

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,  
 GURUGRAM**
**Order pronounced on: 28.11.2025**

Name of the Promoter		Pioneer Urban Land and Infrastructure Limited	
Project Name		Urban Square	
S.No.	Complaint No.	Complaint title	Attendance
1.	CR/3276/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
2.	CR/3280/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
3.	CR/3292/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
4.	CR/3294/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
5.	CR/3298/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
6.	CR/3383/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
7.	CR/3386/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
8.	CR/3406/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
9.	CR/3407/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)
10.	CR/3408/2024	Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited	Sukhbir Yadav (Complainants) Dhruv Rohatgi (Respondent)

**CORAM:**

Arun Kumar

Chairman

**ORDER**

1. This order shall dispose of all the 10 complaints titled as above filed before this Authority in form CRA under Section 31 of the Real Estate



(Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, **Urban Square** being developed by the same respondent/promoter i.e., Pioneer Urban Land and Infrastructure Limited. The terms and conditions of the builder buyer's agreements fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to remove structural defects and complete the complainant's unit with all amenities and specification, refrain respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

**Project: "Urban Square", Sector-62, Gurugram**

**Possession clause:**

**10.1**

*The First party shall make all efforts to apply for the Occupation Certificate of the proposed project within thirty-six (36) months from the date sanction of the plan by the competent authority and after the date of signing of this Commercial Buyer's Agreement, subject to such limitations as be provided in this Commercial Buyer's Agreement and the timely compliance of the provisions of the Commercial Buyer's Agreement by the Second Party. The Second party agrees and understands that the First Party shall be entitled to a grace*

period of ninety (90) days, after the expiry of thirty-six (36) months, for applying and obtaining the Occupation Certificate in respect of the said complex.

**10.4**

In the event of the first party fails to deliver the possession of the unit to the second party within the stipulated time period and as per the terms and conditions of the Buyer's Agreement then the First party shall pay to the Applicant compensation 9% on the money received of the said Unit per month for a period of one year (12 months) or till handing over of the possession, whichever is earlier, subject to the Applicant having fulfilled his part of the obligations as per the terms of allotment of the Buyer's Agreement provided always that in case the First party fails to deliver possession of the premises within a period of 39 months from the date of sanction of plans by the competent authority and after the date of signing of the Buyer's Agreement, then in such case, the Second party shall give notice to the First party, within ninety (90) days from the expiry of the said period stating his/ her/ their intention to terminate the Commercial Buyer's Agreement....."

**Date of sanction of plan-** 08.04.2010

**Date of execution of buyer's agreement:** 06.05.2011

**Due date of handing over of possession-** 06.08.2014 (Calculated as 36 months from the date of execution of BBA as per possession clause, plus Grace period of 3 months is allowed to the respondent in view of order dated 08.05.2023 passed by the Hon'ble Appellate Tribunal in Appeal No. 433 of 2022 tilted as Emaar MGF Land Limited Vs Babia Tiwari and Yogesh Tiwari).

**Occupation certificate-** 30.06.2016

**DTCP License no. 268 of 2007 dated 03.12.2007.**

**RERA registration** - Un-Registered

Sr. No.	Complaint no./title/ date of filing complaint	Unit No. and area admeasuring	Date of execution of agreement for sale	Due date of possession & Offer of possession	Total sale consideration and amount paid by the Complainant	Relief Sought
1.	CR/3276/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited.  DOF- 05.08.2024 RR- 12.03.2025	A-802, 8 <sup>TH</sup> floor, admeasuring 1054 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.89,26,154 /- (page 145 of complaint)  AP: Rs.89,26,154 /- (page 147 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.

2.	CR/3280/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited,  DOF- 05.08.2024 RR- 12.03.2025	A-806, 8 <sup>th</sup> floor, admeasu ring 1614 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.1,36,83,767/- (page 138 of complaint)  AP: Rs.1,36,83,767/- (page 138 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
3.	CR/3292/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited,  DOF- 05.08.2024 RR- 12.03.2025	A-801, 8 <sup>th</sup> floor, admeasu. ring 1223 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.1,03,66,124/- (page 142 of complaint)  AP: Rs.1,03,66,124/- (page 144 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
4.	CR/3294/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited,  DOF- 05.08.2024 RR- 12.03.2025	A-808, 8 <sup>th</sup> floor, admeasu ring 1803 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.1,42,90,808 /- (page 134 of complaint)  AP: Rs.1,42,90,808 /- (page 136 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
5.	CR/3298/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited,  DOF- 05.08.2024 RR- 12.03.2025	A-804, 8 <sup>th</sup> floor, admeasu ring 1208 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.1,02,42,294 /- (page 140 of complaint)  AP: Rs.1,02,42,294 /- (page 142 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.

