

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

Complaint no. : 2771 of 2025
Date of complaint : 02.06.2025
Date of order : 12.12.2025

Rahul Jain And Shruti Jain, Both R/o:- 12D, Greenview Apartments, Mayapuri Road, New Delhi	Complainant
Versus	
Mr. Anubhav Sharma Regd. Office at: 1612/B The Mangolias, Mangolias Road, DLF City Sector-42 Gurugram	Respondent 1
Mr. Anumod Sharma Regd. Office at: Flat No. 305A, Laburnum Apartment Sector 29, Phase-I Sushant Lok Gurugram 122001	Respondent 2
Ms Vandana Regd. Office at: Flat No. 403, 4th Floor Block No. 18, Heritage City Village Sirhaul, Gurugram 122001	Respondent 3
Apra Automobiles Pvt Ltd Through its Authorized Representative and Signatory Mr. Anubhav Sharma Regd. Office at: 5-B, Pratap Bhawan Bahadur Shah Zafar Marg Delhi 110002	Respondent 4
Apra Motels Through its Partners Mr. Anubhav Regd. Office at: 5-B, Pratap Bhawan Bahadur Shah Zafar Marg Delhi 110002	Respondent 5
Experion developers Pvt Ltd Regd. Office at: F-9, first floor, manish plaza-1, plot no.7, new delhi-110075	Respondent 6

CORAM:

Arun Kumar

Chairman**APPEARANCE:**

Ravi Atri (Advocate)

Adv Venket Rao (Advocate)

Complainants

Respondent

ORDER

1. The present complaint has been filed by the complainant/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 provisions 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. Project and unit 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:

S. No.	Particulars	Details
1.	Name and location of the project	"Milestone Experion centre", Sector-15 Gurugram
2.	Nature of the project	Commercial complex
3.	Project area	3.95 acres
4.	DTCP license no.	63 of 2008 dated 20.03.2008 valid upto 19.03.2020 92 of 2010 dated 30.10.201 valid upto 29.10.2020
5.	Unit no. and floor no.	Unit no. yet to be allotted, Top floor (As per page no. 54 of the complaint)

6.	Unit area admeasuring	1300 sq. ft. (Carpet area) (As per page no.54 of the complaint)
7.	Date of execution of agreement to sell	10.12.2009 [on page 51 of complaint]
8.	Possession clause	<p>Clause 4. Of agreement to sell</p> <p>The expected / estimated time of completion as assured by the DEVELOPER is 33 months at the most as calculated from the date of this agreement and in any case not later than 30th September 2012. Developer has further assured that Completion Certificate and Occupancy Certificate for the commercial office building shall also be available by 30th September 2012. The possession of 'Unit for Sale' to the Allottee shall be 01" October 2012. Subject to compliance of the terms & conditions as laid out in this Agreement and completion of procedural formalities, the ALLOTTEE shall be entitled to get and DEVELOPER shall be responsible for getting the Conveyance Deed / Sale Deed of the 'Unit for Sale' registered in favour of the ALLOTTEE in the office of the concerned Sub-Registrar.</p> <p>[on page 55 of complaint]</p>
9.	Assured return/rent :- till 30.10.2015	<p>11. If the Developer fails to handover the possession of the 'Unit for Sale' to the Allottee by 30th September 2012, the Developer shall pay as 'Rent' to the Allottee, starting from 1" October 2012 for every month or a part thereof till the time possession of the 'Unit for Sale' is handed over to the Allottee in different time brackets as tabulated below, a sum per sq. ft.</p> <p>[on page 55 of complaint]</p>
10.	Guarantee clause	<p>13. If the Developer fails to handover the possession of the 'Unit for Sale' to the Allottee even by 30th September 2015 the Allottee shall have the option to terminate this contract/ Agreement to Sell and in that eventuality the Developer shall without any objection/ demur pay by 31" October 2015 to the Allottee the market value of the 'Unit for Sale' or a similarly placed property subject to a minimum payment calculated considering the value of the 'Unit for Sale' at Rs. 20,000/- per sq. ft. of super area. This shall be in addition to the 'Rent', to be paid by the Developer to the Allottee as mentioned in point</p>

		no. 11 herein-above. Delay in payment of this amount shall attract interest @24% per annum. [on page 56 of complaint]
11.	Due date of possession	30.09.2012 [on page 55 of complaint]
12.	Total sale consideration	Rs.32,50,000/- (As per page no. 54 of the complaint)
13.	Amount paid by the complainant	Rs.32,50,000/- (As per page no. 54 of the complaint)
14.	Occupation Certificate/ completion certificate	15.01.2019 [as per page 135 of reply]
15.	Development agreement	21.08.2015 [page 119 of reply] <i>15. Indemnification clause :- 15.2 Without prejudice to the generality of Clause 15.1, the Parties hereby agree that the Owners shall be liable to indemnify EDPL against any losses or liabilities, cost(s) or claim(s), action(s) or proceeding(s) or third party claim(s) that may arise against EDPL on account of:</i> <i>(a) any tax demand / assessment for income tax / tax deduction at source pertaining to the payments to the Owners under this Agreement or other Definitive Agreements or the Agreement to Development;</i> <i>(b) any arrangement of the Owners with any buyer of Owners' Allocated Area; or</i> <i>(c) Bank of Baroda's charge on the Encumbered Area.</i>

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:
- i. That respondent no.1 Sh. Anubhav Sharma are known to the complainant(s) since around two decades and there were extreme cordial and friendly relations between them, besides professional terms too in Apra motels. respondent nos.2 to 5 are relatives and/or closely related to said respondent No.1, Sh. Anubhav Sharma who had been the controlling mind and managing all day-to-day affairs, business dealings and trade conduct of the addressee company and

