

ORDER (PARNEET S. SACHDEV-CHAIRMAN)

1. Present complaint has been filed by complainant 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 Elite Floors, Sector 75-89, Faridabad.
2.	Nature of the project.	Residential
3.	RERA Registered/not registered	Not Registered
4.	Details of unit.	H-13-04-GF, 1022 sq.ft.
5.	Date of builder buyer agreement with original	16.09.2010

	allottee	
6.	Due date of possession(24 months)	16.09.2012
7.	Date of endorsement in favor of complainants	29.05.2017
8.	Possession clause in BBA	<p>Clause 4.1</p> <p><i>Subject to Clause 13 herein or any other circumstances not anticipated and beyond the control of the Seller/Confirming Party and any restraints/restrictions from any courts/authorities and subject to the Purchasers) having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement including but not limited to timely payment of total Sale Consideration and Stamp Duty and other charges and having complied with all provisions, formalities, documentation etc., as prescribed by the Seller/Confirming Party, whether under this Agreement or otherwise, from time to time, the Seller/Confirming Party proposes to hand over the possession of the Floor to the PurchaserS) within a period of 24 months from the date of execution of the Floor Buyer's Agreement OR on completion of payment of 35% of the Basic Sale Price along with 20% of EDC and IDC by the Purchasers), which ever is later. The Purchaser(s) agrees and understands that the Seller/Confirming Party shall be entitled to a grace period of 180 (One Hundred and Eighty) days, after the expiry of 24 months, for applying and</i></p>

		<i>obtaining the occupation certificate from the concerned authority. The Seller/Confirming Party shall give Notice of Possession to the Purchasers) with regard to the handing over of possession, and in the event the Purchasers) fails to accept and take the possession of the said Floor within 30 days thereof, the Purchasers) shall be deemed to be custodian of the said Floor from the date indicated in the notice of possession and the said Floor shall remain at the risk and cost of the Purchaser(s).</i>
9.	Basic sale consideration	₹ 20,55,999/-
10.	Amount paid by complainant	₹ 31,27,690/-
11.	Offer of possession	16.06.2023
12.	Settlement Deed	05.09.2023
13.	Physical possession taken on	30.10.2023

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. That the complainants are the owner of the flat bearing number H-13/4, Ground Floor, Park Elite Floors in Parklands, Sector-84, Faridabad measuring 1,022 sq. ft., which was allotted by the respondent. The complainants are 'allottee' of the respondent, as defined under Section 2 (d) of the Real Estate (Regulation and Development) Act 2016. Under



such circumstances, the complainants are 'allottee' of the respondent to all intents and for all purposes. It is further pertinent to mention here that the complainants booked unit no. H-13/4 Ground Floor for his own residential purpose and another flat H-6/19 First Floor for his family members.

4. That the respondent is Company and has, at all material points of time, been and still is engaged in the business of developing and selling housing projects/flats/plots to various individuals and/or others in lieu of valuable considerations. As per Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016, the Respondents falls under the category of 'Promoter' and is bound by the duties and obligations defined in the said act. As per Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016.
5. That the respondent developing a Residential Colony under the name and style of 'Park Elite Floors' falling in the revenue estate of villages Kheri Kalan and Kheri Khurd Tehsil and District Faridabad, Haryana. The respondent had published various web and news advertisements as well as visual advertisements so as to attract the public at large to purchase flats/plots in the said project.
6. That initially Mr. Ajay Talwar (original allottee) booked the unit in question on 22.05.2009. That the Floor Buyer Agreement was executed



between the respondent and Mr. Ajay Talwar on 16.09.2010. A copy of the agreement dated 16.09.2010 is attached herewith Annexure C-1.

