



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2046 of 2023
Date of filing:	26.09.2023
First date of hearing:	19.10.2023
Date of decision:	23.02.2026

Prem Parkash Nagpal
S/o Shri Gorakh Nath
R/o House no. 1244, Near Water Works,
Sector-1, Rohtak, Haryana-124001

.....COMPLAINANT

Versus

Parsvnath Developers Ltd.
(through its Managing Director)
Registered Office: Parsvnath Tower,
Near Shahdara Metro Station,
Shahdara, Delhi, East Delhi-110032

.....RESPONDENT

Present: - Adv. Ramesh Malik, Counsel for the complainant through VC.

Adv. Rupali Verma, Counsel for the respondent through VC.

ORDER (NADIM AKHTAR –MEMBER)

1. Present complaint has been filed by the complainant on 26.09.2023 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 RERA, 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 unit booked by the complainant, the details of sale consideration, the amount paid by the complainant and details of project are detailed in following table:

S.No.	Particulars	Details
1.	Name of the project	Present and Future projects;
2.	Date of booking by complainant	In the year 2009
3.	Unit area	350 sq. yards
4.	Date of allotment	Allotment not made
5.	Date of builder buyer agreement	Not executed
7.	Amount paid by complainant	₹3,11,000/-
8.	Offer of possession	Not made

B. FACTS OF THE COMPLAINT

3. That the Complainant is a citizen of India and an aggrieved person within the meaning of the Real Estate (Regulation and Development) Act, 2016. The Complainant invested his hard-earned money for booking a residential plot measuring 350 Sq. Yards in the project "Parsvnath City, Rohtak" being

developed by Parsvnath Developers Limited (hereinafter referred to as the "Respondent Company").

4. That the Complainant purchased the booking rights of the aforesaid plot from a third party namely Mr. Dilbag, and all rights, interests, liabilities and obligations under the original booking stood validly assigned in favour of the Complainant. The Respondent Company acknowledged the said transfer upon receipt of ₹21,000/- on 21.09.2012 towards administrative/transfer charges, and the name of the Complainant was duly endorsed on the receipt, thereby establishing complete privity of contract between the Complainant and the Respondent Company.
5. That the Complainant has deposited a total amount of ₹2,90,000/- with the Respondent Company towards the booking price of the said plot, details whereof are as under:
 - a. ₹2,90,000/- deposited on 29.09.2009 vide Receipt No. RT00038
 - b. ₹21,000/- deposited on 21.09.2012 vide Receipt No. S0115532 towards administrative charges

Copies of the said receipts are annexed as Annexure C-2 (Colly).

6. That the Respondent Company formally endorsed the transfer of booking rights in favour of the Complainant vide endorsement dated 21.09.2012 on the



receipt pertaining to P&F Projects, thereby fully recognizing the Complainant as an allottee. The copy of the said endorsement is annexed as Annexure C-3.

7. That despite receipt and acknowledgment of the aforesaid amount, the Respondent Company has neither assigned a specific plot number nor demarcated the plot, nor offered physical possession to the Complainant till date, in blatant violation of contractual obligations and statutory duties under the Act.
8. That the Complainant was assured timely possession of the booked plot and was repeatedly made to believe that the project would be completed shortly. Acting on such assurances, the Complainant waited patiently and approached the offices of the Respondent Company on numerous occasions seeking allotment, plot number assignment and possession, but to no avail.
9. That the Complainant is a senior citizen aged about 75 years, and being completely exhausted by false assurances, he submitted a detailed written representation dated 20.05.2023, requesting immediate allotment and possession of the booked plot. A reminder dated 28.06.2023 was also sent, clearly stating that in case of further inaction, the Complainant would be constrained to seek legal remedy. Copies of the representation and reminder are annexed as Annexure C-4.



