

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

**Complaint no.** 2579 of 2025  
**Date of filing of complaint** 28.05.2025  
**Date of Order** 22.01.2026

**Mr. Vinayak Nandan Bharma**  
**Both R/o:** EC 201 SFS Flats, G-8, Area  
Maya Enclave, New Delhi- 110064

**Complainant**

Versus

**M/s BPTP Limited**  
**Regd. office at:** M-11, Middle Circle, Connaught  
Circus, New Delhi- 110001

**Respondent**

**CORAM:**

Shri Phool Singh Saini

**Member**

**APPEARANCE:**

Ms. Priyanka Agarwal (Advocate)

Complainant

Mr. Harshit Batra (Advocate)

Respondent

**ORDER**

1. The present complaint has been filed by the complainants/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made there under or to the allottees as per the agreement for sale executed inter se.



**A. 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 and delay period, if any, have been detailed in the following tabular form:

| Sr. No. | Particulars                            | Details                                                                                                                                                                                                                                                                                                                                  |
|---------|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.      | Name of the project                    | 'Park Terra', Sector 37-D, Gurugram                                                                                                                                                                                                                                                                                                      |
| 2.      | Nature of project                      | Group Housing Towers                                                                                                                                                                                                                                                                                                                     |
| 3.      | DTCP License no.                       | 83 of 2008 dated 05.04.2008      94 of 2011 dated 24.10.2011                                                                                                                                                                                                                                                                             |
|         | Validity Status                        | 04.04.2025      23.10.2019                                                                                                                                                                                                                                                                                                               |
|         | Name of Licensee                       | Super Belts Pvt. Ltd. And 3 others      Countrywide Promoters Pvt. Ltd. and 6 others                                                                                                                                                                                                                                                     |
|         | Licensed Area                          | 23.18 acres      19.74 acres                                                                                                                                                                                                                                                                                                             |
| 4.      | Project area                           | 43 acres                                                                                                                                                                                                                                                                                                                                 |
| 5.      | RERA registered/ not registered        | Registered vide Registration No. 299 of 2017 dated 13.10.2017                                                                                                                                                                                                                                                                            |
| 6.      | Application dated                      | 22.08.2012<br>(As mentioned in buyers' agreement at page 40 of complaint)                                                                                                                                                                                                                                                                |
| 7.      | Allotment letter                       | 07.12.2012<br>(Page 33 of complaint)                                                                                                                                                                                                                                                                                                     |
| 8.      | Unit no.                               | T22-1203, 12 <sup>th</sup> Floor, Tower-22<br>(Page no. 66 of complaint)                                                                                                                                                                                                                                                                 |
| 9.      | Unit admeasuring                       | Originally 1691 sq. ft.<br>Changed to 1811 sq. ft.<br>(Increased by 120 sq. ft. i.e., 7.09%)<br>(Page no. 66 of complaint)                                                                                                                                                                                                               |
| 10.     | Date of execution of buyer's agreement | 02.01.2013<br>(As per page no. 39 of complaint)                                                                                                                                                                                                                                                                                          |
| 11.     | Possession clause                      | <b>Clause 1.6 r/w Clause 5.1 of BBA</b><br><i>1.6 "FBA" "Commitment Period" shall mean, subject to Force Majeure circumstances; intervention of statutory authorities and Purchaser(s) having timely complied with all its obligations, formalities or documentation, as prescribed/requested by Seller/Confirming Party, under this</i> |

|     |                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                       | <p><i>Agreement and not being in default under any part of this Agreement, including but not limited to the timely payment of instalments of the sale consideration as per the payment plan opted, Development Charges (DC), stamp duty and other charges, the Seller/Confirming Party shall offer the possession of the Unit to the Purchaser(s) within a period of 42 months from the date of sanction of the building plan or execution of Flat Buyers Agreement, whichever is later."</i></p> <p><i>(Emphasis supplied)</i></p> <p><b>5.1</b> <i>The Seller/Confirming Party proposes to offer possession of the unit to the Purchaser(s) within the Commitment period. The Seller/Confirming Party shall be additionally entitled to a Grace period of 180 days after the expiry of the said Commitment Period for making offer of possession of the said unit.</i></p> <p><i>(Emphasis supplied)</i></p> |
| 12. | Date of building plan                 | <p>21.09.2012<br/>(Vide project details received from Planning Branch of the Authority)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 13. | Due date of delivery of possession    | <p>02.01.2017<br/>(Calculated the date of the execution of buyer agreement, being later plus grace period of 180 days being unqualified)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 14. | Total sale consideration              | <p>Rs.1,09,95,306.50/-<br/>(As per previously decided complaint no. 1268 of 2018 decided on 03.05.2019)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 15. | Total amount paid by the complainants | <p>Rs. 59,31,341/-<br/>(As per previously decided complaint no. 1268 of 2018 decided on 03.05.2019 and as per SOA and receipts at page no. 66-91 of complaint)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 16. | Occupation certificate                | <p>23.01.2024<br/>(As per page no. 167 of reply)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 17. | Offer of possession                   | <p>04.12.2024<br/>(As per page no. 197 of complaint)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