- partnership firm named with the prefix "Apra", viz. above-named respondent Nos.4 and 5.
- ii. That taking advantage of the extreme familiarity and cordial relationship, coupled with the factum known to the Respondent(s) regarding the gullible, simple and naïve nature and soft hearted personality of complainant(s), Respondent No.1 Sh. Anubhav Sharma approached complainant(s) somewhere in the year 2008/2009, representing that he own a big chunk of land at Silokhera, Chander Nagar, NH-8, Gurugram and he also represented that he own one private limited company and one partnership firm by the prefix 'Apra' and, in which he and his wife are the principal partners etc. and have majority stake and that he is also the authorized representative-cum-signatory of Apra Automobiles Pvt. Ltd. as well as of Apra Motels and also an attorney holder/authorized representative of his wife Smt. Mamta Sharma and of his brother, Sh. Anumod Sharma and Sister, Ms. Vandana.
- iii. That Respondent No.1, Sh. Anubhav Sharma represented that he is in the process of constructing, developing and setting up of a grand commercial complex on the said land and have also been granted permission for change of its land use to "commercial complex" by the DTCP, Haryana way back in March, 2008. It was also represented by him that he, being the developer thereof, had already commenced process of preparing, drawings/designs/ building plan of the said complex/land and are in final/advanced stage of getting all requisite approvals/sanctions/NOCs from all respective statutory government departments, local bodies and authorities etc. It was in fact also represented by him then that Respondent No.1 Sh. Anubhav Sharma is

having his own individual share too in the said land/ commercial project and that he, in particular, is desirous to sell his share. It was also assured by him, respondent No.1, that all other co-owners of the said land/commercial complex project are also fully aware about his said intent and authority and that the entire said land is free from any encumbrance, lien, imperfection and that he, all, have got a perfect, valid and legal right, title, interest and authority as to ownership and/or dealings qua same.

- iv. That respondent No.1 also continued to represent that he has already hired leading architect and designer in order to ensure a high-quality superlative development of the said complex and that he is also in the process of soon awarding the contract of same and for the commencement of the construction/development work to a reputed known leading construction company/contractor. It was also being represented by him that the construction work is soon going to start all accordingly before the financial year closing 2009-2010 and that if complainant(s) also invest in the same and/or book some commercial space/unit, it could turn out to be a life time big lucrative investment for them.
- v. That several other representations and assurances regarding the said complex/project also then stood given by respondent no.1 to the complainant(s), stating that he too has already been in the process of inviting bookings and making allotment to several persons in Delhi / NCR, in respect of his said upcoming project and that complainant(s) could also venture into same at this earlier stage and given that initial booking stage, coupled with the fact that complainant(s) are known to respondent no.1 for long, he could offer them one such commercial



- space/unit at more reasonable price on the best location and floor, otherwise in very near future, the booking/allotment/ selling price of same would definitely increase to multifold.
- vi. That practically, each and every tactic of allurence with tall claims and self- boasting representations stood advanced by respondent no.1 to the claimant(s), so as to somewhat persuade and entice them to part with some amounts to him and opt for the booking/allotment/purchase of one or the other commercial space/unit in his said spaces of commercial project land. It was also stated by him then that the space/ unit to be allotted shall be on freehold basis and with free covered car parking separate space as well along with free rights and access of use all common areas and common facilities in the complex. It was represented by him that it would be a completely centrally air-conditioned building. It was represented that a world-class project is going to be developed by him and that several units have already been subscribed in the project through renowned underwriters as well and only few spaces/unit are left in his said stated 10-storey complex. respondent no.1 also offered that as a special privilege and due to the close proximity and relationship, if the complainant(s), in case, they purchase some space and part with the amount, they could be allotted with the unit at the top/10th floor thereto.
- vii. That respondent no.1 also assured the complainant(s) that latest by september end, 2012, the entire construction/development work at the site shall be over and by then the completion certificate/occupancy certificate for the said commercial office building, complete in all regards, shall also be definitely obtained in time. He also represented

that once entire aforesaid exercise gets completed, complainant(s), without fail and/or delay, shall also be instantly getting the conveyance deed/ sale deed duly also executed and registered with the office of the concerned Sub Registrar, Gurugram.

- viii. That initially the complainant(s) were not comfortable and were little bit reluctant / hesitant to enter into any such financial dealings with him, as firstly, they apprehended that any sort of such dealings could cause dent in their family relations in future; secondly, the amount involved was somehow high, given the limited source of income avenues of complainant(s); thirdly, there was a long gestation period of around three years in respect of the completion of construction / development work of the complex; fourthly, the work presently upto then, was yet to start; and fifthly, complainant(s) could not afford to lose anything in future, if their amounts get stuck up for any reason whatsoever at any later stage.
- ix. That, but no stone got unturned by him to some way or the other cajole the complainant(s) to agree to his said offer i.e. for purchasing some unit in the said project.
- x. That the complainant(s), however, was/were not interested or willing to make any said investment and to part with their hard-earned amounts only for the purpose of making some profitability factor, inter alia, since the project was yet to take final shape in the form of construction yet to start and not sure when it being over. However, the complainant(s) were then already though looking for some space in Gurugram, where they were planning to shift and for the purposes of setting up their permanent professional office space hereby, from where they could render their professional chartered accountancy

- professional work and services to their esteemed clients in future and to expand their professional chartered accountancy related works, etc.
- xi. That, thus, correspondingly the complainant(s) then were also in bona fide need of some of their own office working space / place in Gurugram, so that their future professional life gets permanently settled once for all.
- xii. That the complainant(s) were then seeking some time to think upon said proposal / offer. A few days thereafter got passed in the interregnum. Subsequently, somewhere in October, 2009, respondent No.1 Sh. Anubhav Sharma, again met the complainant(s) and reiterated his earlier given proposal, stating that there is still left one preferentially located space / unit of around 1300 sq. ft. on the top floor of his said project and that all other units on the top floor stood already booked; while more than 75% of the unit on the lower floors of the project have also been already sold off at his end. respondent no.1, thus, again enticed the complainant(s) to consider seriously and make one booking, otherwise a great opportunity would be lost by the complainant(s).
- xiii. That in fact, respondent no.1 sh. anubhav sharma then threw one more dice to entrap the complainant(s) i.e. to persuade them to opt for one office space in his said project. He represented that in case our clients opt for the purchase of any of the said space / units in his said project by going in for the "down payment plan", complainant(s) would also be assured and promised of lucrative "monthly rental income" in case there occasioned any delay / neglect or default in handing over of the physical possession of the unit and/or registration of the sale deed beyond the promised cut of date of possession by him of 30.09.2012

and same being apart from interest at 24% p.a. as well on same, in case of delay, neglect or default in paying said rentals too.

