



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	193 of 2024
Date of filing.:	31.01.2024
Date of first hearing.:	12.03.2024
Date of decision.:	22.01.2026

1. Karamveer Singh S/o Sh. Karamveer Singh
2. Mrs. Promila Singh w/o Karamveer Singh
Both r/o Flat No. T-29-202, BPTP Park Floor 2,
Sector-76, Faridabad Haryana, 121004

....COMPLAINANTS

VERSUS

1. M/S BPTP Limited
OT-4, 3rd floor, Next Door, Parklands
Sector-76, Faridabad
2. M/s Countrywide Promoters Pvt Ltd
OT-4, 3rd floor, Next Door, Parklands
Sector-76, Faridabad

....RESPONDENTS

CORAM: **Parneet Singh Sachdev** **Chairman**
 Nadim Akhtar **Member**
 Dr. Geeta Rathee Singh **Member**

Present: - Mr. Gaurav Gupta, Counsel for complainant through VC
 Mr. Tejeshwar Singh, Counsel for the respondent.

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ORDER (PARNEET S. SACHDEV-CHAIRMAN)

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 Rule 28 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 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.	Park Floors-II, Sector-76, Faridabad.
2.	Nature of the project.	Residential
3.	RIERA Registered/not registered	Not Registered
4.	Details of unit.	T-29, 201, 1283 sq. ft.

5.	Date of Allotment	31.03.2023
6.	Date of builder buyer agreement	20.05.2023
7.	Due date of possession	Cannot be ascertained as per clause of agreement because total sale consideration was not paid by the complainants till filing of this complaint.
8.	Possession clause in BBA (Clause 6.1 & 2.4)	<p>6.1- The Seller/ Confirming party proposes to offer possession of the unit to the purchaser within the commitment period.</p> <p>2.4-Commitment period shall mean subject to force majeure circumstances, intervention of statutory authorities and purchaser having timely complied with all its obligations, formalities or documentation as prescribed/ requested by Seller/Confirming party under this agreement and not being in default under any part of this agreement, including but not limited to the timely payment of all installments of the total sale consideration as per the payment plan opted, the Seller/Confirming party shall offer the possession of the unit to the purchaser within a period of 30 days from the date the applicant deposits the total sale consideration with the seller.</p>
9.	Total/Basic sale consideration	₹ 36,00,000/-



10.	Amount paid by complainants	₹18,60,000/-
11.	Offer of possession.	29.06.2023
12.	Cancellation letter	08.11.2023
13.	Occupation Certificate (Decmed one)	17.10.2022

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. That respondent launched an affordable quality housing Independent Residential Floors project by the name 'Park Floors-II' in sector-76, Faridabad, Haryana.
4. That the complainants applied for the residential Floor and unit No.T-29 201 was allotted to the complainants vide allotment letter dated 31-03-2023 and as per the allotment letter the value of the unit was Rs. 36 lacs and 20,000/- charges for property registration facilitation and total net price becomes Rs. 36,20,000/-. This is two bed room flat with area measuring 1283 Sq. feet. Copy of the allotment letter is annexed as Annexure C-1.
5. That floor buyer agreement was executed between the parties on 20.05.2023. Copy of the agreement dated 20.05.2023 is annexed as Annexure C-2.



6. That on the same day 20.05.2023 respondents issued one payment request letter to the complainants and as per that letter complainants were directed to pay Rs. 30,60,000/- on or before 29.06.2023. The copy of the payment request letter is annexed as Annexure C-3.
7. That on 29.06.2023 respondents issued offer of possession letter to the complainants along with statement of accounts and directed them to pay the due payments on or before 29.07.2023. Copy of the letter dated 29.06.2023 is annexed as Annexure C-4.
8. That without getting the OC from the competent authorities respondents issued the offer of possession of the unit to the complainants. The complainants had applied for the loan regarding the purchase of this unit but bank refused the request of the complainants on the ground that OC has not been obtained by the developer. In this regard an email was also sent by the complainants to the respondents on 19.08.2023. Copy of the E-mail is annexed as Annexure C-5.
9. That respondents issued demand notices on 01.09.2023 and 05.10.2023 to the complainants and directed them to deposit the amount but due to non-sanctioning of the loan, complainants could not deposit the amount on time and also informed the respondents through email dated 06.10.2023 that complainants had tried lots of bank for loan but bank refuses the request of the complainants on the ground that OC has not been obtained by the developer. So, request to extend the time for depositing the money

was made to respondents by the complainants. Copies of the demand notices are annexed as Annexure C-6 to C-8.