10. That the Respondent Company has neither replied nor taken any steps pursuant to the said representations, which clearly demonstrates its deliberate, arbitrary and mala fide conduct, and complete lack of intention to honour its contractual and statutory obligations even after lapse of more than 14 years from the date of booking.
11. That despite the lapse of an inordinate period of 14 years, the plot has neither been demarcated nor possession offered, which amounts to gross deficiency in service, unfair trade practice and continuing cause of action in favour of the Complainant.
12. That the issue involved in the present complaint is no longer res integra, as this Hon'ble Authority as well as the Hon'ble Haryana Real Estate Appellate Tribunal have repeatedly adjudicated identical issues against the same Respondent Company.
13. That in Complaint No. 723 of 2019 titled *Nishant Bansal vs. M/s Parsvnath Developers Ltd.*, pertaining to the project *Parsvnath City, Sonipat*, this Hon'ble Authority directed delivery of possession of the booked plot. The said order dated 11.03.2020 was upheld and further modified by the Hon'ble Appellate Tribunal vide order dated 31.10.2022, wherein the Tribunal categorically held that the allottee is entitled to possession along with interest at SBI MCLR + 2% (10.25%) after a reasonable period of three years from



the date of deposit till handing over of possession; or Alternatively, refund of the amount paid with prescribed interest and liberty to seek compensation for excess cost, mental agony, harassment and litigation expenses. A copy of the order dated 31.10.2022 passed by the Hon'ble Haryana Real Estate Appellate Tribunal is annexed as Annexure C-5.

14. That even in the same project, i.e., Parsvnath City, Rohtak, this Hon'ble Authority in Complaint No. 779 of 2020 titled *Bhim Singh Pawar vs. M/s Parsvnath Developers Ltd.* vide order dated 03.12.2021, held the complainant entitled to allotment and possession of a plot, and specifically directed the Respondent Company to deliver valid possession upon payment of balance sale consideration and statutory charges. A copy of the said order is annexed as Annexure C-6.

C. RELIEFS SOUGHT

15. In view of the facts mentioned above, the Complainant prays for the following relief:
- i. To direct the respondent -Company to allot the plot and hand over and actual physical possession of the Plot in question in the project of respondents;
 - ii. To Direct the respondent -Company to pay interest on delayed possession for more than 14 years as per Rule 15 of Haryana Real Estate (Regulation And Development) Rules, 2017 to the complainant;



- iii. To direct the respondent to pay Rs.10,00,000/- as part of damages to the complainant on account of mental agony, torture and harassment;
- iv. To Direct the respondent to deliver valid possession of the plot to the complainant in his project named Parsvnath city Rohtak on payment of balance sale consideration and plus all statutory charges as have been charged from the other allottees of the Parsvanth city project Rohtak;
- v. To direct the respondent to provide the relief as has been held by the Hon'ble Appellate Tribunal in case of Nishant Bansal Case;
- vi. Any other relief- remedy which is deemed fit by this Hon'ble Authority in the present facts and legal preposition of the case.

D. REPLY ON BEHALF OF RESPONDENT

Respondent has filed a detailed reply in the registry on 12.01.2024 pleading therein as under

16. That the present Complaint is not maintainable before this Hon'ble Authority as the Complainant is not an "allottee" in the records of the Respondent Company and, therefore, does not fall within the definition of "Allottee" as provided under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016.
17. That for the sake of convenience, the definition of "Allottee" under Section 2(d) of the Act is reproduced hereinbelow:



“Allottee” in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent.

It is respectfully submitted that since no plot has ever been allotted to the Complainant, the Complainant cannot be treated as an allottee under the Act.

18. That the present Complaint is grossly barred by limitation and is liable to be dismissed on this ground alone. The Complainant has failed to plead any facts or file any application seeking condonation of delay. In absence of such pleadings, this Hon'ble Authority has no jurisdiction to entertain a time-barred claim.
19. That the Hon'ble Supreme Court in Surjeet Singh Sahni v. State of U.P. & Ors., 2022 SCC OnLine SC 249, has categorically held that mere representations or correspondence do not extend the period of limitation and an aggrieved party must approach the court/authority within a reasonable time. The Complainant is guilty of gross delay and laches and, therefore, the Complaint deserves dismissal.
20. That there is no contravention of any provision of the Real Estate (Regulation and Development) Act, 2016 on the part of the Respondent. Hence, the present Complaint is not maintainable under the Act. There exists no



Agreement to Sell / Builder-Buyer Agreement between the parties. In absence of any such agreement, the relief sought under Section 18 of the RERA Act, 2016 is wholly misconceived and untenable.

