

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

Complaint no. : 541 of 2025
Date of Filing of complaint: 03.02.2025
Date of First Hearing: 15.05.2025
Order pronounced on : 12.03.2026

**Ms. Sabeena Vasudeva and Mr. Yogesh
Vasudeva**

R/o: - 87, Nehru Apartments, Outer Ring
Road, Kalkaji, New Delhi- 110019

Complainants

Versus

**M/s BPTP Limited and M/s
Countrywide Promoters Pvt. Ltd.**

Address:- BPTP, M11, Middle Circle
Connaught Circus, New Delhi- 110001

Respondent

Coram:

Shri Phool Singh Saini

Member

Appearance:

Mr. Vipin Nagar and Ms. Neelam Kathuria (Advocates)
Mr. Harshit Batra (Advocate)

Complainants
Respondent

ORDER

1. The present complaint has been filed by the complainants/allottee(s) in Form CRA 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 to the allottee(s) as per the agreement for sale executed inter se them.



A. Project and unit related details

2. The particulars of the project, the details of 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	"Astaire Gardens"
2.	Project location	Sector 70A, Gurugram, Haryana
3.	Project type	Residential Colony
4.	DTCP License no.	15 of 2011 dated 07.03.2011, valid up to 06.03.2024 620 of 2021 dated 01.09.2021 valid up to 31.08.2026
5.	HRERA registered/ not registered	Registered Vide registration no. 55 of 2021 dated 21.09.2021 valid up to 31.08.2026
6.	Allotment letter dated	14.02.2012 (As per page 16 of complaint)
7.	Date of execution of buyer's agreement	20.04.2012 (As per page no. 21A of the complaint)
8.	Unit no.	B-56-SF, 2 nd Floor (As per page no. 24 of the complaint)
9.	Unit area admeasuring	1390 sq. ft. (As per page no.24 of the complaint)
10.	Possession clause	5. Possession "5.1 Subject to Force Majeure, as defined in Clause 14 and further subject to the Purchaser(s) having complied with all its obligations under the terms and conditions of this Agreement and the Purchaser(s) not being in default under any part of this Agreement including but not limited to the timely payment of each and every installment of the total sale consideration including DC, Stamp duty and other charges and also subject to the Purchaser(s) having complied with all formalities or documentation as prescribed by the Seller/Confirming Party, the Seller/Confirming Party proposes to hand over the physical possession of the said unit

		<p><i>to the Purchaser(s) within a period of 36 months from the date of sanctioning of the building plan or execution of Floor Buyers Agreement, whichever is later ("Commitment Period"). The Purchaser(s) further agrees and understands that the Seller/Confirming Party shall additionally be entitled to a period of 180 days ("Grace Period") after the expiry of the said Commitment Period to allow for filing and pursuing the Occupancy Certificate etc. from DTCP under the Act in respect of the entire colony."</i></p> <p>(Emphasis supplied) (As per page no. 26 of the complaint)</p>
11.	Date of sanction of building plans	15.05.2013 (As per BPTP Committee Report prepared by a committee headed by Sh. Manik Sonawane IAS (retired), Sh. Laxmi Kant Saini CA and Sh. R.K. Singh CTP (retired))
12.	Due date of possession	15.11.2016 (Calculated to be 36 months from date of sanction of building plans being later + Grace Period of 6 months is allowed being unconditional)
13.	Basic Sale consideration	Rs.80,71,995/- (As per BBA at page no. 24 of the complaint)
14.	Amount paid by the complainant	Rs. 88,35,700/- (As per conveyance deed at page 82 of complaint)
15.	Occupation Certificate	19.09.2017 (As per page 151 of reply)
16.	Offer of possession dated	25.09.2017 (As per page 37 of complaint)
	Delay compensation paid at the time of offer of possession by the respondent to complainants	Rs.2,22,400/- (SOA at page no. 154 of reply)
17.	Conveyance Deed dated	04.07.2018 (As per page 80 of complaint)

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:



- a) That the complainants after seeing advertisements of the respondent in the newspaper for launching the project namely "ASTAIRE GARDENS" situated at Sector 70 & 70A, SPR Road, Gurugram, Haryana, came into contact with the executives of the respondent, who embarked upon the complainants with their sales team with various promises of timely completion of project and swift delivery of possession on time. The complainants, trusting and believing completely in the words, assurances and towering claims made by the respondent, fell into their trap and agreed to book a unit in the said project.
- b) That the complainants paid a sum of Rs. 7,00,000/- as demanded by the respondent on 14.02.2012 and booked a unit no. B-56-SF on 2nd Floor, in the project Astaire Gardens, in the name of the complainants. Buyer's agreement was also signed between the parties on 20.04.2012.
- c) Thereafter, from time-to-time further payments were made to the respondent by the complainant as per the demand letters. As per clause 11(a) of the buyer's agreement, the respondent agreed to handover possession of Unit by within a period of 36 months with a grace period of 6 months from the date of the buyer's agreement of the complex. As per the BBA, possession was due within 36 months, i.e., by 12.04.2015. However, the respondents delayed possession and issued an Offer of Possession on 25.09.2017. The complainants paid ₹75,41,204.99/- from 14.02.2012 to 25.09.2017, including significant payments at the time of possession. Despite the delay, no compensation has been paid by the respondents as per HARERA regulations for DPC. The respondents forced the execution of the conveyance deed on 04.07.2018 without addressing construction