10. That due to the continuous reminders issued by the respondents for deposition of the money, complainants arranged the money from their relatives and friends and deposited/transferred Rs. 10 Laes on 12.10.2023 and Rs. 5 Laes through NEFT to the respondents. Copies of the payment receipts are annexed as Annexure C-9 & C-10.
11. That complainants already paid more than 50% of the BSP of the unit. On 08.11.2023 the respondents very cleverly terminate/cancelled the allotted unit of the complainants on account of non-payment of overdue whereas there is no fault on the part of the complainants and they are still ready to pay the balance sale consideration to the respondents but without OC no bank is sanctioning the loan of the complainants. Copy of the termination letter dated 08.11.2023 is annexed as Annexure C-11.
12. That thereafter complainants approached many times to the officials of the respondents and now the officials are saying that the same unit is re-allotted to you but now the price is Rs. 42 Laes instead of 36 Laes. Hence, the present complaint.

C. RELIEF SOUGHT

13. That the complainants seeks following relief and directions to the respondent:-

- i. Direct the Respondents to restore the unit bearing no. T9-201, Park Floors-II, Sector 76, Faridabad, Haryana admeasuring 1,283 sq. ft. in favour of the complainants because complainants already paid more than 50% BSP of the unit.
- ii. Direct the Respondents to obtain the occupation certificate from the concerned authorities and to deliver immediate Possession of the floor of the Complainants, i.e., along with all the promised amenities and facilities and to the satisfaction of the complainant; and
- iii. Pass an order restraining the respondents from charging any amount from the complainants which do not form part of the Floor Buyer's Agreement dated 20.05.2023 and/ or is illegal and arbitrary including but not limited to enhanced charges, cost escalation charges, delay penalty/interest charges, GST charges, VAT charges, Club membership charges, etc. Whatsoever; and/or to direct the respondents to refund/adjust any such charges which they have already received from the complainant and further to set aside & quash one sided, unilateral, illegal, unfair, arbitrary contracts/ undertakings/ agreements/ affidavits, etc;
- iv. May pass any other or orders as this Hon'ble Authority may deem fit under the facts and circumstances of the matter;

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondents filed detailed reply on 11.03.2024 pleading therein;

14. That the present complaint pertains to a residential floor bearing no. T-29/201 admeasuring 1283 sq. ft in the real estate project "Park Elite Floors" being developed by the Respondent No.1. The Respondent No.2 is a mere confirming party to the Agreement. That neither Respondent No.2 is a necessary party nor a proper party to the present case hence, its name should be deleted from the array of parties.
15. That the Respondent No.1 completed the development works and applied for the occupation certificate on 17.10.2022. The competent authority was bound to revert within 60 days in terms of code 4.10(4) of the Haryana Building Code, 2017, failing which, code 4.10(5) specifically provides that the application for grant of OC shall be treated as deemed OC and the unit can be legally occupied as the Unit is ready for possession.
16. That respondent No.1 has raised each specific demand strictly in consonance with the payment plan opted and agreed at the stage of booking as well as within the ambit of the clauses discretionally agreed and accepted by the complainants. A valid demand was raised with the offer of possession but the complainants failed to pay the same despite various reminders issued to the complainants. Thus, respondent No.1 vide

letter dated 09.11.2023 terminated the unit of the complainants and the cheques of the refund amount were shared with the complainants. However, the complainants failed to encash the same.