6.	CR/3383/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited.  DOF- 05.08.2024 RR- 12.03.2025	A-803, 8 <sup>TH</sup> floor, admeasu ring 1603 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.1,35,68,761 /- (page 139 of complaint)  AP: Rs.1,35,68,761 /- (page 141 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
7.	CR/3386/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited.  DOF- 05.08.2024 RR- 12.03.2025	A-805, 8 <sup>TH</sup> floor, admeasu ring 758 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.64,16,199 /- (page 136 of complaint)  AP: Rs.64,16,199 /- (page 138 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
8.	CR/3406/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited.  DOF- 05.08.2024 RR- 12.03.2025	A-807, 8 <sup>TH</sup> floor, admeasu ring 1659 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.1,44,78,279 /- (page 136 of complaint)  AP: Rs.1,44,78,279 /- (page 138 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
9.	CR/3407/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited.  DOF- 05.08.2024 RR- 12.03.2025	A-810, 8 <sup>TH</sup> floor, admeasu ring 1176 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.93,05,408 /- (page 139 of complaint)  AP: Rs.93,05,408 /- (page 141 of complaint)	Remove structural defects and complete the unit with all amenities and specification, Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.

10.	CR/3408/2024 Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and Infrastructure Limited.  DOF- 05.08.2024 RR- 12.03.2025	A-809, 8 <sup>th</sup> floor, admeasu ring 1209 sq. ft.	06.05.2011	Due date- 06.08.2014  Offer of possession- 06.08.2015	TSC: Rs.95,68,085 /- (page 136 of complaint)  AP: Rs.95,68,085 /- (page 138 of complaint)	Remove structural defects and complete the unit with all amenities and specification. Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
-----	--	--	------------	--	---	--

**Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:  
Abbreviations Full form**

DOF- Date of filing complaint  
RR- Reply Received on  
TSC- Total Sale consideration  
AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed by the complainants against the promoter on account of violation of the builder buyer's agreement executed between the parties *inter se* in respect of said unit for seeking award of removal of structural defects and completion of the complainant's unit with all amenities and specification, refraining respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoters/respondent in terms of Section 34(f) of the Act which mandates the Authority to ensure compliance of the obligations cast upon the promoter, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/3276/2024 titled as Mohinder Kumar Jain and Neeru Jain V/s Pioneer Urban Land and***

**Infrastructure Limited.** are being taken into consideration for determining the rights of the allottee(s) qua possession and delayed possession charges.

**A. Unit and project related details**

7. The particulars of unit details, 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 tabular form:

S. No.	Heads	Information
1.	Name and location of the project	"Urban Square", sector-62, Gurugram
2.	Nature of the project	Commercial Complex
3.	Area of the project	24.606 acres
4.	DTCP License	268 of 2007 dated 03.12.2007
	valid upto	02.12.2024
5.	RERA registered/ not registered	Un- Registered
6.	Unit no.	A-802, 8 <sup>th</sup> floor
7.	Unit area	1054 sq. ft.
8.	Date of execution of buyer's agreement	06.05.2011 [Page 52 of complaint]
9.	Date of sanction of plan by the competent authority	08.04.2010 (as per page 10 of reply)
10.	Possession clause as per BBA	<b>10.1</b> <i>The First party shall make all efforts to apply for the Occupation Certificate of the proposed project within thirty-six (36) months from the date sanction of the plan by the competent authority and after the date of signing of this Commercial Buyer's Agreement, subject to such limitations as be provided in this Commercial Buyer's Agreement and the timely compliance of the provisions of the Commercial Buyer's Agreement by the Second Party. The Second party agrees and understands that the First Party shall</i>



		<p>be entitled to a grace period of ninety (90) days, after the expiry of thirty-six (36) months, for applying and obtaining the Occupation Certificate in respect of the said complex.</p> <p><b>10.4</b> In the event of the first party fails to deliver the possession of the unit to the second party within the stipulated time period and as per the terms and conditions of the Buyer's Agreement then the First party shall pay to the Applicant compensation 9% on the money received of the said Unit per month for a period of one year (12 months) or till handing over of the possession, whichever is earlier, subject to the Applicant having fulfilled his part of the obligations as per the terms of allotment of the Buyer's Agreement provided always that in case the First party fails to deliver possession of the premises within a period of 39 months from the date of sanction of plans by the competent authority and after the date of signing of the Buyer's Agreement, then in such case, the Second party shall give notice to the First party, within ninety (90) days from the expiry of the said period stating his/ her/ their intention to terminate the Commercial Buyer's Agreement..... (Page 61-62 of complaint)</p>
11.	Due date of possession	<p>06.08.2014 (Calculated as 36 months from the date of execution of BBA as per possession clause, plus Grace period of 3 months is allowed to the respondent in view of order dated 08.05.2023 passed by the Hon'ble Appellate Tribunal in <b>Appeal No. 433 of 2022 tilted</b></p>

