

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

Complaint no.	2520 of 2024
Date of filing complaint	31.05.2024
Date of decision	16.12.2025

1. Sunil Kumar Singh 2. Pammi Singh Both R/o: D-1/804, The HeartSong, Sector-108, Gurugram	Complainant
Versus	
1. Experion Developers Pvt. Ltd. Regd. Address at: F-9, first floor, Manish Plaza-1, plot no. 7, MLU Sector 10, Dwarka, New Delhi 110075. 2. District Registrar Firms And Societies Regd. Address at: Department of Industries & Commerce, Plot No. 2, District Industries Centre, IDC, Sector-16, Gurugram. 3. Director General Department of Town And Country Planning Haryana. Regd. Address at: Plot No. 3, Sector-18A, Madhya Marg, Chandigarh	Respondents

CORAM:	
Shri Arun Kumar	Chairman
Shri Phool Singh Saini	Member
APPEARANCE:	
Shri Sunil Kumar Singh	Complainant in person
Shri Venkat Rao (Advocate)	Respondents

ORDER

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 29 of the Haryana Real Estate (Regulation and

Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made there under or to the allottee as per the agreement for sale executed inter se.

A. Unit and project related details

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

S. No.	Particulars	Details
1.	Name of the project	"The Heartsong", Sector-108, Gurugram
2.	Nature of project	Group Housing Colony
3.	Project Area	4.389 acres
4.	DTCP license no. and validity	38 of 2010 dated 14.05.2010 valid up to 13.05.2022
5.	Name of licensee	Experion Developers Pvt.Ltd.
6.	RERA registration and validity	306 of 2017 dated 17.10.2017 valid up to 16.10.2018
7.	Unit no.	The Symphony-0804, 8 th floor and tower D1 (As per page no. 26 of the reply)
8.	Unit area admeasuring	2338 sq. ft. (As per page no. 66 of the reply)
9.	Date of execution of apartment buyer's agreement	23.06.2013 (As per page no. 18 of the reply)
10.	Possession clause	10. Project Completion Period 10.1 Subject to force majeure, timely payment

	<p>of the total sale consideration and other provisions of this agreement, based upon the company's estimates as per present project plans, the company intends to handover possession of the apartment within a period of 36 (thirty-six) months from the date of this agreement ('Commitment Period'). The buyer further agrees that the company shall additionally be entitled to a time period of 180 (one hundred and eighty) days ("Grace Period") after expiry of the commitment period for unforeseen and unplanned project realities. However, in case of any default under this agreement that is not rectified or remedied by the buyer within the time period as may be stipulated, the company shall not be bound by such commitment period.</p> <p>(Emphasis supplied)</p> <p>(As per page no. 35 of the reply)</p>
11.	<p>Date of execution of agreement to sell between the original allottees and the complainant</p> <p>14.11.2021</p> <p>(As per page no. 59 of the reply)</p>

12.	Application for transfer of allotment in favour of the complainant	06.12.2021 (As per page no. 64 of the reply)
13.	Due date of possession	23.12.2016 (Note: Due date to be calculated 36 months from the date of the execution of agreement i.e., 23.06.2013 plus grace period of 6 months)
14.	Total sale consideration	Rs.1,37,09,000/- (As per page no. 71 of the reply)
15.	Total amount paid by the complainant	To be asked
16.	Occupation Certificate	02.05.2018 (As per page no. 30 of the of the complaint)
17.	Offer of possession	No document on record.
18.	Conveyance deed	14.12.2021 (As per page no. 66 of the of the reply)
19.	Possession letter dated	14.12.2021 (As per page no. 91 of the of the reply)
20.	Completion Certificate	23.02.2023 (As per page no. 32 of the complaint)

B. Facts of the complaint:

3. "The Heartsong" at Sector-108, Gurugram is developed by Experion Developers Private Limited under License issued by Director, Town & Country Planning Haryana. License no. 38 of 2010 was issued under provisions of Haryana Development & Regulation of Urban Areas Act, 1975 & Rules framed thereunder. License was renewed twice by DGTCP in the years 2018 & 2021.

