

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

Date of Decision 09.12.2025

Name of the Builder		DLF Commercial Enterprises	
Project Name		Star Mall	
S.no.	Complaint No.	Complaint title	Attendance
1.	CR/2643/2024	Pawan Chowdhri V/s DLF Commercial Enterprises	Dhanesh Relan Harshul Mehta Shamdhavi Pandey (Complainant) Ishaan Dang (Respondent)
2.	CR/2651/2024	Nilesh Kumar V/s DLF Commercial Enterprises	Dhanesh Relan Harshul Mehta Shamdhavi Pandey (Complainant) Ishaan Dang (Respondent)
3.	CR/2652/2024	Manju Dumra V/s DLF Commercial Enterprises	Dhanesh Relan Harshul Mehta Shamdhavi Pandey (Complainant) Ishaan Dang (Respondent)
4.	CR/2654/2024	Harbhajan Singh and Paramjeet Kaur V/s DLF Commercial Enterprises	Dhanesh Relan Harshul Mehta Shamdhavi Pandey (Complainant) Ishaan Dang (Respondent)

CORAM:

Arun Kumar

Chairman

Phool Singh Saini

Member

ORDER

1. This order shall dispose of all the 4 complaints titled as above filed before this authority in form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Star Mall" at Sector 30, Gurugram being developed by the respondent/promoter i.e., DLF Commercial Enterprises. The terms and conditions of the builder buyer's agreements fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter for registration of the project, apply for the completion certificate and other reliefs sought by the complainant.
3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

Project: Star Mall at Sector 30, Gurugram
Possession clause - Clause 10.2 - Schedule for Possession of the said Premises:
The Intending Seller based on its present plans and estimates and subject to all just exceptions, contemplates to complete construction of the said Building/said Premises within a period of thirty six (36) months from the date of execution of this Agreement unless there shall be delay or there shall be failure due to reasons mentioned in clauses (11.1), (11.2), (11.3) and Clause (39) or due to failure of the Intending Allottee(S) to pay in time the price of the said Premises along with other charges and dues in accordance with the schedule of payments given in Annexure III or as per the demands raised by the Intending Seller from time to time or any failure on the part of the Intending Allottee(s) to abide by all or any of the terms or conditions of this Agreement.
Occupation Certificate-01.04.2004

Sr. No.	Complaint no./title/ date of filing complaint	Reply status	Unit No. and area admeasuring (Carpet area)	Date of execution of apartment buyer's agreement	Due date of possession & Offer of possession	Total sale consideration and amount paid by the Complainant (s)	Relief Sought
1	CR/2643/2024 Pawan Chowdhri and Bhupinder VS DLF Commercial Enterprises DOF- 05.06.2024	Reply received on 09.09.2024	FF-123, First floor 1254 sq. ft. (Super Area) (Page 52 of complaint)	28.10.2005	28.10.2008 Offer of possession- 12.11.2008 Possession Letter - 21.12.2010 Conveyance Deed- 25.03.2011	TSC: Rs. 47,02,500/- (As per BBA on page no. 52 of complaint) AP: Rs.54,03,651.48/- (As on page no. 137 of complaint)	Mandatory registration of the project , Apply for completion certificate , to make complete disclosures of various particulars, specifications with respect to the layout plans/sanctioned plans of the project, conduct inquiry into the affair of the respondent regarding the project, Penalize the respondent under section 38
2	CR/2651/2024 Nilesh Kumar VS DLF Commercial Enterprises DOF- 05.06.2024	Reply received on 06.09.2024	SF-212, Second floor 2054 sq. ft. (Super Area) (Page 56 of complaint)	16.08.2005	16.08.2008 Offer of possession- 12.11.2008 Possession Letter - 18.05.2009 Conveyance Deed- 19.10.2010	TSC: Rs. 56,48,500/- (As per BBA on page no. 56 of complaint) AP: Rs. 58,06,452/- (As on page no. 141 of reply)	Mandatory registration of the project , Apply for completion certificate , to make complete disclosures of various particulars, specifications with respect to the layout plans/sanctioned plans of the project, conduct inquiry into the affair of the respondent regarding the project, Penalize the respondent under section 38