**B. Facts of the complaint:**

3. That the complainant has made the following submissions:



- a) That the complainant approached the respondent for booking of a unit no. T22, 1203, Tower 22, admeasuring 1691 sq. ft. in the project "Terra" located at Sector- 37 D, Gurugram and paid booking amount of Rs.6,00,000/- through receipt nos. 2012/1400023394 on dated 22.08.2012. The complainant was allotted the said unit vide allotment letter dated 07.12.2012.
- b) That the respondent executed one sided buyer's agreement signed between complainants and M/S BPTP Limited and Countrywide Promoters Pvt. Ltd on 02.01.2013, just to create a false belief that the project shall be completed in time bound manner and in the garb of this agreement persistently raised demands due to which they were able to extract huge amount of money from the complainants.
- c) That total sale consideration of the said unit is Rs. 1,09,95,306.50/- including basic, development charges, PLC, car parking allotment charges, club membership charges, firefighting charge, electrification charges, including any other charges, out of that which Rs. 59,31,341.69/- was paid by the complainant in time bound manner.
- d) That more than 50% of total sale consideration was paid by complainant to respondents and paid amount was demanded by the respondents without doing appropriate work on the said project even after extracting more than 50% amount which is illegal and arbitrary.
- e) That respondent was liable to hand over the possession of a said unit before 02.01.2017 as per clause no 1.6 and 5.1 of the buyer's agreement. However, at that time, the project was far from completion.
- f) That the Complainant filed Complaint No. 1268 of 2018, titled "Mr. Vinayak Nandan Bharna vs BPTP Ltd. and Countrywide Promoters Pvt. Ltd." before the Court due to the delay in handing over the said

unit, seeking the relief of refund. At that time, no offer of possession had been made by the respondent. After carefully considering the facts and circumstances of the case, the Court vide order dated 03.05.2019, granted the following reliefs:

- i. The complainant is entitled to delay possession charges at the prescribed interest rate of 10.70% per annum, effective from 02.01.2017, in accordance with Section 18(1) of the Real Estate (Regulation and Development) Act, 2016, until possession is offered. The Hon'ble Court gave reasoning that the project is registered with the Authority, and the revised date of completion is 12.10.2020, so at this stage refund cannot be allowed. However, complainant is entitled to delay possession interest for every month of delay in handing over possession at the prescribed rate of interest @10.70% per annum.*
  - ii. The complainant is directed to pay any outstanding dues, if applicable, after adjusting the interest accrued for the delayed period.*
  - iii. The promoter is prohibited from imposing any charges on the complainant that are not part of the Builder-Buyer Agreement (BBA).*
  - iv. Any outstanding payments from the complainant shall bear interest at the same prescribed rate of 10.70% per annum, ensuring parity with the interest granted to the complainant for possession delays."*
- g) That at the time of said order dated 03.05.2019, the respondent had not sent any offer of possession for the project in question. Thereafter, in the year 2020-2021, the respondent started rolling offer of possession for their other projects such as Park Spacio, Park Generation, etc, wherein, the respondent had imposed several illegal charges on the allottees, aggrieved by the same, hundreds of allottees approached the Authority seeking quashing of such illegal charges.
- h) That the Authority vide its orders dated 06.07.2021 and 17.08.2021 constituted a committee headed by Shri Manik Sonawane, IAS (Retired), Sh. R.K. Singh, CTP(retired), and Sh. Laxmi Kant Saini, CA to analyse and make recommendations on the issues raised in various complaints filed by the allottees in the group housing and residential plotted colonies, namely, Park Generation, Spacio & Terra (GH, Sector-37 D), Mansions Park Prime (GH, Sector-66), Astaire Gardens



(plotted, Sector-70 & 70A) and Amstoria (plotted, Sector-102 & 102A) developed by BPTP Limited, i.e., the respondent.

- i) That in the said Committee Report, all the aforesaid issues were discussed in length and recommendations were accordingly given in respect of Projects Spacio, Park Generations, Park Serene etc., in the following manner:

| Sr. No. | Issues                                                                                       | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------|----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.      | Super Area                                                                                   | Saleable area/specific area factor (997049.14/772618.28) will reduce from 1.30 to 1.2905 (Park Spacio) and from 1.2829 to 1.2613. (7375731580001.38, Park Generation) In the instant cases, the super area of the apartment measuring 1865 sq. ft. will reduce to 1851.50 sq. ft. (1434.73x1.2905) in park spacio and the super area of the apartment measuring 1521 sq. ft. will reduce to 1496.70 sq. ft. (1186.06x1.2613) in park Generation. Accordingly, the respondent company be directed to pass on this benefits to the remaining complainants/allottees.                                                               |
| B.      | Cost Escalation                                                                              | The committee is of the view that escalation cost of Rs. 374.75 per sq. feet is to be allowed instead of Rs. 588 demanded by the developer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| C.      | STP Charges and Electric Connection (ECC) + Fire Fighting (FF) + Power Backup Charges (PBIC) | i. The term electrification charges, clubbed with STP charges, used in the statement of accounts-cum-invoice be deleted and only STP charges be demanded from the allottees of Spacio @ INR 8.85 sq. ft. similar to that of the allottees of Park Generation.<br>ii. The term ECC be clubbed with FFC+PBIC in the statement of accounts-cum-invoice attached with the letter of possession of the allottees of Spacio and be charged @ INR 100 per sq. ft. in terms of the provisions of 2.1 (f) at par with the allottees of Park Generation. The statement of accounts-cum-invoice shall be amended to that extent accordingly |
| D.      | Annual Maintenance Charges                                                                   | After deliberation, it was agreed upon that the respondent will recover maintenance charges quarterly, instead of annually.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| E.      | Car Parking Charges                                                                          | After discussion, the committee finds no dispute on the issue and it was agreed upon that the car parking along with its cost shall be included in the conveyance deed to be executed with the allottees.                                                                                                                                                                                                                                                                                                                                                                                                                        |
| F.      | Holding Charges                                                                              | The Committee observes that the issue already stands settled by the Hon'ble Supreme Court vide judgment dated 14.12.2020 in civil appeal no. 3864-3889/202, whereby the Hon'ble Court had upheld the order dated 03.07.2020 passed by NCDRC, which lays in unequivocal terms that no holding charges are payable by the allottee to the developer. The Hon'ble Authority may kindly issue                                                                                                                                                                                                                                        |