4. That "The Heartsong" consists of 811 independent apartment units distributed over 15 towers and consists of common areas and facilities like open and covered parking, basement, water storage and pumping facility, stairs, lifts, fire hydrants, community building, swimming pool, green belt, play-ground, diesel generator sets, sewage water treatment plant, etc.
5. That construction of "The Heartsong" was carried out in phases. Phase-IV of the construction comprising of Towers D1, D2 & D3 was registered with Haryana Real Estate Regulatory Authority vide Certificate of Registration no. 306 of 2017. "The Heartsong" being an ongoing project was governed by various provisions of the Act and HRERA Rules framed thereunder.
6. That Occupancy Certificate for different towers were issued by DGTCP in phases. OC for Towers D1, D2&D3(Phase-IV) issued by DGTCP on 02.05.2018 contained certain conditions. One such condition as laid down at Sl. No. 2 of OC is reproduced hereunder:

"2. That you shall abide by the provisions of Haryana Apartment Ownership Act, 1983 and Rules framed thereunder. All the flats for which Occupation Certificate is being granted shall have to be compulsorily registered and a deed of declaration will have to be filed by you within the time schedule prescribed under the Haryana Apartment Ownership Act, 1983. Failure to do so shall invite legal proceedings under the statute.

7. That Section 2 of the Apartment Ownership Act states that the provisions of this Act shall apply to every apartment lawfully constructed for residential purposes, integrated commercial complexes, flatted factories, Information Technology Industrial Unit, Cyber Park and Cyber City for the purpose of transfer of ownership of an individual apartment in a building whether constructed before or after the commencement of this Act. In case of licences

issued under the Haryana Development and Regulation of Urban Areas Act, 1975, the owner of such property/building shall duly execute and get registered a declaration within a period of ninety days after obtaining part-completion/completion certificate under the rules framed under the Haryana Development and Regulation of Urban Areas Act, 1975 or occupation certificate under the rules framed under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (41 of 1963), whichever is earlier. License for construction of "The Heartsong" was issued by DGTCP under provisions of the HDRUA Act, hence Deed of Declaration was required to be filed after issue of Completion Certificate.

8. That to my knowledge, EDPL has not obtained part-completion certificate for "The Heartsong" project. Completion Certificate for the project was granted by DGTCP on 23.02.2023. EDPL immediately after obtaining OC for towers D1, D2&D3 has executed the declaration vide VASIKA no. 1665 dated. 27.06.2018. They have filed the declaration with DGTCP before grant of CC is evident from the Deed of Apartment executed in 2019 by apartment owners. There is gap of around five years between grant of OC for Phase-IV and CC. Further, there is also change in common area layout plan of D-block (phase-IV) vis-à-vis the sanctioned plan. As per Section 2 of the Apartment Ownership Act, EDPL was required to execute declaration/amended declaration after grant of CC and not before grant of CC. EDPL has contravened a mandatory statutory provision and liable for action as per statute.
9. That Section 17 sub-section (1) of the Act states that the promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees and hand-over the physical possession of the plot, apartment or building, as the case may be, to the allottees and the common areas to the association of the allottees and the other title documents pertaining thereto

within specified period as provided under the local laws. Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate. Section 17 sub-section (2) of the Act states that after obtaining the occupancy certificate and handing-over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to handover the necessary documents and plans, including common areas, to the association of the allottees as per the local laws. Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, to the association of the allottees within thirty days after obtaining the completion certificate.

10. That Declaration executed, registered under the Indian Registration Act, 1908 and filed with the DGTCP has 02 mandatory exhibits. Exhibit-A is approved layout plan containing tower& floor-wise apartment details, undivided proportionate share in common areas and facilities, etc. Exhibit-B (as required under Section 16 of the Apartment Ownership Act) is bye-laws of the association of apartment owners (*hereinafter called as association*) for administration of the property including common areas and facilities.
11. That Section 19 sub-section (5) of the Act states that the allottee shall be entitled to have the necessary documents and plans, including that of common areas, after handing-over the physical possession of the apartment or plot or building as the case may be, by the promoter. Apartment owners after physical possession of the apartment have right to know their proportionate share in the common areas and their proportionate voting right in the association. This information is available in the declaration already executed by EDPL on 27.06.2018. EDPL on 28.02.2024 was requested to share the declaration with the apartment owners. EDPL through letter dated

10.04.2024 has refused to share the declaration with the owners and has advised the apartment owners to have an elected RWA (Resident Welfare Association) as per provisions of the Haryana Registration & Regulation of Societies Act, 2012. One hundred and fifty-four apartment owners through letter dated 15.04.2024 again requested EDPL to share the declaration with apartment owners and initiate process for formation of the association of apartment owners. There is no response from EDPL & DGTCP on these issues. Possession of apartments are handed-over, more than a year has elapsed since grant of CC, there is no local law specifying time-period for handing-over the common area to the association, EDPL has neither shared the declaration with us nor handed-over the common area. EDPL has contravened provisions of Section 17(2) & Section 19(5) of the Act.