		<i>as Emaar MGF Land Limited Vs Babia Tiwari and Yogesh Tiwari</i>
12.	Total sale consideration	Rs.89,26,154 /- [as per page 145 of complaint]
13.	Total amount paid by the complainant	Rs.89,26,154 /- [as per page 147 of complaint]
14.	Occupation certificate	30.06.2016 (page 171 of complaint)
15.	Offer of possession	06.08.2015 (page 85 of complaint)
16.	Possession letter	27.07.2017 (page 136 of complaint)
17.	Date of execution of Conveyance deed	27.07.2017 [Page 144 of complaint]

### B. Facts of the complaint

8. The complainants have made the following submissions: -

- I. That in March 2010, the complainants received a marketing call from the office of the respondent for booking in a commercial project being developed by the respondent in the name of "Urban Square" under Group Housing Complex i.e., "Pioneer Park", situated in Sector - 62, Gurugram.
- II. That the complainants being relied on the representation and assurances of the respondent, on 19.04.2010 booked a commercial unit bearing No. A-802, on the 8th Floor in Tower-A measuring 1050 sq. ft in the project 'Urban Square', situated in Sector-62, Gurugram, and submitted a pre-printed application form and issued a cheque of Rs.8,06,400/- against the booking amount. It is pertinent to mention here that the complainants booked the above-stated unit under the construction linked payment plan for a total sale consideration of Rs.85,89,000/- (Inclusive of BSP, EDC, IDC and PLC). It is further pertinent to mention here that the complainants are entitled to one (1)

reserved parking with the unit booked by them as well under the said total consideration.

- III. That the complainants continued to make the payments as per the payment plan and in accordance with the demands raised by the respondent. It is pertinent to mention here that since the booking of the unit in question, the complainants made several requests for execution of the BBA for their unit, however, the respondent did not pay any heed to the complainants' requests. Thereafter, after a lapse of more than 1 year, finally, the day came, and on 06.05.2011, a pre-printed, arbitrary, unilateral flat buyer agreement/ agreement to sell was executed inter-se the respondent and complainants. It is important to note here that as per clause 10.1 of the said BBA, the respondent party was supposed to obtain the Occupancy Certificate within 36 months from the date of sanctioning of plans or from the date of the execution of the BBA, whichever is later, and the due date of possession shall be 36 months from the date of sanctioning of plans or the date of the execution of the BBA, whichever is later.
- IV. That after the execution of the BBA, the complainants continued to make the payments against the installments of their unit. On 31.08.2011, the respondent issued a customer ledger for the complainants' unit, and it is important to note here that the said ledger reflects that the respondents by 31.08.2011 had raised a demand of Rs.29,77,446/- and the same were paid in full by the complainants by 31.08.2011.
- V. That on 06.08.2015, the respondent issued an intimation for offer of possession letter for the complainants' unit. It is pertinent to mention here that in the said letter, the respondent increased the super area of the complainants' unit from 1050 Sq. ft to 1054 Sq. ft without any

justification and prior intimation. The respondents in the said intimation for the offer of possession letter raised a demand of Rs.8,75,987/- on account of increased area and other charges. Furthermore, the respondent under para 7 of the said intimation letter, asked the complainants to sign an Indemnity cum Undertaking in order to take physical possession which is completely illegal. Moreover, the respondent has sent a maintenance bill and raised a demand of Rs.1,29,769/- on account of common area maintenance charges. It is pertinent to highlight here that maintenance charges can be charged only after taking physical possession by the allottee, and before giving the physical possession to allottees, the builder/promoter/respondent is required to obtain an Occupancy Certificate and Completion Certificate from the competent authority. It is highly pertinent to mention here that the respondent has not obtained the OC and CC for the complaint's unit which is situated in Tower-A, therefore, the said maintenance bill and intimation of offer of possession letter are not acceptable and the same is not valid in the eyes of the law.

