

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 543 of 2025

Date of Decision: January 20, 2026

Ms. Urmila Devi Sharma wife of Sh. Raj Kumar Sharma resident of Flat No. T-12/4B, Ozone Park Apartments, Sector 86, Faridabad, Haryana - 121002.

Appellant.

Versus

M/s. Shiv Sai Infrastructure Pvt. Ltd. having registered office at Office No. 6A, 4th Floor, Ozone Centre, Sector 12, Faridabad, Haryana - 121007 through its Director.

Respondent.

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad
Dinesh Singh Chauhan**

**Chairman
Member (Judicial)
Member (Technical)**

Present: Mr. Brijesh Kumar, Advocate and
Mr. Virender Singh, Advocate,
Ms. Sheetal Jaiswal, Advocate,
for the appellant.

ORDER:

RAJAN GUPTA, CHAIRMAN (ORAL)

Present appeal is directed against order dated 08.05.2025 passed by the Authority at Panchkula¹ dismissing the complaint filed by the appellant/allottee being not maintainable. Operative part thereof reads as under:

“4. The complainant was asked during the hearing whether there was indeed an order of the Hon'ble State Commission or the National Commission which has allowed him to come to this Authority when the issue at hand had already been decided by the State Commission. The Complainant and his counsel could not provide any order or evidence to substantiate that their complaint was maintainable.

5. Therefore, the present complaint is not maintainable. Accordingly, the present complaint stands dismissed.

6. File be consigned to the record room.”

¹ Haryana Real Estate Regulatory Authority, Panchkula.

2. Factual matrix of the case is that the appellant/allottee booked a flat, measuring 1480 sq. ft. in the project of the respondent/promoter namely "The Ozone Park Apartment" located at Sector 86, Faridabad, Haryana. The booking was made on 07.01.2009 upon payment of a booking amount of ₹10,00,000/- against a total sale consideration of ₹30,00,000/-. Flat Buyer Agreement (FBA) was executed between the parties on 10.02.2009. As per the terms of the agreement, possession of the flat was to be delivered within 36 months from the date of commencement of the construction. Part Occupation Certificate for the project was granted on 03.10.2012. Thereafter, respondent/promoter offered the possession on 27.11.2012, which was taken by the appellant/allottee on 07.02.2013. Conveyance deed was executed in favour of appellant/allottee on 11.02.2013. However, after a lapse of more than eleven years, the present complaint filed before the Authority, seeking delayed possession charges (DPC) and refund of certain amounts alleged to have been wrongly charged under the heads of Preferential Location Charges (PLC), increased area charges, club membership fee, car parking charges, reduced power back-up, and other miscellaneous charges.

3. Stand of the respondent/promoter before the Authority is that the appellant/allottee has been persistently engaging in litigation on the same issue since 2014 by approaching multiple forums one after another. It was contended that the appellant/allottee had initially filed a complaint before the District Consumer Forum, which was decided in favour of appellant/allottee. However, the order of the District Forum was set aside by the State Commission as District Forum lacks pecuniary jurisdiction to adjudicate the matter, granting liberty to the appellant/allottee to file a fresh complaint before the State Commission.

Thereafter, appellant/allottee filed a fresh complaint before the State Commission but subsequently withdrew it. Meanwhile, the appellant/allottee again filed a complaint before the RERA Authority at Panchkula in 2023, which was dismissed on the ground that the matter was sub judice before the State Commission with a liberty to file afresh on being complaint before State Commission withdrawn by her. Taking this liberty, she again filed a complaint before Authority, same was liable to be dismissed as barred by the principle of *res judicata*.

4. After considering rival contentions of the parties, the Authority dismissed the complaint vide impugned order, operative part whereof has been reproduced in para 1 of this order.

5. Aggrieved by the impugned order, the appellant/allottee preferred the instant appeal before this Tribunal. She primarily challenged the impugned order on the ground that Authority has erred in dismissing the complaint being barred by *res judicata*. She further contended that Consumer Protection Act and RERA Act are concurrent and independent, thus RERA Act provides independent and additional remedy without any bar.

6. We have heard learned counsel for the appellant/allottee and given careful thought to the facts of the case.

7. It is on record that the offer of possession was made to the appellant/allottee on 27.11.2012 after the grant of Part Occupation Certificate to the project on 03.10.2012, and actual possession was handed over on 07.02.2013. The Conveyance Deed was executed in favour of the appellant-allottee on 11.02.2013. However, the appellant/allottee approached the Authority only on 18.04.2024, after more than eleven years of taking possession.

8. Keeping in view that the Part Occupation Certificate was granted in 2012, possession was taken in 2013, and no satisfactory explanation has been provided for the inordinate delay in filing the complaint before the Authority, it is apparent that the grievance was raised belatedly and without merit. The appellant/allottee has been in continuous possession and enjoyment of the property since 2013, indicating that the complaint may have been filed for extraneous or monetary gain. Consequently, the complaint suffers from serious delay and laches, rendering it untenable.

9. It is also evident that despite having full knowledge of the facts and ample opportunity to avail timely remedy under RERA, which came into force by virtue of notification dated 25.03.2016, the appellant/allottee did not act diligently to raise her grievance before right forum and chose to remain dormant for an unreasonably long period in other forums till 2023 i.e., date of filing of complaint before RERA Authority. This undue delay, coupled with her repeated attempts to agitate the same cause of action before multiple forums, defeats the statutory objective of expeditious adjudication under RERA and encourages multiplicity of proceedings. Under such circumstances, the present appeal fails due to inordinate delay, laches, and attempt at forum shopping. Such conduct renders the complaint non-maintainable and warrants dismissal of both the complaint and present appeal in order to uphold the integrity of the adjudicatory process.

10. The law laid down in **B. L. Sreedhar and others v. V.K.M. Munireddy and others**, AIR 2003 SC 578, cannot be overlooked in the facts and circumstances of this case. Relevant part is reproduced hereunder for ready reference:

“Lapse of time and delay are most material when the plaintiff, by his conduct may be regarded as waiving his rights, or where his conduct, though not amounting to a waiver, has placed the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards asserted. When, however, an argument against a relief, otherwise just, is founded upon mere delay not amounting to bar by limitation, the validity of that defence must be tried by principles substantially equitable.”

11. In view of above, the appeal is without any merit and is hereby dismissed.
12. Copy of this order be sent to parties/their counsel and the Authority below.
13. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

January 20,2026/mk