- xiv. That, thus, ultimately complainant(s), relying on his given words, assurances, representations, undertakings and promise and pursuant to thereafter held few more discussions and negotiations etc., agreed to his said offer and conveyed their acceptance and accordingly consented to purchase one unit/commercial space in his said project, being super area 1300 sq. ft. on the top floor of the said complex on freehold basis under the one-time wholesome down-payment plan for agreed sale consideration of about Rs.32,50,000/- at his stated concessional/discounted rate of Rs.2,500/- per sq. ft.
- xv. That on the date when the complainant(s) made the last and final agreed sale consideration amount of Rs.6,50,000/- to him on 10.12.2009, there also stood executed by him one formal agreement to sell (ats) dated 10.12.2009 as well with the complainant(s). The said agreement stood signed by him, respondent No.1, Sh. Anubhav Sharma and so mentioned thereto as the "developer" and therein the complainant(s) are nomenclature therein as the "allottee. The same was drafted also by him only and got signed, as per his stated standard format and on stamp paper too, got arranged by him only.
- xvi. That all terms and conditions of the said Agreement/allotment, including as that of the representations, assurances and promises etc. made by him to the complainant(s) then, are duly incorporated therein and same are valid in nature and have complete legal binding force and enforceable effect.
- xvii. That at the time of your having got executed the subject said agreement to sell dated 10.12.2009, the respondent no.1 sh. Anubhav

Sharma, have re-assured the complainant(s) that he own the said land and have perfect legal title and right and authority to sell 1300 sq. ft. super area in the said land/commercial complex project. It was also represented then by him, respondent no.1, to the complainant(s) that his said executed agreement to sell is under the full consent and knowledge of all other co-owners/stake holders vis-à-vis the total land aggregating 3.8375 acres and that in same, the respondent no.1, own 1.5434 acres of land therein and out of his said same, subject unit/commercial space is sold to the complainant(s).

- xviii. That it, however, remains a matter of deep concern and utmost regret that even after passing of so many years, till date, also he has miserably failed to remain alive to his given promised, assurances and undertakings under the said agreement to sell dated 10.12.2009. There is complete breach of the said duly executed contractual terms on his part vis-à-vis the complainant(s) and during all these past continuing period, there has been continuing default on his part in complying with the agreed terms of the said agreement to sell. It is shocking that not even one promised requisite got to be complied to, from his side and complainant(s) were left in lurch with their hard-earned substantial amount of Rs.32,50,000/-, besides loss of interest and other income and office avenues being squeezed by him during all these foregone 15 years. There is complete defiance of good conscience and consumer friendly ethics on his part and his constant neglect, delay and default has caused immense loss, mental agony and harassment to the complainant(s), for which he is liable to compensate the complainant(s) in full.

- xix. That to the utmost dismay and agony of the complainant(s), it is shocking to note that even after having collected the entire sale consideration amount of Rs.32,50,000/- from the complainant(s), he has, till date, has neither handed over the physical possession of the said commercial space/unit to the complainant, nor did he, till date, execute the registered conveyance deed/sale deed of same in favour of the complainant(s), with the office of the concerned Sub Registrar, Gurugram. That besides his afore mentioned default and lapse and to add more woes and pain to the complainant(s), he till date have not even paid a single penny towards the promised "rental income", as was assured by him to be payable, in case of his default in handing over of the possession of the "unit for sale" to the complainant(s) by 30.09.2012 @ Rs.100/-, 105/-, 110/- per month, per sq. ft. respectively and for the period 01.10.2012 to 30.09.2015 respectively.
- xx. That it be recalled that both complainants namely Sh. Rahul Jain and his wife Mrs. Shruti Jain, have been chasing him for long and more particularly after having come to know that he has got the completion certificate for the said project from the authorities in the year 2019. In fact, there has been an inordinate delay of more than seven years on his part in completing the construction work and in applying for and/or obtaining the requisite completion/occupancy certificate thereto. For all these delayed periods effecting 01.10.2012 onward too, he is liable to compensate and pay complainants, with appropriate compensation amount and interest etc.
- xxi. That from the year 2018/2019, repeated grievance messages are being sent to him by complainants at his given whatsapp number, asking and demanding for the execution of the registered sale deed and delivery



of possession of their subject allotted unit. Though, in June end, 2019, he for namesake purpose, did send one draft blank conveyance deed to the complainant; but the same was incomplete and bereft of relevant material particular, details and specifications etc. He would recall, complainants having duly replied to him, then, expressing concern and seeking clarification and requiring him to send the complete, duly filled in draft of the conveyance to be registered by duly mentioning thereto the floor, unit no., super area and carpet area, dimensions, measurement, the floor map, the subject unit site map, target date of registration and due mention of the subsisting agreement to sell dated 10.12.2009 etc. Surprisingly, he thereafter again slept over the matter and did not respond or carried out any needful. However, later, for sometime, he took the excuse of Covid-19 and thereafter started delaying the matter on the pretext of stating that some of his payments outside is stuck up. Neither the promised rentals were being tendered, nor the registry done, nor possession given or offered and nor in the alternate the refund of principal and the compensation and interest assured payment is made by him.

xxii. That in all his reply whatsapp messages, though, he always acknowledged and admitted his entire afore said liability and obligations regarding execution and registration of sale deed and he even repeatedly regretted for the delay and default on his part and thereby requesting for some more time for accommodation for doing entire needful, but he never fulfilled or honoured his said promised contractual obligations in any practical true sense and concrete actual fulfilling manner. There is no doubt that given his past conduct and delaying tactics, he has taken complainants for a huge joy ride.

- xxiii. That there were every sort of excuse available to him, that sometimes, he was travelling abroad, sometimes he was outstation, sometimes there is some or the other family exigency or medical issues with him, sometimes he stated to have issues and concern with his own other customers/business associates, allegedly leading to statedly stucking up of his payments, sometimes he was busy elsewhere, sometimes he expressed regret for inadvertent overlooking of the messages sent by complainants, sometimes he just pass on the buck and delayed the registry/payment issues, with his sweet assurance words during telephonic calls and personal meetings with the complainants. On every occasion though he always admitting his said delay and liability due to complainants but somehow or the other with his cordial behaviour, expressing regret and apologies for the delay/default and sweet assuring promise and commitments, he succeeded in passing of such a long period of time and manage to avoid/delay doing of his promised obligations.
- xxiv. That complainants have already made the entire agreed sale consideration in respect of their allotted/purchased unit, but neither any date of registry is being informed to them, nor they were being called for the said execution/ registration deeds. Even the alternate option of the entire refund of their paid amount together with outstanding assured rentals and his promised compensation and interest component sums have also not yet been paid by him to the complainant(s). Even his son Mr. Dhruv Sharma, on whom respondent no.1 earlier shifted the said obligation and responsibility for the said project, is also not paying any heed to the legitimate grievance pertaining to the complainant(s). There is a complete sorry and sad

state of affairs and it is disturbing that such earlier held nice relationship between respondent no.1 and the complainant(s), he and the complainant(s) is being given such a severe blow, dent and jolt by respondent no.1 and, all the remaining respondents.