3	CR/2652/2024 Manju Dumra VS DLF Commercial Enterprises DOF- 05.06.2024	Reply received on 09.09.20 24	LGF-11, Lower Ground Floor 3161 sq. ft. (Super Area) (Page 48 of complaint)	01.08.2005	01.08.2008 Offer of possession- 12.11.2008 Possession Letter - 26.06.2010 Conveyance Deed- 06.09.2010 Transfer deed in favour of the complainant- 13.05.2021	TSC: Rs. 47,02,500/- (As per BBA on page no. 52 of complaint) AP:- Rs.54,03,651.48/ - (As on page no. 137 of complaint)	Mandatory registration of the project , Apply for completion certificate , to make complete disclosures of various particulars, specifications with respect to the layout plans/sanctione d plans of the project, conduct inquiry into the affair of the respondent regarding the project, Penalize the respondent under section 38
4	CR/2654/2024 Harbhajan Singh and Paramjeet Kaur V/s DLF Commercial Enterprises DOF- 05.06.2024	Reply received on 06.09.20 24	FF-0118, First Floor 1239 sq. ft. (Super Area) (Page 50 of complaint)	30.08.2005	30.08.2008 Offer of possession- 12.11.2008 Possession Letter - 11.02.2011 Conveyance Deed- 25.03.2011	TSC: Rs. 52,65,750/- (As per BBA on page no. 50 of complaint) AP:- Rs.59,24,433.03/ - (As on page no. 107 of complaint)	Mandatory registration of the project , Apply for completion certificate , to make complete disclosures of various particulars, specifications with respect to the layout plans/sanctione d plans of the project, conduct inquiry into the affair of the respondent regarding the project, Penalize the respondent under section 38

Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviations Full form

DOF- Date of filing complaint
TSC- Total Sale Consideration
AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed by the complainant(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties *inter se* in respect of said unit for seeking award of registration of the project, apply for the completion certificate and to conduct inquiry.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoter, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/2643/2024 titled as Pawan Chowdhari V/s DLF Commercial Enterprises*** are being taken into consideration for determining the rights of the allottee(s) qua reliefs sought by the complainant.

A. Project and unit related details

7. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:
CR/2643/2024 titled as Pawan Chowdhari V/s DLF Commercial Enterprise

S. N.	Particulars	Details
1.	Name of project	"Star Mall" , Sector 30 Village Silokhera , Gurugram
2.	Nature of project	Commercial complex
3.	Location of project	Sector-30, Village Silokhera, Gurugram, Haryana.
3.	DTCP License	License no. 03 of 2001 dated 19.06.2001
4.	RERA registered	Not registered

5.	Retail space buyer's agreement	28.10.2005 (As on page no. 49 of complaint)
6.	Unit no.	FF-123, First floor (As on page no. 52 of complaint)
7.	Unit area	1254q.ft. [Super Area] (As on page no. 52 of complaint)
8.	Possession clause	<p><u>Clause 10.2</u></p> <p><u>Schedule for Possession of the said Premises</u></p> <p><u>The</u> Intending Seller based on its present plans and estimates and subject to all just exceptions, contemplates to complete construction of the said Building/said Premises within a period of thirty six (36) months from the date of execution of this Agreement unless there shall be delay or there shall be failure due to reasons mentioned in clauses (11.1), (11.2), (11.3) and Clause (39) or due to failure of the Intending Allottee(S) to pay in time the price of the said Premises along with other charges and dues in accordance with the schedule of payments given in Annexure III or as per the demands raised by the Intending Seller from time to time or any failure on the part of the Intending Allottee(s) to abide by all or any of the terms or conditions of this Agreement.</p> <p>[Emphasis supplied]</p> <p>(As on page no. 62 of complaint)</p>
9.	Due date of possession	28.10.2008 [Calculated 36 months from the date of execution of the Space Buyer's Agreement]
10.	Sale consideration	Rs. 47,02,500/- (As per BBA on page no. 52 of complaint)
11.	Amount paid	Rs.54,03,651.48/- (As on page no. 137 of complaint)