17. That the complainants herein defaulted in payment of demands and despite repeated reminders failed to remit the due installments. That the respondent raised demand "within 90 days of booking" dated 20.05.2023. Copy of Demand dated 20.05.2023 is marked and annexed as Annexure R3. It is pertinent to note that the Complainants failed to make payment of this demand.
18. That respondent was affected by the act of non-receipt of timely payment against the Unit. That timely payment of installments was the essence of the agreement. As is widely known and understood that the continuous flow of funds is pertinent to the real estate industry, it is submitted that the failure of the complainant in making due payments as per the schedule agreed upon has a cascading effect on the operations and the cost for proper execution of the project increases exponentially and further causes enormous business losses to the respondent.
19. That despite innumerable hardships being faced by the respondent No. 1, the respondent no.1 had completed the construction of the project and applied for the Occupation Certificate before the concerned Authority on 17.10.2022. That once an application for grant of occupation certificate is submitted to the concerned statutory authority, respondent ceases to have

any control over the same. The grant of occupation certificate is the prerogative of the concerned statutory authority and the respondent does not exercise any influence in any manner whatsoever over the same. Therefore, it is respectfully submitted that the time period utilized by the concerned statutory authority for granting the occupation certificate is liable to be excluded from the time period utilized for implementation of the project.

20. That at this instance, it is categorical to note that the competent department was bound to revert to the said application for occupation certificate in 60 days, failing which, the unit shall be deemed to have occupation certificate. Reference herein is made to Code 4.10(4) and 4.10(5) of the Haryana Building Code, 2017.
21. That the said provisions use the word "shall", i.e., treating them as mandatory and hence, mandatorily deeming the application for occupation certificate as a 'deemed Occupation Certificate' allowing the owners to occupy and use the premises. That the term of 60 days has expired on 17.12.2022 and no response has been received from the Competent authority, hence, the application dated 17.10.2022 act as occupation certificate.
22. That thereafter the respondent no. 1 offered the possession of the Unit to the Complainants on 29.06.2023. It is pertinent to mention that vide letter dated 29.06.2023 regarding offer of possession, the complainants were

asked to make the requisite payments based on the statement of final dues and complete the documentation required to enable the respondent no. 1 to initiate the process of physical possession of the unit, however, the complainants never turned up to take the possession of the Unit. That the complainants willingly and voluntarily did not take possession of the unit or remit the balance sales consideration, however the unit is ready and fit for possession. Multiple reminders were sent to the complainants in this regard, a list of which is noted below:

S.no	Particular	Date
1.	Reminder Notice-I	03.07.2023
2.	Reminder Notice-II	02.08.2023
3.	Reminder Notice-III	01.09.2023
4.	Final Demand Notice	05.10.2023

23. That even after the reminder letters dated 03.07.2023, 02.08.2023, 01.09.2023 and 05.10.2023, the complainants willingly and voluntarily did not take possession of the unit. The copies of the possession reminders dated 03.07.2023, 02.08.2023, 01.09.2023 and final demand notice dated 05.10.2023 are annexed as Annexure R-4 (Colly).

24. Since the complainants did not pay heed to the reminder letters issued by respondent No. 1, respondent No. 1 was constrained to issue the letter for Last and Final Opportunity dated 05.10.2023 for the Payment of the outstanding amount, failing the compliance of which, the Respondent No.1 will have no option but to terminate the unit of the Complainants.

25. That certain payments were made by the Complainants, however, the cheques issued by the complainants were bounced and the complainants were duly intimated in this regard. That the cheque no. 00149 dated 13.10.2023 for Rs. 10,00,000/- was returned by Bank with comments "Cheque Bounce, insufficient amount". Thereafter, cheque number 659516 dated 24.10.2023 for Rs. 12,70,000/- was returned by Bank with comments "Cheque Bounce, insufficient amount". That the copy of letters dated 17.10.2023 and 27.10.2023 intimating the complainants regarding the bounced cheque is annexed as Annexure R-5 (Colly).
26. However, despite the final opportunity, the Complainants failed to make a complete payment towards the said unit which led to the issuance of the Termination Letter dated 09.11.2023. That the Respondent No. 1 had the right to terminate the Unit as per the agreed terms and conditions under the Agreement. A copy of the Termination Letter dated 09.11.2023 is annexed as Annexure R-6.
27. That till date the complainants have made payment of Rs.18,60,000/-. Respondent has processed the refund of the complainants vide cheques dated 29.11.2023, however, the complainants failed to encash the same. The copy of the refund amount cheques is annexed as Annexure R-7.
28. That it is also pertinent to note that it is the complainant's case that they were unable to get loan from any bank/ financial institution. Contentions in respect to the same are wrong and denied. It is submitted that the

respondents were not responsible for the arrangement of funds by the complainants and that was the sole responsibility of the complainants. That the complainants before entering into the Agreement ensured the respondents that they shall make timely payments and same was not contingent upon the conduct of the respondent.