21. That the Complainant has failed to disclose any valid cause of action in accordance with law, and the Complaint is liable to be dismissed at the threshold.
22. That on 09.09.2009 Mr. Sumeet Jain, the original applicant, merely expressed his interest in booking a residential plot in any present or future project of the Respondent Company and deposited a sum of ₹2,90,000/- towards registration.
23. That at the time of registration no project, no location, no plot number, and no specific site was identified or allotted to the Complainant.
24. That while filling and signing the Application Form dated 29.09.2009, the Complainant gave a clear and unconditional undertaking that in case no allotment was made, he would accept refund of the deposited amount in terms of the Application Form. The relevant clauses of the Application Form read as under:
 - i. *That the Company may offer a residential plot in any project promoted in the near future within a period of six months.*
 - ii. *That the advance amount shall be adjustable only upon allotment.*



- iii. *That in case the Company fails to allot a plot within six months, the applicant may withdraw the amount by giving two months' notice, without interest.*
- iv. *That the Company would endeavour to allot a plot @ ₹2,250/- per sq. yard.*
- v. *That if allotment is not possible for any reason whatsoever, no claim of any nature shall be raised except refund of the advance amount with simple interest @10% per annum.*

A copy of the duly signed Application Form is annexed as Annexure R-1.

25. That Clause 'f' of the Application Form unequivocally establishes that the Complainant was fully aware that no property had been allotted and that refund with interest was the sole remedy available in case of non-allotment.
26. On 23.09.2010, Original Applicant transferred his interest in favour of Mr. Dilbagh (Subsequent Applicant), after submitting the necessary documents in the Office of Respondent.
27. That on 09.06.2010, the original applicant Mr. Dilbagh (referred to as "*the Subsequent Applicant*") had voluntarily executed an Affidavit-Cum-Undertaking and Indemnity in favour of the Respondent Company. The said affidavit categorically stipulated that in the event the applicant is not allotted any plot in the present or future projects of the Respondent, he shall accept refund of the deposited amount along with simple interest @ 9% per annum, without any demur or objection.



28. That Clause 7 of the said Affidavit-Cum-Undertaking dated 09.06.2010 unequivocally records the understanding between the parties, and for the sake of convenience is reproduced hereinbelow:

“That I/We agree that if I/We are not allotted any plot in the Present & Future Projects, then I/We will accept the refund of the deposited money with the Company along with simple interest @ 9% per annum from the date of acceptance of our nomination by the Company.”

29. That subsequently on 21.09.2012, Mr. Dilbagh transferred and endorsed his interest in favour of Mr. Prem Prakash Nagpal (the present Complainant) after submitting all requisite documents before the Respondent Company. The Respondent Company duly acknowledged the said endorsement. The copy of endorsement letter dated 21.09.2012 is annexed herewith as Annexure R-2.
30. That the Complainant himself, on 01.09.2012, voluntarily signed and executed an Affidavit-Cum-Undertaking and Indemnity, thereby consciously accepting the same terms and conditions as were binding upon his predecessor-in-interest. The said affidavit clearly provides that in case the Complainant is not allotted any plot in the upcoming projects of the Respondent Company, he shall accept refund of the deposited amount with simple interest @ 9% per annum. The copy of the said Affidavit-Cum-Undertaking and Indemnity dated 01.09.2012 is annexed as Annexure R-3.
31. That the Complainant was fully aware that neither the original applicant nor his predecessor-in-interest was ever allotted any specific plot number in any



project of the Respondent Company. Despite such knowledge, the Complainant consciously and voluntarily accepted the conditional arrangement as recorded in the Affidavit-Cum-Undertaking and Indemnity, and therefore cannot now claim allotment as a matter of right, contrary to the express contractual terms.

32. That the Respondent Company has never misrepresented or assured the Complainant regarding allotment of a specific plot. At all times, the understanding between the parties remained conditional, and subject to availability and allotment in present or future projects. Hence, it does not lie in the mouth of the Complainant to allege any vested right to allotment
33. That the present complaint is barred by limitation, and this Hon'ble Authority lacks jurisdiction to entertain a stale and time-barred claim, especially when the relief sought is not even contemplated under Section 18 of the Real Estate (Regulation and Development) Act, 2016, in view of the admitted contractual stipulations binding the Complainant to refund with interest.
34. That the Respondent Company received a total amount of only ₹3,11,000/-, which amount was deposited by the original applicant, except for ₹21,000/- paid by the Complainant towards administrative/transfer charges. The Respondent Company has not received any substantial consideration from the



Complainant towards sale of any specific plot. The true copy of the ledger dated 17.11.2023 is annexed as Annexure R-4.