12.	Occupation certificate	01.04.2004 (page 45 of the reply)
13.	Offer of possession	12.11.2008 (As on page no.125 of reply)
14.	Possession letter	21.12.2010 (As on page no. 131 of reply)
15.	Conveyance deed	25.03.2011 (As on page no. 133 of complaint)

B. Facts of the complaint

8. The complainant has made the following submissions: -

- I. That DLF Limited (formerly DLF Universal Limited) owned a plot of land admeasuring 4.4375 acres or thereabout at site at Sector 30, Village Silokhera, Tehsil & District Gurgaon. The said land was reserved and approved for retail/ commercial use pursuant to licence(s) granted by the Director, Town & County Planning, Haryana, Chandigarh on 19.06.2001. DLF Limited bought all its rights, title and interest in the said land into common stock of the partnership firm, namely DLF Commercial Enterprises, i.e. respondent herein, and by virtue of the aforesaid contribution, the said land became the exclusive and absolute property of the respondent on 04.03.2002.
- II. That the respondent constructed a multi storied commercial complex named as "Star Mall" in Sector 30, Village Silokhera in Tehsil & District Gurgaon, Haryana consisting of shops, departmental stores, restaurant(s), entertainment theatre(s), commercial spaces, common areas and facilities along with basements for parking and services admeasuring 4.4375 acres or thereabout earmarked and delineated in accordance with the building plan(s) approved by the Director, town & country planning, Haryana, Chandigarh vide memo no. 15949 on 09.11.2004.

- III. That the respondent widely advertised that the mall being constructed i.e. going to be a state-of-the-art mall, wherein the biggest and the most famous brands are going to have stores, shops, anchor stores. The complainant was shown the rosier picture with respect to the prospects of the mall. The complainant was further lured into believing that the investment being made by the complainant is bound to be the best investment of the life of the investment as the mall is going to be the most happening 'mall'. The complainant after getting lured into the sweet talks/marketing gimmicks of the respondent, applied for the allotment of shop in star mall vide application dated 07.10.2003.
- IV. That the complainant was allotted shop bearing no. ff 123 on the 1st floor having super area of approximately 116.4675 sq. mtrs. (1254 sq. ft.) and right to use the covered parking space no. 3029 in the basement of the star mall on the terms and conditions contained in the retail space buyer's agreement dated 28.10.2005 executed by the respondent. As per the commercial space buyer's agreement, the construction of the star mall was contemplated by the respondent as 36 months from the date of execution of the agreement (Clause 10.2) i.e. around 28.10.2008, and the handover of possession was to be offered by the respondent in writing 30 days after obtaining the certificate for occupation. The respondent had received the occupancy certificate in the year 2008. The same is established from respondent's own admission in its letter dated 20.02.2010 to the complainant no.2's which was written in reply to the complainant no.2's letter dated 29.01.2010. In letter dated 29.01.2010, complainant no. 2 listed its grievances against the respondent requesting for additional charges, which complainant was ready to pay, however pointed out that possession was to be handed over 3 years from signing of buyers

agreement which has already exceeded 15 months. To extract more monies from the complainants, the respondent in its letter dated 20.02.2010 stated that "we would like to inform you that as per the agreement, we were supposed to complete the project "in 3 years from the date of execution of the agreement". The agreement was executed on 28.10.2005, and accordingly, we were to complete it by october' 2008. We had received the occupation certificate and the possession was offered to you in november'2008. Accordingly, the compensation from 27.10.2008 till 15.11.2008 @Rs. 50/- p.s.ft. works out to be Rs. 41,791/-, which has been credited to your account, and shall be refunded to you once the property is registered in your name. In the interim, you are requested to kindly do the needful at the end, so that the Possession Letter can be issued to you." It is evident that the respondent used the issuance of possession letter in form of dangling carrot since the possession letter was only offered on 21.12.2010 and the property was handed over to the complainant on 18.02.2011.