- xxv. That respondent no.1 be reminded that after much persuasion, request and demand, when he had met complainant(s) on 05.03.2021 at 32nd Milestone, Sector-15, Gurugram, he, had then, while again expressing regret and tendering apology to the complainant(s) for his continuing said delay and default, had again admitted and acknowledged his pending liability and obligation to soon execute the registered sale deed of the sold unit, coupled with delivery of possession thereof; besides settlement and payment of entire outstanding interest etc. as well in favour of the complainants. It be recalled that during the said personal meeting and deliberations thereto, respondent no.1, then had himself offered to settle the pending issues and obligations towards the complainants by assuring and promising to pay an amount of Rs.1.51 crores to them, besides also soon execution of the registered sale deed of the subject allotted unit to the complainants admeasuring 1300 sq. yds. as well.
- xxvi. That he had then promised to do the aforesaid both needful in favour of the complainant(s) positively within a period of 3 months. He then had even executed a written acknowledgement as well in all said regards in your own handwriting and signatures too.
- xxvii. That agonizingly, he again failed to remain alive even to his said promised commitments and defaulted, neglected and avoided to do either of the above assured obligatory needful in favour of the complainants. He even thereafter, just continued to plead for some

more accommodation and time and succeeded in getting pass many more months thereafter as well.

- xxviii. That already entire 100% of the agreed sale consideration amounts stood collected by him from the complainant(s) in 2009 itself and being in lurch and in a fix, complainant(s), being simple-minded person and never intending to go for litigation, continued to trust his given assurances, words and opted to wait and wait and wait.
- xxix. That, however, in entire said interregnum and even uptill date also, repeated requests, demands and messages, besides telephonic calls and meetings continued to pour in from the complainant(s) to his as regards the payment. However, again, apart from just mouth assurance and more time prolonging requests, no needful is done by him and he is just seeking more and more time to arrange the payment for complainant(s) on the pretext that soon his own payments are forthcoming.
- xxx. That ultimately again with much follow up, demand and persuasion, it would be recalled, that respondent no.1 had another personal meeting with the complainants at 32nd Milestone, Sector-15, Gurugram on 05.09.2023, where again, he re-admitted and acknowledged his default and delay in the matter and pleaded regret for that and promised to adequately compensate the complainant(s). When he was apprised that complainants are in very much dire stress and in utmost urgency of either the funds/payment and/or the execution of the registered sale deed and delivery of possession, he then stated that there has arisen some constraint for him in executing the registered sale deed in favour of the complainants for the originally sold 1300 sq. ft. in the said complex and shockingly disclosed that for some reasons,

he had collected sale amounts and had sold and transferred the entire top floor, including the sold, preferentially located unit of the complainants as well, to M G Motors, who are having their office thereto, besides their M G Showroom on the ground floor too of the complex.

- xxxi. That it was quite a shocking revelation to be heard by complainants from his mouth. It was a clear cut cheating and criminal breach of trust, besides gross mischief and fraud having been played upon by all the respondents with the complainants. It was disturbing to note that the unit on the 10th floor, once having been sold to the complainants by the respondent no.1 way back in December, 2009, has subsequently been re-sold/transferred and parted with possession to a third entity by him for sale consideration received thereupon as well, at the back of our clients and without even any intimation/information to them and/or without seeking of any prior consent or concurrence from them. Besides above sinister acts, Respondents have further gone wrongly ahead in the project and it is observed that now there are built 11 floors plus one pent house floor as well above his originally stated 10 _storey building on the subject land/ commercial complex project.
- xxxii. That on expressing anger and shock over his such malafide acts, he again pleaded regret and literally begged to the complainants with folded hands expressing sorry for his said wrong act and shifting the burden to his son, Shri Dhruv Sharma, who have now taken the reigns of his empire, including the management and control of subject commercial complex. It was, however, totally unconvincing for the complainants, as for all these past 13-14 years they were living in the belied hope of getting possession and execution of the registered sale

- deed of their purchased unit, with entire sale consideration paid to him in full way back in the year 2009 itself.
- xxxiii. That the complainants had then made up their minds to make police complaint in that regard against the respondents, for the deliberate penal offence and wrongs committed to them at his end and inter alia, as to criminal conspiracy, cheating, fraud, mischief, breach of trust and illegal usurping and swindling away of their money. He, however, continued to beg and even started shedding crocodile's tear as well and tried to pacify the complainants with giving of his other assurances and alternate offer to them.
- xxxiv. That it be further recalled that ultimately pursuant to his own given offer, it was so then agreed between respondent no.1 and the complainants on 05.09.2023 that to settle the whole issues, he shall pay a composite total sum of Rs.2,60,00,000/- to the complainants in four months on or before 05.01.2024, towards discharge of his entire accrued liability and obligations till that date and/or i.e., in lieu of your pending obligations as regards execution of the registered sale deed of the allotted 10th floor unit and qua payment towards the outstanding rentals/compensation/interest and refund of their paid principal amount from the year 2009.
- xxxv. That he then assured the complainant that within four months from 05.09.2023, the entire said amount of Rs.2,60,00,000/- shall definitely be paid by him to the complainants. He thus then sought one last accommodation from the Complainants. In fact, on that day again he even gave a written acknowledgement under his signatures and date as well in above regards to the complainants.

