



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

Complaint no.:	2612 of 2023
Date of filing.:	06.12.2023
First date of hearing.:	16.01.2024
Date of decision.:	24.03.2026

1. Ashish Kumar Narang s/o Raj Kumar Narang

R/o H. No 1052, Alpha International City, Sector-29, Karnal

2. Tanuj s/o Rajesh Chander

R/o H.No 245, Sector-13, Urban Estate, Karnal

3. Ashok Chhabra s/o Puran Chand Chhabra

R/o H.No 299-P Sector 8, Urban Estate, Karnal

....COMPLAINANTS

VERSUS

1. M/s Alpha Corp Development Private Limited\*

Regd Office: Model Industrial Park, Opp Focal Point VPO

Vallah Mehta Road, Amritsar, Punjab, India 143001

2. Bhanu Gupta s/o Sanjeev Gupta

R/o H. No. 790, Sector-13, Urban Estate Karnal 132001

3. The office of the Sub-Registrar

Mini Secretariat, Karnal, Haryana 132001

....RESPONDENTS

**Present: -** Adv. Gagan Sehgal, Learned Counsel for the  
Complainants through VC.  
Adv. Vikas Verma, Learned counsel for the Respondent  
no.1.  
Adv Sharad Gautam, Learned counsel for the  
Respondent no. 2 through VC.  
None for respondent no. 3.

**ORDER (DR. GEETA RATHEE SINGH - MEMBER)**

1. Present complaint has been filed by complainants under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with relevant rules of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

**A. UNIT AND PROJECT RELATED DETAILS**

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



S.No.	Particulars	Details
1.	Name of the project.	Alpha International City, Phase II", Sector 29, Karnal, Haryana
2.	Nature of the project.	Residential
3.	RERA Registered/not registered	Unregistered
4.	Date of allotment	29.06.2011
5.	Date of plot buyer agreement	15.11.2011
5.	Details of the unit.	Plot no. 826, Sector 29, admeasuring 389 sq. yds
6.	Possession clause in BBA (Clause 10.1)	"The Owners/Company shall complete the development works in the Project within 28 (Twenty Eight) months from the date of commencement of development works and shall thereafter apply for grant of necessary statutory completion approvals from the concerned authorities. Upon grant of the said approvals, the Owners/ Company shall offer possession of the said Plot in writing to the Allottee(s). The Owners/Company shall hand over the possession of Plot to the Allottee(s), subject to the condition that the Allottee(s) has/have already paid all the outstanding/ due amount of installment, other charges including interest and deposits, if any, and is/ are not in default under any of the terms of allotment and has/ have complied with all provisions, formalities, documentation, etc. as may be prescribed by the Owners/ Company in this regard."



7.	Due date of possession	15.03.2014
8.	Total sale consideration	₹ 67,50,000/-
9.	Amount paid by complainant	₹67,80,304/-
11.	Date of offer of possession	None

### B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. As per facts, complainants had booked a plot in the project of the respondent namely, "Alpha International City, Phase II", situated at Sector 29, Karnal, Haryana in the year 2011. Vide allotment letter dated 29.06.2011 complainants were allotted a plot bearing no. 826, Sector 29, admeasuring 389 sq. yds in the said project.
4. It is submitted that a plot buyer agreement was executed between the parties on 15.11.2011 qua the said plot. The total sale consideration of the unit was fixed as ₹67,50,000/- against which the complainants had paid an amount of ₹67,80,304/- till date. As per clause 10.1 of the agreement, respondent had committed to deliver possession of the plot within 28 months from the date of commencement of development works.
5. The complainants were informed at the time of booking that the development work in the project had already begun and thus the complainants had opted for a timelinked payment plan. It is submitted that the complainants have adhered



to the terms of the agreement and not even a single default was committed by the complainants in making payment of instalments. The complainants have already paid almost 95% of the total sale consideration of the plot as and when demanded by the respondent.

6. That the respondent indulged in unfair trade practices. The arbitrariness of the plot buyer agreement can be derived from the fact that while the respondent was entitled to charge exorbitant rate of interests in the case of delay in payment of instalments however, the agreement did not include any such provision for the payment of compensation to the complainants.
7. The respondent was supposed to deliver possession of the booked plot by 15.03.2014, however the respondent miserably failed to complete construction of the project and deliver possession in a time bound manner.
8. The complainants had requested the respondents several times for possession of their plot along with applicable delay penalty. Neither the penalty has been paid nor the possession of the plot has been delivered till date.
9. That earlier, being aggrieved, the complainants had preferred one consumer complaint before the Hon'ble District Consumer Disputes Redressal Commission, Gurugram bearing no. CC/614/2021 seeking possession of the plot in question amongst other reliefs. The respondent no. 1 had filed its response during said adjudication. That the respondent no. 1 was aware of the fact that the complainant herein is seeking possession of the plot in question and that the matter was sub-judice. Nevertheless, the respondent no. 1 sold the

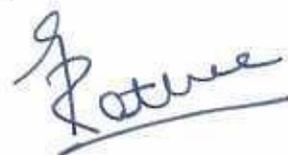


plot of the complainants illegally to respondent no. 2 in active connivance with him. It is stated that no cancellation letter was issued by the respondent no. 1 to the complainant nor any refund was made to them.

10. The complainants, with the intention of preserving the plot had approached the Hon'ble Civil Court at Karnal seeking restraint against the respondent no. 1 and the District Town Planner. Vide order dated 04.09.2023 the Hon'ble Additional District Judge, Karnal granted relief in favour of the complainants and restrained the respondent no. 1 from alienating the plot in question. However, the respondent no. 1, in violation of the orders, had already sold the plot in question to respondent no. 2 on 01.08.2023.

11. The complainants have already withdrawn the consumer complaint bearing no. CC/641/2021 from the District Consumer Disputes Redressal Commission, Gurugram vide order dated 26.09.2023 with liberty. Similarly, the complainant has already withdrawn CS/1829/2023 which was filed before the Hon'ble Court at Karnal vide order dated 17.10.2023.

12. It is submitted that the possession of the plot has never been offered to the complainants by the respondent no. 1 till date. Although, the respondent no. 1 has contended in their reply to the consumer complaint that they had offered possession to the complainants on 30.12.2015, however this statement is completely false and without substance. That as per respondent no. 1 part completion certificate has been obtained in April 2018. Without completion



certificate, any offer allegedly made by the respondent no. 1 is of no consequence.

13. It is submitted that from booking till date, the respondent no. 1 has never informed the complainants about any force majeure or any other circumstances which were beyond the reasonable control of the respondent and has thus caused delay in delivery of possession.

14. That the respondent despite taking money has not handed over the possession of the flat despite lapse of more than 10 years from the due date of possession; hence present complaint has been filed seeking possession of the plot along with interest from the due date of possession till actual handing over of physical possession.