12. That duties of a RERA registered promoter is described under Section 11 of the Act. One among other duties of the promoter is described at Section 11(4)(e) of the Act which states that the promoter shall enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable. Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project. "The Heartsong" is governed under provisions of the Apartment Ownership Act and Rules frames thereunder. Formation of association of apartment owners is mandatory under provision of the said Act. EDPL was responsible to facilitate the formation of the association. They have details of apartment owners and their proportionate share in common area. They have also executed declaration containing bye-laws for administration of the common area by the association. More than six years has elapsed since grant of OC for the last phase of construction and more than one year has

elapsed since grant of CC for the project. Other than filing the declaration, EDPL has not taken any action till date for formation of the association. EDPL has contravened Section 11(4)(e) of the Act. By advising the owners to form RWA and elect Governing Body as per the HRRS Act, they have attempted to shift the responsibility on apartment owners.

13. That Bye-laws of the association as prescribed under the Haryana Apartment Ownership Rules, 1987 for administration of "The Heartsong" is already executed, registered and also filed with DGTCP. Both EDPL and the apartment owners of "The Heartsong" are legally obligated to adopt bye-laws which is already filed with DGTCP and there is no exemption available to apartment owners to adopt a bye-laws which is inconsistent with the bye-laws filed with DGTCP. There is no exemption available to EDPL also to permit apartment owners to adopt a bye-laws which is inconsistent with the bye-laws already filed by them with DGTCP.
14. That seven allottees from "The Heartsong" by subscribing to a Memorandum of Association (MoA) and Bye-laws got themselves registered as Resident Welfare Association (RWA) with District Registrar, Firms and Societies, Gurugram on 17.07.2018 under provisions of the HRRS Act, 2012 by the name "The Heartsong Condominium Association". Certificate of Registration and bye-laws governing the RWA as approved by the District Registrar. EDPL has referred to this RWA in their letter dated 10.04.2024.
15. That the bye-laws of RWA approved by the District Registrar on 17.07.2018 is later than the prescribed bye-laws executed on 27.06.2018 by EDPL. The bye-laws adopted by the registered RWA are inconsistent with the bye-laws prescribed under the Apartment Ownership Rules, 1987.
16. That the apartment owners automatically become member of the association as per the bye-laws prescribed under the Apartment Ownership Rules,

whereas the apartment owners by virtue of ownership becomes eligible for membership but their admission is at the discretion of the Governing Body as per the bye-laws approved by the District Registrar. Any bye-laws granting discretionary power to the Governing Body is against the interest of the apartment owners who have proportionate share in the common areas and thus deserves to be declared void ab-initio. An apartment owner can refuse to become member of the association under the bye-laws approved by the District Registrar because apartment owners are not required to mandatorily submit their apartment to the provisions of the Apartment Ownership Act. The membership fee prescribed under bye-laws approved by the District Registrar is five times the fee prescribed under the Apartment Ownership Rules. Transfer of voting right is permitted under the bye-laws approved by the District Registrar whereas there is no such provision under the Apartment Ownership Rules. Even, the quorum and process of election is different in two bye-laws.

17. That both EDPL and apartment owners are legally obligated to enforce only that bye-laws which is in conformance to the Apartment Ownership Rules and came into existence prior to registration of the said RWA. District Registrar, Firms & Societies, Gurugram has committed an error by approving the bye-laws which is at variance with the bye-laws executed by EDPL and filed with DGTCP.
18. That the RWA being referred to by EDPL is not functional since registration and already under dispute. District Registrar has concluded that the said RWA has only six members on date i.e. it has not lawfully been able to add a single apartment owner as its member. The District Registrar, Gurugram needs to cancel the registration of this defunct RWA. EDPL is also immediately required to discharge its responsibility as prescribed under Section 11(4)(e) of the Act in facilitating formation of association of apartment owners as

prescribed under the Apartment Ownership Act. EDPL's advice to apartment owners to have an elected governing body out of an already disputed RWA with only six members is malafide and against interest of remaining apartment owners.