- VI. That as per clause 10.1 of the Buyer's Agreement dated 06.05.2011, the respondent was required to take an occupation certificate from the competent authority and thereafter hand over the physical possession of the aforementioned unit to the complainant within a period of a maximum of 39 months including grace period from the date of sanction of the plan by the competent authority and after the signing of the Commercial Buyer's Agreement, hence latest by 06.08.2014. However, the same was not done, in fact the same has not been done to date. Furthermore, in the said letter dated 06.08.2015, it was stated that the respondent is in the process of giving possession of the unit of

the complainant, and a few conditions regarding submission of requisite documents, etc. therein were listed in the said letter. Further, the payment schedule including arrears due to changes in the super area, legal charges, interest, etc. were attached along with the said letter, calling upon the complainants to make a payment of Rs.8,75,987/- under different heads. That as per the buyer's agreement dated 06.05.2011 that the intimation of possession letter dated 06.08.2015 could only be sent after the certificate of occupation has been obtained from the competent authority.

- VII. That on 21.09.2015, the complainants sent a letter to the respondent and asked for confirmation of the completion certificate and work done against the intimation of the offer of possession letter dated 06.08.2015. It is pertinent to mention here that the complainants in their letter enquired about the occupancy certificate and completion certificate for their unit. Furthermore, the complainants also stated in the said letter that they are ready and willing to pay the legal demands (if any) for the process of taking physical possession of their units as per clause 10.3 of the BBA after fulfilling clause 10.2. Additionally, the complainants also asked about the finishing of all internal and external works along with other facilities for their unit. Furthermore, the complainants also asked the respondent to arrange a joint inspection visit with the site manager of its team, however, the said letter of the complainants went in vain since the respondent did not utter a single word in revert to the said letter of the complainant.
- VIII. That the complainants kept on following up with the respondent, and again sent a letter on 05.10.2015 to the respondent, seeking clarification on all unreasonable charges being charged by the

respondent in its letter dated 06.08.2015, however, the respondent did not pay heed to any of the requests or grievances of the complainants.

- IX. That after receiving the grievance letters of the complainants, the respondent asked the complainants to come at the customer service centre/office of the respondent situated at Pioneer Park on 13.10.2015, and fixed a meeting of the complainants with their deputy manager namely Mr. Vishal Kotriwal for resolving the grievances of the complainants. The complainant along with his two managerial staff visited the office of the respondent as per their invitation. It is highly pertinent to mention here that the respondent's deputy manager had no answer to the queries of the complainants, and the said manager i.e., Mr. Vishal Kotriwal himself confirmed in the said meeting that the respondent has not obtained the OC and CC for the project in question and for the tower in which the complainants' unit is situated i.e., Tower - A. Furthermore, Mr. Vishal Kotriwal also confirmed that the unit of the complainants is not ready for occupation and all internal works of interior, services, toilets, etc. are not complete. The complainants through a letter dated 19.10.2015 shared the minutes of the above-mentioned meeting with the respondent and asked to give confirmation of the averments made by Mr. Vishal Kotriwal (deputy manager) in writing.
- X. That the respondent did not give any revert of any of the correspondence made by the complainants. Therefore, on 14.12.2015, 12.02.2016, and 16.07.2016 the complainants again sent a letter to the respondents and expressed how disappointed the complainants were because of the misconduct of the respondent. The complainants further asked to provide an update about the completion of their unit along with other concerns in the said letter sequentially.

- XI. That being aggrieved by the acts of the respondent, the complainants again sent a letter to the respondent on 03.09.2016. The complainants in the said letter again enquired about the status of completion of the project as well as of their units along with the status of OC and CC for their respective units, however, no communication was received from the respondent's end. It may be worthwhile to mention here that the complainants have written numerous letters dated 21/09/2015, 5/10/2015, 19/10/2015, 14/12/2015, 12/02/2016, 16/07/2016, and 03/09/2016 seeking information regarding occupation certificate with respect to the subject unit and additional information regarding development works, progress, etc. On the contrary, a highly unprofessional attitude was adopted by the respondent and the complainants were not given a reply to any of the aforementioned letters. Therefore, on 12.03.2016, the complainants served a legal notice upon the respondent to resolve all the disputes as mentioned by the complainants in the above-stated letters, however, the same went unanswered, therefore, the complainant again served another legal notice upon the respondent on 08.11.2016.
- XII. That in order to safeguard their interest and to avoid the respondent from dealing with the unit in any unauthorized or illegal manner, the complainants under duress, coercion and in order to avoid cancellation of the unit, creation of third-party interests in the unit or levy of holding charges, vide their letter dated 26 April 2017, apprised the respondent of their intention to pay all the demands as raised by the respondent in its email dated 21.04.2017 for the unit in question amounting to Rs.13,15,583/- without prejudice and under protest.
- XIII. That after receiving the above-mentioned payment, the respondent finally offered the possession of the unit to the complainants vide its