|    |                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                               | directions accordingly                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| G. | Club Membership Charges       | <p>Provided, if an allottee opts out to avail this facility and later approaches the respondent for membership of the club, then he shall pay the club membership charges as may be decided by the respondent and shall not invoke the terms of FBAs that limits CMC to INR 1,00,000.00.</p> <p>In view of the consensus arrived, the club membership may be made optional. The respondent may be directed to refund the CMC, if any request is received from the allottee in this regard with condition that he shall abide by the above proviso.</p> |
| H. | Preferential location charges | <p>The committee recommends that the respondent may be directed to submit an affidavit declaring that PLCs have been levied strictly as prescribed in the FBAs executed with all the complainants in the projects Spacio and Park Generation.</p>                                                                                                                                                                                                                                                                                                      |
| I. | EDC/IDC                       | <p>The contention of the complainant was limited to the extent that they have already paid full and final amount of EDC/IDC as part of development charges prescribed in the FBAS. They requested the respondent may be restrained from making any further demand on this account in future. The Committee observes that the concern of the complainants is genuine and recommends that the respondent be directed not to raise any undue and inappropriate demand in future.</p>                                                                      |

- j) The Committee further analysed the issue of GST/VAT in regards to all the projects, i.e., Spacio, Park Generation, Astaire Garden, Terra, Amstoria, & other projects; and concluded that in the cases where the due date of possession was before 01.07.2017, the difference between post-GST and Pre GST should be borne by the promoter.
- k) It is submitted that since the Offer of Possession in regard to the project in question, i.e., "Park Terra" were not issued till that time, the following recommendations were given:

*"...the Committee notes that the project Terra forms part of the same group housing colony, wherein projects Spacio and Park Generation are located...The OC of towers 22 & 23 is still under consideration. Legally, the respondent company cannot offer possession to the allottees of the towers T20,21, 24 & 25 till the final approval is granted by the Competent Authority. Hence, it will not be possible for the Committee to anticipate the demand likely to be raised by the respondent company at the time of offer of possession. **Notwithstanding that, the committee is of the view that the recommendations made in the cases of nominees of projects Spacio and Park Generation on issues concerning super area, car parking charges, development charges, PLC, electrification charges, club membership***



*charges, cost escalation, advance maintenance, GST & VAT etc. may be implemented in case of the allottees/complainants of Terra project also and the respondent may be directed to comply with the same while offering possession."*

- l) That the respondent offered possession on 04.12.2024, following the Court's order dated 03.05.2019. However, the respondent unlawfully and without any justification, prior intimation, or consent from the complainant, increased the super area from 1691 sq. ft. to 1811 sq. ft. Additionally, several other charges were arbitrarily increased, including Preferential Location Charges (PLC), Car Parking Charges, Club Membership Fees, Fire Fighting & Power Backup Charges, and Electrification and STP charges. Since the offer of possession was made after the court's decision in Complaint No. 1268 of 2018 and included multiple unauthorized charges, the complainant has the right to approach the Court to challenge the respondent's arbitrary and unlawful actions.
- m) However, when the respondent offered possession, they unlawfully, arbitrarily, and without any justification, calculated charges based on the increased super area of 1811 sq. ft. The illegal charges imposed by the respondent while giving offer of possession are as follows:

| <b>Illegal Charges Imposed By Respondent</b> | <b>Amount</b>     |
|----------------------------------------------|-------------------|
| Preferential Location Charges (PLC's)        | Rs. 6,65,542.50/- |
| Cost Escalation                              | Rs. 7,91,407/-    |
| Interest on delayed Payment                  | Rs. 2,849,896/-   |
| Fire Fighting Charges ("FFC")                | Rs. 1,81,100/-    |
| Electrification & STP charges                | Rs. 1,37,636/-    |
| Value added tax (upto March 31, 2014)        | Rs. 40,102/-      |
| Service Tax (upto June 30, 2017)             | Rs. 3,73,841/-    |
| Goods and Service Tax (GST)                  | Rs. 5,53,182/-    |