- xxxvi. That the complainants were already disturbed but somehow in their own wisdom, they then thought of closing the chapter once for all, as they were already been so traumatized during last 4-5 years in particular, and, thus, agreed to his said offer and relied upon his said assurance and promise to close the issues on receipt of Rs.2,60,00,000/- in either mode within four months from his said assured date of 05.09.2023.
- xxxvii. That it is, however, completely discomfoting to state herein that even after expiry of his said written confirmatory acknowledgment dated 05.09.2023 also, not even a single penny stood paid by him to the Complainants and it is clear that even on 05.09.2023 also, he was just befooling Complainants and somehow succeeded and managed to seek some more time and accommodation.
- xxxviii. That during entire this recent foregone period of the year 2024, complainants have been repeatedly calling him and sending messages and demands, but all in vain and he all remain in total default.
- xxxix. That respondent no.1, later even came out with another pretending offer, assuring our clients that he could allot afresh and execute instant registered sale deed of some lesser super area/carpet area for office space for complainants in the same commercial complex but on lower floors and for area, he assured that he would duly compensate complainants with appropriate refund amount etc.

C. Relief sought by the complainants: -

4. The complainants have sought following relief(s):
1. The respondent(s) be directed to pay the assured returns due and payable by it to the complainant(s).

- II. Direct the respondent(s) to handover the possession of the subject unit along with prescribed interest per annum from the promised date of delivery of the unit in question till handing over/actually delivery of the said unit.
 - III. The respondent be directed to continue paying the investment returns / monthly returns to the complainant(s) as per the terms of the Builder buyers Agreement.
 - IV. The respondent(s) be directed to pay interest at the prescribed rate on the unpaid monthly returns/investment returns to the complainant(s), to be calculated from the date the monthly returns were due till the date of actual payment.
 - V. The respondent(s) be directed to execute a conveyance deed for the unit of the complainant and to handover the physical/symbolic possession of the unit booked by the complainant(s) to them, complete and ready in all respects.
 - VI. The respondent(s) be restrained from demanding any amounts from the complainant(s) at the time of offer of possession which do not form a part of the agreements executed between the parties.
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

- a) At the very outset, from a mere perusal of the complaint and the agreement dated 10.12.2009 it is evident that the complainants are real estate investors and with the intention of investing in the real estate sector of Gurugram had allegedly entered into a commercial transaction to purchase 1300 sq.ft. of commercial space in a

“Commercial Complex” on the land for which the Directorate Town and Country Planning, Haryana has granted permission for change of Land use to ‘commercial complex’ vide its letter dated 20.03.2008, which the respondent no. 1-5 were in the process of constructing, developing and setting up. Further, the complainants allegedly paid an amount of rs. 32,50,000/- to the respondent no. 1 to 5.

- b) It is further pertinent to mention that in the year 2009, when the complainants and the respondent nos. 1 to 5 had entered into the commercial transaction, the respondent no.6 was not associated with the respondent no. 1-5 in any whatsoever manner nor did the respondent no. 6 have any involvement or interest in the transaction entered into by the respondent nos. 1 to 5. In fact, the said agreement dated 10.12.2009 has come into the knowledge of the respondent no.6 only vide the present complaint.
- c) Additionally, the complainants have relied and filed the instant complaint based on the agreement dated 10.12.2009 executed between the complainants and respondents no. 1 to 5. it is to be noted herein that the respondent no.6 was not a party to the said agreement. The terms and conditions contained therein are absolutely alien to the respondent no.6. Also, a perusal of the said agreement it can be seen that there are no obligations or liabilities which have been bestowed upon the respondent no.6. That the complainants have unnecessarily dragged the respondent no.6 into the false and frivolous litigation, basis the said agreement which was not even in the knowledge of the respondent no.6 prior to the present complaint.
- d) That as per the well-established principle of law of “privity of contract”, only parties to a contract/agreement are allowed to sue each other to

enforce their rights and liabilities and no stranger is allowed to confer obligations upon any person who is not a party to the contract/agreement.

- e) Furthermore, the respondent no. 6 has no role to play in what seems to be a dispute between the respondent no. 1 to 5 and the complainants. That in the instant case, respondent no. 6 is a stranger to the agreement dated 10.12.2009 having no involvement or obligations towards the complainants. Therefore, it is most humbly submitted that no action can be brought against the respondent no.6 by the complainant.
- f) Therefore, it is humbly submitted that the respondent no. 6 is liable to be deleted from the array of parties in the present complaint as there is no privity of contract between the complainants and the respondent no.6. furthermore, the respondent no.6 is completely unaware of any transaction between the complainants and respondent no. 1 to 5 and cannot be held liable or accountable for any action of the respondent no. 1 to 5. also, a perusal of the complaint reveals that no specific allegation or averments have been made against the respondent No. 6. Hence, the respondent no. 6 deserves to be deleted from the array of parties as the instant complaint is not maintainable against the respondent no.6.
- g) Agreement dated 10.12.2009 was executed much prior to the respondent no.6 developing the current project in present form and as per the agreement dated 10.12.2009 respondent no. 1 to 5 were the developers and all the rights and liabilities are bestowed upon the respondent no. 1 to 5.

- h) It is to be noted that as per the said agreement, the respondent no. 1-5 were the developers and were responsible for constructing and developing a commercial complex.
- i) That in clause 1 of the agreement dated 10.12.2009, it is evident that the entire transaction for the afore-referred space was entered into between the complainants and the respondent no.1 to 5 i.e., the developers, under the said agreement. That from a bare perusal of the aforementioned Clause, it is evident that there was no involvement of respondent 6 with the other respondents or the complainant when the agreement was executed between the complainants and the respondent No. 1 to 5.
- j) That as per clause 4 of the agreement dated 10.12.2009 the developers i.e., respondent nos. 1 to 5, undertook to complete the development within 33 months from the date of execution of the agreement and hand over the area purchased under the said agreement on 01.10.2012.
- k) That in clause 7 of the said agreement, it was categorically agreed between the complainants and respondent no. 1 to 5 that the possession of the units shall be handed over/ given by the developers i.e., respondent no. 1 to 5.
- l) Furthermore, under the said agreement, the developer, i.e., respondent no. 1 to 5 undertook to compensate the complainants in case of delay in the offer of possession.
- m) It is also to be noted that the claim of the complainants pertains to a project which was to be developed by the respondents No. 1 to 5. Further, the complainants have not attached any layout/ plan or any similar document to showcase as to where the alleged area of the

complainants have been allotted in the land mentioned in the agreement. In fact, the name of the project, which was being developed by the respondents 1 to 5 was commercial complex. Hence, any responsibility towards the complainants is solely that of the respondents no.1 to 5 and the respondent no.6 had been wrongly implicated in the present matter.