defects and basic service issues. Also, the respondent neither ever replied nor responded in a satisfactory manner to the complainant, despite establishing contact through several mails.

- d) That since the date of booking, the complainant has been visiting at so called proposed site, where they find that the construction of the project is at lowest swing and there is no possibility in near future of its completion. Till date, the construction is not completed and the facilities promised by the builder and through advertisements are just in the brochures and nothing has been reflected in reality. Facilities such as Stairs, Lifts, Club houses, Reception are not even ready or completed and not in working condition till 2023.
- e) That the complainant tried his level best to resolve the issue of the delayed possession As well defected construction issues but the respondent did not pay any heed to the said requests of the complainant through mails.
- f) That as per the BBA, the Builder was required to give the possession of the unit by 12th April 2015. However, after a 24 months delay and harassment, the builder had not given the DPC amount till date with all the complete facilities offered and promised as per the buyer's agreement.
- g) That since the respondent had not delivered the possession of the apartment, of which the complainants are suffering from economic loss as well as mental agony, pain and harassment by the act and conduct of the respondent and thus, the complainants are entitled to a compensation. Furthermore, the complainants had been constrained by the respondent to live in a rented accommodation and pay extra interest on their home loan due to this delay.



h) That the complainants, thereafter, had tried their level best to reach the representatives of respondent to seek a satisfactory reply for delayed possession compensation as per the rules and provisions of the Real Estate Regulatory Act in respect of the said dwelling unit but all went in vain. The complainants had also informed the respondent about their financial hardship due to delay in getting possession of the said unit, but nothing has been bothered by the builder due to his stringent and ignorant approach.

C. Relief sought by the complainants

4. The complainants are seeking the following reliefs:

I. Direct the respondent to pay interest @ 24% p.a. for the delay which has to be calculated as and when the sixty months were completed and thereafter grace period was exhausted. Further, the calculation shall be done on the total amount paid at the above-mentioned interest rate till the date of order pendente-lite.

II. To pay a sum of Rs.1,80,000/- as cost of litigation/present proceedings to the complainants.

III. To pay a sum of Rs.10,00,000/- for the harassment and mental agony suffered by the complainants.

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

D. Reply by the respondent

6. The respondent has raised certain preliminary objections and has contested the present complaint on the following grounds:



- a) That the present matter has been erroneously filed before the Authority by the complainants. The Authority does not encompass the power and lacks the jurisdiction to adjudicate upon the reliefs of compensation, as sought by the complainants in the present complaint.
- b) That respondent no. 2, i.e., Countrywide Promoters Pvt Ltd, is not effective and vide order bearing no. CP (CAA) 26/Chd/Hry/2023 dated 20.09.2024 passed by Hon'ble NCLT, Chandigarh, the Respondent No. 2 company has transferred its assets to the Transferee company. The Respondent No. 2 is not a separate legal entity as of this date, and no legal action can be proceeded against Respondent No. 2; hence, the name of Respondent No. 2 should be deleted from the array of parties.
- c) That the complainants being interested in the residential group housing real estate development of Respondent No. 1 known under the name and style of "Astaire Gardens" located at Sector 70-A, Gurugram, Haryana applied for the allotment of a unit vide an application form.
- d) That pursuant to booking in the said project, a residential floor bearing number B-56-SF on the second floor, tentatively admeasuring an area of 1,390 sq. ft. was allotted to the complainants vide Allotment Letter dated 14.02.2012. The complainants consciously and wilfully opted for a construction-linked payment plan as per their choice for remittance of the sale consideration for the unit in question.
- e) Subsequently, the parties executed the buyer's agreement for the unit in question on 20.04.2012. The agreement was consciously and voluntarily executed between the parties, and the terms and conditions of the same are binding on the parties. The rights and obligations of the allottees as well as the builder are completely and entirely determined by the covenants incorporated in the agreement, which

continue to be binding upon the parties thereto with full force and effect.

