

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

Complaint no. : 329 of 2025
Date of complaint : 29.01.2025
Date of decision : 27.01.2026

Meenakshi Malhan

R/o: 221 1st floor Deep Plaza Complex
Opp Civil Court Gangaram

Complainant

Versus

M/s Omaxe Limited

Regd. Office at: -Shop No. 19B First Floor
Omaxe Celebration Mall Sohna Road

Respondent

CORAM:

Arun Kumar
Phool Singh Saini

**Chairman
Member**

APPEARANCE:

Sanjeev Kumar Sharma (Advocate)
Ms. Hinna AR of the company

Complainant
Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee 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 thereunder or to the allottees as per the agreement for sale executed inter se.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

Sr. No.	Particulars	Details
1.	Name of the project	Omaxe City Centre earlier known as House 2 Home , Sector-49, Gurugram
2.	RERA Registered/ not registered	Not Registered
3.	Unit no.	FF-22, First Floor, Block-C (page 31 of complaint)
4.	Unit area	513.03 sq. ft. (super area) (page 31 of complaint)
5.	Allotment letter	29.04.2006 (page 18 of complaint)
6.	Possession clause	26(a) <i>"The company, shall complete the construction of the unit/commercial complex within 30 months from the date of signing of this allotment letter by the allottee(s)...."</i> (page 23 of complaint)
7.	Due date of possession	29.10.2008 (As per possession clause)
8.	Basic sale consideration	Rs.23,59,938/- (page 38 of complaint)
9.	Amount paid by the complainant	Rs.24,86,876/- (page 38 of complaint)
10.	Completion certificate	04.08.2010 (page 2 of reply)
11.	Offer for fit-outs	03.11.2008 and 09.01.2009 [page 54 of reply and page 32 of complaint]
12.	Reminder for execution of conveyance deed and other payment sent by the respondent	12.01.2011, 16.08.2011, 31.05.2013, 10.09.2013, 07.2.2014, 20.05.2014, 23.06.2014, 15.07.2014, 30.08.2014, 08.10.2014, 22.11.2014, 08.01.2015, 19.02.2015, 11.09.2015, 15.09.2015, 07.12.2015, 19.02.2016, 07.06.2016, 27.06.2016, 10.08.2016, 07.10.2016, 16.12.2016, 04.05.2017, 06.06.2017, 20.07.2017, 11.08.2017, 21.09.2017,

		24.10.2017, 26.10.2017, 24.11.2017, 17.01.2018, 12.03.2018 and 05.06.2018 (page 59-94 of reply)
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B. Facts of the complaint

3. The complainant has made the following submissions by filing the present complaint on 29.01.2025: -

- a) That upon the representation made by the respondent through newspapers etc. that he was to construct a commercial complex with all amenities etc. at one undivided single parcel of land measuring two acres located at sector 49 Gurugram, Haryana for which he has been granted license by the DGTCP Haryana.
- b) That the complainant is the allottee/purchaser vide their application in favour of the respondent. Subsequently an allotment letter was issued on 29.04.2006 and there after builder buyer agreement was executed on 29.04.2006. The respondent allotted unit no. 22C on 1st Floor in the project House to Home of 513 sq. feet super area.
- c) That the complainant paid installment as per the demands made by the respondent without any proof of stage wise construction as promised by the respondent at the time of booking as well as per builder buyer agreement. The complainant paid total amount of Rs. 24,86,876/- to the respondent till 2015 out of the total agreed amount of Rs. 23,59,000/- i.e. 4600/- per sq. ft. × 513sq. ft. (the allotted area of shop).
- d) That as per clause 26 of builder buyer agreement the possession was supposed to be handed over by 29.10.2008. The respondent failed miserably to handover the possession till date on one pretext or the other even after making the 99% of the consideration amount to be paid and stamp duty is also paid to the respondent for conveyance deed execution.
- e) That it is an establish law that allottee is entitled for delay possession interest at the prescribed rate of interest as granted by the act of 2016

which is much more than the amount which was payable by the allottee to the promoter. Hence without adjustment of delay possession interest in the amount for final demand is not legal and requires to be quashed.

- f) The authority is hereby requested to direct the respondent for handover of the possession of the unit immediately. The respondent be further directed to send the offer on the actual residential address of the complainant which is well in knowledge of the respondent as he has already sent some communication on the changed address.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):

- I. Direct the respondent to pay interest for delay possession charges till the actual handover of the unit in question.
- II. Direct the respondent to handover the possession of the unit.

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 13.08.2025: -

- a) That the complainant approached the respondent for the booking of a commercial space/unit in the commercial complex "House 2 Home" situated at Sohna Road, Sector-49, Gurugram (erstwhile Gurgaon). On the request and application of respondent, the respondent agreed to allot a commercial unit and provisionally allotted Unit No. C-22, 1st Floor at present having super area admeasuring 513.03 sq. ft. in the said commercial complex. It is significant to mention here that later on the name of the above said commercial complex was changed from "House 2 Home" Sohna Road, Gurugram to "Omaxe City Centre" Sohna Road,

Gurugram. In this regard an agreement/allotment letter between the complainant and respondent was executed on 29.04.2006.