- n) The respondent charged escalation cost of Rs.437/- per sq ft. as an escalation cost in same project in different tower without any



justification actual estimated cost of construction of apartment cost is Rs.18395.09 Lakhs and land area to be used for construction of apartment is 63075 sq. mtrs. as per Form A to H submitted in the Authority at the time of registration of project dated 19.08.2020. actual escalation in construction cost is Rs.61.67 per sq. ft. only as per clause 3.4 of agreement "The final cost of construction shall be calculated at the stage of completion of the project, should the variance be equal to or less than 5%, of the cost of construction ascertained at the time of booking, the same shall be absorbed entirely by the seller/confirming party." As per agreement base figure of construction cost was Rs. 28500/- per sq. mtrs. and actual cost incurred Rs.7425.94 Lakhs only till 19.08.2020 i.e., the respondent completed the construction till 19.08.2020 only 50% remaining pending, as per Form A to H submitted by the respondent at the time of registration, they defaulted in construction work so the respondent absorb all the escalation cost. The respondent wrongly justified it. It is understood when complainant booked the unit in 2012 and which was to be delivered by 2016 (as per agreement it was to be delivered after 42 months from date of executing of buyer's agreement) and therefore it is understood inflation was calculated at the time of booking. If project is delayed by the respondent. When we see inflation index and base construction cost at the time of booking the respondent already charged escalation cost in base figure as per BBA if we consider CPWD Index than base price for construction cost also consider as per CPWD.

- o) The respondent will increasing super area of the unit without increasing carpet area of the project and they revised building plan



without consent from buyers as per DTCP and HARERA Norms builder should require 2/3rd buyers' prior consent.

- p) That the respondent unlawfully and unjustifiably demanded VAT from the complainant in an attempt to coerce payment of an illegitimate and unfounded claim. The imposition of VAT by the respondent was entirely without justification, making the alleged value-added tax liability misleading and misconstrued. As per the law, the liability for VAT rests with the builder, not the complainant.
- q) That respondent charges IFMS (Interest free maintenance security), this is security deposit and builder will get interest on amount paid but it is not passed to the complainant is illegal, arbitrary and unilateral. Furthermore, it is pertinent to mention here that the respondents had also sent a tax invoice demanding advance maintenance charges for a period of two years from 04.04.2025 to 03.04.2027 amounting to Rs. 2,80,221/-.
- r) It is submitted that the cause of action to file the instant complaint has occurred within the jurisdiction of this Authority as the unit which is the subject matter of this complaint is situated in Sector- 37D Gurugram which is within the jurisdiction of this Authority.

**C. Relief sought by the complainants:**

4. The complainants have sought following relief(s):

- I. Direct the respondent to quash the illegal demands raised vide its offer of possession.
- II. Direct the respondent to quash the Extra Development Charges ("EDC") @ Rs. 462/- per square feet calculated on super built-up area these charges calculated on the basis of carpet area (as per Form A to H submitted by the respondent in RERA authority at the time of project registration Carpet area of the flat is 106.54 sq. mtrs (1146.78).
- III. Direct the respondent to quash the cost of increase in super area without increasing carpet area of the unit.



- IV. Direct the respondent to quash the Interest Free Maintenance Security Deposit ("IMFS") @50/- per square feet calculated on the Super Build Up area these charges shall be calculated on the basis of carpet area (as per Form A to H submitted by the respondent in RERA authority at the time of project registration carpet area of the flat is 106.54 sq. mtrs (1146.78)
- V. Direct the respondent to quash the Fire Fighting Charges ("FFC"), Electricity Connection Charges ("ECC"), and Installation Charges ("PBIC") and STP @ Rs. 108.85/- per square feet calculated on the Super Build Up area these charges calculated on the basis of carpet area (as per Form A to H submitted by the respondent in RERA authority at the time of project registration Carpet area of the flat is 106.54 sq. mtrs. (1146.78).
- VI. Direct the respondent to quash the Escalation cost of Rs. 437/- per sq. ft. (as per Form A to H submitted by the respondent in RERA authority at the time of project registration dated 19.08.2020 Total Construction cost of the Project is Rs. 18395.09 Lakhs and Land area to be used for construction of apartment is 63075 sq. mtrs as per Form A to H Construction cost per sq. mtrs is Rs. 18395.09/63075 sq. Mtrs = Rs. 29163.84 per sq. mtrs as per Builder Buyer Agreement Respondent consider Rs. 28500 per sq. mtrs as construction at the time of booking. in this situation Escalation is possible only Rs. 663.8367 per sq. mtrs or Rs. 61.67 per sq. ft. but respondent charged Rs. 437 per sq. ft. as escalation cost in same project (As per BBA Clause 3.4 respondent absorb 5% escalation cost).
- VII. Direct the respondent to quash the Holding Charges (as per law settled by Hon'ble Supreme Court in Civil Appeal Nos. 3864-3889/2020 decided on 14.12.2020).
- VIII. Direct the respondent to pay interest on maintenance security.
- IX. Pass an order for payment of GST amount levied upon the complainant and taken the benefit of input credit by builder (Respondents are not given any antiprofitteering benefit to the complainants till date).
- X. Pass an order the respondent shall be charged GST as same rate as before GST implementation because GST implemented on July 2017 and due date of possession was before 2017.
- XI. Pass an order the respondent shall not be charged any advance maintenance charges.
- XII. Direct the respondent to handover the physical possession of the complainant's unit.
- XIII. Direct the respondent to execute conveyance deed in favour of the complainant.