- V. That on 25.03.2011, sale deed was signed between the parties for shop bearing no. SM0123 on 1st floor having super area of approx. 125.903 Sq. Mtr and rights of covered parking space no. 3029 in the basement of the building on terms & conditions contained in commercial space buyer's agreement dated 28.10.2005. *Inter alia*, On 09.06.2010, respondent issued a letter stating that the mall will be opening on 18.06.2010. Despite the letter dated 18.06.2010 the mall is still not completely functional. Even as on date i.e. after more than 14 years of the mall being opened, none of the assurances as were made by the respondent to lure the complainant to invest in the mall are there. Due to delay in handing over of the shop to the

complainant and non-operationalisation of the star mall the complainant has and continues to suffer financial hardships.

VI. That besides the mall being not fully functional it is also it mismanaged by the respondent/ its appointed association. The shop owners of the star mall has instituted a complaint against the appointed association with the District Registrar Societies and Firms, Gurugram, aggrieved by the illegal acts of the association on the following grounds: -

I. not conducting regular elections as per the law and

Memorandum of Association;

II. appointing maintenance agency/ JLL in contravention of the sale

deed/ conveyance deed, as the sale deed clearly mentions that the

maintenance agency will be appointed by way of a tripartite agreement;

VII. That the District Registrar Societies and Firms took cognizance of the complaint and issued a show cause notice to the respondent. It is noteworthy that the respondent in its reply to show cause notice has admitted that no shop owner of star mall are the members of the association. Therefore, it is clear that the association is being run by the respondent itself. The aforesaid maintenance agency / JLL appointed by respondent's appointed association has been sending frivolous demands of CAM charges on all the owners. Moreover, the maintenance agency is not even carrying proper maintenance services, the escalators, the heating / ventilation HVAC units are majorly nonfunctional. Currently, the CAM is being charged at 23.88 sq. ft. There is no basis for this rate of CAM charges, as only 30 % of the mall is occupied and working, and in the sale deed the

maintenance charges are mention/ agreed at 1.2 times of the actual cost. It is more than apparent that respondent's association and its appointed maintenance agency are in connivance. The maintenance agency is imposing exorbitant maintenance charges with a clear motive to extort illegal monies from the shop owners.

- VIII. That the respondent has never applied for the competition certificate or part completion certificate under Rule 16 of the Haryana Development and Regulation of Urban Area Rules, 1976 or under sub code 4.10 of the Haryana Building Code 2017, till date, which is a mandatory requirement. The respondent is aware that the mall has not at all been constructed in terms of the sanction plan. There have been deviations from the sanction plan in the construction of the mall from the very beginning. The Mall has till date not been issued a completion certificate, therefore the mall/ the project categorically comes under the definition of "ongoing project" as per Rule 2(1)(o) of HRERA Rules. As per Rule 2(1)(o) of HRERA Rules read with Section 3(1) of HRERA, the respondent is required to get the project/ the Mall registered in RERA and apply for completion certificate.
- IX. That with respect to the project being considered an "ongoing project" it stands reiterated that Section 3 (1) proviso read with Newtech Promoters & Developers Pvt. Ltd. vs. State of U. P. and Ors. 2021 SCC OnLine SC 1044 makes it clear that any project for which a completion certificate is not issued under the Haryana Building Code, 2017 is to be considered an "Ongoing Project".
- X. That it is shocking to note that several of the documents are third-party, confidential/privileged documents like the Ledger of Accounts of Star Mall Condominium Association (hereinafter referred to as the "Association"), demand letters issued by DLF Utilities Limited to the Association, Letters

issued by Jones Lang LaSalle Building Pvt. Ltd. to the Association, multiple operation and maintenance agreements between Jones Lang LaSalle Building Pvt. Ltd. and the Association etc. Appositely, the respondent is neither privy nor a party to the corresponding documentation. Thus, it is not understood as how the respondent was able to place the same on record. Accordingly, the corresponding documentation is completely tainted and the same cannot be relied upon.