- n) Therefore, it is evident that under the Agreement dated 10.12.2009 all the obligations and liabilities were bestowed upon the respondent nos. 1 to 5. Thus, the respondent no. 6 being a stranger to the agreement and since no cause of action has arisen against the respondent no.6, is entitled to be removed from the array of parties in the present complaint. The respondent no. 6 was not either a developer or co-developer at the time of execution of the agreement between the complainants and the respondent nos. 1 to 5.
- o) That in the Development Agreement the Respondent Nos. 1 to 5 have stated that the land admeasuring 3.95 acres situated at 32nd Milestone Complex is owned by Landowners i.e., Mr. Anubhav Sharma i.e., Respondent No. 1, Mrs. Vandana Swami i.e.,
- p) That believing the aforementioned statements which are also recorded in the Development Agreement 21.08.2015, the Respondent No.5 executed the Development Agreement and undertook the development of the land falling under Phase II. It is to be noted herein that there is no agreement between the Complainants and the Respondent no.6 and there is no mention of Phase-II in the Agreement dated 10.12.2009 executed between Complainants and Respondent Nos. 1 to 5.

- q) That from a mere perusal of the aforementioned Recitals/ Clauses of Development Agreement dated 21.08.2015, it is evident that prior to 2015 the Respondent No.6 was not associated with Respondent No. 1 to 5 nor did the Respondent No.6 have any involvement in the business/transactions of the Respondent No. 1-5.
- r) That prior to 2015 the Respondent No. 1 to 5 were associated with Unitech Ltd. for the development of commercial real estate projects on their Lands and had executed various Collaboration Agreements with Unitech Ltd. That the same is specifically admitted by the Respondent Nos 1 to 5 in the Collaboration Agreement dated 21.08.2015.
- s) That it was only after the termination of the Collaboration Agreements between the Respondent Nos 1 to 5 and Unitech Ltd., the Respondent Nos 1 to 5 approached the Respondent No.6 for the development of the unutilized FAR on the land parcel owned by the Respondent Nos 1 to 5. Therefore, it is abundantly clear that prior to 2015 the instant Project in question was not in existence and the same came into existence only after the execution of the Development Agreement dated 21.08.2015. Further, the Complainants have failed to show any such document wherein the Respondent No.6 has allotted any area/unit to the Complainants from the development of the unutilized FAR of the current project so as to initiate the present legal proceedings against the Respondent No.6.
- t) Further, without prejudice and without specifically admitting anything, it is humbly submitted that even if the Complainants have any claim, the same can only be claimed from the Respondents Nos 1 to 5. Also, any area that has been allocated to the Respondents Nos. 1 to 5 in the Project developed by the Respondent No.6 is the area

belonging to the Respondents Nos 1 to 5 and the Respondent No.6 has no right, title, control over the said area. The Respondent No.6 has neither collected any money against these areas of the Respondent Nos 1 to 5 nor has it allotted any such area to any third party to create an Allottee-Promoter relationship as per the definition of the Real Estate (Regulation & Development) Act, 2016.

- u) It is further pertinent to mention herein that apart from Recital G, the Respondent Nos 1-5 have also stated in the Development Agreement about Non-Encumbrance and no possession rights, nor any Agreement for sale has been executed for the Land admeasuring 3.95 acres. Further, the Respondent Nos. 1-5 stated that the Encumbered Areas form part of the Utilised FSI, which are not part of the present Project for which the Development Agreement was executed.
- v) That under the Agreement dated 10.12.2009, the Respondent 1 to 5 i.e., the Developer under the said Agreement, has promised to sell/allot and convey a commercial area admeasuring 1300 sq. ft. to the Complainants.
- w) Therefore, it is evident that the Agreement was executed between the Complainants and the Respondent Nos 1 to 5 and payments were also received by the Respondent Nos 1 to 5 without it being in the knowledge of the Respondent No.6 and prior to execution of the Development Agreement dated 21.08.2015. Further, it is clarified that Respondent No.6 has no interest with respect to the money paid by the Complainant nor is exercising any right over it.
- x) Furthermore, as per the terms and conditions of the Agreement dated 10.12.2009 the Complainants are entitled to seek compensation/penalty in the form of 'Rent' and possession from the

Respondent No. 1 to 5 only and not from the Respondent No.6 which makes it evident that no Builder-Buyer/ Promoter-Allottee relationship existed between the Complainants and the Respondent No.6.

- y) Thus, from a mere perusal of the aforementioned facts and circumstances, it is most humbly submitted that the present Complaint is not maintainable against the Respondent No. 6, as no real cause of action has either been pleaded or exists against the Respondent No. 6 and it is verily believed that the present Complaint is nothing but an instigated and motivated attempt at pressurizing the Respondent No. 6 without any basis or cause of action.
- z) That it is settled law that Complaints based on the illusory cause of action must be nipped in the bud in order to prevent the streams of justice from being polluted by unscrupulous litigants and to prevent abuse of the process of law. It is also noteworthy to mention that "cause of action is a bundle of essential facts-necessary for the plaintiff to prove so that he can succeed in the case (A 1991 Ker137, 138)". That in the instant case the true material and essential facts adequately signifies that Respondent No.1 is being unfairly dragged in the instant matter.
- aa) It is also to be noted that all the allegations levied by the Complainants are against the Respondents Nos 1 to 5 only, and the Complainants, of their own admission and admittance, have only specifically named Respondents Nos 1 to 5 in every allegation and grievance.
- bb) Further, the Complainants have no locus standi to file the present Complaint against Respondent No.6. The present Complaint is filed