5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to Section 11(4) (a) of the act to plead guilty or not to plead guilty.

**D. Reply by the respondent:**

6. The respondent has contested the complaint on the following grounds vide its reply dated 01.10.2025 and written submissions dated 08.01.2026:
- a) That before filing the present complaint, the complainant had filed a similar complaint before this Authority titled as "Vinayak Kumar Bharma v. BPTP Limited" bearing no. RERA-GRG-1268-2018 which was disposed of by the Authority vide order dated 03.05.2019.
  - b) That as per Section 11 of the Civil Procedure Code, 1908, no court shall try any suit in which the matter in issue had already been directly and substantially decided in the former suit between the same parties.
  - c) That the Authority vide order dated 03.05.2019 has already decided the matter and issued directions that the complainant is directed to pay outstanding dues and that the respondent can raise a demand for all the charges which are part of the buyer's agreement. However, the complainant vide the present complaint again raising the issue of charges which the complainant is obligated to pay as per the terms of the buyer's agreement and the order dated 03.05.2019 of the Ld. Authority. Thus, it is evident that the present complaint is barred by the principle of Res Judicata.
  - d) Moreover, it is also submitted that the Authority was conscious of the fact that the offer of possession had not been issued in this matter; despite this, no liberty was granted to again approach the Authority.



The absence of such liberty effectively closes the door to any future litigation.

- e) That the principle of Res Judicata flows from the maxim "Exceptio res judicatae" which means that a previous judgment is a bar to a subsequent suit. Hence, as noted above, prior to the filing of the present complaint, the complainant had originally filed a complaint which has been duly adjudicated by this Authority and hence the complainant, at this stage, cannot seek the same relief and abuse the process of law, and therefore the present complaint is liable to be dismissed outright.
- f) That further, the complainant has already filed an execution petition bearing no. 106 of 2025, in complaint no. 1268 of 2018. The complainant is filing various complaints on the same subject matter, and the same seriously leads to multiplicity of proceedings. That after having filed for the execution of the earlier order, the complainant is barred from instituting the present complaint.
- g) That the present complaint is also barred by Order II Rule 2 of the Code of Civil Procedure, 1908 ( the "CPC"), which categorically notes that the suit once filed, shall include the whole claim. The omission of any of the relief in the complaint will bar the filing of such omitted claims at a later stage. The charges that the complainant is claiming to be illegal are part of the buyer's agreement; however, no issue/ grievance was raised by the complainant at the time of institution of the earlier complaint, therefore, the same is barred by Order II Rule 2.
- h) That the complainant, being interested in the group housing project of the respondent known under the name and style of "Terra", situated at Sector 37D, Gurugram, Haryana (the "Project"), applied for the purchase of a unit in the above-noted project and in furtherance of



the same the complainant executed an application form dated 13.08.2012. The complainant was allotted a unit bearing no. T22-1203 on the 12th Floor, Tower T22, tentatively admeasuring a super area of 1,691 sq. ft. (the "Unit").

- i) That the respondent vide letter dated 28.11.2012, sent two copies of the buyer's agreement to the complainant for signing the same and requested the complainant to return the signed copies within 30 days of the receipt of the letter. That thereafter, the buyer's agreement was executed on 02.01.2013 between the parties. It is imperative to mention here that the complainant, after being fully satisfied and agreeing with the terms and conditions of the agreement, voluntarily and wilfully entered into the same.
- j) That the relationship between the parties is thus contractual in nature and therefore, the rights and obligations of the parties are governed by the afore-mentioned agreement. The complainant willingly, consciously, and voluntarily applied for the purchase of the unit in the project of the respondent.
- k) That the rights and obligations of the allottee as well as the builder are completely and entirely determined by the covenants incorporated in the agreement, which continue to be binding upon the parties thereto with full force and effect. It was agreed between the parties that the area of the unit is tentative and subject to change, as also agreed under clause K, 2.1 and 4.2 of the agreement.
- l) That the complainant had also executed an undertaking along with an affidavit as per which the complainant agreed to the tentative nature of the super area of the unit. The due date of offer of possession, as per clauses 5.1 r/w 1.6 of the agreement, is 42 months from the date of sanction of the building plan or execution of the buyer's agreement



along with a grace period of 180 days, subject however, to the force majeure circumstances, intervention of statutory authorities and the purchaser(s) making all payments within the stipulated period and complying with the terms and conditions of this agreement.

- m) That the building plan was approved on 21.09.2012 and the buyer's agreement was executed on 02.12.2013; therefore, the due date is calculated from the date of execution of the agreement. Hence, the proposed due date comes out to be 21.12.2017. The due date of delivery of the unit was subjective in nature and was dependent on the force majeure circumstances and the allottee complying with all the terms and conditions of the agreement, along with timely payments of instalments of sale consideration.
- n) That the construction of the unit was hampered due to and was subject to the happening of the force majeure and other circumstances beyond the control of the company, the benefit of which is bound to be given to the respondent in accordance with clauses 1.17 and 10.1 of the agreement.
- o) It is categorical to note that respondent faced with various force majeure events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. The National Green Tribunal in several cases related to Punjab and Haryana had stayed mining operations including in O.A No. 171/2013, wherein vide Order dated 2.11.2015 mining activities by the newly allotted mining contracts by the state of Haryana stayed on