### C. RELIEF SOUGHT

15. In view of the facts mentioned above, the complainant pray for the following reliefs):-

- i. Pass an order quashing/cancelling/setting aside the conveyance deed dated 01.08.2023, as executed by and between the respondent no.1 and respondent no.2 before Sub-Registrar Karnal, in respect of the plot in question i.e., Plot No. 826 in Sector 29, of Phase-II, Alpha International City Karnal, admeasuring 360 sq, yards., holding it null and void; and



- ii. Direct the respondent no.1 to deliver immediate possession of the plot-in-question to the complainants i.e.,Plot No. 826 in Sector 29, of Phase-II, Alpha International City Karnal, admeasuring 360 sq. yards., after due completion and receipt of occupancy/ completion certificate along with all the promised amenities and facilities and to the satisfaction of the complainants;
- iii. Direct the respondent no. 1 to pay prescribed rate of interest, on the amount already paid by the complainants from the promised date of delivery i.e., 15.03.2014till the actual, physical and legal delivery of possession of the plot in question to the complainants;
- iv. Pass an order restraining the respondents from charging any amount from the complainants which do not form part of the Plot Buyer's Agreement dated 15.11.2011 and/or is illegal and arbitrary including but not limited to enhanced charges, cost escalation charges, delay penalty charges, Holding charges, CAM charges etc.
- v. Pass an order setting aside/quashing any demands which have been raised by the respondent company from the complainants which are beyond the scope of the plot buyer's agreement dated 15.11.2011 including but not limited to delay penalty charges,CAM charges , Area increase charges, cost escalation charges, Holding charges, etc
- vi. Pass any other order(s) or grant such further relief(s) as this Hon'ble Authority/Court may deem fit and proper in the facts and

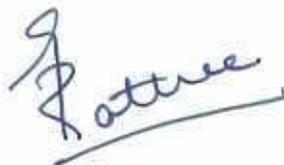


circumstances of the present case, in favour of the complainants and against the respondent.

#### **D. APPLICATION ON BEHALF OF RESPONDENT NO. 1**

Learned counsel for the respondent no. 1 filed an application for dismissal of captioned complaint dated 16.04.2024 pleading therein

16. That the project, where the Plot No. 826 in question is located has been developed after obtaining Licence No. 29 of 2011 dated 05.04.2011 for an area measuring 85.569 acres of Land falling in the Revenue estate of Village Badli, Uchanna, Kailash and Tikri, which now form part of Sectors 28A and Sector 29 of Karnal. The Layout cum Demarcation Plan and the Zoning Plan were approved by the Director Town and Country Planning and forwarded by Letter Memo dated 21.06.2012. Thereafter, service plans and Estimates for Internal Development Work were approved by the Directorate of Town and Country Planning, Haryana vide Letter dated 13.02.2013. It was thereafter, all the development work including Water Supply, Drainage, Sewer Lines, Electricity Lines, Rainwater Harvesting System and Roads were completed much before the expiry of the 28 months, as per approved standard in the Licensed area and Part-Completion was applied for on 23.01.2014 by the Answering Respondent. The Director General, Town and Country Planning Department, Haryana vide its Letter dated 02.04.2014 pointed out following anomaly based on Report from Chief Engineers Office.

  
J. Attree

*"That the Firm has submitted fresh set of Service Plan. The copy of already approved layout Plan of the Colony showing the Public Health Services has not been supplied."*

17. The License, in the meantime, expired and its Renewal was also applied for vide Letter dated 16.03.2015 in Form LC-III and the same was renewed w.e.f. 05.04.2015 vide Letter dated 21.06.2017, with validity up to 04.04.2019, a copy of which is annexed herewith as Annexure A-4. The License is not renewed upto 04.04.2024 vide Letter dated 15.11.2021. The Renewal of license is a continuous process marred by procedural delays and has fallout upon actual grant of requisite approvals which has nothing to do with existence of development facilities on the spot in a Plotted colony. The formal Part-Completion Certificate dated 19.04.2018 has now also been granted in pursuance to Letter dated 11.04.2017. It may be pointed out that Site Reports were called for vide Memo dated 23.06.2017 and it was verified by District Town Planner, Karnal vide Report dated 10.08.2017 and Senior Town Planner, Panchkula vide Report Dated 18.08.2017. It was also confirmed by chief Engineer, HSVP, Panchkula vide Certificate date 30.08.2017. Afterwards, the Part Completion Certificate was issued by the Director General, Department of Town and Country Planning, Haryana on 19.04.2018. The Project over which the Plot in question was carved out and developed is thus not governed by the provisions of 2016 RERA Act.

18. The project over which the plot in question was carved out and developed is not an ongoing project in the light of Rule 2 (1) (c) of The Haryana Real Estate



(Regulation and Development) Rules, 2017 and therefore, the jurisdiction of this Id. Authority is ousted as per the established law.

19. The project was complete for all intents and purposes on 28.08.2010 with the issuance of Part Completion Certificate by the Statutory Authority competent in law governing the project in question, granted by the Director General, Town and Country Planning, which is an authority constituted under the Haryana Development and Regulation of Urban Areas Act, 1975 and therefore, Compliant is not amenable to jurisdiction of Real Estate Regulatory Authority as has also been clarified by the Hon'ble Supreme Court in case titled "Newtech Promoters and Developers Pvt. Ltd. v. State of UP" reported as 2022 (1) RCR civil 357 wherein it has been held to the following effect:

*Para 54. From the Scheme of the Act 2016, its application is retroactive in character and it can safely be observed that the Projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. At the same time, it will apply after getting the on-going projects and future projects registered under Section 3 to prospectively follow the mandate of the Act 2016.*

20. It is, thus, submitted that all the development activities required to be carried out, stood accomplished and executed on the spot, way back in January 2017 and fortified with the subsequent Inspection Reports as well and no further development activity of any kind whatsoever or any other nature remained to



be carried out or left out from being executed in respect of the plot in question and formal Completion Certificate was issued by the jurisdictional authorities on 19.04.2018.

21. The project in question stands completed pursuant to licenses granted by the Director General, Town and Country Planning, which is an authority constituted under the Haryana Development and Regulation of Urban Areas Act, 1975.

22. As per record, after giving multiple opportunities, defence of the respondent has been struck off on 27.05.2025.

**E. REPLY SUBMITTED ON BEHALF OF RESPONDENT No. 2**

Learned counsel for the respondent no. 2 filed detailed reply on 22.02.2024 pleading therein:

23. That the respondent no. 2 is a law-abiding citizen of India who in the year 2023, had approached the office of the respondent no.1 i.e Alpha Corp Development Private Ltd to book a residential plot in the project of respondent no. 1 namely 'Alpha International City, Phase II' situated at Sector-29, Karnal, Haryana for personal use and peaceful living. That on 06.06.2023, respondent no. 2 had visited the site of the project for inspection of the plots and the development at the site. The officials/representatives of the respondent no. 1 had shown various options to the respondent no. 2 available at that time including the plot in question. That the plot bearing no. 826, situated in



Sector-29, Phase II of Alpha International City measuring 359.69 sq. yards best suited to the requirements of the respondent no. 2.