- f) Subsequently, the complainants took a home loan against the unit, and thus the parties entered into a Tripartite Agreement dated 23.05.2012.
- g) That as per clause 5.1 of the agreement, Respondent No. 1 proposed to hand over the possession of the unit within a period of 36 months from the date of sanction of the building plan or the execution of the Agreement, whichever is later. The proposed due date was subject to the happening of the force majeure and other circumstances beyond the control of the company, the benefit of which is bound to be given to Respondent No. 1 in accordance with clause 5.1 of the agreement.
- h) That the construction of the unit was hampered due to and was subject to the happening of the force majeure and other circumstances beyond the control of the company, the benefit of which is bound to be given to Respondent No. 1 in accordance with clause 14 of the Agreement.
- i) That Respondent No. 1 was faced with certain force majeure events including but not limited to the non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. The stopping of mining activity not only made the procurement of materials difficult but also raised the prices of sand/gravel exponentially. It was almost 2 years that the scarcity as detailed aforesaid continued, despite which all efforts were made, and materials were procured at 3-4 times the rate, and the construction continued without shifting any extra burden to the

customer. The time taken by Respondent No. 1 to develop the project is the usual time taken to develop a project of such a large scale and despite all the force majeure circumstances, Respondent No. 1 completed the construction of the Project diligently and timely, without imposing any cost implications of the aforementioned circumstances on the complainant and demanding the prices only as and when the construction was being done. It is to be noted that the development and implementation of the said Project have been hindered on account of several orders/directions passed by various authorities/forums/courts, before the passing of the subjective due date of offer of possession.

- j) It is comprehensively established that a period of 67 days was consumed on account of circumstances beyond the power and control of Respondent No. 1, owing to the passing of orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of force majeure, as stated above. Thus, Respondent No. 1 has been prevented by circumstances beyond its power and control from undertaking the implementation of the project during the time-period indicated above. Therefore, the same is not to be taken into reckoning while computing the due date as has been provided in the Agreement.
- k) That Respondent No. 1 had the right to suspend the construction of the project upon the happening of circumstances beyond the control of the Respondent No. 1 as per clause 14 of the Agreement, however, despite all the hardships faced by Respondent No. 1, the Respondent No. 1 did not suspend the construction and managed to keep the project afloat through all the adversities.



- l) That despite the default caused, the answering Respondent No. 1 applied for an Occupation Certificate in respect of the said unit on 30.05.2017, and the same was thereafter issued to Respondent No. 1 on 19.09.2017. Thereafter, Respondent No. 1 offered the possession of the unit to the complainants on 25.09.2017, that is, before the proposed due date of possession, and earnestly requested the complainants to take possession of the unit after remittance of the balance sales consideration of the unit. However, the complainants failed to take possession of the unit in a timely manner. That at this stage it is pertinent to mention that the Respondent No. 1 has already credited an amount of Rs. 2,22,400 in the account of the complainants at the time of issuance of the offer of possession of the unit.
- m) That the complainants took possession of the unit upon his complete satisfaction and executed the conveyance deed on 04.07.2018. It was specifically and expressly agreed that the liabilities and obligations of the Respondent No. 1, as enumerated in the allotment letter or the Agreement, stand satisfied.
- n) That the present complaint deserves to be dismissed as it is barred by limitation. Hence, the cause of action, if any, came to an end on the receipt of the occupation certificate. That, however, after the offer of possession, the complainants did not press for the payment of delay possession charges, and it was only after 7 years 4 months 15 days (from the date of occupation certificate till the date of notice) that the present complaint was filed as an afterthought. The complainants had been sleeping on their rights for years, and hence, no equity can be granted in favour of the complainants in such circumstances. Hence,

the present complaint has been barred by limitation and should be rightly dismissed.

- o) That the Respondent No. 1 has offered the possession of the unit to the complainants on 25.09.2017, and thereafter, the possession has been handed over to the complainants. The parties have also executed a Conveyance Deed dated 04.07.2018. As per the Recital K and Clause 3 of the Conveyance Deed dated 04.07.2018, it is categorically noted that the complainants took over the physical possession of the said unit only after complete inspection and only after being completely satisfied with the unit.
- p) That after the execution of the Conveyance deed, the contractual relationship between the Parties stands fully satisfied and comes to an end. That there remains no claim/ grievance of the complainants with respect to the Agreement or any obligation of the parties including delay compensation.
- q) That after the execution of the conveyance deed, the parties are estopped from making any claims at this instance. It is a settled matter of law that: *The necessary condition is to the detriment of the other party by the conduct of the one estopped. An estoppel may result though the party estopped did not intend to lose any existing right.*
- r) That without prejudice it is submitted that to and without admitting to any averments made by the complainants, it is submitted that the only obligation and responsibility of a Developer, which subsists after the execution of a Conveyance Deed, as per the Act, 2016, is towards any structural defect or defect in workmanship quality etc. regarding the Apartment, Plot or Building, and that too for a period of 5 years from the date of handing over of possession. That in the present complaint,

the unit was handed over to the allottee on 21.04.2018 and the five years from the date of handover ended on 21.04.2023.

s) Hence, the complainants are not entitled to payment of any delayed possession charges after the execution of the Conveyance Deed, and after peaceful possession of the unit for over 7 years. Therefore, the Respondent No. 1 prays that the complainants be dismissed, being barred by limitation and after the execution of the Conveyance Deed between the parties.