the Yamuna Riverbed. These orders in fact inter-alia continued till the year 2018. Similar orders staying the mining operations were also passed by the Hon'ble High Court and the National Green Tribunal in Punjab and Uttar Pradesh as well. The stopping of mining activity not only made procurement of material difficult but also raised the prices of sand/gravel exponentially. It was almost 2 years that the scarcity as detailed aforesaid continued, despite which all efforts were made, and materials were procured at 3-4 times the rate and the construction continued without shifting any extra burden to the customer. The time taken by the Respondent No. 1 to develop the project is the usual time taken to develop a project of such a large scale and despite all the force majeure circumstances, the respondent completed the construction of the project diligently and timely, without imposing any cost implications of the aforementioned circumstances on the complainant and demanding the prices only as and when the construction was being done. The development and implementation of the said project have been hindered on account of several orders/directions passed by various authorities/forums/courts, before passing of the subjective due date of offer of possession.

- p) That additionally, even before normalcy could resume, the world was hit by the COVID-19 pandemic. The COVID-19 pandemic resulted in serious challenges to the project with no available laborers, contractors, etc. for the construction of the Project. The Ministry of Home Affairs, GOI vide notification dated March 24, 2020, bearing no. 40-3/2020-DM-I(A) recognized that India was threatened with the spread of the COVID-19 pandemic and ordered a complete lockdown in the entire country for an initial period of 21 days, which started on



March 25, 2020. By virtue of various subsequent notifications, the Ministry of Home Affairs, GOI, further extended the lockdown from time to time, and till date the same continues in some or the other form to curb the pandemic. Various State Governments, including the Government of Haryana, have also enforced various strict measures to prevent the pandemic, including imposing curfew, lockdown, stopping all commercial activities, and stopping all construction activities. Despite, after above-stated obstructions, the nation was yet again hit by the second wave of the COVID-19 pandemic, and again all the activities in the real estate sector were forced to stop. It is pertinent to mention that, considering the wide spread of Covid-19, firstly night curfew was imposed, followed by weekend curfew and then complete curfew. That during the period from 12.04.2021 to 24.07.2021, each and every activity, including the construction activity, was banned in the State. Therefore, it is safely concluded that the said delay in the seamless execution of the project was due to genuine force majeure circumstances, and the said period shall not be added while computing the delay.

- q) That even after hardships faced by the respondent due to force majeure circumstances and delay in remittance of outstanding dues by the allottees like the complainant, the respondent was able to complete the construction of the project and had thereby obtained the occupation certificate for the same on 23.01.2024 and hence lawfully offered the possession to the complainant on 04.12.2024.
- r) That the respondent had granted compensation of Rs. 50,23,326 to the complainant at the time of offer of possession in compliance with the earlier order passed by the Authority in the Complaint No. 1268 of 2018.



- s) Furthermore, the respondent has also issued a compliance letter dated 01.05.2025 to the complainant. Subsequently, upon reassessment a Corrigendum Letter dated 07.07.2025 was issued by respondent to the complainant. That through this Corrigendum, it was categorically clarified that the previously issued Compliance Letter dated 01.05.2025 stood amended. The calculations provided in the Corrigendum superseded those mentioned in the earlier letter and would henceforth be treated as final and binding.
- t) That in compliance with the directions of the Authority as contained in its order dated 03.05.2019, the respondent duly adjusted an amount of Rs. 50,28,154/- on account of delayed possession charges, in favor of the complainant. After giving due credit for the said adjustment, the outstanding amount that remained payable by the complainant towards the total consideration for the subject unit was computed to be Rs. 50,49,867/-. Accordingly, the complainant was called upon and requested to complete all requisite formalities both documentary and financial in order to facilitate the handover of possession of the unit. This included submission of all pending documentation and clearance of the outstanding dues as per the revised and final calculations communicated vide the Corrigendum Letter dated 07.07.2025.
- u) That the offer of possession of the unit provided by the complainant is a valid offer of possession and all the demands raised by the respondent in the said offer of possession are valid charges and as per the agreement executed between the parties.
- v) That there has been an increase of only 7% in the area of the Unit allotted to the complainant. This marginal increase is well within the permissible variation limit as specifically provided under Clause

4.1(c) of the Agreement for Sale executed between the complainant and respondent. It is further submitted that such an increase does not amount to any breach or violation of the terms and conditions of the agreement, nor does it confer any cause of action upon the complainant to seek relief, as the same has been undertaken in accordance with the mutually agreed terms. Without prejudice to the aforesaid, respondent craves the leave of this Authority to place on record the detailed calculation of the final area of the unit, as and when the Authority may deem fit and necessary for the adjudication of the present matter.

- w) That as per clause 3.4 of the agreement, the complainant agreed to the fact that the unit of the complainant may experience escalation and thus thereby the cost of the same can vary and further agreed to make the payments of the outstanding dues accordingly. Further as per clause 3.1 of the agreement, the complainant agreed to pay the following charges in addition to the cost of the unit. Hence, all the charges levied by the respondent upon the complainant are lawful charges being charged as per the agreement executed between the parties.
- x) Moreover, the Authority also, while adjudicating the previous complaint filed by the complainant in the complaint bearing no. 1268 of 2018 allowed the respondent to demand the charges as per the buyer's agreement. Further, it was the obligation of the complainant to take possession of the unit after remittance of the balance consideration of the unit. Out of the total sales consideration of Rs.1,63,47,920/-, the complainant had only made payment of Rs.59,31,341/-.