19. That EDPL for past eight years is collecting huge amount from apartment owners for managing the common areas and facilities. They are currently collecting around Rs.6,00,00,000/- annually from 811 apartment owners towards Common Area Maintenance (CAM). It is estimated that they have also collected around Rs. 14,89,00,000/- as one-time Interest Free Maintenance Security Deposit. They are not facilitating the formation of the association and insisting for an elected governing body out of a defunct RWA because of their vested interest. They fear losing these money and control over common area if they handover the common areas and facilities to the allottees.
20. That Section 11(4)(d) of the Act states that the promoter shall be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees. The Act mandates reasonable charge from apartment owners whereas we are made to pay Rs.3.25 per sq. ft. of the sale area. They have now communicated that the CAM charges for FY 2024-25 would remain at Rs.3.25 per sq. ft and Common Area Electricity bill henceforth would be billed separately on actuals. Increase in CAM charges for FY 2024-25 & billing of arrears for FY 2022-23 & FY 2023-24 has already been notified on 22.04.2024. Communication received from Mainage Facility Management Private Limited (maintenance agency and subsidiary of EDPL). High CAM charge is not only unreasonable but also burdensome on the apartment owners.
21. That Section 16(1) of the Act states that the promoter shall obtain all such insurances as may be notified by the appropriate Government, including but

not limited to insurance in respect of (i) title of the land and building as a part of the real estate project, and (ii) construction of the real estate project. Section 16(2) of the Act states that the promoter shall be liable to pay the premium and charges in respect of the insurance specified in sub-section (1) and shall pay the same before transferring the insurance to the association of the allottees. Common Area Maintenance (CAM) charge collected by EDPL from the apartment owners on quarterly basis also includes expenditure towards insurance cost. Project has not been handed-over to the allottees. EDPL is purchasing the insurance but passing on entire insurance expense on the apartment owners. Action of EDPL is in contravention to Section 11(4)(d) & 16(2) of the Act.

22. That Section 14(1) of the Act states that the proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities. Section 14(2)(ii) states that notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the competent authority, are disclosed or furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be, the promoter shall not make any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building. In the sanctioned / layout plan uploaded on HRERA website, (i) there is provision of 6.0 meter wide circular road along periphery of D-block wall, & (ii) there is no provision for Badminton Court, Cricket pitch and Swimming Pool in D-block. Approved layout plan as

uploaded on HRERA website. EDPL has constructed U-shaped road instead of circular road. Concrete badminton court and concrete cricket pitch is constructed on the piece of land where 4th arm of the road was supposed to be constructed. They have also constructed one swimming pool in the D-block common area. It seems that CC was obtained by suppressing these alterations. Common area in the D-block is altered by constructing U-shaped road, swimming pool, badminton court and cricket pitch without consent from allottees as mandated under Section 14 (2)(ii) of the Act. EDPL has contravened Section 14(1) & 14(2)(ii) of the Act.

C. Relief sought by the complainant:

23. The complainant has sought following relief(s):

- i. To direct Experion Developers Private Limited to immediately share deed of declaration with apartment owners as mandated under the RERA Act, 2016.
- ii. To direct Experion Developers Private Limited to initiate process of formation of association of apartment owners as prescribed under the Haryana Apartment Ownership Act & the Rules framed thereunder read with the RERA Act, 2016.
- iii. To issue direction for Forensic Financial Audit of income and expenses by an independent expert committee in respect of "The Heartsong"
- iv. To direct Experion Developers Private Limited to refund insurance premium recovered from respective apartment owners since handing-over physical possession of apartment.
- v. To direct Experion Developers Private Limited to roll back Common Area Maintenance Charge to FY 2021-22 level.

- vi. To direct Experion Developers Private Limited to immediately handover physical possession of building and common area alongwith necessary documents to committee of apartment owners till the time association of apartment owners is formed.
- vii. impose penalty as prescribed under Section 61 of the RERA Act, 2016 for contravention of Section 11(4)(d), Section 11(4)(e), Section 14(1), Section 14(2)(ii), Section 16(2), Section 17(2) & section 19(5) various provisions (other than Section 3 or Section 4) of the Act by Experion Developers Private Limited.
- viii. To restrain District Registrar of Societies, Gurugram from reinstating the defunct RWA "The Heartsong Condominium Association" registered in 2018 under provisions of the Haryana Registration & Regulation of Societies Act, 2012 and rules framed thereunder till the time the formation of association of apartment owners / allottees under provisions of the Haryana Apartment Ownership Act, 1983 and rules framed thereunder read with the provisions prescribed under the Real Estate Regulation and Development Act, 2016 and rules and regulations framed thereunder is settled by the Authority.

