession. The very act of accepting possession conclusively demonstrates that the complainant was satisfied with the unit at that stage. Moreover, it is pertinent to note that in Complaint No. 398 of 2019 filed before this Authority by the Resident Welfare Association regarding deficiencies in the common areas of the project, which included members of the association such as the complainant, a settlement of ₹45,00,000/- was paid as compensation, and all relevant issues were fully addressed by the Authority at that time. In the instant case, the complainant, after a lapse of over eight years, seeks to invoke the provisions of the RERA Act to claim relief, despite having peacefully occupied the unit since 2015. Such belated action is neither reasonable nor acceptable, and underscores that the complainant's present claim is an attempt to reopen matters which were long settled and conclusively addressed, both by possession and prior settlement.
60. Complainant has further sought to rely upon the fact that certain other allottees have allegedly approached the Hon'ble National Consumer Disputes Redressal



Commission (NCDRC) and have been granted reliefs therein. In this regard, the Authority is of the considered view that the said contention does not render the present complaint maintainable, inasmuch as the cause of action, as pleaded by the complainant, pertains to a period when the provisions of the Real Estate (Regulation and Development) Act, 2016 were not in force and applicable. It is further observed that the proceedings before the Hon'ble NCDRC are governed by the Consumer Protection Act, wherein the allottees are treated as 'consumers' and the reliefs granted therein are under a distinct statutory framework. The jurisdiction, scope and applicability of the Consumer Protection Act and the Real Estate (Regulation and Development) Act, 2016 operate in separate fields, and an order passed by the Hon'ble NCDRC, based on the legal status of such allottees as consumers under the said Act, cannot ipso facto confer maintainability or jurisdiction upon this Authority in the present proceedings.

61. In view of the above, the Authority is of the considered opinion that the present complaint is not maintainable under the RERA Act, as all material events giving rise to any cause of action were concluded prior to the enforcement of the Act.



62. Hence, the captioned complaint is accordingly disposed of in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.



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NADIM AKHTAR
[MEMBER]