- b) That in terms of said agreement, the complainant is not only bound to obtain permissive possession, execute the maintenance and services agreement, but also the complainant is further legally bound to make the payment of maintenance charges in terms of the statement of accounts of the maintenance agency with regard to the premises in question. On completion of work of the said commercial complex, the respondent sent offer of possession to the complainant vide letter dated 03.11.2008 and reminder dated 09.01.2009 and the complainant was called upon to carry out the interior work/fit outs like flooring, ceiling, painting and other activities by taking possession of the said unit after clearing the dues. The complainant even undertook to indemnify the respondent against any loss or damage, if caused, during carrying out the fit-out work in the said unit. Thereafter, the respondent made several correspondences to the complainant calling her upon to get the conveyance deed/sale deed of the said unit executed and registered in her favor after payment of requisite stamp duty, registration charges and expenses and to make the payment of maintenance charges, holding charges and VAT etc. In this regard, the respondent sent letters and reminders dated 12.01.2011, 16.08.2011, 31.05.2013, 10.09.2013, 07.2.2014, 20.05.2014, 23.06.2014, 15.07.2014, 30.08.2014, 08.10.2014, 22.11.2014, 08.01.2015, 19.02.2015, 11.09.2015, 15.09.2015, 07.12.2015, 19.02.2016, 07.06.2016, 27.06.2016, 10.08.2016, 07.10.2016, 16.12.2016, 04.05.2017, 06.06.2017, 20.07.2017, 11.08.2017, 21.09.2017, 24.10.2017, 26.10.2017, 24.11.2017, 17.01.2018, 12.03.2018 and 05.06.2018. All these letters were sent to the complainant through registered

- post/postal courier, but to no avail as the complainant deliberately and intentionally paid no heed to the repeated requests of respondent.
- c) That the complainant is contractually bound to pay all expenses for preparation of legal documents including Stamp Duty, Registration charges, other incidental expenses for registration of sale deed of said unit as intimated to the complainant through respondent. Once, the complainant failed to take possession within 30 days from the date of issue of offer to take possession i.e. 03.11.2008 for carrying out fit-out works, she is deemed to have taken the possession of the said unit upon expiry of 30 days of offer of possession for the purpose of payment of maintenance charges or any other taxes, levies, outflows on account of the said Unit. Once, the complainant has not started her business activity for earmarked purpose, within the 60 days after receipt of the occupation/completion certificate, she is liable to pay holding charges @ Rs.10 per sq. ft. upto the commencement of her business activity, which has not been started by her till today. With regard to all the liabilities, the complainant had agreed and gave his consent by virtue of agreement dated 29.04.2006.
- d) That in view of the above mentioned facts & circumstances, as on the date considerable amounts is due and payable by the complainant on account of maintenance charges, holding charges, VAT, property tax, registration, documentation and stamp duty etc. Despite several reminders, the complainant has miserably failed to pay the outstanding dues till today.
- e) That an application at pre-litigation stage is already pending before Permanent Lok Adalat, Gurugram as such the proceedings before this Hon'ble Authority is liable to be stayed/dismissed till settlement of disputes between the parties through alternative dispute resolution mechanism under Legal Services Authorities Act, 1987.

- f) That this LD. Authority has no subject-matter jurisdiction as the project in question was completed on 04.08.2010 i.e. well before RERA Act came into existence. It is settled law that RERA only governs 'ongoing projects' in which occupation/completion certificate has not been issued prior to the enforcement of RERA and thus the provisions of RERA will not apply to such projects.
- g) That the complaint is liable to be dismissed, being barred by Law of limitation. In this regard, without prejudice, it is submitted that as per the case of the complainant, allegedly possession was required to be handed over to them by the year 2008. Although possession was duly offered within time on 03.11.2008; however, as per Complainant's case, the alleged cause of action arose in the year 2008. Despite this, the complaint has been filed in the year 2025. Thus, the complaint is hopelessly time barred having been filed 16 years after the alleged cause of action.
- h) That the unit was repeatedly offered for possession after the occupation/completion certificate was obtained being much prior to coming into force of RERA. Since then, the respondent has sent numerous letters/reminders to the complainant for getting the registration done in respect of the unit but the complainant has failed to come forward for the same and get the unit registered in her name. Thus, in fact it is the complainant who has defaulted to fulfill his liabilities and obligations as per the agreement.
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 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 allottee 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 allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees 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 promoters, the allottees 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.

F. Observation of Authority with regard to maintainability of complaint on account of complaint being barred by limitation.