7. That original allottee sold the said unit to the complainants on 14.03.2017. The complainants paid the entire amount to Ajay Talwar which was paid by him to the respondent towards the unit in question. The said unit was endorsed/transferred in the name of the complainants on 29.05.2017. The respondent at the time of endorsement of the unit received the complainant's signatures on blank papers. The complainants objected the same but the respondent threatened to cancel the allotment of the unit and forfeit the entire amount. A copy of the endorsement is attached herewith as Annexure C-2.
8. That as per Clause 4 of the Floor Buyer Agreement dated 16.09.2010 respondent was supposed to hand over the possession of the unit within 24 months from the date of execution of the Floor Buyer's Agreement. Accordingly, the respondent was supposed to hand over the possession of the said flat on or before 15.09.2012.
9. That the total consideration of the unit was Rs. 20,55,999/- as per builder buyer agreement's Clause 1.2 and a discount of Rs. 1,02,800/- was given by the respondent at the time of booking, thereafter total consideration comes to Rs. 19,53,199/- and the complainants had paid Rs.



31,27,690.05/- on different dates. The copies of the receipts are attached herewith as Annexure C-3 (Colly).

10. That the complainants wrote several letters and emails with a request to hand over the possession of the unit in question but all in vain. The respondent vide email dated 01.02.2022 admitted the delay while rendering the apology for the same. The copies of the email dated 29.01.2022 and 01.02.2022 are attached herewith as Annexure C-4.

11. That the respondent vide email dated 13.02.2022 informed the complainants that construction shall be completed by August 2022 but failed to oblige the deadline and which was extended vide email dated 13.10.2022 till March 2023. The respondent also informed the complainants that DTCP approved the unit as per lay out plan and assured the possession shall be offered soon but all in vain. A copy of the emails dated 13.02.2022, 13.10.2022, 09.05.2023 is attached herewith as Annexure C-5.

12. That the respondent was supposed to hand over the possession in 15.09.2012 as per the Builder Buyer Agreement dated 16.09.2010 but offered the paper possession on 16.06.2023 without completion certificate and approval from the competent authority. The respondent offered the possession of the flat on 16.06.2023 without any delay possession interest and demanded Rs. 10,06,692.73/-. The respondent sent the offer of

possession along with Nine Documents to be signed before taking the possession.

13. The respondent vide letter dated 16.06.2023 asked the complainants to submit several Indemnity-cum-Undertakings which are completely against the public policy and law and against the spirit of the Contract Act. The respondent through these undertaking taking the legit rights of the complainants for claiming the delayed possession interest and other reliefs. The respondent also threatened the complainants while stating in case you fail/ignore/neglect to fully comply with the terms of this letter including furnish executing documents as requested a penalty of 10% and holding charges @ Rs. 5/- per sq. ft. shall be charged. A copy of the offer of possession dated 16.06.2023 is attached herewith as Annexure C-6.

14. That the complainant vide email dated 12.07.2023 requested the respondent that complainants shall be able to pay the amount and deposited the Rs. 6,36,692/- except the conveyance deed charges. A copy of the email dated 12.07.2023 and 17.07.2023 is attached herewith as Annexure C-7.

15. That the complainants informed respondent vide email dated wrote several emails dated 18.07.2023, 19.07.2023 and 11.08.2023 that the conveyance deed charges shall be paid once the respondent receive the

Occupation Certificate. A copy of the email dated 18.07.2023, 19.07.2023 and 11.08.2023 is attached herewith as Annexure C-8.

16. That the respondent vide an email dated 18.08.2023 offered the unit in question for fit-out possession while admitting that physical possession shall be handed over later. The complainants with no option left agreed for the same. A copy of the fit-out possession email dated 18.08.2023 is attached herewith as Annexure C-9.