35. That admittedly there exists no Agreement to Sell between the Complainant and the Respondent Company. In absence thereof, the Complainant is strictly governed by the Application Form, Affidavit-Cum-Undertaking and Indemnity, which were duly executed with full knowledge and consent.
36. That the receipts relied upon by the Complainant do not disclose any essential ingredients of a valid contract. The said receipts do not mention any plot number, plot dimensions, or specific project details, and in fact categorically record the amount as advance against present and/or future projects, thereby clearly negating any enforceable right of allotment.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

37. Counsels appearing on behalf of both the parties reiterated the submissions made in their respective complaint/reply and supporting documents. The issues arising therefrom have already been addressed and dealt with in the foregoing paragraphs of this order.



F. ISSUE FOR ADJUDICATION

38. Whether the complainant is entitled to get the possession of a 350 sq. yard plot along with delay interest @18% p.a. in terms of Section 18 of Act of 2016?

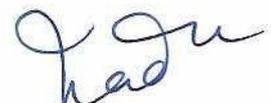
G. OBSERVATIONS AND DECISION OF AUTHORITY

Authority has carefully considered the submissions made by both parties and examined the documents placed on record. Upon evaluation of the facts and evidence, the Authority observes as under:

39. It is the case that the Original applicant namely Sumeet Jain had booked a residential plot admeasuring 350 sq. yards in the project Parsvnath City, Rohtak for a total booking amount of ₹2,90,000/-, vide Cheque bearing No. 001974. The said receipt stand endorsed in favour of complainant on 21.09.2012 as an advance against Present & Future Project. Further, complainant also paid ₹21,000/- as administrative charges which is inferred from the statement of account dated 17.11.2023 annexed by the respondent as Annexure R-4 of reply.
40. It is observed that in similar circumstances, this Authority has earlier allowed complaints where the names of the complainants were reflected in the list filed by the respondent in Complaint No. 779 of 2020 (Bhim Singh Pawar v. Parsvnath Developers Ltd.). In that case, the Respondent's affidavit contained

Annexure A and Annexure B, listing persons who had booked units in Parsvnath City, Rohtak. Since the complainant Bhim Singh's name was found in Annexure A at Serial No. 215, the Authority recognised him as a valid allottee and directed the Respondent to hand over possession upon payment of the balance sale consideration.

41. Similar findings were given in Complaint Nos. 1397/2021, 2291/2023, 2774/2023, and even in latest Complaint No. 1328/2024 (Rita Chawla v. Parsvnath Developers Ltd.), where the complainants' names were duly reflected in the list submitted by the respondent in Complaint No. 779 of 2020. The presence of the complainants' names in the official list served as documentary proof of booking in 'Parsvnath City, Rohtak', thereby justifying the grant of possession in his project named Parsvnath City, Rohtak' on payment of balance sale consideration.
42. However, in the present case, neither the name of the complainant nor the name of the original allottee appears in the aforesaid lists (Annexure A or Annexure B) filed by the respondent in Complaint No. 779 of 2020. These lists contain the names of allottees who booked units in Parsvnath City, Rohtak upon payment of registration amounts for present or future projects. In the absence of the complainant's or original allottee's name in the respondent's official allotment lists, there is no documentary proof before this Authority to



establish that a valid booking was made in the project Parsvnath City, Rohtak. Without such evidence, it cannot be concluded that the complainant is a valid allottee entitled to possession of a unit in the project.

43. Authority further notes that possession in earlier decided cases was granted only after confirming the complainant's name in the respondent's verified records. Since no such confirmation exists in the present case, the relief sought for possession cannot be granted. Any direction to hand over possession in the absence of documentary proof of allotment would be unjustified and beyond the scope of the Authority's jurisdiction under the given facts.
44. In view of the above, Authority holds that the present complaint is devoid of merit and is not maintainable for want of documentary evidence establishing allotment in the project.
45. Accordingly, in view of the above observation, the present cases stand dismissed. This dismissal is without prejudice to any other remedy available to the complainant in accordance with law, and the complainant is at liberty to seek refund of amount paid. File be consigned to record room after uploading on the website of the Authority.


.....
NADIM AKHTAR
[MEMBER]