possession letter dated 27 July 2017. Thereafter, a conveyance deed was executed by the respondent in favour of the complainants on the same date i.e., 27 July 2017, and the respondent handed over vacant possession of the unit on the said date. It is pertinent to mention that the respondent compelled the complainants to execute unilateral indemnities and undertakings, and the complainants were also compelled to sign on dotted lines forming part of a one-sided conveyance deed which contains arbitrary, malafide and blatantly one-sided clauses and the complainants executed the conveyance deed under duress, and under protest.

- XIV. That after taking the possession of the unit, the complainants visited the unit and on inspecting the unit, the complainants were shocked to note that the respondent had not even installed a door in the unit. The complainants were further shocked to note that even the floor was bereft of flooring. The complainants also noted that the respondent had even failed to do the basic paintwork, window glasses were broken, there was water leakage from the ceiling, and the ceiling was broken and even the walls and tiles had cracks. The complainants thus straight away on the next day of taking possession of the unit i.e., on 28 July 2017, vide email, expressed all the structural defects and requested the respondent to immediately complete all incomplete work within two weeks' time. Thereafter, on 29.07.2017, the complainants even sent a reminder letter against their email dated 28.07.2017 to the respondent, however, no reply from the respondent was ever received by the complainants.
- XV. That as per information available with Directorate of Town and Country Planning, Haryana, the Occupation Certificate for the project was granted on 30.06.2016.

- XVI. That after giving the physical possession of the complainants' unit with loads of structural defects, the respondents started issuing the maintenance bills for common areas as well, and the same were being paid by the complainants. However, the respondent on 06.05.2020, through email, issued invoices of maintenance charges for the period of April 2020 and May 2020. It is pertinent to mention here that in the said period the novel coronavirus was taking its toll on the whole country and everybody was running through that crucial period of lockdown. The complainant (Mr. MK Jain) raised his grievances against the invoices of maintenance and labour charges for the COVID-19 period and also sent an email on 27.05.2020 to the respondent and on 28.05.2020, the respondent responded on the complainant's email through an email and made lame excuses under the shield of directives of the government. Thereafter, several emails were exchanged between the complainants and respondent regarding the CAM and labour charges.
- XVII. That being aggrieved by the acts and misconduct of the respondent, and being tired of making several efforts, the complainants in 2018 went into Arbitration to resolve the disputes, and they preferred an application under Section 11 of the Arbitration and Conciliation Act, 1961 before the Hon'ble Punjab and Haryana High Court being Arbitration Petition No. 331 of 2018. It is pertinent to mention here that an award in the above-said arbitration petition was passed on 29.04.2022. It is crucial to highlight here that the complainants were awarded with delayed possession interest only in the said award.
- XVIII. That the complainants tried hard to get the structural defects of their unit remove, however, the respondent never listened to the complainants and kept the matter lingering on.

XIX. That the complainants do not want to withdraw from the project. The promoter has not fulfilled his obligation therefore as per obligations on the promoter under section 11(4) proviso, the promoter is obligated to remove the structural defects of the complainant's unit despite execution of the conveyance deed.

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

9. The complainants have sought following relief(s):
  - I. Direct the respondent to remove structural defects and complete the unit with all amenities and specification.
  - II. Refrain the respondent from charging maintenance charges and taking advantage of arbitrary terms and conditions of BBA and conveyance deed.
10. 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.**

11. The respondent vide reply has contested the complaint on the following grounds:
  - i. That the complainants previously had also instituted arbitration proceedings against the respondent, in which the Ld. Arbitrator has already passed an award dated 29.04.2022, but the complainants in order to extort money from the respondent, have again approached the Authority raising the issues and claims, which have already been decided by the Ld. Arbitrator vide his award dated 29.04.2022. The issues and grievances raised and the reliefs sought in the present false and frivolous complaint are barred under the provisions of Order 2 Rule 2, CPC. It is submitted that the present complaint is barred by the principle of Res Judicata. It is pertinent to note that it is a matter of

record that the complainants herein had previously invoked the arbitration clause 38 of the buyer's agreement dated 06.05.2011 and pursued the arbitration proceedings against the respondent. A reference to the reliefs sought by the complainant, before the Arbitral Tribunal and in the present complaint, would show that the reliefs no. (iii) is a duplicate claim and is barred by res-judicata.