C. Relief sought by the complainant:

9. The complainant has sought following relief(s):
- i. Direct the respondent for mandatory registration of the project as per Section 3(1) of the Act and adhere to the various compliances as per the rules and regulations under the Act.
 - ii. Direct the respondent to apply for Completion certificate for the project under Section 11(4)(b) of the Act and provide the copy of the same to the complainant.
 - iii. Direct the respondents under section 37 of the Act read with section 11(3) of the Act to make complete disclosures of various particulars, specifications with respect to the layout plans/sanctioned plans of the project to the competent statutory authority as per the provisions of the Act.
 - iv. Appoint a delinquent under section 35 to conduct inquiry into the affair of the respondent regarding the project and pass orders under section 36 of the Act, if the respondent has carried out/carrying out any act which is in contravention of the Act.
 - v. Penalize the respondent under section 38 of its deliberate and intentional violations and contraventions of law and their conduct, which is not beneficial interest of the allottees.

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

D. Reply by the respondent:

11. The respondent has contested the complaint on the following grounds.

- I. That That the license for development of commercial project over land measuring 4.4375 Acres situated in Village Silokhra, Tehsil and District Gurugram bearing License no. 3 of 2001 dated 19th of June, 2001 had been issued by Directorate of Town & Country Planning, Haryana, Chandigarh. The building plans for the aforesaid commercial project had been approved by Directorate of Town & Country Planning, Haryana, Chandigarh vide memo bearing number 13549 dated 05.10.2001. The building plans referred to above were revised twice and approval to the revised building plans for the commercial project had been accorded by Directorate of Town & Country Planning, Haryana, Chandigarh vide memo dated 12.12.2003 and memo dated 09.11.2004.
- II. That the construction of the commercial project had been undertaken by M/s DLF Limited and once the same had been duly completed, an application has been submitted to Directorate of Town & Country Planning, Haryana, Chandigarh for issuance of occupation certificate. The occupation certificate for part of the said commercial complex had been issued by Directorate of Town & Country Planning, Haryana, Chandigarh on 01.04.2004. The occupation certificate for building block 2 with basements forming part of the aforesaid commercial project had been granted by Directorate of Town & Country Planning, Haryana, Chandigarh vide memo bearing number 945 dated 31.03.2008. A shopping and retail mall under the name and style of "star mall" was promoted and developed

by the respondent/ M/s DLF Limited over the site of aforesaid commercial project.

- III. That the complainants were desirous of purchasing a commercial unit in the said commercial complex. The complainant after being fully satisfied in all respects, the complainant had agreed to purchase retail/commercial space bearing no. SM-123 having super area of 116.467 square meters (1254 square feet) including an area of approximately 80.656 square meters (868 square feet) of specific area, located on 1st floor along with one covered parking bearing no. 3029 all comprised in DLF Star Mall Sector-30, Village Silokhera, Tehsil & District Gurgaon. A sum of Rs. 47,02,500/- had been initially paid by the complainants to the respondent.
- IV. That initially the complainant had defaulted in making payment of consideration in respect of said property which led to cancellation of allotment letter dated 05.10.2004 had been sent by the respondent to the complainants calling upon the complainant to make payment of outstanding amounts so that the allotment of the said property would be restored. The demanded payments were then made by the complainants. Thereafter, retail space buyer's agreement dated 28.10.2005 had been executed between the parties in respect of said property. The aforesaid retail space buyer's agreement dated 28.10.2005 contained detailed terms and conditions of allotment of said property by the respondent in favour of the complainant.
- V. That pursuant to completion of construction the maintenance services of the said commercial complex had been handed over by the respondent to star mall condominium association vide letter dated 15.07.2008. The respondent had offered the said property for fit out /interior work to the

complainant vide letter dated 04.06.2008. The physical possession of the said property had been offered by the respondent to the complainant vide letter dated 12.11.2008. By virtue of letter dated 12.11.2008, the complainant had been called upon by the respondent to make payment and complete other formalities pointed out in the aforesaid letter.