- with an ulterior motive to unnecessarily drag the Respondent No.6 into frivolous litigation without any basis or cause of action.
- cc) It is pertinent to mention herein that the Complainants have not levied any particular/specific grievance against the Respondent No. 6 rather the dispute exists between the Complainants and Respondent No. 1 to 5, which has arisen from the Agreement dated 10.12.2009 to which the Respondent No.6 was not even a party. In fact, the Complainants have specifically pointed out their grievances against the Respondents Nos 1 to 5. It is also to be noted that no specific reliefs have been sought against the Respondent No.6. Further, Respondent No.6 is not a necessary party to the present Complaint and the Complainants, with a malafide intention of extracting unjust enrichment from the Respondent No.6, have dragged the Respondent No. 1 into this unnecessary litigation. Therefore, the Complaint should be dismissed with respect to Respondent No.6.
- dd) It is reiterated herein that Respondent No. 6 is liable to be deleted from the array of parties in the present Complaint, as there is no privity of contract between the Complainants and Respondent No.1. Furthermore, Respondent No.6 is completely unaware of any transaction between Complainants and Respondent Nos. 1 to 5 and cannot be held liable or accountable for any action of the Respondent Nos. 1 to 5.
- ee) That as per the agreed terms and conditions of the Development Agreement dated 21.08.2015, the Respondent No. 1 to 5 have specifically agreed to indemnify the Respondent No. 6 from any losses or liabilities, costs(s), claims, actions, proceedings or third-party claims that may arise against the Respondent No.6 due to any

- transaction/ arrangement of the Respondent No. 1 to 5 with any other buyers of Respondent No. 1-5's allocated area.
- ff) That the Respondent No. 1-5 have specifically agreed to indemnify Respondent No. 6 from all sorts of liability towards any promises/obligations arising from the allottees of the Respondent No. 1-5 at various stages.
- gg) It is reiterated herein that as per Clause 2 of the Agreement to Sell dated 10.12.2009, the Complainants have allegedly paid an amount of Rs. 32,50,000/- in favour of Respondent nos. 1-5 herein. That no a single penny has been paid to the Respondent No. 6, nor the Complainants in their Complaint are claiming to have paid any amount to the Respondent No. 6. Therefore, it is evident that the alleged sale consideration was only paid to the Respondent Nos. 1-5, and thus the transaction is only between the Respondent Nos. 1 to 5.
- hh) That from the perusal of the abovementioned clause of the development agreement dated 21.08.2015, it is abundantly clear that respondent no. 1- 5 have independent rights and obligations with respect to allotment/ transactions, agreement for sale executed by them and no repercussions are to fall upon respondent no.6 arising from any allotment made/ agreement executed by the respondent no. 1-5 thereof. It is further submitted that the obligations and liabilities, if any, towards the complainants are solely of respondent no. 1-5 as respondent no. 1-5 have specifically indemnified respondent no.6 against all kinds of liabilities, claims, and proceedings that may arise due to default of the respondent no. 1-5 or agreement executed by the respondent no. 1-5.

- ii) It is most humbly submitted that the commercial complexes named as "32nd Avenue" were developed/constructed by the Respondents 1-5 and "Milestone Experion Centre", being Phase-II, was developed/constructed by the respondent no.6 under the development agreement dated 21.08.2015. It is pertinent to mention herein that under clause 13.1 of the development agreement dated 21.08.2015, it was categorically agreed between the respondent no.6 and the respondent no. 1-5 that the project, which was to be constructed under the development agreement dated 21.08.2015 shall be named as "milestone experion".
- jj) Accordingly, complainants while filing the complaint under adjudication have not annexed any documents/letters to substantiate the fact that they have been allotted any unit/space in the project named as "Milestone Experion" developed by the respondent no.6. Furthermore, the complainants have also not disclosed on what basis they have made the respondent no.6 a party to the present complaint as there are no privity of contract between the complainants and the respondent no.6.
- kk) It is reiterated herein that in the year 2009 when the Complainants had entered into a transaction with the Respondent No. 1 to 5 with respect to the purchase of a commercial space admeasuring 1000 sq. ft., that at that point in time, the instant project was not in existence nor any documents/ allotment letter has been executed with respect to the instant project by the respondent No.6. Furthermore, it is pertinent to mention herein that the complainants have not filed or brought or record any documents which substantiate the fact that it was the obligation of the respondent no. 6 to allot or deliver the commercial

space booked in the year 2009, at the time when the respondent no.6 was not even familiar with the rest of the respondent i.e., respondent no. 1 to 5.

- ll) It further reiterated herein that in the development agreement dated 21.08.2015 it is specifically disclosed by respondent no. 1-5 that all the encumbered space/land are part of the unutilized fsi, that the development agreement dated 21.08.2015 was executed between the respondent no.6 and respondent no. 1-5 for unutilized fsi. That the same is specifically recorded in the development agreement.
- mm) That from a mere perusal of the aforementioned submissions, it is abundantly clear that the Respondent No.6 has not allotted any Unit/Space to the Complainants. There are no allotment letters, no builder-buyer agreement or any other such document to establish the relation of a Promoter and Allottee between the Respondent No.6 and Complainants.
- nn) Without prejudice or admitting any averments made in the Complaint, it is evident that the Respondent No.6 has not allotted any commercial space in the instant Project to the Complainants. Further, with respect to the transaction between the Complainants and the Respondents No. 1-5, the Respondent No.6 is a stranger to the contract and cannot be held liable for the acts of the Respondents No. 1 to 5. Also, since the Agreement dated 10.12.2009 was never in the knowledge of the Respondent No.6 and hence disputed, therefore, basis a disputed Agreement the Ld. Authority cannot assume jurisdiction and adjudicate the present matter. The grievances, if any, of the Complainants should be taken up before a civil court in a specific performance suit.

- oo) It is most humbly submitted that as of date the Respondent No.6 has fulfilled its obligation under the Development Agreement dated 21.08.2015 and has developed the 'Unutilized FAR' as per the terms and conditions of the Development Agreement. That post, completing the construction of the Project, the Respondent No. 6 vide Application dated 20.09.2018 applied for the grant of the Occupation Certificate and the same was granted by the Competent Authority.
- pp) It is most humbly submitted that the present complaint is barred by law of limitation as the complainant has allegedly entered into a commercial transaction with the respondent no. 1 to 5 to purchase a commercial space in the year 2009 and executed an agreement dated 10.12.2009 recording the terms and conditions of the commercial transaction/sales. That upon perusing clause 4 of the alleged agreement dated 10.12.2009 annexed as annexure c/1 in the complaint, it came to the knowledge of the respondent no.6 that allegedly, the possession of the commercial space was to be handed over to the complainants by the respondent no. 1 to 5 by 01.10.2012.
- qq) Therefore, it is abundantly clear that the period of limitation shall be deemed to be 3 years. It is further clarified that in the present matter, the alleged due date of possession was 01.10.2012. That without prejudice to anything, if the complainants had any grievances with respect to handing over of possession or any other things then the complainants had the option to get their grievances redressed from other courts/consumer forums etc. However, it is pertinent to mention herein that as per the averments made in the complaint and whatsapp chats annexed with the complaint, it is evident that upon expiry of the alleged due date of possession, the complainants till 2025 have not

filed a single complaint/suit of any nature before any court of law including the consumer forums and the rera authorities seeking possession of the alleged commercial space purchased by them.