24. The respondent no. 2 had applied for the allotment of aforementioned plot vide application no. AICK005/2023-24 dated 01.07.2023. A copy of the application form is annexed as **Annexure R-1**. Thereafter respondent no. 1 allotted the said plot to the respondent no. 2 vide allotment letter dated 01.07.2023. A copy of the allotment letter is annexed as Annexure R-2. A plot buyer's agreement for the said plot was executed between the respondent no. 1 and respondent no. 2 on 06.07.2023. A copy of the plot buyer's agreement is annexed as Annexure R-3. The total sale consideration of the plot was fixed as ₹ 82,72,880/-.
25. That at time of booking, respondent no. 2 was informed that respondent no. 1 has already completed the development of phase II of the integrated township including the plot allotted to the respondent no.2 and had obtained completion certificate on 19.04.2018. As per clause 9.1 of the plot buyer's agreement, an offer of possession was to be made to the respondent no.2 on making the complete payment towards the booked plot in accordance with the agreement.
26. That the respondent no. 2 had invested his hard-earned money in purchasing this plot and made payment of a total amount of ₹ 82,72,880/- on 01.07.2023 towards the plot bearing no. 826 admeasuring 359.69sq. yds. That the full and final payment towards the plot in question has already been made by the respondent no. 2 to the respondent no.1. It is important to mention that there is no payment pending on the part of the respondent no. 2.



27. That after receiving the entire sale consideration i.e. ₹ 82,72,880/- respondent no. 1 had offered possession of the plot bearing no. 826, Phase II, Sector 29 Karnal to the respondent no. 2. Thereafter, a conveyance deed was executed between the respondent no. 1 and respondent no. 2 for the plot bearing no. 826, Phase II, Sector 29, Alpha International City which had then been duly registered at the office of the Sub Registrar, Karnal on 01.08.2023. A copy of the said conveyance deed is annexed as **Annexure R-4**
28. That with the registration of the conveyance deed, respondent no. 2 became the Lawful/rightful owner of the plot bearing no. 826 admeasuring 359.69 sq. yds, Phase II, Sector 29, Alpha International City. That the physical and vacant possession of the said plot has been handed over to the respondent no.2 by respondent no. 1 absolutely and forever in all respects without any defect or deficiency of any kind.
29. That the complainants through this complaint have misrepresented before this Authority apropos conduct of answering respondent no. 2. It is reiterated that the answering respondent had purchased the plot in issue from respondent no. 1 after payment of the entire sale consideration amount. On receipt of entire consideration amount, respondent no. 1 got the conveyance deed executed and registered in favour of respondent no. 2 on 1.08.2023. It is submitted before this Hon`ble Authority that neither at the time of applying for the allotment for the plot in question nor at the time of getting the conveyance deed registered, the respondent no. 2 was ever intimated by respondent No.1 with regards to the



fact that the plot bearing no. 826 had earlier been allotted to the complainants or about pendency of any type of litigation in regard to the said plot with the complainants. The Respondent no. 2 had purchased the plot in question under the knowledge that there was no previous lien/encumbrance over the same. A bare perusal of clause 14 of the conveyance deed would reveal that it has been categorically mentioned that 'vendee' i.e the respondent no. 2 is the original allottee of the said plot vide allotment letter dated 01.07.2023. In these circumstances, this Hon'ble Authority may kindly observe that the answering respondent no. 2 has not colluded in any manner with the respondent no. 1. Rather respondent no. 2 is a bona fide purchaser/allottee of the plot bearing no. 826. In fact, respondent no. 1 had concealed the fact with regard to the pendency of the litigation with the complainants over the plot no. 826 from the respondent No. 2.

30. Respondent no. 2 has wrongly been pleaded as a respondent in the present complaint. In fact, the respondent no. 2 is a bona fide purchaser and genuine allottee under the RERA Act who has legally purchased the plot in question after going through all the legal formalities which culminated upon the registration of a legally valid conveyance deed dated 01.08.2023. In fact, respondent no. 2 should be treated as a genuine allottee who has spent his hard-earned money to purchase this property.

31. That the complainants have filed this present complaint seeking relief of quashing/cancellation/setting aside the conveyance deed dated 01.08.2023



executed in favour of the respondent no. 2 before Sub-Registrar Karnal, in respect of the plot no. 826, sector 29, Karnal and to deliver the possession of the same to the complainants. In this regard it is again reiterated that the respondent no. 2 has already acquired absolute and rightful ownership of the plot after execution of registered conveyance deed dated 01.08.2023. That regardless of the ongoing dispute between the complainants and respondent no. 1, the right of respondent no. 2 over the plot in question does not get affected as it has been legally bestowed upon the respondent no. 2 after payment of the entire sale consideration. That the relief sought by the complainants cannot be allowed as it would cause serious damage to the interests of the respondent no. 2. In the interest of principles of natural justice, it is a humble prayer that the request of the complainants with regard to plot bearing no. 826 be dismissed as the same is the rightful property of the respondent no. 2. The answering respondent being a bonafide purchaser of the said plot in question is protected under the provision of the Transfer of Property Act, 1882. Further more specific performance of a contract cannot be enforced against bonafide purchasers or their transferees who are paying money in good faith and without notice of the original contract.

32. That the prayer made by the complainants for quashing the conveyance deed dated 01.08.2023 cannot be accepted, as this Hon'ble Authority under the RERA Act, 2016 has no power to set aside the conveyance deed which has already registered between the respondent no. 1 and 2. The relief claimed by



complainants vide this complaint in untenable as the conveyance deed dated 15.07.2023 had already being registered on 01.08.2023 i.e way before the filling of the present complaint. Consequently, the present complaint deserves to be dismissed as relief claimed is beyond the jurisdiction and power of this Hon'ble Authority.

33. That the respondent no. 2 first came to know about the ongoing litigation/dispute between the complainants and respondent no. 1 over the plot in issue when he received a notice dated 28.09.2023 from the police station, Karnal for the investigation on a complaint filed by the present complainants against the respondent no. 1 and the answering respondent on false and frivolous grounds.

34. That upon receipt of said summon respondent no. 2 had duly appeared before the Deputy Superintendent of Police and given his written representation in this regard.