17. That the complainants while receiving the possession of the unit in question was asked to submit all the pre-condition documents imposed by the respondent. The complainants had no option except to sign the blank papers, signed on dotted lines, signed on blank lines just to save the holding charges and high rate of interest. The respondent also received the signature on the blank papers which were used for creating a settlement deed between the complainants and the respondent and was supplied later wherein a meagre amount of Rs. 2,50,000/- compensation was paid for full and final settlement instead of giving the mandatory rate of interest as the prescribed rate of interest under RERA Act 2016 and Haryana Real Estate (Regulation and Development) Rules 2017. The settlement deed stamp paper shows the date of 03.08.2023 wherein second party name is not written and dates are filled by hand only, which shows that the respondents receives the signatures of the complainants on

blank papers which were used for creating this settlement deed. The cheques were deposited by the respondents in account of the complainants despite protest. The respondent handed over the possession on 30.10.2023 without completion certificate and approval from the competent authority. A copy of the settlement deed dated 05.09.2023 is attached herewith as Annexure C-10.

18. That the present complaint has been filed by the Complainants under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Section 17 (1) read with 18(1) for execution of conveyance deed of the said flat and directing the respondents to pay the delayed possession interest as per RERA Act.

19. That the complainants had not filed any such or similar case which is pending for adjudication either before this Hon'ble Court or in the Hon'ble Supreme Court of India or any Court of Law in India.

20. That the grave prejudice is being caused to the complainants as despite several request made by the complainants but no delayed possession interest was paid by the respondents and failed to address the other grievances raised by the complainants. Hence, the present complaint.

C. RELIEF SOUGHT



21. That the complainant seeks following relief and directions to the respondent:-

- i. Issue the order/direction to the respondent to pay the delayed possession interest from 16.09.2012 till possession was handed over i.e., 30.10.2023, as prescribed under the interest prescribed under Rule 15 and 16 Haryana Real Estate (Regulation and Development) Rules 2017.
- ii. Issue an order/direction to the Respondent to execute the conveyance deed of the flat No. H-13/4, Ground Floor, Park Elite Floors in Parklands, Sector - 84 in favour of the Complainants under Section 17(1) and 18 (1) of the Real Estate (Regulation and Development) Act, 2016.
- iii. Issue an order to set aside the settlement deed dated 03.08.2023/05.09.2023 being forged and fabricated and without consent of the complainants.
- iv. Issuance of any other direction, order of directions which this Hon'ble Authority may deems fit and proper in the peculiar facts and circumstances of the case.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondents filed detailed reply on 03.03.2025 pleading therein:



22. That the Original Allottee namely Ajay Talwar, booked an independent floor in the said project of Respondent after conducting his independent inquiries and investigations regarding the project. That the Original Allottee approached the Respondent and expressed interest in booking independent floors being developed by the Respondent known as 'Park Elite Floors', Tehsil & District Faridabad, Haryana. Prior to the booking, the Original Allottee conducted extensive and independent inquiries in regard to the project, only after being fully satisfied with all aspects, that they took an independent and informed decision, uninfluenced in any manner by the Respondent, to book the unit in question.

23. That thereafter, the Original Allottees vide an application for allotment form applied to the Respondent for provisional allotment of the unit. Pursuant thereto, a residential floor bearing no. H13-04-GF on Ground Floor, admeasuring 1181 sq. ft. (tentative area) was allotted vide allotment letter dated 24.12.2009.

24. Thereafter, a Floor Buyer's Agreement dated 16.09.2010 was executed between the Original Allottee and the Respondent. It is pertinent to mention that the FBA was consciously and voluntarily executed between the parties and the terms and conditions of the same are binding on the Parties. A copy of the Floor Buyer's Agreement dated 16.09.2010 is annexed and marked as Annexure R1.

25. That thereafter the Original Allottee and the complainants approached the respondent for transfer of the unit in the name of the complainants. That the request was accepted and the unit was transferred to the complainants on 29.05.2017. The copies of the Nomination Letter dated 29.05.2017 and Endorsement form are annexed and marked as Annexure R2(Colly).
26. That at this instance, it is submitted that the complainants being subsequent buyers, have no right to seek delay possession charges. That at the time of the nomination of the complainants, the project was already delayed due to reasons beyond the control of the company. That having knowledge of the existing delay, due to circumstances beyond the control of the Respondent, the complainants willingly and voluntarily entered into the agreement for sell and the transfer documents thereof leading to their nomination.
27. That such prior knowledge, willing and self-initiated endorsement of the complainants, without any protest, amounts to acceptance of the existing circumstances and the complainants cannot be allowed to reap benefits by extracting monies from the Respondent and forgoing their complete satisfaction against the Unit. Hence, the Complaint is liable to be dismissed with costs against the complainants. The Hon'ble Supreme Court has held in Laureate Buildwell Pvt. Ltd vs. Charanjeet Singh 2021 SCC OnLine SC 479 that:



"The nature and extent of relief, to which a subsequent purchaser can be entitled to, would be fact-dependent, However, it cannot be said that a subsequent purchaser who steps into the shoes of original allottee of a housing project in which the builder has honoured its commitment to deliver the flat within a stipulated time, cannot expect any even reasonable time, for the performance of the builder's obligation. Such a conclusion would be arbitrary, given that there may be a large number-possibly thousands of flat buyers, waiting for their promised flats or residences; they surely would be entitled to all reliefs under the Act. In such a case, a purchaser who no doubt enters the picture later surely belongs to the same class. Further, the purchaser agrees to buy the flat with a reasonable expectation that delivery of possession would be in accordance within the bounds of the delayed timeline that he has knowledge of, at the time of purchase of the flat."

28. Moreover, it is submitted that Maharera in Sandeep Sahebrao Valase Vs. Glomore Constructions and Ors. Complaint No. CC006000000193435; MANU/RR/0189/2021 had, in a case filed by the subsequent allottee, held that the complainants are not entitled for delay possession charges under section 18 of the Act. It has also been noted by this Hon'ble Authority in Nisha v Emaar HRERA-804-2022, order dated 08.09.2022 that in such cases, the delay possession charges, if any, are payable from the date of nomination and not the original due date if the date of nomination is after the due date. Accordingly, the present Complaint is liable to be dismissed.

29. That at this stage it is submitted the due date of the offer of possession, as per clause 4.1, is 24 months from the date of execution of the Floor Buyer's Agreement or on completion of payment of 35% of the basic sale price along with 20% of EDC and IDC, whichever is later, with an

additional grace period of 180 days for applying and obtaining the occupancy certificate, however, the same was subject to the Complainants having complied with the terms and conditions of the Agreement, force majeure events and other circumstances beyond the control of the Respondent. That the construction of the unit was hampered due to other circumstances beyond the control of the company, the benefit of which is bound to be given to the Respondent in accordance with clause 14 of the FBA which is reiterated hereunder:-

"14. Force Majeure: That the compliance hereof, by the Seller/Confirming Party, of the terms and conditions of this Agreement shall be subject to Force Majeure circumstances, such as act of God, fire, flood, civil commotion, war, riot, explosion, terrorist acts, sabotage, or general shortage of energy labour in the East of Agra Canal Area (Sectors 75-89 Faridabad), equipment, facilities, material or supplies, failure of transportation, strike, lock-outs, action of labour union, change of Law, Act of Government or intervention of Statutory Authorities like DTCP/MCF or any other cause not within the reasonable control of the Seller/Confirming Party".

30. That it is submitted that the due date of possession has to be calculated from the date of nomination of the complainants.
31. That in the year 2012, on the directions of the Hon'ble Supreme Court of India, the mining activities of minor minerals (which includes sand) were regulated. The Hon'ble Supreme Court directed the framing of modern mineral concession rules. Reference in this regard may be taken from the judgment of *Deepak Kumar v. State of Haryana*, (2012) 4 SCC 629, where the competent authorities took substantial time in framing the rules



in case where the process of the availability of building materials including sand which was an important raw material for the development of the said Project became scarce. The respondents no. 1 was faced with certain other force majeure events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. It is pertinent to state that the National Green Tribunal in several cases related to Punjab and Haryana had stayed mining operations including in O.A No. 171/2013, wherein vide Order dated 02.11.2015, mining activities by the newly allotted mining contracts by the state of Haryana was stayed on the Yamuna River bed. Thus, on account of several orders, directions passed by the various authorities/forum hindered the development of project. Ban by NGT vide order dated 19.07.2016 for 30 days, Ban by Environment Pollution Authority vide order dated 07.11.2017 and 01.11.2019 for 90 days and 4 days respectively and Ban by Hon'ble Supreme Court vide order dated 04.11.2019 for 102 days.