29. That clause 15.2 of the FBA clearly provides any application for a Home loan is at the sole discretion and liability of the complainants.

30. That no person should be granted the benefit of their own wrong is a settled principle of law and is squarely applicable in the present case, where the default of complainant had led to termination of the unit. Hence, no benefit of any sort, including restoration of the unit should be granted to the complainants.

E. ARGUMENTS OF COUNSEL FOR COMPLAINANTS AND RESPONDENTS

31. I.d. counsel for complainants submitted that complainants had purchased the unit by way of builder buyer agreement executed on 20.05.2023. Till filing of present complaint (31.01.2024) an amount of Rs 18,60,000/- stands paid to respondents. In respect of offer of possession, it has been stated that said offer was not supported with occupation certificate and on same pretext loan arrangement could not be made. Said difficulty was intimated to respondents vide email dated 06.10.2023. Request for

extension was made to respondent but respondents despite receipt of Rs 18.60 lacs had terminated the unit on 08.11.2023. Cheques attached alongwith said cancellation letter for remittance of amount of Rs 15,02,804/- has never been received by complainants. Now, present complaint has been filed seeking possession of booked unit after setting aside the termination letter.

32. In rebuttal, Id. counsel for respondent referred to clause 15.2 of agreement wherein it has been expressly mentioned that arrangement of home loan is sole responsibility of allottee and respondents cannot be made liable for it. Further, he stated that agreement duly provides for specific arrangement of payment by way of annexure B attached with agreement. Complainants have not adhered to said plan. Offer of possession duly supported with occupation certificate was issued to complainants but complainants could not make payment of outstanding due amount. Therefore, allotment of unit in question was terminated vide issuance of Termination letter dated 08.11.2023. Alongwith said termination, cheques of Rs 15,02,804/- were issued in favor of complainants. But they choose not to encash them. He insisted that possession should not be awarded to the complainants.

G. ISSUES FOR ADJUDICATION

33. Whether the termination letter dated 08.11.2023 is valid or not?

34. Whether the complainants are entitled to reliefs sought or not?

H. OBSERVATIONS OF THE AUTHORITY

35. Factual matrix of the case is that a unit no. T-29-201 having area of 1283sq ft was allotted in the project-'Park Floors-2' being developed by the respondents situated at Sector 77, Faridabad, vide allotment letter dated 31.03.2023. A builder buyer agreement was executed between both the parties on 20.05.2023 and as per clause 6.1 and 2.4 of the agreement, possession of the unit was to be delivered within a period of 30 days from the date the complainants deposits the total sale consideration with the respondent no. 1.

36. Respondent no. 1 in its written reply admit the fact that present complaint pertains to a unit bearing no. T-29-201, admeasuring 1283 sq. ft. in the real estate Project "Park Floors 2" being developed by the Respondent No. 1. But the Respondent No. 2 is a mere confirming party to the Agreement and no relief has been claimed from the Respondent No. 2. Hence, its name should be deleted from the array of parties.

37. Perusal of facts and submissions reveals that complainants have paid all amounts and carried out transactions with respondent no. 1 only. However, in builder buyer agreement the obligation of delivering possession to complainants was imposed upon both the respondents, i.e. Seller (BPTP) and Confirming Party (Countrywide promoters) vide clause 6.1 of builder buyer agreement which is as follows:-



Clause 6.1 in agreement

That the Seller/Confirming party proposes to offer possession of the unit to the purchaser(s) within the Commitment period.

Keeping in view the foresaid clause, the request of respondent deleting name of respondent no. 2 is rejected.