#### **F. REPLY SUBMITTED ON BEHALF OF RESPONDENT No. 3**

35. That the complainants have got no locus standii to file and maintain the present appeal against the answering respondent, as no legal or fundamental right of the complainants has been infringed by the answering respondent at any point of time. Further, no action has been taken by the answering respondent which could be termed as biased, arbitrary, illegal or in violation of constitutional rights of the complainants



36. That the present dispute is among the complainants and respondents No. 1 & 2 and answering respondent has unnecessarily been arrayed as party in the present matter. Claim whatsoever of the complainants is against respondent No. 1 & 2 and answering respondent has no concern with the same. Therefore, the present appeal deserves to be dismissed on this very score alone.

37. That it is pertinent to submit here that the conveyance deed in question was duly presented for registration by respondent No. 1 in favour of respondent No. 2, who are the executant (respondent No. 1) and claimant/transferee (respondent No. 2) respectively. Since respondent No. 1 was the lawful owner of the land/plot in question, he was fully competent to transfer the same in favour of any person of his choice. The answering respondent, being a statutory authority under The Registration Act, 1908, is bound to act strictly in accordance with the provisions of the said Act and the rules framed thereunder. The role of the answering respondent is purely ministerial in nature and limited to ensuring compliance with the statutory procedure prescribed under the law. The answering respondent neither has the authority to refuse registration of a document which fulfills all legal requirements, nor can he go into the question of title or ownership beyond what is apparent from the record produced at the time of registration. It is further submitted that the conveyance deed in question was registered after verifying the identity of the executants), satisfying all procedural formalities and ensuring compliance with the



mandatory provisions of law. Hence, no illegality, irregularity or malafide can be attributed to the answering respondent.

### G. ARGUMENTS OF THE LEARNED COUNSELS FOR THE PARTIES

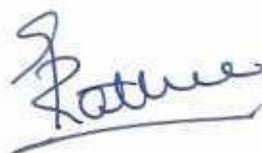
38. During the course of arguments, learned counsel for the complainant, Adv. Gagan Sehgal, submitted that in the captioned complaint as per the plot buyer agreement dated 15.11.2011, possession of the plot in question should have been delivered to the complainant on 15.03.2014. By 15.10.2016 complainants had made a total payment of ₹67,80,304/- to the respondent no. 1 in lieu of the booked plot which is almost the entire amount. Complainants had made timely payment of all the instalments. However, despite taking such a huge amount, the respondent no. 1 failed to deliver possession of the booked plot within stipulated time. The last payment of instalment was to be paid at the time of offer of possession, which has never been issued to the complainants till date. Rather the respondent no. 1 had in connivance sold the plot in question to a 3rd party, i.e respondent no. 3 at throw away prices and further executed conveyance deed on 01.08.2023. The respondent no. 1 in its submissions has alleged that the plot of the complainants has been cancelled due to non payment of dues, whereas the respondent no. 1 has been retaining a huge amount of ₹67,80,304/- since 15.10.2016 and enjoying the same at the cost of the complainants. As per record, the project in question had obtained part completion certificate on 19.04.2018. Thus, the respondent no.1 could not have



cancelled the plot in question without completing the development works and taking payment of almost entire sale consideration. Only payment of last instalment amount was remaining on the part of the complainants, which was to be paid at the time of offer of possession. Instead of issuing an offer of possession the respondent no. 1 kept on delaying the matter. When the complainants pressed upon their rights by way of Consumer Complaint bearing no. 614 of 2021 and Civil Suit 1829 of 2023 the respondent surreptitiously cancelled the allotment of the complainants and created 3rd party rights qua the plot in question in favour of respondent no. 3. Even after cancellation till present the respondent no. 1 retains the amount paid by the complainants in lieu of the plot in question. Learned counsel for the complainants relied upon judgement passed by Hon'ble Apex Court in **Special Leave Petition(C) Nos 29405-29406 of 2017 titled as K.S Manjunath and Ors Vs Moorsavirappa Muttanna Chennappa Batil, since deceased by His LRs and Ors** and submitted that the respondent no. 3 in the present complaint is a subsequent purchaser who should have performed due diligence before purchasing the plot in question whereupon he would have learnt with regard to the prior encumbrance of the present complainants over the said plot. The subsequent purchaser cannot escape the consequences of deemed notice. The complainants and the respondent no. 1 have been in litigation qua the plot in question since 2021, thus the claim over the plot in question is dependent upon the outcome of the present suit.



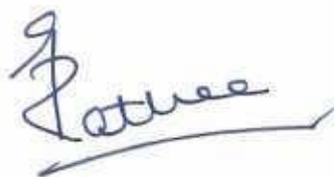
39. In rebuttal, learned counsel for the respondent no.1 submitted that the development works of the project in question got completed in the year 2014. Accordingly, the respondent no. 1 company had applied for completion certificate to the concerned authority vide application dated 23.02.2014. Thereafter, an offer of possession had been issued to the complainant on 30.12.2015 for construction of boundary wall and site visit on the address provided by the complainants. The complainants have alleged that the said offer of possession was never served upon them, however, the complainant no. 1 had unilaterally changed the address and never apprised the same to the respondent no. 1. Further, vide possession letter dated 15.10.2016, the complainants were asked to come forward and take possession and also an amount of ₹ 1,79,825/- was adjusted under "inter company money adjustment" on account of delay caused in delivery of possession. The same has been admitted to by the complainant in ledger account annexed at Page 58 of the complaint file. Hereafter, a number of reminder letters were also sent to the complainants giving ample time and opportunity to make payment of outstanding dues and take possession. However, the complainants failed to come forward. Since, the complainants did not pay the outstanding dues, the respondent was constrained to issue a notice for pre-termination dated 20.07.2019. After several reminder letters the final notice for cancellation was issued to the complainants on 03.02.2023. When the complainants did not pay heed to the same, the allotment of the complainants got cancelled on



07.03.2023. The complainants were also asked to provide their bank details for refund of the paid amount, however the complainants failed to come forward for reasons best known to them. As of present the plot in question stands cancelled in the name of the complainants and they have no claim over the same. Thereafter, the respondent no. 1 sold the plot in question to respondent no. 2 after due diligence.

At this point a specific query was put upto the counsel for respondent no. 1 with regard to the fact that whether the respondent no. 2 was made aware of prior lien over the plot in question. In response, learned counsel for the respondent no. 1 submitted that the respondent no. 2 was not informed with regard to the same.

40. Initiating his arguments, learned counsel for the respondent no. 2 submitted that the respondent no. 2 had purchased the plot in question from the respondent no. 1 vide plot buyer agreement dated 01.07.2023 after making payment of entire sale consideration. Thereafter conveyance deed was executed between the parties qua the plot in question on 01.08.2023. At the time of purchase respondent no. 2 had made due diligence and was apprised that the plot in question is free from all encumbrances. The allegations made by the present complainants are wrong to the effect that the respondent no. 2 is not a subsequent purchaser but is rather a fresh buyers/allottee as per his knowledge. In support of his argument, learned counsel for the respondent no.