- VI. That the indemnity cum undertaking dated 16.12.2008 had been executed by the complainant confirming amongst other things that he had not dispute of any nature with the respondent. It was specifically confirmed by the complainants in the indemnity cum undertaking dated 16.12.2008 that the complainant would pay maintenance charges and other amounts indicated in Clause 1 of the aforesaid document regardless of the fact that the maintenance was undertaken by the respondent or its nominee or any other body or association of all or some of the property owners.
- VII. That it was specifically admitted and acknowledged by the complainant in the indemnity cum undertaking, clause 3 that the respondent had appointed DLF Services Ltd. for providing maintenance services to the common areas of the said commercial complex. The complainant had undertaken to pay every month/quarter in advance the total maintenance charges as per the bills raised by the maintenance agency mentioned above or its nominee or assignee. It was further categorically recited in clause 3 of indemnity cum undertaking that the complainant would have absolutely no objection if the respondent at a future date nominated/assigned the maintenance work to any other agency, any other body or the association of property owners. So much so the complainant had undertaken to execute a separate tripartite maintenance

agreement and to pay all such charges stipulated therein for rendering of maintenance services in the said commercial complex.

VIII. That the possession letter dated 21.12.2010 had been issued by the respondent in respect of said property in favour of the complainant. The conveyance deed dated 25.03.2011 bearing Vasika No. 36554 had been executed and registered in respect of the said property by the respondent in favor of the complainants. Considering the fact that development work had been completed at the spot and the occupation certificate had been obtained by the respondent well before the notification of the Haryana Real Estate Regulation and Development Rules 2017 (hereinafter referred to as the 'Rules') it is respectfully submitted that the Said commercial complex cannot by any stretch of imagination be construed to be an 'ongoing project' as defined under rule 2(1)(o) of the rules. It is precisely for this reason that the said commercial complex has not been registered under the provisions of the Real Estate (Regulation and Development) Act, 2016. Therefore, this Hon'ble Authority does not have the jurisdiction to entertain and decide the present complaint. The present complaint is liable to be dismissed on this ground alone.

IX. That without prejudice to the contention of respondent that the provisions of Real Estate (Regulation and Development) Act, 2016/Rules framed thereunder are not applicable to the project in question, it is submitted that there is no violation/contravention of the provisions of Real Estate (Regulation and Development) Act, 2016/Rules framed thereunder. The respondent had duly completed development of said commercial complex and had conveyed title and delivered possession in respect of said property to the complainant well before RERA came to be enforced. The conveyance deed in favour of the complainant was also

registered before Real Estate (Regulation and Development) Act, 2016/Rules framed thereunder came into force.

- X. That initially M/s DLF Utilities Limited had been assigned the task of providing various services and facilities in the said commercial complex by the respondent and star mall condominium association. However, the apartment owners/occupants of commercial units in Said commercial complex had committed regular and substantial defaults in payment of maintenance charges notwithstanding impeccable services being provided by DLF Utilities Limited. Under these compelling circumstances M/s DLF Utilities Limited vide notice dated 01.03.2012 had conveyed to the respondent, star mall condominium association as well as all its members and apartment owners/occupants that with effect from 01.03.2012, M/s DLF Utilities Limited would not be providing any maintenance services in the said commercial complex.
- XI. That subsequently another notice dated 20.03.2012 had been sent by M/s DLF Utilities Limited to star mall condominium association calling upon the aforesaid association to make payment of Rs. 2,98,75,608/-. On this account M/s DLF Utilities Limited had called upon the star mall condominium association to make payment of the outstanding amount latest by 20.03.2012. However, the demanded payment was not made and M/s DLF Utilities Limited had stopped providing any services/facilities in the said commercial complex. The star mall condominium association had entered into operations and maintenance agreement dated 07.07.2022 followed by property management service agreement dated 01.05.2024 with Jones Lang LaSalle Building Operations Private Limited whereby the rendering of various services in the said commercial complex had been assigned by star mall condominium