38. Grievance of the complainants herein is that respondent had cancelled the allotment of unit despite receipt of an amount of Rs 18 lacs, which till date is lying with respondents only. Cancellation was carried out on basis of offer of possession dated 29.06.2023 against which respondents had raised demand of Rs 34,81,230/- inclusive of stamp duty. Said amount could not be arranged by way of home loan as bank refused to sanction the loan without Occupation Certificate. Request for extension of time to make payment was made to respondents vide email dated 06.10.2023.

39. It is the stand of respondent that complainants were themselves responsible for arranging the loan as agreed in clause 15 of agreement. Moreover, no request of any Occupation Certificate was ever raised by any bank to them. In respect of cancellation, it is submitted that a valid offer of possession duly supported with deemed occupation certificate was made to complainants. Complainants did not make payment on time. Even the payment which were due prior to offer of possession was also not made by complainants



on time. Due to such continuous defaults, the allotment of the unit stood terminated.

40. After considering submissions of both parties, Authority is of view that relevant provisions of agreement dated 20.05.2023 needs to be examined which are as follows:-

Clause 6.1 of agreement.

That the Seller/Confirming party proposes to offer possession of the unit to the purchaser(s) within the Commitment period.

Clause 2.4 of agreement

Commitment period shall mean subject to force majeure circumstances, intervention of statutory authorities and purchaser having timely complied with all its obligations, formalities or documentation as prescribed/ requested by Seller/Confirming party under this agreement and not being in default under any part of this agreement, including but not limited to the timely payment of all installments of the total sale consideration as per the payment plan opted, the Seller/Confirming party shall offer the possession of the unit to the purchaser within a period of 30 days from the date the applicant deposits the total sale consideration with the seller.

Clause 3.1 of agreement

In consideration of the purchaser complying with the terms and conditions of this Agreement completing various formalities, as may be required herein and agreeing to make timely and complete payment of the Total Sale consideration as per the payment plan opted, the Seller/Confirming party hereby agrees to sell, convey and transfer and the purchaser hereby agrees to purchase the residential flat bearing no. T-29-201, Tower-T at Park Floors 2 situated in Sector 77 Faridabad, Haryana admeasuring super area 119.94 sq. mtr as per the layout plan of the unit annexed as Annexure-A as on 'as is where basis' only for the total sale consideration as outlined in Clause 4 of this agreement.

Clause 5.2 of agreement



The purchaser agrees and understands that the Seller/Confirming party is not giving any warranty or guarantee with regard to the furnitures/furnishings/accessories/utilities as the case may be, that may be installed in the unit as the unit is being sold on an 'as is where is basis'

Clause 7.1 of agreement

The timely payment of each instalment of the Total Sale Consideration and other charges as stated herein is the essence of this transaction/Agreement. In case the Purchaser(s) neglects, omits, ignores, defaults, delays or fails, for any reason whatsoever, to pay in time any of the instalments or other amounts and charges due and payable by the Purchaser(s) as per the payment schedule opted or if the Purchaser(s) in any other way fails to perform, comply or observe any of the terms and conditions on his/her part under this Agreement or commits any breach of the undertakings and covenants contained herein, the Seller/Confirming Party may at its sole discretion be entitled to terminate this Agreement forthwith and forfeit the amount of Earnest Money and Non-Refundable Amounts and other amounts of such nature. In the event the Seller/Confirming Party exercises its right to terminate the present Agreement, the Purchaser(s):

a. Shall be left with no right or interest on the said Unit and the Seller/Confirming Party shall have the absolute right to sell the said Unit to any other third party.

b. Shall approach the Seller / Confirming Party for the refund, if any, and the Seller / Confirming Party shall refund the balance amount, if any, to the Purchaser(s) without any interest within (120) One Hundred Twenty days from the date of sale of the Unit by the Seller/Confirming Party to any third party.

Clause 14.1 of agreement

14.1. The Purchaser(s) is getting his complete address for correspondence noted herein below at the time of executing this Agreement and all communications/notices/correspondences sent to the Parties respectively on their below mentioned addresses by way of E-Mail / Speed Post/registered post shall be deemed to be validly served on them.

