

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

Complaint no.	:	2700 of 2024
Date of filing complaint:		03.06.2024
Date of decision		20.01.2026

Vinay Mittal R/O: C-4/11, Sector 33, Dwarks, Delhi-110077	Complainant
Versus	
M/s Sepset Properties Private Limited. M/s Paras Re Facilities Management Pvt. Ltd. Regd. Office: Paras Twin Towers, Tower B, Golf Course Road, Sector 54, Haryana-122001	Respondents

CORAM:	
Shri Arun Kumar	Chairman
Shri Phool Singh Saini	Member
APPEARANCE:	
Sh. Sanjeev Dhingra (Advocate)	Complainant
Sh. Dhruv Rohatgi (Advocate)	Respondent

ORDER

1. The present complaint has been filed by the complainant/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (ins 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 complainants, 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	"Paras Dews", Sector- 106, Gurugram
2.	Nature of project	Group Housing Colony
3.	RERA registered/not registered	Registered 118 of 2017 dated 28.08.2017
4.	DTPC License no.	61 of 2012 dated 13.06.2012
	Validity status	12.06.2020
	Name of licensee	Sepset Properties
	Licensed area	13.76 acre
5.	Date of apartment buyer agreement	19.07.2016 (page 20 of complaint)
6.	Unit no.	07, 2 nd floor, tower C (Page 23 of complaint)
7.	Unit measuring	1665 Sq.ft (Page 23 of complaint)
8.	Possession clause	<p>3. Possession</p> <p><i>3.1 Subject to Clause 10 herein or any other circumstances not anticipated and beyond the reasonable control of the Seller and any restraints restrictions from any courts/ authorities and subject to the Purchaser(s) having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement and having complied with all provisions. formalities, documentation, etc. as prescribed by the Seller, whether under this Agreement or otherwise, from time to time, the Seller proposes to hand over the possession of the Apartment to the Purchaser(s) within a period of 42 (Forty-Two) months with an additional grace period of 6 (six) Months from the date of execution of this Agreement or date of obtaining all licenses or approvals for commencement of construction, whichever is later, subject to Force Majeure. The Purchaser(s) agrees</i></p>

		<i>and understands that the Seller shall be entitled to a grace period of 90 (ninety) business days, after the expiry of grace period, for offer to hand over the possession of the Apartment to the Purchaser.</i>
9.	Environment clearance	06.09.2013 (taken from another file CR/8046/2022 decided on 21.12.2023)
10.	Due date of possession	19.07.2020 (Note: - Calculated from the date of execution of buyer's agreement i.e. 19.07.2016 being later including grace period) (Grace period of six months is allowed being unqualified and unconditional)
11.	Sale consideration Total sale consideration	Rs.86,04,720/- (As per CD, page 63 of complaint)
12.	Total amount paid by the complainant	Rs.102,23,100/- (As per SOA dated 02.02.2023 page no. 103 of complaint)
13.	Occupation certificate	15.01.2019(Page no. 17 of complaint)
14.	Offer of possession	24.01.2019(Page no. 53 of complaint)
15.	Possession certificate	19.08.2021 (page 60 of reply)
16.	Conveyance deed	20.08.2021(Page no. 63 of complaint)

B. Facts of the complaint:

3. That on 19.07.2016 respondent pressurised the complainant to entered into a new builder buyer agreement with the respondent. As per clause 3.1 of the said agreement, the respondent is liable to handover the possession of the said unit within 42 months with an additional grace period of 6 months from the date of execution of this agreement.
4. That present complaint before the Authority arises out of the consistent and persistent non-compliance of the respondent with regard to the deadlines as prescribed under the flat buyer agreement executed between the parties.

5. That on 24.01.2019, the respondent with malafide intention and to grab the money from the allottee including complainant without completion of tower issued letter of offer of possession to the other allottee of this tower including complainant and demanded Rs. 37,11,723/- from the complainant in which respondent mentioned some illegal charges from the complainant.
6. That on 21.09.2019 and 18.10.2019 the respondent sent an email to the complainant regarding final settlement and as per email respondent waived the illegal charges which were mentioned by the respondent in his letter of offer of possession. The respondent after deduction of illegal charges directed to the complainant to make the full and final payment of Rs. 33 lacs as lump sum settlement. Further, the respondent agreed that maintenance charges of above property shall be chargeable from date of possession of this property. The respondent also mentioned that respondent will hand over the physical possession of the apartment within 30-45 days from the date of payment.
7. That on 31.10.2019 out of this 33 lacs payment demanded by respondent Rs. 20,00,000/- was paid and acknowledged by respondent and on 30.09.2019. further the balance amount of Rs. 12,67,000/- was also paid by complainant on 31.10.2019. As per provisions of the income tax laws, the complainant withheld the remaining sum of Rs. 33,000/- as tax deduction of source and duly deposited the same with Govt and a TDS certificate was issued to respondent. The total amount which was paid by the complainant to the respondent is Rs. 1,02,23,100/-.