D. Reply by respondents:

The respondents by way of written reply dated 09.10.2024 made the following submissions:

- 24. That vide booking application form dated 21.11.2012, Krishna Gupta and Kamal Gupta applied for booking/allotment of a Unit bearing no. D1/0804 in the Project "The Heartsong". For the same, vide Provisional allotment letter dated 03.12.2012 the subject unit was provisionally allotted to the original allottees.

25. Thereafter, an apartment buyer agreement dated 23.06.2013 containing the mutually agreed terms and conditions was executed between the original allottees and the respondent no.1.
26. That after completing the tower in which the subject unit is located, the respondent no. 1 submitted an application for grant of the occupation certificate on 17.10.2017 and the same was granted by the Competent Authority on 02.05.2018 vide Memo No. ZP-753-Vol-II/SD (BS)/2018/13423. The completion certificate of the project has also been received on 23.02.2023.
27. That post receipt of the occupation certificate, the respondent no.1 offered the possession of the subject unit to the original allottees vide notice of possession letter dated 04.05.2018. However, the original allottees did not take the possession of the unit, rather entered into an agreement to sell and purchase dated 14.11.2021 with Mr. Sunil Singh and Pammi Singh for sell, transfer, and assignment of all their rights, interest title and liabilities in favour of the subsequent allottee. Accordingly, the original allottees and the subsequent allottee vide application for transfer of allotment dated 06.12.2021 requested the respondent no. 1 to transfer the allotment in the name of the subsequent allottee.
28. That considering the requests of the original allottees and the subsequent allottees, the respondent facilitated the transfer of allotment and accordingly, the subject unit was endorsed in favour of the subsequent allottees and endorsement of transfer was signed between the parties i.e., the original allottees, the subsequent allottees and the respondent no1.
29. That post endorsement of the subject unit in favour of the subsequent allottees, a conveyance deed dated 14.12.2021 was executed between the respondent no. 1 and the subsequent allottees.

30. That along with the execution of the conveyance deed the possession of the subject unit was also handed over to the complainants vide possession letter dated 14.12.2021 which was duly signed by the subsequent allottees after handing over of the possession of the subject unit.
31. That in the present case, the original allotment of the subject unit was endorsed in favour of two co-allottees:

1st Allottee – Mr. Sunil Singh i.e., the present Complainant;

2nd Allottee – Mrs. Pammi Singh
32. However, the present Complaint is filed only by Mr. Sunil Singh. That all the documents, including endorsement-related documents, conveyance deed and possession letter are executed between Mrs. Pammi Singh, Mr. Sunil Singh and the respondent no.1. However, it is significant to mention herein that in the present Complaint, Mrs. Pammi Singh is not made a party.
33. That Mrs. Pammi Singh is a necessary party to the present complaint without whom no effective order can be passed in the present complaint. Further, under the Act, 2016 an individual allottee can claim only those reliefs wherein the individual cause of action has arisen with respect to any provisions of the Act, 2016 and cannot seek reliefs on behalf of other allottees of the project or reliefs liable to be sought by an association of allottees only. However, in the instant case, a perusal of the reliefs sought make it abundantly clear that the complainant is seeking relief which can only be claimed by an association of allottees, thus having no locus standi to file the present complaint. That the same can be verified from a mere perusal of the prayer sought by the complainant in the present complaint.
34. That if any owner of the instant group housing project has any grievances with respect to common areas, maintenance or any other act incidental thereto, then the same can approach this Authority or any competent courts or

authorities or tribunals through their registered Resident Welfare Association only.