12. The respondent has filed the reply on 13.08.2025, which is taken on record and raised the preliminary objection in its reply that the complaint is not maintainable being barred by limitation. It is necessary to deal with the preliminary objection before proceeding with the reliefs sought by the complainant.
13. On consideration of the documents available on record, the Authority observes that the complainant herein was allotted a unit bearing no. FF-22 First floor in Block C, admeasuring 513.03 sq. ft., in project of the respondent named "Omaxe City Centre earlier known as House 2 Home " situated at Sector-49, Gurugram vide allotment letter dated 29.04.2006. Further, in terms of Clause 26(a) of the said buyer's agreement, the due date for handing over possession comes out to be 29.10.2008. The complainant has paid an amount of Rs.24,86,876/- against the sale consideration of Rs.23,59,938/-.
14. The completion certificate for the subject unit has been obtained by the respondent promoter on 04.08.2010. The respondent offered the offer of fit outs on 03.11.2008. However, it is pertinent to note that the respondent sent various reminders for getting the conveyance deed executed and pay the charges from 12.01.2011, 16.08.2011, 31.05.2013, 10.09.2013, 07.2.2014, 20.05.2014, 23.06.2014, 15.07.2014, 30.08.2014, 08.10.2014, 22.11.2014, 08.01.2015, 19.02.2015, 11.09.2015, 15.09.2015, 07.12.2015, 19.02.2016, 07.06.2016, 27.06.2016, 10.08.2016, 07.10.2016, 16.12.2016, 04.05.2017, 06.06.2017, 20.07.2017, 11.08.2017, 21.09.2017, 24.10.2017, 26.10.2017, 24.11.2017, 17.01.2018, 12.03.2018 and 05.06.2018.
15. The present complaint has been instituted on 29.01.2025, nearly 6 years after the last letter which was sent by the respondent on 05.06.2018. Further, the complainant has not placed on record any material to demonstrate continuous correspondence, subsisting protest, or any legal proceedings initiated during this interregnum period so as to keep the cause of action

alive. Such an extraordinary delay has neither been explained nor justified by the complainant at any stage of the proceedings. The record demonstrates complete and prolonged inaction on the part of the complainant for more than 6 years from the date of last reminder until the filing of the present complaint. The complainant remained wholly inactive in asserting or pursuing his alleged rights and did not approach any forum during this entire period. This unexplained and inordinate delay defeats the very object of timely redressal contemplated under the Act.

16. While the Act aims to safeguard the interests of allottees, such protection cannot be extended to revive claims that have remained dormant for years, particularly when the cancellation was preceded by multiple opportunities extended to the complainant. Entertaining such stale claims would run contrary to well-settled principles of equity, limitation, and jurisprudence.
17. While it is correct that the Real Estate (Regulation and Development) Act, 2016 does not prescribe a specific limitation period for filing a complaint, it is equally well settled that a party invoking the jurisdiction of this Authority must do so within a reasonable time. The absence of a statutory limitation does not confer an unfettered right to agitate claims after an inordinate and unexplained delay.
18. One such principle is that delay and laches are sufficient to defeat the apparent rights of a person. In fact, it is not that there is any period of limitation for the authority to exercise their powers under the Section 37 read with Section 35 of the Act nor it is that there can never be a case where the authority cannot interfere in a manner after a passage of a certain length of time but it would be a sound and wise exercise of discretion for the authority to refuse to exercise their extraordinary powers of natural justice provided under Section 38(2) of the Act in case of persons who do not approach expeditiously for the relief and who stand by and allow things to

happen and then approach the court to put forward stale claims. Even equality has to be claimed at the right juncture and not on expiry of reasonable time.

19. Further, as observed in the landmark case i.e. "***B.L. Sreedhar and Ors. V. K.M. Munireddy and Ors.***" (AIR 2003 SC 578) the Hon'ble Supreme Court held that "*Law assists those who are vigilant and not those who sleep over their rights.*" Law will not assist those who are careless of their rights. In order to claim one's right, one must be watchful of his rights. Only those persons, who are watchful and careful of using their rights, are entitled to the benefit of law.
20. The Act has been established to regulate real estate sector and awarding relief in the present case would eventually open pandora box of litigation. 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 justifiable cause.
21. In the present case, the cause of action arose on 05.06.2018 when the last reminder was sent by the respondent for getting the conveyance deed executed and for the payment of the charges and the present complaint has been filed by the complainant on 29.01.2025, which is 6 years and 7 months and 24 days after the reminder was sent by the respondent. The complaint has not been filed within a reasonable period of time nor have the complainant explained any grounds for the delay in filing the same. In view of the facts noted hereinabove and the principles applicable thereto, the Authority is of the considered view that the present complaint is not maintainable. The complainant has remained dormant for an unduly long period without asserting his rights, and the law does not come to the aid of those who sleep over their rights for an unreasonable length of time.

22. It is a settled principle of natural justice that no person's right should be prejudiced due to the unexplained inaction or negligence of another. In the present matter, the complainant has failed to offer any justification for the inordinate delay of nearly a decade. In these circumstances, the complaint is held to be non-maintainable being barred by limitation and the reliefs prayed for cannot be granted.
23. In view of the above, the complaint is dismissed being not maintainable with liberty to the complainant to seek appropriate remedies before the appropriate forum in accordance with law.
24. File be consigned to the registry.



(Phool Singh Saini)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated:27.01.2026