8. That on 19.07.2020, as per clause 3.1 of the BBA 4 years have been completed including 6 months grace period but the respondent failed to handover the physical possession to the complainant.
9. That in view of the above, it is submitted that according to the said agreement, the complainant ought to have received the physical possession of the unit within 42 months from the date of execution of builder buyer agreement or within an extended period of 6 months but the respondent failed to handover of physical possession of the unit as per the builder buyer agreement dated 19.07.2016.
10. That on 27.01.2021, the mala fide intention of the respondent clearly shows from the fact that respondent demanded the payment of stamp duty after 2 years from the complainant and in respect of that complainant made the payment of stamp duty of Rs. 6,02,500/- and registration charges of Rs. 45,003/-.
11. That complainant has verbally and telephonically approached to respondent for possession and also sent an email dated 12.07.2021 to the respondent and requested to handover the physical possession of the apartment bearing no. TC/0207 in the project namely Paras Dew after making the above said full and final payment and stamp duty charges.
12. That on the instructions of the respondent, the complainant went to respondent office on 19.08.2021 where respondent required the complainant to sign the possession letter, full and final letter and blank maintenance agreement as a pre-requisite for registration of conveyance

deed in favor of complainant. The respondent filled the blank maintenance agreement letter and filing the date of start of maintenance from the retrospective date.

13. That on 22.01.2019, the possession as offered by the respondent with demand for the payment of Rs. 37,11,732/- to which complainant raised a dispute which was settled through mutual agreement as conceded in the email dated 27.09.2019. The respondent that it shall accept the Rs. 33,00,000/- as full and final payment along with confirmation that maintenance shall be chargeable from the date of possession. Even though the claimant paid the aforementioned amount on 31.10.2019, fulfilling his portion of the settlement, the respondent delayed delivering the possession for more than two years, with the physical possession being delivered on 04.09.2021. The respondent is claiming maintenance expenses retrospectively effective from the committed dated of 01.04.2019, even though the actual date of possession is 04.09.2021, despite the delay in possession which itself is per se bad in law and tantamount to unfair trade practice. On 20.08.2021 the conveyance deed was executed in favour of the complainant by the respondent on 20.08.2021 vide vasika no. 3464.
14. That on 04.09.2021, the respondent called the claimant on flat for handing over the physical possession of said flat. The complainant was surprised when he saw the condition of the apartment that the entire wall and room near kitchen was not furnished and had seepage and also the plaster of back side balcony was damaged and incomplete and the same work was done by the complainant. Further the 4-no. air conditioner was also not installed in

the apartment. The flat was not in the habitual condition even on this date but the respondent has promised that all the deficiencies mentioned in possession checklist duly accepted and acknowledged by the respondent will be rectified in few days.

15. That on 03.02.2023, the complainant also suffered from various shortcomings and defects in the unit and imperative to state that the respondent agreed as per the terms of BBA that the construction quality of the unit would be premium quality which in actual is short of the promises made. The BBA also contemplated that the unit/apartment will also have the 4 AC installed but it was short of these obligations also. The complainant also came to know that some sort of settlement has been arrived by the respondent with other allottees and they have been compensated for the units/apartments where the Acs were not installed and other short-comings. The respondent vide email dated 03.02.2023 also agreed to adjust the AC refundable amount in the complainant's maintenance account but failed to do the same.
16. That respondent sent the letter/statement of accounts to the complainant which is illegal and against the law because the respondent charged the maintenance and club charges from the date of offer of possession and not from the actual date of handover of physical possession i.e., 04.09.2021.
17. That acts of the respondent here in have caused severe harassment both physically and mentally and that respondent has duped the complainant

hard earned money invested by the complainant here in by its act of not handing over the physical possession on time.

18. That the complaint filed by the complainant herein is within the limitation period and complainant has paid the fee as required under law.

C. Relief sought by the complainant:

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

- i. Direct the respondent to pay for delay in offer of possession by paying interest as prescribed under the Act, 2016.
- ii. Direct the respondent to handover 4 Acs or the amount in lieu thereof which was admitted by the respondent through an email dated 03.02.2023.
- iii. Direct the respondent to charge the maintenance and club charges from the actual date of handover of physical possession i.e., 04.09.2021.

D. Reply by respondent & Application on behalf of the respondent for dismissal of the present complaint:

The respondent by way of written reply & application made following submissions: -

20. That at the outset it is submitted that the entire contents of the present complaint under reply are wrong and specifically denied unless specifically admitted hereinafter by the respondent. The complainant has not come before the Authority with clean hands.
21. That the present complaint is barred by limitation and on this ground alone the present complaint ought to be dismissed. Admittedly the complainant herein received the offer of possession on 24.01.2019. The respondent herein had received the Occupation Certificate dated 15.01.2019 from the concerned authorities.
22. That the present complaint has been filed after a period of 5 years 4 months and 18 days after the cause of action. The limitation to file a complaint before

the Authority is 3 years from the date of cause of action. The respondent offered a valid offer of possession to the complainant and from the date of offer of possession till 24.01.2019 till 03.06.2024 the three years period of limitation had expired. Hence, on this ground alone the complaint ought to be dismissed.