*In case of Seller/Confirming Party
The Director
M/s BPTP Ltd.*

*In case of Purchaser
Mr. Karamveer Singh
S/o Mr. Rajender Singh Dhankar*

OT-14, 3rd Floor, Next Door. Parklands,
Sector-76, Faridabad, Haryana-121004
E-mail: customercare@bptp.com

T-29-202, BPTP Park Floor-2
Near Next Door Mall, Sector-76
Nimka, Faridabad, Haryana-121004
E-mail: karamveer@yahoo.com

Clause 15.2 of agreement

Home Loan Obligations: The Purchaser(s) have represented and warranted to the Seller/Confirming Party that the Purchaser(s) is fully capable to make all the payments out of his own resources towards the purchase and maintenance of the Unit as and when demanded by the Seller/Confirming Party / Maintenance Agency. The Purchaser (s) understand and agree that he will apply for home loan, if required, from any bank/financial institution at his sole discretion and responsibility and in accordance with the policy as formulated by the said bank / financial institution. In the event the Purchaser(s) chooses to obtain finance from any bank / financial institution or any other source, it is clearly understood by the Purchaser(s) that the Purchaser(s) obligation to purchase the said Unit and make timely payments of all the installments and other amounts as per the Payment Plan opted shall not be contingent to the Purchaser (s) ability or competency to obtain such financing/loan and the Purchaser (s) will remain bound herein whether or not the Purchaser (s) has been able to obtain financing/loan for the purchase of the said Unit. The Purchaser(s) agree and understand that it shall not be the responsibility or liability of the Seller/Confirming Party to make arrangements or facilitate in any manner whatsoever in the sanctioning and disbursement of the home loan to the Purchaser(s).

Annexure B to agreement- Payment plan

AT THE TIME OF BOOKING	10% OF TSV
WITHIN 90 DAYS OF BOOKING	85% OF TSV
ON OFFER OF POSSESSION	5% OF TSV
	IFMS + PRFC + ADVANCED CAM + OTHER CHARGES

41. Aforesaid clauses establish the fact that complainants residing in unit T29-202 had purchased the unit to T-29-201 (both located in same tower of the same project-Park Floors-2) vide agreement dated 20.05.2023. Booking amount

of Rs 3,60,000/- was paid on 31.03.2023, i.e. 10% of TSV as first instalment. Second instalment of 85% of TSV was to be paid within 90 days of booking. 90 days of booking comes out to 29.06.2023. Meaning thereby an amount of Rs 30,60,000/- was to be paid upto 29.06.2023 exclusive of booking amount.

42. Demand letter for second instalment 85% of TSV was raised by respondents on 20.05.2023 granting therein time period 'on or before 29.06.2023' to make payment. However, complainants did not honor said payment. Thereafter, offer of possession was issued by respondents to complainants on 29.06.2023 demanding therein Rs 32,65,380/-. In statement of account attached along with offer of possession, it is clearly mentioned that an amount of Rs 3,60,000/- has been paid by complainants till 29.06.2023. Reminder for same was issued on 02.08.2023. Complainants in response to the offer of possession sent an email dated 06.10.2023 stating therein *'Please refer to our communication with your customer care executive and we informed that we had tried lots of banks for loan finance but they denied due to occupation certificate. Now we have no option to arrange self funding to retain our property. We are in arrangement of funds which are expected in upto 15th October maximum. You are requested to kindly give us extensions to make payments.'*

43. Thereafter, payment of Rs 10,00,000/- was made by complainants on 12.10.2023 and Rs 5,00,000/- on 25.10.2023. In total, an amount of Rs 18,60,000/- stands paid against total sale consideration of Rs 36 lakhs.

44. Respondents sent an intimation cum demand letter dated 17.10.2023 whereby complainants were informed that cheque number 000149 dated 13.10.2023 for Rs 10 lacs has been returned by bank with comments 'Cheque bounce, insufficient fund'. Accordingly, complainants were again asked to make payment of Rs 2588579/-. Similarly, another intimation cum demand letter was issued by respondents on 27.10.2023 informing the complainants that cheque number 659516 dated 24.10.2023 for Rs 1270000/- has been returned by bank with comments 'Cheque bounce, insufficient fund'. Accordingly, complainants were again asked to make payment of Rs 20,89,079/-.