35. That a RWA has already been formed and registered with the competent authority by the existing allottees/buyers/owners in the project. As intimated by the RWA, the Competent Authority on 29.08.2024 has also approved the Elected Governing Body of the RWA.
36. That the complainant is seeking relief for/ on behalf of all the allottees of the Project. That there is no authorization or power of attorney in the name of the complainant by the other allottees/owners of the respective units in the project to file a complaint and seek relief for them. The complainant without having any authorization from the other allottees/owners of the project cannot claim/seek relief on behalf of them. Thus, the present Complaint is liable to be dismissed.
37. That the present complaint is not maintainable on the ground that the complainant in the present complaint under reply is putting forth allegations with respect to alleged violation/contravention of the Haryana Apartment Ownership Act, 1983. That if the complainant has any grievances with respect to any alleged contravention/violation of the Haryana Apartment Ownership Act, 1983 then the complainant has to approach the Competent Authority as provided under the said Act for the redressal of his alleged grievances.
38. That the complainant vide the present claim is raising allegations with respect to maintenance charges and seeking direction upon the respondent no.1 to roll back the common area maintenance charges for the financial year 2021-2022 level. That post-offer of possession, the original allottee had executed a Maintenance Services Agreement dated 05.06.2018 with the respondent no.1, Mainage Facility Management Pvt. Ltd. i.e., the Maintenance Service Provider and Colliers International (India) Property Services Pvt. Ltd. That the said

maintenance agreement contains the mutually agreed terms and conditions with respect to maintenance and charges to be paid by the owners of the units. That upon endorsement of the subject unit in favor of the complainant, all the documents, including the ABA and Maintenance Agreement were endorsed in favour of the complainant, and the complainant had accepted the same.

39. That all the allegations of the complainant with respect to maintenance charges are arising out of the Maintenance Agreement, and the same are not arising out of the ABA. Furthermore, under the Maintenance Agreement, the Maintenance Agency maintains and provides services in the Project and charges for the services as per the mutually agreed terms and conditions of the Agreement.
40. Therefore, if the complainant has any grievances with respect to maintenance issues/charges the complainant can seek redressal of its grievances against the Maintenance Agency only. Furthermore, as the Maintenance Agency is not covered under the definition of the "Promoter" and such the RERA Act, 2016 is not applicable to the Maintenance Agencies, therefore, the complainant has very cleverly not made the Maintenance Agency a party to the present complaint and is putting all the allegations on the respondent no.1.
41. That under the Maintenance Agreement, it is mutually agreed between the parties that in case of any dispute the parties shall first attempt to resolve their dispute through discussion between themselves and if the dispute is not resolved then the parties shall settle their dispute through arbitration.
42. That the present complaint is not maintainable before the Authority as the instant project is not an ongoing project. The occupation certificate for the instant project was obtained on 02.05.2018. Thereafter, an application for issuance of a completion certificate for the instant project was submitted before the Competent Authority on 10.10.2022 and the same was granted by

the competent authority on 23.02.2023. That as on date the project stands completed and hence, the instant project does not fall within the ambit of the RERA Act, 2016.

43. All other averments made in the complaint were denied in toto.
44. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided based on these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

45. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E. I Territorial jurisdiction

46. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has completed territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

47. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(a)

Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots

or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

48. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Issue raised by the respondent on the maintainability of complaint.

49. The respondent raised objection that that the complaint is not maintainable as the allotment is in the name of Pammi Singh and Sunil Kumar Singh but the complaint is filed by Sunil Kumar Singh only. On 04.09.2025, an amended memo of parties was filed by the complainant vide which Pammi Singh has also been made a party to the present complaint. Therefore, the objection raised by the respondent has been rectified by the complainant. Hence, the objection stands dismissed.

G. Findings on the relief sought by the complainant.

G. I To direct Experion Developers Private Limited to immediately share deed of declaration with apartment owners as mandated under the RERA Act, 2016.

50. Under Section 11(4)(e) and Section 17 of the RERA Act, 2016 read with the HAOA, 1983, the promoter is required to execute and register the Deed of Declaration and convey title of common areas. However, as per the record, the conveyance deed dated 14.12.2021 has already been executed in favour of the complainants and possession has been handed over. It has also been recorded

that the Deed of Declaration has already been obtained by the complainant. Therefore, no further directions are required in this regard.

G.II To direct Experion Developers Private Limited to initiate process of formation of association of apartment owners as prescribed under the Haryana Apartment Ownership Act & the Rules framed thereunder read with the RERA Act, 2016.

51. Section 11(4)(e) of the RERA Act mandates the promoter to enable formation of an association of allottees. Similarly, the HAOA, 1983 provides the statutory framework for such formation. In the present case, it is stated that an RWA has already been formed and registered and its Governing Body has been approved on 29.08.2024. Importantly, relief relating to formation or governance of an association is collective in nature and ordinarily must be pursued by the association itself or by authorized allottees. An individual allottee cannot seek directions on behalf of all owners without authorization. Therefore, no further directions are required in this regard.