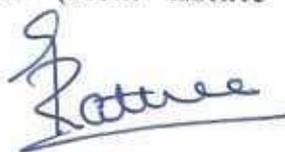


2 submitted that as per clause 14 of the conveyance deed dated 01.08.2023, the vendee i.e the respondent no. 2 is the original allottee of the plot in question vide allotment letter dated 01.07.2023. Further in none of the documents as provided by the respondent no. 1 there has been no mention of the complainants having any charge over the plot in question. The respondent no. 2 had performed its due diligence and enquired from the Office of the sub-Registrar as per whose record, the plot in question is rightfully of the respondent no. 1 the transferred to respondent no. 2. The respondent no. 2 is a bonafide purchaser whose interests shall get hampered if the claim of the complainants is allowed. The respondent no. 1 itself has admitted to the fact that the respondent no.2 was not informed with regard to any prior encumbrances over the plot in question. The dispute in the present complaint is between the complainants and respondent no.1 over non payment of dues/refund of retained amount, whereas the respondent no. 2 is a rightful owner of the plot in question. Further, the complainants vide present are seeking primary relief of quashing/cancelling/setting aside the conveyance deed dated 01.08.2023, as executed by and between the respondent no.1 and respondent no.2 before Sub-Registrar Karnal however, in a case relating to execution of a conveyance deed or a sale deed or cancellation thereof, if there is any dispute about the rights of the parties involved therein Only appropriate remedy for the parties is to approach the Civil Court by way of civil suit. In such cases where in the question regarding the cancelation of sale deed has



arisen the act does not empower this Hon'ble Authority to cancel, rescind Deed/Agreement, an eventuality which is not within the jurisdiction of a Real Estate Regulatory Authority. As a matter of law, a claim for cancellation of sale deed or conveyance deed is warranted to be or submitted before a Competent Civil Court. Thus, the present complaint is infructuous and hence be dismissed. Learned counsel for the respondent no. 2 relied on several judgments passed by various Courts titled as **Rukumani and others Versus Amudhavalli and others 2019(6) MLJ 270; Paramananda Bhosagar and others Versus Thabir Sahu and others 2024(254) AIC 828; Vinod Shankar Jha Versus State of Jharkhand and Others; Gangotri Devi – Petitioner Versus Bhukhan Singh and others and Sana Hospitality Services Pvt. Ltd. Madan Kishan Grow** highlighting therein that , the core issue that arises for determination as to whether the plaintiffs are bonafide purchasers for value without notice of the prior instrument between Defendant Nos.1 and 2, would warrant investigation into a host of facts. Dispute would, thus, partake the character of a lis between the two sets of allottees. Such a dispute between the allottees, nay which of the two instruments is legal and valid, is not a matter which the authorities under the RERA are empowered to adjudicate. Consequently, the reliefs of declaration and injunction sought by the Plaintiffs in the instant suit, may not be granted by authorities under RERA.

41. Learned counsel for the respondent no. 2 further submitted that in **Bony Buildtech Pvt. Ltd Versus Rohan Vashish (Real Estate Regulatory**



**Authority ,Assam); Ankit Poddar, Prop. Of Paramount Squire Vs Lohit Sharma( Rajasthan Real Estate Regulatory Authority) and Karan Khurana and Another Vs IREO Water Front Pvt. Ltd( Punjab RERA)**

various Hon'ble Authorities have held that any complaint qua quashing/rescind of an executed conveyance deed is not maintainable as the Authority does not have jurisdiction to allow the relief being sought.

42. Today, learned counsel for the respondent no. 1 had apprised the Authority that the respondent no. 1 had filed an appeal bearing no. 66 of 2025 before the Haryana Real Estate Appellate Tribunal against order dated 15.10.2024 passed by this Authority. Said appeal got dismissed with vide order dated 10.03.2026 with a view that all the contentions raised by the appellant/respondent no. 1 can be dealt with by the Authority. Thus is view of the same learned counsel for the respondent no. 1 sought some time to file written submissions.

In this regard it is observed that in the captioned complaint the notice for appearance and filing of reply got delivered to the respondent no. 1 on 11.12.2023. Thereafter several opportunities were granted to respondent no. 1 to file its reply. However, despite availing multiplied opportunities, the respondent no. 1 failed to file a reply, due to which the defence of the respondent was struck off on 27.05.2025 after a lapse of one and a half years. The respondent no. 1 was given fair opportunity for proper representation. Further the oral submissions of the learned counsel for respondent no. 1 has



been heard and recorded in detail. Therefore, no prejudice has been caused to the respondent no. 1 and hence the request of the learned counsel for respondent no. 1 is denied.

## H. ISSUES FOR ADJUDICATION

43. Whether the complainants are entitled to relief of quashing/cancelling/setting aside the conveyance deed dated 01.08.2023, as executed by and between the respondent no.1 and respondent no.2?
44. Whether the complainants are entitled to relief of possession of the plot in question along with payment of delayed possession charges as prescribed under the Act?
45. Whether the complainants are entitled to pay enhanced charges, cost escalation charges, delay penalty charges, Holding charges, CAM charges etc.?

## I. FINDINGS ON THE OBJECTIONS RAISED BY THE RESPONDENT

### NO.1

**F.1 Objection raised by the respondent that since the project in question is not an ongoing project, therefore, provisions of RERA Act, 2016 are not applicable to the project.**

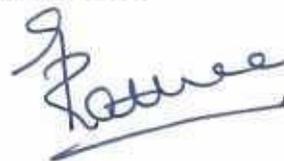
In this regard, reference is made to the first proviso to section 3(1) of the RERA Act, 2016 which provides that the projects which were 'ongoing' on the date of commencement of the Act and for which the completion certificate has not been issued, the promoter shall make an



application to the authority for registration of the said project within a period of three months from the date of commencement of the Act. The position further becomes clear from Section 3(2)(b) of the Act which states that the registration of the real estate project shall not be required where the promoter had received the 'completion certificate' for the said project prior to the commencement of the Act. Thus, if we read Section 3 of the Act, it is evident that only that project shall be excluded from the purview of the 'on going project' which had received the completion certificate prior to the commencement of the Act and such project will not require registration. All 'ongoing projects', i.e., those that commenced prior to the Act coming into force, and in respect of which no completion certificate is yet issued, are covered under the Act. It is apparent that the legislative intent was to make the Act applicable to not only to the projects which were to commence after the Act became operational but also to ongoing projects. Only those projects which had got the completion certificate before the commencement of the Act will not require registration and will certainly fall beyond the purview of the 'ongoing project'.