32. That the aforementioned circumstances are in addition to the partial ban on construction. Additionally, Covid-19 pandemic resulted in serious challenges to the project with no available labourers, contractors etc. for

the construction of the Project. The Ministry of Home Affairs, GOI vide notification dated March 24, 2020 bearing no. 40-3/2020-DM-I(A) recognized that India was threatened with the spread of Covid-19 pandemic and ordered a completed lockdown in the entire country for an initial period of 21 days which started on March 25, 2020. By virtue of various subsequent notifications, the Ministry of Home Affairs, GOI further extended the lockdown from time to time and till date the same continues in some or the other form to curb the pandemic. Various State Governments, including the Government of Haryana have also enforced various strict measures to prevent pandemic including imposing curfew, lockdown, stopping all commercial activities, stopping all construction activities. Despite, after above stated obstructions, the nation was yet again hit by the second wave of Covid-19 pandemic and again all the activities in the real estate sector were forced to stop. It is pertinent to mention, that considering the wide spread of Covid-19, firstly night curfew was imposed followed by weekend curfew and then complete curfew. That during the period from 12.04.2021 to 24.07.2021, each and every activity including the construction activity was banned in the State. This has been followed by the recent wave brought by the new covid variant in the country. Therefore, it is safely concluded that the said delay in the seamless execution of the Project was due to genuine force majeure



circumstances and the said period shall not be added while computing the delay.

33. That from the facts indicated above and documents appended, it is comprehensively established that a period of 222 days (excluding delay due to Covid-19) was consumed on account of circumstances beyond the power and control of the respondents, owing to the passing of Orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of force majeure, as stated above. That in addition to the above, the construction was also affected by the act of non- receipt of timely payment against the unit.

34. That it is also pertinent to mention that the Respondent has completed the construction of the said project and offered possession to the Complainants on 16.06.2023. That thereafter the No objection certificate for possession on 19.08.2023 and the Complainants have taken possession of the unit. The copies of the Offer of Possession dated 16.06.2023 and the NOC for fit-outs letter dated 13.08.2023 are marked and annexed as Annexure R3(Colly).

35. That the Respondent is a well-known developer who has established a distinguished name in the market and is known for providing best services to its allottees. Being the customer centric company, Respondents gave various discounts and rebate to its allottees as the company believes that the allottees must be catered with the best option



available in the market in terms of price, quality, location, amenities and facilities. Bearing same principles in mind the Respondents at the time of booking the unit gave discount on Timely Payment Discount of Rs.88,604/-, Inaugural Discount of Rs.1,02,800/- and DPP Benefits of Rs.2,50,000/-.

36. That the parties had arrived at a full and final settlement and a settlement deed dated 05.09.2023 was executed between both the parties according to which the respondent in good faith and as a goodwill gesture agreed to compensate the complainants after adjustment of all dues payable by the complainants. Said agreement was executed as a full and final settlement of all claims, and contention of the complainants. As per clause 2.2, the respondent had paid an amount of Rs 2,50,000/- to the complainants as compensation.

37. After the settlement between the parties, the respondent had credited the amount as per the settlement in the accounts of the complainants. It was specifically and expressly agreed that the liabilities and obligations of the respondent as enumerated in the allotment letter or the buyer's agreement stand satisfied. No cause of action has arisen or subsists in favor of the complainants to prosecute the instant complaint. Complainants voluntarily, willingly and consciously executed the said settlement agreement.