G.III To issue direction for Forensic Financial Audit of income and expenses by an independent expert committee in respect of "The HeartSong".

52. The RERA Act empowers the Authority to ensure compliance of promoter obligations under Sections 11 and 14. However, the Act does not provide for ordering a forensic financial audit of project income and expenditure at the instance of a single allottee after completion and issuance of completion certificate. Since the Occupation Certificate (02.05.2018) and Completion Certificate (23.02.2023) have already been obtained, and conveyance deed executed, the project stands completed. Any demand for financial audit of maintenance or common area income would fall under the Maintenance

Agreement or society laws, not under the RERA Act. Therefore, no relief is made out.

G.IV. To direct Experion Developers Private Limited to refund insurance premium recovered from respective apartment owners since handing-over physical possession of apartment.

G.IV. To direct Experion Developers Private Limited to roll back Common Area Maintenance Charge to FY 2021-22 level.

53. It is important to note that the conveyance deed was executed between the parties on 14.12.2021. The conveyance deed is a legal document that transfers the title of property from one party to another, signifying the completion of the property transaction. Furthermore, the financial obligations between the complainant and the respondent end once the conveyance deed is executed. This typically includes payments related to the purchase price, taxes, registration fees, and any other contractual financial commitments outlined in the agreement. However, despite the conclusion of the financial obligations, the statutory rights of the allottee persist. These statutory rights might include protections afforded by laws or regulations governing property transactions. The Authority is of view that after the execution of the conveyance deed between the complainant and the respondent, all the financial liabilities between the parties come to an end except the statutory rights of the allottee including right to claim compensation for delayed handing over of possession and compensation under section 14 (3) and 18 of the RERA Act, 2016. In view of the above, the complainant cannot press for any other relief with respect to financial transaction between the parties after execution of conveyance deed except the statutory obligations enshrined in the Act of 2016.

G.V To direct Experion Developers Private Limited to immediately handover physical possession of building and common area alongwith necessary documents to committee of apartment owners till the time association of apartment owners is formed.

54. Section 17(2) of the RERA Act provides that the promoter shall hand over physical possession of the common areas to the association of allottees. However, in the present case, possession has been handed over, conveyance deed has been executed (14.12.2021), completion certificate has been obtained and an RWA has already been formed and approved. Therefore, the statutory obligation under Section 17 stands substantially complied with. Further disputes regarding management or control of common areas fall under HAOA, 1983 or society laws.

G.VI To impose penalty as prescribed under Section 61 of the RERA Act, 2016 for contravention of Section 11(4)(d), Section 11(4)(e), Section 14(1), Section 14(2)(ii), Section 16(2), Section 17(2) & section 19(5) various provisions (other than Section 3 or Section 4) of the Act by experion Developers Private Limited.

55. Section 61 of the RERA Act provides penalty for contravention of provisions (other than Sections 3 & 4). However, penalty can only be imposed upon proof of contravention of specific statutory obligations. In the present case, occupation certificate and completion certificate have been obtained, conveyance deed executed. No continuing contravention under Sections 11(4)(d), 11(4)(e), 14(1), 14(2)(ii), 16(2), 17(2), or 19(5) is established on record. Hence, no relief in this regard.

G.VII To restrain District Registrar of Societies, Gurugram from reinstating the defunct RWA "The Heartsong Condominium Association" registered in 2018 under provisions of the Haryana Registration &

Regulation of Societies Act, 2012 and rules framed thereunder till the time the formation of association of apartment owners / allottees under provisions of the Haryana Apartment Ownership Act, 1983 and rules framed thereunder read with the provisions prescribed under the Real Estate Regulation and Development Act, 2016 and rules and regulations framed thereunder is settled by the Authority

56. The prayer to restrain the District Registrar of Societies, Gurugram relates to actions under the Haryana Registration and Regulation of Societies Act, 2012. Such matters fall exclusively within the jurisdiction of the Registrar/competent authority under the Societies Act and not under RERA. So, no relief is made out.

G. Directions of the authority

57. Hence, in view of the factual as well as legal positions detailed above, the complaint filed by the complainant seeking above reliefs against the respondents is decided in terms of paras 50 to 56 above. Ordered accordingly.

58. Complaint stands disposed of.

59. File be consigned to registry.



Phool Singh Saini
Member



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 16.12.2025