Further, this issue has also been dealt with and settled by the Hon'ble Supreme court in Newtech Promoters and developers Pvt. Ltd Civil

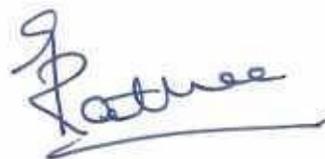
Appeal no. 6745-6749 of 2021 herein reproduced:



*“ 37. Looking to the scheme of Act 2016 and Section 3 in particular of which a detailed discussion has been made, all “ongoing projects” that commence prior to the Act and in respect to which completion certificate has not been issued are covered under the Act. It manifests that the legislative intent is to make the Act applicable not only to the projects which were yet to commence after the Act became operational but also to bring under its fold the ongoing projects and to protect from its inception the inter se rights of the stake holders, including allottees/home buyers, promoters and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer and supervise the unregulated real estate sector within the fold of the real estate authority.”*

Wherein Hon'ble Apex held that the projects in which completion certificate has not been granted by the competent Authority, such projects are within the ambit of the definition of on-going projects and the provisions of the RERA Act, 2016 shall be applicable to such real estate projects. Furthermore, complainant in the present complaint is seeking possession along with interest i.e, a statutory relief under Section 18 of RERA Act, 2016. Authority observes that Section 18 of the Act relates to obligation of promoter regarding return of amount and compensation. Section 18 is reproduced herein below:

*“If the promoter fails to complete or is unable to give possession of an apartment, plot or building,— (a) in accordance with the*



*terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.*

*(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.*

*(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act."*

This provision nowhere states that the remedies provided hereunder will be available only to the allottees of a registered project or registrable project. Therefore, even if the project is not registered with the Authority, same does not extinct the remedy available to an allottee of a real estate project.



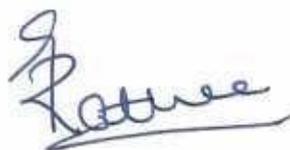
**J. OBSERVATIONS OF THE AUTHORITY**

46. After giving thoughtful consideration to the submissions advanced by all the parties concerned and perusal of the judgements as well as the material available on record, it is observed that the complainants in the captioned complaint had booked a plot in the project of the respondent no. 1 namely, "Alpha International City, Phase II", situated at Sector 29, Karnal, Haryana in the year 2011. Vide allotment letter dated 29.06.2011 complainants were allotted a plot bearing no. 826, Sector 29, admeasuring 389 sq. yds in the said project. A plot buyer agreement was executed between the parties on 15.11.2011. The total sale consideration of the plot was fixed as ₹67,50,000/- against which the complainants, admittedly, have paid an amount of ₹67,80,304/- till date. As per clause 10.1 of the agreement, respondent no. 1 had committed to deliver possession of the plot within 28 months from the date of commencement of development works. It is the submission of the complainants that the respondent no. 1 has failed to deliver possession of the plot in question within stipulated time. The complainants have submitted that after relentlessly pursuing the respondent no. 1 seeking possession of the plot in question the complainants were constrained to file a consumer complaint bearing no. CC/641/2021 before the District Consumer Disputes Redressal Commission, Gurugram and further a Civil Suit bearing no. CS/1829/2023 for redressal of their grievances. However, the respondent instead of delivering possession of the plot to the complainants rather surreptitiously cancelled the



allotment of the complainants qua the said plot and had thereafter with malafide intentions created third party rights in favour of the respondent no. 2 at throw away prices. Both, the consumer complaint and civil suit, were withdrawn with liberty to approach the present Authority seeking relief against the answering respondent no. 1. It is the principal contention of the complainants that despite taking payment of a huge amount of ₹67,80,304/-, the respondent no. 1 has failed to develop the project in question within stipulated time and deliver possession of the plot to the complainants. Further that the respondent no. 1 has with malafide intentions created a 3rd party right qua the plot in question just to seek exponential gains all the while retaining the amount paid by the complainants. Hence, aggrieved by the conduct of the respondent no. 1 complainants herein have filed the present complaint seeking quashing of the conveyance deed dated 01.08.2023 as executed by and between the respondent no.1 and respondent no.2 and thereupon immediate delivery of possession of the plot no. 826, situated at Sector 29, Phase II, Alpha International City Karnal.

47. Per contra, learned counsel for the respondent no. 1 has submitted that after completion of works in the year 2014 an offer of possession had been issued to the complainant on 15.10.2016 to come forward and take possession after making payment of balance sale consideration. Amount of ₹ 1,79,825/- on account of delayed possession charges was adjusted into the account of the complainants. However, the complainants failed to come forward and accept



possession after making payment of balance dues. The respondent no. 1 company relentlessly pursued the complainants through several reminders letters which were ignored by the complainants for reason best known to them. After, thorough chase, since the complainants failed to make payment of balance sale consideration and take possession, the complainants were issued a notice for pre-termination dated 20.07.2019. Rather than making payment, the complainants indulged into frivolous litigations, thus constraining the respondent no. 1 company to issue final notice for cancellation dated 03.02.2023, which was again ignored by the complainants. Ultimately, due to serious default on the part of the complainants, the allotment of the plot of the complainants got cancelled on 07.03.2023 after giving ample opportunities. Thereupon, the respondent no. 1 had called upon the complainants to provide details of bank account for refund of the paid amount. Rather than performing the due diligence, the complainants have filed the present complaint.

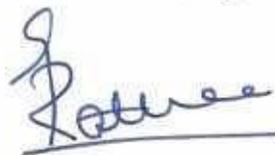
48. The facts appear to be, by and large, incontrovertible. As per clause 10.1 of the plot buyer agreement executed between the parties, possession of the plot in question was to be delivered within 28 months from the date of commencement of development works. With regard to the timeline for delivery of possession, it is apparent that the drafting of this clause is vague, arbitrary and heavily loaded in favour of the respondent promoter. There is no specific date of commencement of development works and neither the same has been clearly communicated by the respondent no.1 to the complainants. The



respondent no. 1 cannot be allowed to establish terms as per its own whims.

Thus, for the purpose of calculation of the due date of possession, the period of 28 months is being taken from the date of execution of the plot buyer agreement. Accordingly, possession of the plot in question should have been delivered by 15.03.2014.

49. Admittedly, respondent no. 1 had failed to deliver possession of the plot in question within stipulated time. During the course of proceedings respondent no. 1 has failed to put forth sufficient grounds as to why the delivery of possession of the plot in question has been delayed. The respondent in its oral submissions has stated that an offer of possession was issued to the complainants on 15.10.2016, however the complainants failed to come forward and accept the said offer of possession. On the other hand, complainants have submitted that the possession of the plot in question was never offered to the complainants by the respondent no. 1. In this regard, it is observed that though the respondent no. 1 has contended that an offer of possession had been issued to the complainants, however despite availing sufficient opportunity respondent no. 1 has failed to place on record any proof of delivery of said offer of possession upon the complainants. Thus this submission of the respondent no. 1 cannot be relied upon. The respondent no. 1 in its oral pleadings has contended that the answering respondent performed due diligence by issuing various demand/reminder letters to the complainants including notice for pre-termination/cancellation, however, again it is only



mere oral submissions on the part of the respondent no. 1 without any documentary proof. Hence, the same cannot be relied upon.