38. After settlement of the matter and execution of settlement deed, no cause of action for filing the present complaint remains. In support, para 37 of judgment dated 24.08.2020 passed in Civil Appeal no. 6239 and 6303 of 2019 titled as Arifur Rahman Khan & Ors. vs DLF Southern Homes Pvt Ltd and Ors.
39. That the parties by way of clause 17 of Settlement deed had agreed that any disputes arising in the future shall be mutually resolved between the parties through arbitration.
40. That the complainants have raised issues challenging the validity of the settlement deed which cannot be decided in summary proceedings. Said issues require extensive evidence to be led by both the parties and examination and cross-examination of witnesses for proper adjudication. Additionally, Ld. Authority does not have the jurisdiction to set aside the settlement deed.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS.

41. Ld. counsel for complainant is pressing upon relief of delay interest stating that statutory rights cannot be waived off. A valid offer of possession duly supported with occupation certificate was not made to complainants. Respondent by mis-using the signatures of complainant got settlement deed. However, statutory rights as such cannot be



curtailed at this stage. It can only be in case of personal rights not public policy. In support, he relied upon judgment dated 21.01.2026 passed by Allahabad High Court in RERA Appeal defective no. 125 of 2025 titled as Lko. Development Authority Lko. Thru. Authorized signatory Rohit Singh vs Sushma Shukla. He argued that delay interest till handing over of possession be granted to him.

42. In rebuttal, learned counsel for the respondent submitted that delay was there and conflicting issues were persisting between the parties which ultimately got settled by the parties by signing settlement deed on 05.09.2023. Each and every page complainants had signed the deed. There is no evidence/proof of duress/coercion or fraud placed on record by complainants to prove that respondent misused their signatures for settlement deed. Voluntarily and willingly settlement deed was signed and now complainants cannot get the issues re-opened. Moreover, for the delay lumpsum amount of Rs 2,50,000/- was paid by respondent. Complainants did not raise any objection at time of accepting said amount. Whereas in the judgment referred by complainants, it was recorded in the settlement recorded that no delay has been caused and no compensation will be paid to allottees. Complainants at this stage cannot seek any relief. He relied upon judgment of Wg. Commander Arifur Rahman as detailed in its written reply. Further, he argued that



even if, complainants are entitled to delay interest the same will be w.e.f date of nomination only.

43. At this stage, Authority has raised a query that settlement deed was signed on 05.09.2023 whereas complaint was filed on 20.08.2024, i.e. almost after one year. What objections/efforts were made by complainants to claim delay interest during this one year period.

44. To this, ld. counsel for complainants stated that various visits were made to respondent office for issue of delay interest. But all in vain.

G. ISSUES FOR ADJUDICATION

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

OBSERVATIONS OF THE AUTHORITY

46. The Authority has gone through rival contentions and relevant documents as well as judgments relied upon by the parties. In light of the background of the matter as captured in this order and also the arguments submitted by both the parties, factual position of the case is that complainant being subsequent purchaser had bought the unit no. H-13-04-GF, 1181 sq. ft on 29.05.2017. Builder buyer agreement for the unit in question was executed on 16.09.2010 with original allottee. Offer of possession was made by respondent to complainants on 16.06.2023. NOC for fit outs was issued by respondent to complainants on 19.08.2023. Thereafter, settlement deed was executed between the parties on 05.09.2023.



Claiming the fact that respondent had misused their signature, complainants had filed present complaint on 20.08.2024 for seeking relief of quashing/setting aside of settlement deed and payment of delay possession charges from deemed date of possession till handing over of possession, i.e. 16.09.2012 to 30.10.2023 along with execution of conveyance deed.

47. Authority has carefully examined the settlement deed dated 05.09.2023, which is annexed by the complainant as Annexure- C-10 to the complaint and is also annexed by the respondent as Annexure R-4 to the reply. Authority observes that it is an undisputed and admitted fact that the Complainants and the Respondent voluntarily entered into a **Settlement Deed dated 05.09.2023** for full and final resolution of all disputes, claims, and grievances relating to Unit No. H-13-04-GF on the ground floor in the Respondent's project namely 'Park Elite Floors', Faridabad. The key terms and conditions of the Settlement Deed are summarized as follows:

“Clause E- That on 16.06.2023, the offer of possession was issued to the customer for the unit in the said project.