- rr) That now the complainants, after an expiry of 12 years 8 months and 2 days from the alleged due date of possession, have filed the present complaint seeking possession, payment of outstanding assured return, and have impleaded the respondent no.6 as a party to the present complaint, with whom the complainants have no privity of contract. without prejudice to any averments made in the complaint, it is noted herein that as of the due date of possession, the respondent no.6 was not associated with the respondent no. 1-5, that all the obligations with respect to handing over of possession and payments of any delay penalties were that of the respondent nos. 1 to 5.
- ss) That the respondent no. 6 executed the development agreement dated 21.08.2015 with the respondent no. 1-5 at a much belated stage for development of the project "Experion Milestone", which was much after the lapse of the alleged due date of possession as per the agreement dated 10.12.2009. also, from 2015 till the service of the complaint upon the respondent no.6, the respondent no.6 did not have any knowledge of the alleged agreement dated 10.12.2009 or the commercial area allegedly sold to the complainants by the respondents nos. 1 to 5.
- tt) That without prejudice to the submissions made herein and without admitting the averments of the complainant, it is further clarified that the right to sue i.e cause of action, if any, should have accrued to the complainants from the expiry of alleged due date of possession i.e., 01.10.2012 and the period of limitation for filing any

claim/case/complaint against the alleged cause of action has ended on 0.10.2015.

6. 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 complainants.

E. Jurisdiction of the authority

7. 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

8. 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

9. 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) The promoter shall-

(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.

10. 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. Maintainability of complaint

11. The Authority observes that the present complaint arises out of an Agreement to Sell dated 10.12.2009 executed between the complainants and respondent nos.1 to 5, whereby the complainants allegedly agreed to purchase a commercial space admeasuring 1300 sq. ft. on the top floor of a proposed commercial complex for a total sale consideration of Rs.32,50,000/-. As per the record, the complainants claim to have paid the entire sale consideration amount to respondent nos.1 to 5 at the time of execution of the said agreement. However, it is also evident from the material placed on record that the agreement does not identify or specify any particular unit number, tower or defined location within the project, and the alleged allotment is only described as a commercial space of approximately 1300 sq. ft. on the top floor of the proposed complex.
12. The respondent no.6 has raised a preliminary objection regarding maintainability of the present complaint on the ground that it is neither a party to the agreement dated 10.12.2009 nor has any allotment been made by it in favour of the complainants. It has been contended that the agreement relied upon by the complainants was executed solely between the complainants and respondent nos.1 to 5, long prior to the execution of the development agreement dated 21.08.2015 under which respondent

no.6 undertook development of a separate phase of the project. It has further been contended that no consideration was ever paid by the complainants to respondent no.6 and no document exists establishing a promoter-allottee relationship between the complainants and respondent no.6.

13. Before proceeding to examine the merits of the dispute, it becomes necessary for this Authority to determine whether the complainants fall within the definition of "allottee" under the provisions of the Real Estate (Regulation and Development) Act, 2016. Section 2(d) of the Act defines an "allottee" as:

"...the person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise, but does not include a person to whom such plot, apartment or building is given on rent."

14. A plain reading of the above provision makes it clear that the status of an allottee arises only where a specific plot, apartment or building has been allotted, sold or otherwise transferred by the promoter. In the present case, although the complainants rely upon an agreement to sell dated 10.12.2009, the record does not disclose any document evidencing allotment of a specific and identifiable unit in their favour within the project in question. The alleged space is merely described as a proposed commercial area of 1300 sq. ft. on the top floor of a future development, without specifying the unit number, layout particulars or allocation details. In the absence of a defined allotment, the complainants cannot be treated as "allottees" within the meaning of Section 2(d) of the Act.

15. This Authority further observes that for a legally enforceable agreement for sale to come into existence, the essential terms of the contract such as identification of the unit, consideration, obligations of the parties and the specific subject matter of the transaction must be clearly defined. In the present case, the alleged agreement does not crystallize the rights of the complainants in respect of any specific unit within the project. The transaction appears to remain at the stage of a proposed purchase of space in a future development and does not culminate into a concluded allotment of a defined property.
16. Moreover, the record also indicates that the agreement relied upon by the complainants was executed exclusively between the complainants and respondent nos.1 to 5 and that respondent no.6 was not associated with the said transaction at the time of its execution. No document has been produced on record to show that respondent no.6 had either allotted any unit to the complainants or received any consideration from them. In the absence of such material, no promoter-allottee relationship can be said to exist between the complainants and respondent no.6 for the purposes of the Act.
17. Another relevant aspect that deserves consideration is the inordinate delay in initiating the present proceedings. As per the agreement placed on record, the due date of possession was stated to be 01.10.2012, whereas the present complaint has been filed in the year 2025, after a lapse of more than twelve years from the alleged date of possession. Although the provisions of the Limitation Act do not strictly apply to proceedings under the Act of 2016, the Authority, while exercising its powers under Section 38 of the Act, is required to be guided by the principles of natural justice. One of the well-accepted principles of jurisprudence is that law assists



those who are vigilant and not those who sleep over their rights. Entertaining stale claims after such a prolonged and unexplained delay would defeat the purpose of expeditious dispute resolution envisaged under the Act.

18. In view of the above stated facts and circumstances, this Authority is of the considered view that the present complaint is not maintainable. Firstly, the complainants do not fall within the definition of "allottee" as defined under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016, as no specific unit was ever allotted in their favour. Secondly, the complaint has been filed after an inordinate and unexplained delay of more than a decade from the alleged due date of possession. Consequently, the present complaint cannot be entertained under the provisions of the Act.
19. Accordingly, the complaint stands dismissed with liberty to the complainants to avail appropriate remedies in accordance with law before the competent forum.
20. Complaint as well as applications, if any, stands disposed of accordingly.
21. File be consigned to the registry.

(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.12.2025