45. After repeated failure on part of complainants to make payment issued in consonance with payment plan, the respondents terminated the unit on 08.11.2023. Cheques of Rs 15,02,804/- were issued in name of complainants towards refund of paid amount.

46. It is pertinent to mention here that complainants in whole of its pleadings or arguments has not challenged the demand letter issued for second installment which was for 85% of TSV. Herein, the complainants are praying for quashing of termination and restoring of allotment of unit stating that home loan was not financed/sanctioned by the bank due to non receipt of occupation certificate. Whereas, as per clause 15.2 of agreement, the complainants were responsible to arrange the finance either by themselves or home loan. Looking at this case from another angle, the complainants were liable to make payment of Rs 30 lakhs upto 29.06.2023 which was not done as evident from statement of

accounts attached with offer of possession dated 29.06.2023. Moreover, extension of time for making payment was sought upto 15 October 2023. Termination was issued by respondents thereafter only on 08.11.2023.

47. Further, the Supreme Court in Pioneer Urban Land and Infrastructure Ltd. v. Govindan Raghavan, (2019) 5 SCC 725, while emphasizing consumer protection, clarified that contractual obligations cannot be ignored where default is attributable to the allottee rather than to any deficiency of the promoter. Likewise, in Imperia Structures Ltd. v. Anil Patni, (2020) 10 SCC 783, the Court reiterated that RERA remedies must operate within the framework of contractual commitments, and equitable relief cannot be extended to a party in clear contractual breach.

48. The complainants' contention that loan disbursement was denied due to the absence of an Occupation Certificate does not constitute a legally sustainable defence. Clause 15.2 of the Agreement expressly places the burden of financial arrangement upon the allottee and clarifies that the obligation to pay is not contingent upon loan sanction. The Hon'ble Supreme Court in Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh, (2021) 13 SCC 1, has affirmed that RERA does not dilute the binding nature of contractual obligations and that allottees remain bound by agreed payment terms unless statutory violations by the promoter are established.

49. The factual matrix further establishes continuous default, dishonour of cheques due to insufficient funds, and failure to cure the breach despite multiple

opportunities and extensions. The respondents exercised termination strictly in accordance with Clause 7.1 of the Agreement. The Supreme Court in *Kailash Nath Associates v. Delhi Development Authority*, (2015) 4 SCC 136, underscored that contractual consequences flowing from a demonstrable breach cannot be interfered with where default is proven and attributable to the defaulting party.

50. While the Real Estate (Regulation and Development) Act, 2016 is a welfare legislation enacted to safeguard the interests of homebuyers, it does not extinguish the doctrine of sanctity of contract. RERA seeks to balance consumer protection with commercial certainty. The regulatory framework does not permit an allottee to retain contractual benefits while simultaneously disregarding reciprocal obligations. Relief under RERA is intended to remedy promoter misconduct, not to immunize allottees from the consequences of contractual non-performance. Equity under RERA must operate in aid of lawful contractual compliance and cannot be invoked to reward persistent default.

51. In view of the foregoing analysis, this Authority concludes that the complainants failed to comply with the agreed payment schedule, committed repeated material breaches of the Builder Buyer Agreement, and did not establish any statutory violation or arbitrariness on the part of the respondents. Accordingly, the termination of allotment cannot be termed illegal, unjustified, or violative of the RERA Act. The prayer seeking quashing of termination and restoration of allotment is therefore rejected.

52. However, this order shall not prejudice the complainants' statutory rights, if any, to seek refund in accordance with the provisions of the RERA Act, 2016 and the terms of the Agreement. Since no specific prayer for refund has been made in the present proceedings, no direction on that aspect is being issued. The complainants shall remain at liberty to avail appropriate legal remedies in accordance with law.

53. In view of aforesaid observations, present complaint stands Disposed of. File be consigned to the record room after uploading of the order on the website of the Authority.



DR. GEETA RATHEE SINGH
[MEMBER]



NADIM AKHTAR
[MEMBER]



PARNEET S. SACHDEV
[CHAIRMAN]