Clause F- Later, discussions were held between the parties and after detailed deliberations and with a view to avoid protracted legal proceedings, the parties have now mutually agreed to resolve and settle

all their grievances/issues and have arrived at an amicable settlement and are recording the terms of the settlement hereunder.

Clause 1-That the present deed is being entered into between the parties without admitting any faults on their respective parties however the settlement will conclude all disputes and claims both under contract as well as under torts.

Clause 2.1-That the parties agree and acknowledge that the total sale consideration of the unit is Rs 30,98,697/- which the customers have duly paid to the company.

Clause 2.2-The company has agreed to give one time lumpsum compensation of Rs 2,50,000/- to the customers on account of delay in handing over of possession of unit (full and final settlement amount).

Clause 2.3-Subject to compliance of agreed terms and clauses of this deed, BPTP has agreed to pay the full and final settlement amount to the customers in 3 (three) instalments by way of 3 (three) post dated cheques.

Clause 2.4-Subject to the customers complying with all formalities as mentioned in the OOP and the provisions of this deed, the company shall endeavor to deliver the physical handover of the unit within 90 days from the date of execution of this settlement deed.

Clause 2.5-The customers agree and acknowledge that an amount of Rs 16,070/- remains payable by them towards maintenance charges,



which they undertake to pay to BPMS within period of 15 days from the date of execution of this settlement deed.

Clause 2.10-The customers are fully satisfied with the aforesaid calculation and undertakes not to challenge the same in future.

Clause 3-That in light of the settlement envisaged herein above the customers agree and undertake to unconditionally withdraw all complaints (if any) filed before any other court/authority/forum and ensure that no prejudice is caused to the company or its directors, employees, representatives with respect to the complaint and any other complaint filed before any such other court/authority/forum. The customers further undertake that, if required, the customers shall be personally present at the next date of hearing, of the complaint to withdraw the same.

Clause 4-That the customers in lieu of settlement envisaged hereinabove, further agree and undertake that all their grievances, claims, allegations against the company with regard to the unit or the transaction in general with the company have been finally settled and laid to rest and the customers shall not raise any claim against the company at any point of time in future for inter alia licenses or other approvals obtained by the company for the project development works, quality of construction description of charges rates charged or any delayed possession compensation in terms of the duly executed buyer agreement for the unit.

Clause 12-That the parties are entering into the present amicable settlement for good and valuable consideration, out of their own free will and volition and the present deed is being executed without any force, fraud, coercion or undue influence from any person, whosoever.

48. The complainants in deed have unequivocally declared that they have no further claims, demands, or grievances against the Respondent and has undertaken not to initiate or continue any legal proceedings, claims, or complaints in relation to the said unit or any of its terms. The Authority takes note of the categorical and comprehensive nature of these clauses, which clearly indicate that the settlement was intended to operate as a **full and final discharge** of all contractual and statutory claims, extinguishing the earlier cause of action between the parties.

49. The Authority has further observed that the complainants acted in accordance with the Settlement Deed and took steps in furtherance of the settlement:

- i. Complainants availed the benefit of lump sum compensation of ₹2,50,000/- as agreed in the clause 2.2 of the settlement deed for the delay in handing over of possession of unit. Same is duly supported/established with pleadings of complainant at para 16 of complaint.
- ii. Complainants also received actual possession of unit on 30.10.2023, i.e within time period provided in deed. Same is



Same is duly supported/established with pleadings of complainant at para 16 of complaint and clause 1 of relief sought.