- ii. That the present Complaint is barred by limitation. It is a matter of record that the intimation of possession was issued to the complainants on 06.08.2015, while the possession was offered and taken over by the complainants on 27.07.2015, after the receipt of the Occupation Certificate as early as on 30.06.2016. The conveyance deed of the unit in question has been executed and registered as early as on 27.07.2016. Admittedly, the present complaint has been filed as late as on 10.07.2024, after a gross delay of 7 years. The present complaint is therefore, barred by limitation. Assuming, only for the sake of argument that even if the intimation of possession dated 06.08.2015 was not valid or binding, the complainants' own conduct of clearing the outstanding dues and taking the physical possession of the unit in question on 27.07.2017, clearly supersedes the intimation of possession dated 06.08.2015 and still the present complaint is barred by limitation. It is relevant to submit that the conveyance deed of the unit in question had already been executed in favour of the complainants as early as on 27.07.2017, whereas the present complaint has been filed on 10.07.2024, after the conclusion of all legal proceedings, which imply that the complainants had redressed all its grievances and there was no other grievance surviving. The lack of bonafide of the complainants is apparent that after conclusion of the entire transaction on the execution of the conveyance deed and the

completion of all obligations of the respondent, they have now chosen this forum for raising their grievances. Thus, it is abundantly clear that the execution of conveyance deed was without any undue influence and coercion.

- iii. That in view of proviso to Section 11 of the Act, as stated above, the complainants are barred from raising any grievance with respect to any alleged structural defect to the unit in question after 9 years today from the date of receipt of Occupation Certificate and 8 years today from the date of receipt of handover of possession of the unit to the complainants.
- iv. That the complainants had approached the respondent and expressed an interest in booking a commercial unit in the commercial project developed by the respondent known as "Urban Square" situated in Sector 62, Gurgaon. Prior to making the booking, the complainants conducted extensive and independent enquiries with regard to the project and it was only after the complainants was fully satisfied about all aspects of the project, that the complainants took an independent and informed decision, uninfluenced in any manner by the respondent, to book the unit in question. Thereafter, buyer's agreement dated 06.05.2011 was executed between the complainants and the respondent. It is pertinent to mention that the buyer's agreement was consciously and voluntarily executed between the parties. It is submitted that the complainants out of their own free will and volition, without any inducement, force, misrepresentation or coercion of the respondent purchased the said unit with open eyes and hence, cannot claim any interest or refund of the charges paid from the respondent.
- v. That as per Clauses 10.1 and 10.2 of the buyer's agreement, the respondent company had tentatively offered to complete the project

and apply for the occupation certificate within 36 months from the date of sanction plan by the competent authority and after the signing of the buyer's agreement. Therefore, tentatively the respondent was to deliver the project in 39 months from the date of signing of the buyer's agreement. It is a matter of record that the plan was sanctioned on 08.04.2010, Fire NOC was received on 24.07.2010 and the Buyer's Agreement was executed on 06.05.2011. Thus, the due date of possession comes to 04.08.2014.

- vi. That the physical possession was offered and handed over to the complainants only on 27.07.2017, only after the receipt of the Occupation Certificate. That without prejudice to the above, it is relevant to submit that the Ld. Arbitrator, vide award dated 29.04.2022, has already held the respondent liable for delay from 07.07.2013 till 02.02.2015 and 30.06.2016 till 27.07.2017 and accordingly, awarded delay compensation to the complainants.
- vii. That it is a matter of record that the complainants took the possession of the unit in question, without any protest and demur and thus, are precluded from raising any objections at this stage, after a delay of almost 8 years from the date of taking the possession of the unit in question. It is also a matter of record that the conveyance deed of the unit in question also stands executed in favour of the complainants on 27.07.2017.
- viii. That in view of the recitals of clause 14 of the conveyance deed, the complainants are precluded and estopped from raising any grievances whatsoever in the present complaint. Furthermore, the complainant is raising these issues after being in possession for almost 8 years, which is even beyond the defect liability, as defined under the RERA Act. The

said fact is also fortified from the finding and conclusion of the Ld. Arbitrator in the Award dated 29.04.2022.