association to Jones Lang LaSalle Building Operations Private Limited. It is pertinent to mention herein that Star Mall Condominium Association had entered into Maintenance Agreement time to time with Jones Lang LaSalle Building Operations Private Limited in the 2012 for rendering of various services in the said commercial complex. Subsequently, maintenance agreement dated 09.06.2015, maintenance agreement dated 26.03.2018, maintenance agreement dated 19.02.2019, maintenance agreement dated 07.07.2022 and maintenance agreement dated 01.05.2024 had been executed between star mall condominium association and Jones Lang LaSalle Building Operations Private Limited.

- XII. That thereafter, in violation of terms of retail space buyer's agreement dated 28.10.2005 as well as conveyance deed dated 25.03.2011 bearing Vasika No. 36554, the complainant miserably failed to make payment of maintenance charges in respect of said property. The complainant is legally and contractually bound to make timely payment of maintenance charges. It needs to be highlighted that the rendering of maintenance services in the said commercial complex had been assigned to Jones Lang LaSalle Building Operations Private Limited.
- XIII. That although, Jones Lang LaSalle Building Operations Private Limited was under no obligation to send repeated reminders to the complainant to make payment of outstanding maintenance charges, yet to avoid unwarranted controversy demand letters dated 24.07.2023, 31.07.2023, 10.08.2023, 23.08.2023, 31.08.2023, 12.09.2023, 22.09.2023, 30.09.2023, 12.10.2023, 20.10.2023, 30.10.2023, 16.11.2023, 24.11.2023, 30.11.2023, 20.12.2023, 20.02.2024, 29.02.2024, 10.03.2024, 21.04. 2024, 30.04.2024, 10.05.2024, 20.05.2024 and 30.05.2024 had been sent by Jones Lang LaSalle Building Operations Private Limited with a copy to star

mall condominium association to the complainant demanding payment of maintenance charges.

- XIV. That in order to generate unwarranted controversy, a false, frivolous and vexatious petition under Section 39 (2) and 39 (11) of the Haryana Registration and Regulation of Societies Act seeking dissolution of Governing Body of star mall condominium association had been sought by one Mr. Pawan Chaudhary. The aforesaid petition had been decided by the District Registrar, Firms and Societies, Gurugram vide order dated 07.03.2022 whereby it was directed that the election of star mall condominium association be kept in abeyance till the decision of the Hon'ble Punjab and Haryana High Court in the Civil Writ Petitions reference of which was given in the aforesaid order.
- XV. That the complainant were chronic defaulters in making payment of maintenance charges. In order to evade their legal liability to make payment of maintenance charges, a misconceived and factually and legally unsustainable notice dated 08.08.2017 had been sent by the complainants to the respondent and Jones Lang LaSalle Building Operations India Private Limited. The aforesaid notice had been responded to by Jones Lang LaSalle Building Operations India Private Limited vide detailed reply dated 27.10.2017 reiterating its demand for payment of outstanding maintenance and common area maintenance charges. The said reply had been duly received by complainant but the demanded payments were not released by the complainant.
- XVI. That even as on date substantial amounts are outstanding any payable by complainants towards maintenance charges. In the present complaint star mall condominium association and Jones Lang LaSalle Building Operations Private Limited have not been impleaded as party. The said

parties are necessary parties in whose absence the present complaint cannot be decided. The present complaint has been filed to avoid payment of outstanding maintenance charges.

XVII. Written submissions have been filed by the respondent. The same is taken on record and perused further:

12. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

13. 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

14. 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 complete territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

15. 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) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

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

16. 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.