50. These facts demonstrate that the complainants as well as respondent acted upon the settlement and acquiesced to its terms through their conduct. The factum of acceptance of deed can be derived from the conduct of the parties. The principle of "accord and satisfaction" therefore applies, which in legal terms denotes a mutual agreement that discharges pre-existing obligations through a new contract that has been acted upon.
51. As per established principles under the **Indian Contract Act, 1872**, once a contract is voluntarily entered into and acted upon by both parties, it assumes binding legal force. A **Settlement Deed** executed with mutual consent operates as such a contract. It can only be invalidated if it is challenged before a **competent civil court** and declared void on limited and recognized legal grounds. It is pertinent to mention here that complainants have chosen to file the complaint after expiry of one year of signing of settlement deed, i.e. on 20.08.2024. No protest/objection was made by the complainant for around one year.
52. Further, the Complainant's **signatures appear on every page** of the document, suggesting that the terms were duly acknowledged and accepted at the time of execution. Herein, the complainants have settled their grievance pertaining to delay in handing over of possession by

accepting lump sum compensation. Though, statutory rights cannot be waived off as rightly held by various Hon'ble Courts/tribunals but the quantum of award/compensation/interest can be chosen by the parties. Complainants were then happy to accept the amount of Rs 2,50,000/- rather than litigating for interest prescribed under governing law. Peculiar circumstances of each case have to be evaluated while granting reliefs. Now, complainants are prohibited due to Principle of Estoppel to get the settled issues re-open.

53. In respect of relief clause (iii) sought by complainant pertaining to *'setting aside the settlement deed dated 03.08.2023/05.09.2023 being forged and fabricated and without consent of the complainants'*. This Authority reiterates here that: **RERA is a statutory forum for redressal of violations of promoter obligations under the RERA Act. It is not a substitute for a civil court and cannot exercise powers of judicial review over private contracts voluntarily entered into by the parties.** The Regulatory Authority has no power to declare settlement deed as null and void as the same power vests with Civil Court u/s 9 of CPC, 1908. Even otherwise, as long as the complainant and promoter duly acted in accordance with the context of settlement deed in its letter and spirit, neither the complainants can claim to have signed blank papers, nor can claim interest in delay in delivery of possession particularly when they had undertaken in writing to settle all the disputes with promoter.

54. This position on the finality and enforceability of voluntary settlements is well-settled in law and finds authoritative support in the judgment of the Hon'ble Supreme Court in *Wg. Cdr. Arifur Rahman Khan & Ors. v. DLF Southern Homes Pvt. Ltd.*, decided on 24.08.2020 and reported in **2020 SCC OnLine SC 667**. In **para 37** of the judgment, the Supreme Court observed:

"However, the cases of the eleven purchasers who entered into specific settlement deeds with the developers have to be segregated. ... These eleven flat purchasers having entered into specific deeds of settlement, it would be only appropriate and proper if they are held down to the terms of the bargain. We are not inclined to accept the contention... that the settlement deeds were executed under coercion or undue influence since no specific material has been produced on record to demonstrate the same."

As per the binding precedent in *Arifur Rahman Khan*, once a voluntary settlement is reached and acted upon, it **cannot be set aside at the whim of a party** unless it is expressly vitiated in a competent forum—and that is clearly not the case here.

55. In respect of relief clause (ii), it is observed that the seeking execution of conveyance deed is the statutory right of the allottees as section 17 (1) of the RE (R&D) Act, 2016 which duly provides for transfer of title and the same is reproduced below:

"Section 17: Transfer of title.

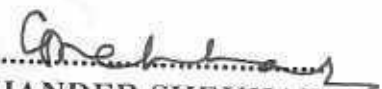
17(1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment

of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans 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 or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

In view of the above, the respondent is directed to execute the a registered conveyance deed in favour of the complainants in terms of section 17(1) of the Act of 2016, after receipt of Occupancy Certificate from the competent authority. Stamp duty and other statutory charges pertaining to conveyance deed shall be paid by the complainant allottee.

56. With the aforesaid observations/directions, the case stands Disposed of. File be consigned to record room after uploading on the website of the Authority.


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CHANDER SHEKHAR
[MEMBER]


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DR. GEETA RATHEE SINGH
[MEMBER]


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PARNEET S. SACHDEV
[CHAIRMAN]