12. 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. Maintainability of complaint:**

13. In the present complaint, the complainants intend to continue with the project and are mainly seeking the reliefs of removal of structural defects of the unit and refraining the respondent from charging maintenance charges. The complainants have submitted that vide buyer's agreement dated 06.05.2011, they were allotted a unit bearing No. A-802, on the 8th Floor in Tower-A measuring 1050 sq. ft in the project of the respondent named 'Urban Square', situated in Sector-62, Gurugram for a total sale consideration of Rs.85,89,000/- and the same has been paid by them as per the demands raised by the respondent. As per clause 10.1 of the buyer's agreement, the respondent was required to take an occupation certificate from the competent authority and thereafter hand over the physical possession of the unit to the complainants within a period of a maximum of 39 months including grace period from the date of sanction of the plan by the competent authority and after the signing of the buyer's agreement, hence latest by 06.08.2014. On 06.08.2015, the respondent without obtaining occupation certificate, issued an intimation for offer of possession letter for the complainants' unit and raised a demand of Rs.8,75,987/- on account of increased area and other charges. The respondent finally offered the possession of the unit to the complainants vide its possession letter dated 27.07.2017. Thereafter, a conveyance deed was

executed by the respondent in favour of the complainants on the same date i.e., 27.07.2017, and the respondent handed over vacant possession of the unit on the said date. After taking the possession of the unit, the complainants visited the unit and on inspecting the unit, the complainants were shocked to note that the respondent had not even installed a door in the unit. The complainants were further shocked to note that even the floor was bereft of flooring. The complainants also noted that the respondent had even failed to do the basic paintwork, window glasses were broken, there was water leakage from the ceiling, and the ceiling was broken and even the walls and tiles had cracks. Being aggrieved by the acts and misconduct of the respondent, and being tired of making several efforts, the complainants in 2018 went into Arbitration to resolve the disputes, and they preferred an application under Section 11 of the Arbitration and Conciliation Act, 1961 before the Hon'ble Punjab and Haryana High Court being Arbitration Petition No. 331 of 2018. It is pertinent to mention here that an award in the above-said arbitration petition was passed on 29.04.2022. It is crucial to highlight here that the complainants were awarded with delayed possession interest only in the said award. The respondent has submitted that the complainants previously had also instituted arbitration proceedings against the respondent, in which the Ld. Arbitrator has already passed an award dated 29.04.2022, but the complainants in order to extort money from the respondent, have again approached the Authority raising the issues and claims, which have already been decided by the Ld. Arbitrator vide his award dated 29.04.2022. Further, it is a matter of record that the intimation of possession was issued to the complainants on 06.08.2015, while the possession was offered and taken over by the complainants on



27.07.2015, after the receipt of the Occupation Certificate as early as on 30.06.2016. Admittedly, the present complaint has been filed as late as on 10.07.2024, after a gross delay of 7 years. The present complaint is therefore, barred by limitation. Even if the intimation of possession dated 06.08.2015 was not valid or binding, the complainants' own conduct of clearing the outstanding dues and taking the physical possession of the unit in question on 27.07.2017, clearly supersedes the intimation of possession dated 06.08.2015 and still the present complaint is barred by limitation. Also, in view of the recitals of clause 14 of the conveyance deed, the complainants are precluded and estopped from raising any grievances whatsoever in the present complaint. Furthermore, the complainant is raising these issues after being in possession for almost 8 years, which is even beyond the defect liability, as defined under the RERA Act.

14. After considering the documents available on record as well as submissions made by the parties, the Authority observes that after obtaining occupation certificate from the competent authority, the possession of the unit in question was handed over to the complainants on 27.07.2017. Thereafter, the conveyance deed against the said unit was duly executed between the parties on 27.07.2017. Relevant clauses of the conveyance deed dated 27.07.2017, pertaining to handing over of possession of unit in terms of the buyer's agreement to the complainants is reproduced hereunder for ready reference:

***14. That the actual physical vacant possession of the Said Unit has been handed over by the Vendor to the complete satisfaction of the Vendee(s) and the Vendee(s) has taken over the same to its complete satisfaction in respect of its area, location, dimensions, quality of workmanship/construction, materials, specifications and there is no issue whatsoever in this regard in terms of the Agreement. The Vendee(s) has been left with no claim in this regard against the Vendor in terms of the Developer Buyer Agreement and all the obligation of the Vendor/Developer under the Developer Buyer Agreement stands discharged to the complete***

*satisfaction of the Vendee(s) including but not limited to any claims for delay in handing over possession of the said Unit.*