F. Reliefs sought by the complainant

- i. Direct the respondent for mandatory registration of the project as per Section 3(1) of the Act and adhere to the various compliances as per the rules and regulations under the Act.
- ii. Direct the respondent to apply for completion certificate for the project under Section 11(4)(b) of the Act and provide the copy of the same to the complainant.
- iii. Direct the respondents under section 37 of the Act read with section 11(3) of the Act to make complete disclosures of various particulars, specifications with respect to the layout plans/sanctioned plans of the project to the competent statutory authority as per the provisions of the Act.
- iv. Appoint a delinquent under section 35 to conduct inquiry into the affair of the respondent regarding the project and pass orders under section 36 of the Act, if the respondent has carried out/carrying out any act which is in contravention of the Act.
- v. Penalize the respondent under section 38 of its deliberate and intentional violations and contraventions of law and their conduct, which is not beneficial interest of the allottees.

17. The above-mentioned reliefs sought by the complainant are being taken

together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

18. That in the present case in hand a retail space buyer agreement was executed between the parties on 28.12.2005 wherein the complainant was allotted a shop bearing no. FF-123 on the first floor having super area of 1254 sq. ft. in the project of the respondent namely Star mall at Sector 30, Gurugram. As per clause 10.2 of the agreement, the respondent was obligated to complete the construction of the said building within a period of thirty-six (36) months from the date of execution of this agreement. Therefore, the due date comes out to be 28.10.2008.
19. That the occupation certificate was obtained on 01.04.2004 and the possession was offered to the complainant on 12.11.2008. Further the possession was handed over to the complainant on 21.12.2010. Also the conveyance deed dated 25.03.2011 was also executed between the parties in respect of the said unit. The complainant has filed the present complaint on 05.06.2024.
20. On the documents and submission made by both the parties, the authority observes that there has been complete inaction on the part of the complainant for a period of more than thirteen years till the present complaint was filed in June 2024. The complainant remained dormant of their rights for more than 13 years and they didn't approach any forum to avail their rights. There has been such a long unexplained delay in pursuing the matter. One such principle is that delay and laches are sufficient to defeat the apparent rights of a person. In fact, it is not that there is any period of limitation for the authority to exercise their powers under the section 37 read with section 35 of the Act nor it is that there can never be a case where the authority cannot interfere in a manner after a passage of a

certain length of time but it would be a sound and wise exercise of discretion for the authority to refuse to exercise the extraordinary powers of natural justice provided under section 38(2) of the Act in case of persons who do not approach expeditiously for the relief and who stand by and allow things to happen and then approach the court to put forward stale claims. Even equality has to be claimed at the right juncture and not on expiry of reasonable time.

21. Further, as observed in the landmark case i.e. ***B.L. Sreedhar and Ors. V. K.M. Munireddy and Ors. [AIR 2003 SC 578]***, the Hon'ble Supreme Court held that "*Law assists those who are vigilant and not those who sleep over their rights.*" Law will not assist those who are careless of their rights. In order to claim one's right, one must be watchful of his rights. Only those persons, who are watchful and careful of using their rights, are entitled to the benefit of law. Only those persons, who are watchful and careful of using his/her rights, are entitled to the benefit of law.
22. The commercial shops in question do not fall within the definition of an "Ongoing Project" as contemplated under Rule 2(1)(o)(ii) of the Rules. As per the said provision, an 'ongoing project' does not include any part of any project for which part completion/completion, occupancy certificate or part thereof had been granted on or before publication of these rules.
23. In the present case, the occupation certificate was granted on 01.04.2004, which is much prior to the enactment and enforcement of the Real Estate (Regulation and Development) Act, 2016 (RERA), which came into force on 01.05.2017. Since the construction stood completed and the occupation certificate was duly obtained long before the commencement of RERA, the project cannot be considered as an "ongoing project" under the Rules. In

light of the above, the complaint is not maintainable being barred by limitation and the same is hereby dismissed.

24. As far as relief of registration of the project is concerned, the Planning Branch of the Authority is directed to go through the details of the project and to initiate suo moto proceedings against the respondent with regard to the registration of the project.
25. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
26. The complaints stand disposed off.
27. Files be consigned to registry.


(Phool Singh Saini)
Member
(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 09.12.2025