On the other hand, the complainants in their complaint file have failed to place on record any communication initiated by them with the respondent no. 1 enquiring about the possession of the plot in question past the due date of possession as on 15.03.2014 till the filing of the consumer complaint in the year 2021, which is after issuance of the alleged notice for pretermination. A bare perusal of record shows that both the complainants and respondent no. 1 parties slighted their duties with regard to the plot in question. It is only in 2021 that the complainants herein filed a consumer complaint seeking necessary relief.

50. Regardless, a clear appreciation of the record shows that the complainants herein had paid a huge amount of ₹67,80,304/- to the respondent no. 1 by 25.09.2013. The complainants have been relentlessly pursuing the respondent no. 1 seeking possession of the plot in question before relevant Court of Law since 2021. As observed before, despite taking such a huge amount from the complainants, the respondent no. 1 cancelled the allotment of the complainants and created 3rd party rights in favour of respondent no.2. With regard to the cancellation of the plot in question, it is observed that not much documentary evidence has been placed on record by the respondent no. 1 to show its bonafide which is quite contrary to its oral pleadings. Despite taking such a



huge sum, the respondent no. 1 failed to perform its due diligence and deliver possession of the booked plot to the complainants. As is apparent from record, the project in question had received part completion certificate as on 19.04.2018. Thus, the alleged statement of the learned counsel of the respondent no. 1 that an offer of possession had been issued to the complainants on 15.10.2016 holds no weight since the said offer of possession was an invalid offer, the complainants could not have accepted the same. Further, the alleged cancellation letter dated 07.03.2023 happened when the present parties were in litigation. The titleship/status of the plot in question was protected under the principles of the doctrine of lis pendens, enshrined in Section 52 of the Transfer of Property Act, 1882.

Prima facie it would appear so that the act of the respondent no. 1 qua disposing of the suit property in such a hurried manner and at such prices shows that it was a malafide intention of the respondent no.1 to evade its liabilities due to the present complainants and seek exponential gains. A property which was valued at approximately ₹ 67 Lakh in the year 2011 being valued at a paltry sum of ₹ 82 Lakh in the year 2023 after 12 long years in a township situated in the Karnal district gives rise to a doubt in the minds of the concerned that it was not a genuine sale and purchase. The cancellation of the plot in question raises suspicion. In view of default on account of non payment of dues by an allottee, the respondent-builder is entitled to cancel the allotment



of said allottee and refund the deposited amount. However, in this particular instance, the respondent no. 1 is still retaining the huge amount of ₹67,80,304/- paid by the complainants since 2013. The respondent no. 1 has been enjoying wrongful gains in its nested cocoon of dominant position while the complainants herein have been forced to run from pillar to post just to secure what is rightfully theirs. The conduct of the respondent no.1 throughout appears to be motivated by greed and deceit. It is untenable to imagine that an allottee who has invested his hard earned money in a project to seek a respectable living would abandon the same right at the point of harvest. The relentless pursuit of the present complainants clearly exhibits that having parted with valuable consideration the complainants have been woefully wronged by the respondent no. 1. In the real estate sector a developer promoter enjoys a wider berth and these are the very acts to curtail which the RERD Act 2016 has been brought into force. The respondent- promoters cannot be permitted to draw any mileage at the cost of the complainants-allottees.

51. Now, with regard to the rights qua the plot in question i.e plot bearing no. 826, it is observed that after the alleged cancellation of the allotment of said plot qua the complainants, the respondent no. 1 had executed a fresh plot buyer agreement dated 06.07.2023 with the respondent no. 2 qua the same plot for a total sale consideration of ₹ 82,72,880/-. After having received the entire amount from the respondent no. 2, the respondent no. 1 company had then



executed and then registered at the office of the Sub Registrar, Karnal (Respondent no. 3) on 01.08.2023. Upon enquiry, respondent no. 2 has apprised the Authority that at the time of purchase of the plot in question the respondent no. 2 had performed due diligence and was never informed with regard to any prior lien over the plot in question by the respondent no. 1 and the respondent no. 3. As per the knowledge of the respondent no. 2, he was a fresh allottee who had made the purchase of the plot for a peaceful leaving after having parted with his lifetime savings. A fact which is enunciated in clause 14 of the conveyance deed wherein it has been categorically mentioned that the respondent no. 2 is an original vendee. This fact has been confirmed by the respondent no. 1 stating at bar that the respondent no. 2 was not informed with regard to any prior encumbrances over the plot in question. Further, the respondent no. 3 i.e. the office of the Sub-Registrar, Karnal has submitted that conveyance deed in question was duly presented for registration by respondent No. 1 in favour of respondent No. 2, who are the executant (respondent No. 1) and claimant/transferee (respondent No. 2) respectively. Since respondent No. 1 was the lawful owner of the land/plot in question, he was fully competent to transfer the same in favour of any person of his choice. Learned counsel for the respondent no. 2 has asserted that, in this peculiar instance, the respondent no. 2 is a genuine allottee who after having the entire sale consideration has rightfully made the purchase of the plot in question. The said plot has been legally transferred in the name of the



respondent no. 2. Being a bonafide purchaser, having no knowledge of prior lien, the interests of the respondent no.2 are protected under the RERD Act, 2016 at par with the present complainants. Learned counsel had further submitted that, the Authorities under the RERD Act, 2016 have no jurisdiction to inquire into and determine the dispute inter se allottees and any cancellation/quashing of a registered document. The learned counsel for the respondent no. 2 relied upon a slew of judgements passed by various High Courts and RERA Authorities mirroring this question of law.

52. A bare examination of record shows that the titleship qua the plot in question legally stands in the name of the respondent no. 2. The factum of which has been acknowledged by respondent no. 3 a competent government authority. The respondent no. 2 by way of evidence has exhibited his bonafide at the time of purchase of the plot in question. Although it cannot be denied that the complainants herein have been wronged by the respondent no. 1 and had a legally valid right over the plot in question after having paid almost the entire sale consideration and not being at fault, however, it is also an indisputable fact that the ownership of the plot in question legally lies with the respondent no. 2.