7. All the other averments made in the complaint are denied in toto.
8. 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.
9. The respondent has filed the written submissions on 16.02.2026, which is taken on record and has been considered by the Authority while adjudicating upon the relief sought by the complainant.

E. Jurisdiction of the Authority

10. The preliminary objections raised by the respondent regarding jurisdiction of the Authority to entertain the present complaint stands rejected. The Authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

11. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with office 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

12. Section 11(4)(a) of the Act 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.

13. 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 as per provisions of section 11(4)(a) of the Act leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Observations of Authority with regard to maintainability of complaint on account of complaint is barred by limitation.

14. The respondent has filed the reply on 05.06.2025, 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 complainants.



15. On consideration of the documents available on record, the Authority observes that the complainants allotted a unit bearing no. B-56-SF, 2nd floor, admeasuring 1390 sq. ft., in project of the respondent named "Astaire Gardens" situated at Sector-70A, Gurugram vide allotment letter dated 14.02.2012 and an apartment buyer's agreement was also executed between the complainants and the respondent regarding the said allotment on 20.04.2012. The occupation certificate for the subject unit has been obtained by the respondent promoter on 19.09.2017 and the possession has been offered to the complainants on 25.09.2017. Further, at the time of offer of possession, an amount of Rs.2,22,400/- has already been paid by the respondent to the complainants towards compensation for delay in handing over of possession and conveyance deed was executed between the parties on 04.07.2018.
16. The complainant is seeking delayed possession charges and other reliefs pertaining to compensation while the respondent on the other hand is pleading that the present complaint is barred by limitation as the complainant has got the offer of possession on 25.09.2017 and his conveyance deed executed on 04.07.2018, the transaction between the complainants and the respondent stands concluded upon the execution of the conveyance deed and the complainant has filed the present complaint after a long delay on 03.02.2025 i.e., lapse of 6 years, 6 month and 29 days from the date of the execution of conveyance deed. Thus, the claim of the complainants is not maintainable. Both the parties through their respective counsels advanced submissions with regard to the maintainability of the complaint on the ground of the limitation.
17. The buyer's agreement was executed on 20.04.2012. Though the possession of the unit was to be offered on or before 15.11.2016 after

completion of the project but the same was offered only on 25.09.2017 after receipt of occupation certificate on 19.09.2017 and ultimately leading to execution of conveyance deed of the same on 04.07.2018. So, limitation if any, for a cause of action would accrue to the complainant w.e.f. 04.07.2018. So far as the issue of limitation is concerned, the Authority is cognizant of the view that the law of limitation does not strictly apply to the Real Estate Regulation and Development Authority Act of 2016. 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. It is universally accepted maxim and 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.

19. It is also observed that the Hon'ble Supreme Court in its order dated 10.01.2022 in **MA NO.21 of 2022 of Suo Moto Writ Petition Civil No.3 of 2020** have held that the period from 15.03.2020 to 28.02.2022 shall stand excluded for purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.
20. In the present matter the cause of action arose on 04.07.2018 when the possession was offered to the complainants by the respondent. The complainants have filed the present complaint on 03.02.2025 which is 6 years, 6 months and 29 days from the date of cause of action. In the present case the three-year period of delay in filing of the case also after taking into account the exclusion period from 15.03.2020 to 28.02.2022 would fall on 04.08.2023. In view of the above, the Authority is of the view that the present complaint has not been filed within a reasonable time period and is barred by the limitation.
21. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be stretched to an extent that basic principles of jurisprudence are to be ignored and are given a go by especially when the complainant/allottees have already availed aforesaid benefits before execution of conveyance deed.
22. 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.



23. In the light of the above stated facts and applying aforesaid principles, the authority is of the view that the present complaint is not maintainable after such a long period of time. The procedure of law cannot be allowed to be misused by the litigants even in cases where allottees have availed certain benefits prior to the execution of conveyance deed. 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. In these circumstances, the complaint is held to be non-maintainable being barred by limitation and the reliefs prayed for cannot be granted.

24. Complaint is dismissed being barred by limitation.

25. File be consigned to registry.



(Phool Singh Saini)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.03.2026

HARERA
GURUGRAM