- y) That the complainant defaulted in making the payment and in taking the handover of the unit. That in such a circumstance, the complainant is bound to pay the maintenance charges from the date of the offer of possession per the agreed terms and conditions between the parties. The respondent has charged the maintenance charges as per the agreed terms of the buyer's agreement. A similar obligation of the allottee to pay the maintenance charges in case of the failure of the allottee to take possession of the unit has been noted in the Model RERA Agreement.
- z) The fact of the readiness of the unit is evident from the receipt of the occupation certificate. Moreover, the respondent has been maintaining the project in question since the receipt of the OC. Thus, the complainant is liable to pay the maintenance charges from the date of the offer of possession.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority:**

8. The respondent has raised a preliminary submission/objection the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate



Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

**E.II Subject matter jurisdiction**

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

**Section 11(4)(a)**

*Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;*

**Section 34-Functions of the Authority:**

*34(f) of the Act provides to ensure compliance of the obligations cast upon the promoter, the allottee and the real estate agents under this Act and the rules and regulations made thereunder.*

11. So, in view of the provisions of the Act quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

**F. Findings on relief sought by the complainant:**

- F.I Direct the respondent to quash the illegal demands raised vide its offer of possession.**
- F.II Direct the respondent to quash the Extra Development Charges ("EDC") @ Rs. 462/- per square feet calculated on super built-up area these charges calculated on the basis of carpet area (as per Form A to H submitted by the respondent in RERA authority at the**



- time of project registration Carpet area of the flat is 106.54 sq. mtrs (1146.78).
- F.III Direct the respondent to quash the cost of increase in super area without increasing carpet area of the unit.
- F.IV Direct the respondent to quash the Interest Free Maintenance Security Deposit ("IMFS") @50/- per square feet calculated on the Super Build Up area these charges shall be calculated on the basis of carpet area (as per Form A to H submitted by the respondent in RERA authority at the time of project registration carpet area of the flat is 106.54 sq. mtrs (1146.78)
- F.V Direct the respondent to quash the Fire Fighting Charges ("FFC"), Electricity Connection Charges ("ECC"), and Installation Charges ("PBIC") and STP @ Rs. 108.85/- per square feet calculated on the Super Build Up area these charges calculated on the basis of carpet area (as per Form A to H submitted by the respondent in RERA authority at the time of project registration Carpet area of the flat is 106.54 sq. mtrs. (1146.78).
- F.VI Direct the respondent to quash the Escalation cost of Rs. 437/- per sq. ft. (as per Form A to H submitted by the respondent in RERA authority at the time of project registration dated 19.08.2020 Total Construction cost of the Project is Rs. 18395.09 Lakhs and Land area to be used for construction of apartment is 63075 sq. mtrs as per Form A to H Construction cost per sq. mtrs is Rs. 18395.09/63075 sq. Mtrs = Rs. 29163.84 per sq. mtrs as per Builder Buyer Agreement Respondent consider Rs. 28500 per sq. mtrs as construction at the time of booking. in this situation Escalation is possible only Rs. 663.8367 per sq. mtrs or Rs. 61.67 per sq. ft. but respondent charged Rs. 437 per sq. ft. as escalation cost in same project (As per BBA Clause 3.4 respondent absorb 5% escalation cost).
- F.VII Direct the respondent to quash the Holding Charges (as per law settled by Hon'ble Supreme Court in Civil Appeal Nos. 3864-3889/2020 decided on 14.12.2020).
- F.VIII Direct the respondent to pay interest on maintenance security.
- F.IX Pass an order for payment of GST amount levied upon the complainant and taken the benefit of input credit by builder (Respondents are not given any antiprofitteering benefit to the complainants till date).
- F.X Pass an order the respondent shall be charged GST as same rate as before GST implementation because GST implemented on July 2017 and due date of possession was before 2017.
- F.XI Pass an order the respondent shall not be charged any advance maintenance charges.



12. The complainant has sought multiple reliefs pertaining to quashing of various demands raised by the respondent at the stage of offer of possession, including EDC, IMFS, escalation charges, holding charges, GST-related claims, advance maintenance charges and other allied monetary reliefs, as enumerated under prayers F.I to F.XI mentioned above.
13. On the basis of the documents placed on record and submissions made by both the parties, the Authority observes that the complainant was allotted a unit bearing no. T22-1203, located on the 12<sup>th</sup> floor, tower 22 in project of the respondent named "Park Terra" situated in Sector-37D, Gurugram. An apartment buyer's agreement was executed between the parties herein regarding the subject unit on 02.01.2013. As per clause 5.1 read with clause 1.6 of the buyer's agreement, the respondent company was under an obligation to handover the possession within a period of 42 months from the date of sanction of building plans (21.09.2012) or execution of agreement (02.01.2013), whichever is later. Therefore, the date of execution of agreement being later than the date of sanction of building plans, due date of possession comes out to be 02.01.2017. including grace period of 180 days. The occupation certificate was received from the competent authority on 23.01.2024 and possession of the unit was offered to the complainants/allottees vide offer of possession letter dated 04.12.2024.
14. It is within knowledge of the Authority that the complainant has filed a previous complaint bearing no. 1268 of 2018 on 22.11.2018 decided by the Authority on 03.05.2019. In the said order, the Authority had adjudicated upon the disputes between the same parties arising out of the same builder buyer agreement and had, inter alia, directed the respondent to pay delay possession charges @ 10.70% per annum with



effect from 02.01.2017 till the date of offer of possession and charging of amounts strictly in accordance with the builder buyer agreement.