Now the essential dispute here is between two sets of "allottees" and the promoter. Learned counsel for the complainants has argued that the rights of the present complainants were protected under values enshrined in the doctrine of lis pendens. However, a critical analysis of the facts shows that at the time



of registration of the conveyance deed dated 01.08.2023, the complainants had filed both a consumer complaint and a civil suit before appropriate court of law but the complainants failed to challenge the said conveyance deed at that point. Though the complainants in their complaint have averred that vide order dated 04.09.2023, Hon'ble Civil Court at Karnal had granted relief in favour of the complainants and restrained the respondent no. 1 from alienating the plot in question, yet a copy of said order has not been placed on record for perusal and observation. Further, the respondent no. 2 had been made aware of dispute qua the plot in question on 28.09.2023 itself, however, yet again the present complainants failed to pursue their plaint and ultimately withdrew the suit on 17.10.2023. Thus, at the time of filing of the present complaint, the rights over the said plot in question were with the respondent no. 2.

Further the complainants vide present complaint are primarily seeking quashing of the conveyance deed dated 01.08.2023 and thereupon immediate possession of the plot in question vide relief clause no. (i) and (ii). Herein the substantial question of law is with regard to the power of cancellation of a registered document. Considering the submissions made at the bar and judgements relied upon, it is clear that in a case relating to execution of a conveyance deed or a sale deed or cancellation thereof, if there is any dispute about the rights of the parties involved therein, the only appropriate remedy for the parties is to approach the Civil Court by way of civil suit. The Hon'ble



Supreme Court in **Satya Pal Anand v. State of Madhya Pradesh and Others**

(supra) in paragraph No. 40 held as under:-

*"The Andhra Pradesh High Court, in the case of Yanala Malleshwari was called upon to consider whether a person can nullify the sale by executing and registering a cancellation deed and whether the Registering Officer like District Registrar and/or Sub-Registrar appointed by the State Government is bound to refuse registration when a cancellation deed is presented. The fact remains that if the stipulation contained in Sections 17 and 18 of the Act of 1908 are fulfilled, the Registering Officer is bound to register the document. The Registering Officer can refuse to register a document only in situations mentioned in Sections such as 19 to 22, 32 and 35. At the same time, once the document is registered, it is not open to the Registering Officer to cancel that registration even if his attention is invited to some irregularity committed during the registration of the document. The aggrieved party can challenge the registration and validity of the document before the Civil Court. The majority view of the Full Bench was that if a person is aggrieved by the Extinguishment Deed or its registration, his remedy is to seek appropriate relief in the Civil Court and a Writ Petition is not the proper remedy."*

53. Further, Hon'ble Bombay High Court in **Sana Hospitality Services Pvt Ltd.**

**Vs Madan Kishan Gurow** has observed that disputes between two sets of allottees, wherein there is a legal and valid registered instrument and a promoter partakes a character of lis, which is not a matter the authorities under the RERA are empowered to adjudicate. Relevant para is reproduced

herein below :



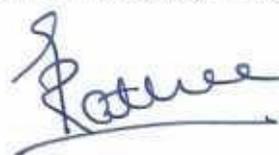
" 26. In the case of *State of Tamil Nadu v. Ramalinga Samigal Madam* (1985) 4 SCC 10, the Supreme Court further elucidated the propositions in the case of *Dhulabhai* (supra), as under:

"13. Secondly, the principle indicated in the second proposition enunciated in *Dhulabhai's* case requires that the statute: when it creates a special right or liability and provides for its determination, should also lay down that all questions about the said right or liability shall be determined by the Tribunal or authority constituted by it, suggesting thereby that if there is no such provision it will be difficult to infer ouster of the Civil Court's jurisdiction to adjudicate all other questions pertaining to such right or liability.

14. Thirdly, having regard to the principle stated by the Supreme Court while enunciating the first proposition in *Dhulabhai's* case, it is clear that even where the statute has given finality to the orders of the special tribunal the civil Court's jurisdiction can be regarded as having been excluded if there is adequate remedy to do what the Civil Court would normally do in a suit. In other words, even where finality is accorded to the orders passed by the special tribunal one will have to see whether such special tribunal has powers to grant reliefs which Civil Court would normally grant in a suit and if the answer is in the negative it would be difficult to imply or infer exclusion of Civil Court's jurisdiction."

27. In the light of the aforesaid position in law, re-adverting to the facts of the case, it becomes abundantly clear that the essential dispute is now between the Plaintiffs and defendant No.2, albeit on account of the execution of the two instruments by the Defendant No.1 in respect of one and the same flat. The Plaintiffs seek declarations that the agreement to sale executed in their favour is legal and valid; the Plaintiffs are the bonafide purchasers of the subject flat without notice and the sale deed dated 23 March 2016 executed by Defendant No.1 in favour of Defendant No.2 is null and void and not binding upon the Plaintiffs.

28. Thus the core issue that arises for determination is to whether the Plaintiffs are bonafide purchasers for value without notice of the prior instrument between Defendant Nos.1 and 2, would warrant investigation into a host of facts. Dispute would, thus, partakes the character of a lis between the two sets of

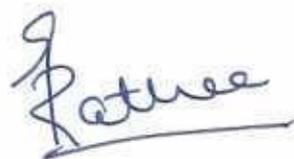


*allottees. Such a dispute between the allottees, nay which of the two instruments is legal and valid, is not a matter which the authorities under the RERA are empowered to adjudicate. Consequently, the reliefs of declaration and injunction sought by the Plaintiffs in the instant suit, may not be granted by authorities under RERA. A thought that has been mirrored by various other RERA Authorities as well as acknowledged above.*

54. Thus, the most crucial point is with regard to the due diligence on part of the complainants and the respondent no. 1 and the bonafide of the respondent no. 2 which merits in depth scrutiny. Although the RERA has been given wide powers under the Act, however, all elements of this complaint case do not fall within the remit of RERA. The Act does not empower this Authority to cancel, rescind or terminate any registered document. Therefore, a claim for cancellation of a registered conveyance deed is warranted to be submitted before the competent Civil Court.

55. With regard to remaining relief with respect to delayed possession charges and payables/receivables amount, it is observed that though the power to adjudicate these particular reliefs is within the ambit of this Authority, however, the subject matter in question qua which these reliefs are being sought is the very plot the ownership of which is in dispute. The Authority is unable to adjudicate upon these issues unless the dispute with regard to the titleship of the same is resolved before an appropriate Court of law.

56. Resultantly, the present complaint is being **dismissed** with a liberty to the complainants to approach before the competent Civil Court for redressal of their grievance. This order is without prejudice to the rights of the



complainants realised as per the RERD Act 2016 for which the complainants may approach the Authority once the matter with respect to the setting aside of conveyance deed is decided by the concerned Civil Court. The status quo imposed over the plot in question vide order dated 16.01.2024 is vacated.

File be consigned to record room after uploading of the order on the website of the Authority.