15. ***That the Vendee(s) has demanded from the Vendor and the Vendor has allowed the Vendee(s), inspection of the said Unit, plans, ownership record of the said land/Unit and all other documents relating to the title, competency and all other relevant details including the design, specifications and quality of the construction of the Building/Unit and the Vendee(s) has confirmed that he is fully satisfied in all respects with regard to the right, title and interest of the Vendor in the said land, unit, building plans, occupation certificate etc. The Vendee(s) has confirmed that he has fully verified and satisfied himself in all respects with regard to the right, title and interest of the Vendor in the said Land as well as the Said Unit and the licences, plans etc. and has understood all limitations and obligations of the Vendor in respect thereof.***
15. The complainants took the possession of the unit along with two covered allotted car parking as per the buyer's agreement and got the conveyance deed executed, without any demur, protest or claim. The complainants vide above clauses have themselves confirmed that they are fully satisfied with the quality of construction of the building/unit and have neither raised any grievance at the time of taking over the possession or at the time of execution of the conveyance deed. Also, there is nothing on record to support the claim of the complainants that the conveyance deed has been got executed under coercion or by any unfair means. Further, as per Section 14(3) of the Act, 2016, on failure of the respondent/promoter to rectify structural defects within a period of thirty days, which have been brought to its knowledge within five years from the date of handing over of possession to the complainants/allottees, the only remedy available to them is to receive appropriate compensation, which is not within the jurisdiction of the Authority. As far as the issue regarding charging of maintenance charges is concerned, the Authority observes that the occupation certificate for the tower in question was obtained by the respondent on 30.06.2016, whereas possession of the unit was prematurely offered to the complainant on 06.08.2015 along with a demand on account of

maintenance charges. The demand on account of maintenance charges can only be demanded by the respondent at the time of valid offer of possession of unit to the complainants and not before. However, it is observed that the respondent vide email dated 21.04.2017 has provided a free maintenance period till 30.09.2018. Thereafter, the possession of the unit was handed over to the complainant on 27.07.2017. Therefore, after handing over of possession, the respondent was well within its right to charge maintenance charges from the complainants.

16. Further, the complainants have themselves admitted the fact that in 2018, the complainants have filed an arbitration petition under Section 11 of the Arbitration and Conciliation Act, 1961 before the Hon'ble Punjab and Haryana High Court being Arbitration Petition No. 331 of 2018 and in the above-said arbitration petition, an award was passed in favour of the complainants on 29.04.2022. After considering the above, it is determined that the Sole Arbitrator appointed by the Hon'ble Punjab and Haryana High Court vide arbitration award dated 29.04.2022, had already adjudicated upon the matter in issue in the present complaint between the parties. Consequently, the present complaint is not maintainable before the Authority as is barred by the principle of res-judicata as the matter in issue between the parties has already been heard and decided by the competent authority in the former complaint bearing no. Arb/331/2018. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be fetched to an extent that basic principles of jurisprudence are to be ignored. Therefore, subsequent complaint on same cause of action is barred by the principle of res-judicata as provided under Section 11 of the Code of Civil Procedure, 1908 (CPC). Section 11 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 I.**—*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 .*

**1[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.]"*

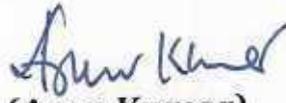
17. The authority is of view that though the provisions of the Code of Civil Procedure, 1908 (CPC) is, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are 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.

18. Moreover, it is observed that the possession of the unit was handed over to the complainants on 27.07.2017. However, the complainants have filed the present complaint regarding structural defects and related reliefs on 05.08.2024. There has been such a long unexplained delay in pursuing the matter. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be fetched to an extent that basic principles of jurisprudence are to be ignored. The Act has been established to regulate real estate sector and awarding relief in the present case would eventually open pandora box of litigation. The procedure of law cannot be allowed to be misused by the litigants. It is a principle of natural justice that nobody's right should be prejudiced for the sake of other's right, when a person remained dormant for such an unreasonable period of time without any just cause. The Authority is of view that although the law of limitation does not strictly apply to the Act of 2016. However, the Authority under Section 38 of the Act of 2016, is to be guided by the principle of natural justice. It is universally accepted maxim that "*the law assists those who are vigilant, not those who sleep over their rights*". Therefore, to avoid opportunistic and frivolous litigation a reasonable period of time needs to be arrived at for a litigant to agitate his right. This Authority of the view that three years is a reasonable time period for a litigant to initiate litigation to press his rights under normal circumstances. Therefore, considering the above, it is determined that the present complaint has not been filed within a reasonable time period.



19. Thus, in view of the above stated factual as well as legal provisions, the present complaint stands dismissed being not maintainable.
20. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
21. Complaints as well as applications, if any, stands disposed of accordingly.
22. Files be consigned to the registry.

  
(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 28.11.2025

HARERA  
GURUGRAM