15. The said order dated 03.05.2019 has admittedly attained finality. It is further an admitted position that the complainant has already filed Execution Petition No. 106 of 2025 seeking enforcement of the said order, which is presently pending adjudication and is listed for hearing on 26.03.2026.
16. The Authority is of the considered view that once an issue has been finally adjudicated in the former complaint bearing CR/1268/2018 and the order passed thereon on 03.05.2019 is under execution, all questions relating to its implementation, compliance, interpretation or alleged violation fall squarely within the domain of the executing forum. This Authority, while exercising original jurisdiction, cannot re-examine or re-adjudicate matters which stand concluded by an earlier order of coordinate jurisdiction. The reliefs now sought by the complainant in respect of various charges and demands are either directly and substantially covered by the earlier adjudication or are matters which ought to have been raised in the former proceedings. Therefore, the present complaint, to that extent, is hit by the doctrine of res judicata as provided under Section 11 of the Code of Civil Procedure, 1908 (CPC). Section 11 of CPC is reproduced as under for ready reference:

**"11. Res judicata.**—No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

**Explanation 1.**—The expression "former suit" shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.



**Explanation II.**—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

**Explanation III.**—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

**Explanation IV.**—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

**Explanation V.**—Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

**Explanation VI.**—Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

**Explanation VII.**—The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

**Explanation VIII.**—An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised."

17. The Authority is of view that though the provisions of the Code of Civil Procedure, 1908 are, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the Authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the Act if such provision is based upon justice, equity and good conscience. Thus, in view of the factual as well as legal provisions, the above-mentioned relief sought claimed by the complainant stand dismissed being not maintainable.



18. The Authority further observes that reliance placed by the complainant on the BPTP Committee Report of 2021 is misplaced. The said report came into existence subsequent to the passing of the Authority's order dated 03.05.2019 and cannot be applied retrospectively to reopen or modify a concluded adjudication.
19. Accordingly, all reliefs sought by the complainant under prayers F.I to F.XI are held to be not maintainable and are rejected, being barred by the principle of res judicata. The complainant shall be at liberty to agitate all permissible issues strictly within the scope of the pending execution proceedings, which shall be decided by the Executing Court in accordance with the directions passed by the Authority in its order dated 03.05.2019.
- F.XII Direct the respondent to handover the physical possession of the complainant's unit.**
- F.XIII Direct the respondent to execute conveyance deed in favour of the complainant.**
20. The Authority now proceeds to examine the reliefs pertaining to execution of conveyance deed and handover of physical possession of the unit.
21. The Authority notes that the execution of a registered conveyance deed and handing over of physical possession is a statutory obligation of the promoter under Section 17(1) of the Real Estate (Regulation and Development) Act, 2016. Such obligation is independent and continuing in nature and does not get extinguished merely on account of prior adjudication relating to delay compensation or monetary claims.
22. It is an admitted fact that the respondent has obtained the occupation certificate on 23.01.2024 and has issued an offer of possession vide letter dated 04.12.2024. As per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of



the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. As far as the relief of transfer of title is concerned the same can be clearly said to be the statutory right of the allottee as Section 17 (1) of the Act provide for transfer of title and the same is reproduced below:

***“Section 17: Transfer of title.***

***17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:***

***Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.”***

23. In view of the above, the respondent is under obligation to execute the registered conveyance deed in favour of the complainant in terms of Section 17(1) of the Act of 2016, upon payment of requisite stamp duty/registration charges at applicable rates fixed by State Government, within a period of 90 days from the date of this order as the occupancy certificate for the project in question had been already obtained by the respondent-promoter. Thus, the respondent is duty bound to complete the formalities of conveyance and lawful handover of possession in accordance with the provisions of the Act.

**G. Directions of the Authority:**

24. Hence, the Authority hereby passes this order and issue the following directions under Section 37 of the Act to ensure compliance of

obligations cast upon the promoters as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:

- I. Reliefs sought under prayers F.I to F.XI, relating to quashing of charges, monetary demands, escalation, GST, maintenance, etc. are dismissed as not maintainable, being barred by the doctrine of Res Judicata. Same shall be decided by the Executing Court in accordance with the directions passed by the Authority in its order dated 03.05.2019.
  - II. The respondent is directed to execute a registered conveyance deed in favour of the complainant and handover physical possession of the subject unit, in terms of Section 17(1) of the Act of 2016, within a period of 90 days from the date of this order, subject to the complainant depositing the applicable stamp duty and registration charges as per norms of the State Government.
25. Complaint stands disposed of.
26. File be consigned to the registry.

  
**(Phool Singh Saini)**

Member

Haryana Real Estate Regulatory Authority, Gurugram

**Dated: 22.01.2026**