23. That this Hon'ble Court in the matter of **Kamal Singhal vs Emaar (RERA-GRG-1885-2024)** had dismissed a similar complaint as well. In the said matter the offer of possession was made on 12.12.2018 and the complaint was filed before the Authority on 23.04.2024. The Authority held that the said complaint was filed after a period of five years and it was not filed within a reasonable time period thus it was barred by limitation.
24. That the Authority in the matter of **Dinesh Chander Behl vs Blackberry (CR/1506/2024)**, dealt with a similar matter as well. In the said matter the offer of possession was made to the complainants on 28.07.2018, however, the complainant filed a complaint before the Hon'ble Authority on 23.04.2024. The Authority was of the view that the cause of action arose on 28.07.2018 and the said complaint was filed after a delay of 5 years hence the said complaint was barred by limitation.
25. That the offer of possession was made on 24.01.2019 after receiving the Occupation Certificate. The complaint has been filed on 03.06.2024 as well which is well beyond the limitation period of three years, hence, the present complaint is barred by limitation in view of the above-mentioned judgements.
26. That the complainant and the respondent herein entered into the builder buyer agreement dated 19.07.2016. In terms clause 3.1 of the said agreement the respondent had to handover possession of the unit to the complainant within 51 months from the date of signing of the said builder

buyer agreement. As per the said builder buyer agreement the due date of possession comes out to be 19.10.2020. However, the respondent offered possession to the complainant on 24.01.2019 itself. Hence there is no cause of action against the respondent as the respondent herein has fulfilled its contractual obligation. There is no delay on part of the respondent in handing over the possession hence the complainant herein is not entitled to any delayed possession compensation as well.

27. That the complainant herein took possession of its unit on 19.08.2021. However, the said date cannot be said to be the date till which the complainant herein can claim any delayed possession compensation. The respondent herein offered a valid offer of possession dated 24.01.2019 to the complainant. It was the complainant herein for reasons best known to it did not take possession of its unit. The complainant cannot be allowed to reap benefit of its own wrong by delaying in taking possession.
28. That the complainant is also liable to pay the club maintenance charges and club maintenance charges from the date of offer of possession rather than the actual date of possession. The Section 19 (10) of the RERA Act, casts an obligation upon the allottee/complainant herein to take over possession of its unit within two months from the date of the Occupation Certificate. The complainant is in violation of Section 19 (10) of the RERA Act, 2016, as the complainant herein admittedly took possession of its unit on 19.08.2021.
29. That the complainant herein being was obligated to take possession of its unit within 2 months from the date of Occupation Certificate, hence the complainant herein was also obligated to pay the maintenance charges to the respondent. The Authority in the matter of ***Rishi Muni Bhardwaj vs Vatika Limited (Complaint No. 4639 of 2023)*** held that the allottee has to pay maintenance charges from the date of a valid offer of possession.

Respondent sent a valid offer of possession dated 24.01.2019 as the said offer of possession was made after receiving the Occupation Certificate.

30. That clause 8.4 of the agreement provides that the complainant herein is obligated to pay maintenance charges within 30 days from the offer of possession. The relevant extract being, *"The purchaser(s) further undertakes to pay annual maintenance charges and such other charges as may be demanded by the Maintenance Service Provider within 30 (thirty) days of the offer of possession...."* Thus, the complainant herein is obligated to pay the maintenance charges from the date of offer of possession. The offer of possession offered by the respondent herein is a valid offer of possession as the same has been made after receiving of the offer of possession from the concerned authorities. Moreover, the respondent has also credited compensation/delayed interest of Rs. 4,11,723/- as a lump sum settlement to the complainant and the same is reflecting in the statement of account.
31. That the Complainant herein has stated that the Respondent herein had made demand for illegal charges in the offer of possession letter dated 24.01.2019. However, the Complainant herein has miserably failed to justify as how the demands made under the offer of possession letter dated 24.01.2019 were illegal.
32. All other averments made in the complaint were denied in toto.
33. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be denied on the basis of these undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority:

34. 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

35. 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

36. 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 promoter, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

37. 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. Observation of Authority with regard to maintainability of complaint on account of complaint being barred by limitation:

38. The respondent has filed an application for dismissal of complaint as well as reply on 10.09.2025, which is taken on record and raised the preliminary objection in its reply that the complaint is not maintainable being barred by limitation. It is necessary to deal with the preliminary objection before proceeding with the reliefs sought by the complainant.
39. On consideration of the documents available on record, the Authority observes that the complainant herein was allotted a unit bearing no. 07, 2nd floor, tower C, admeasuring 1665 sq. ft., in project of the respondent named "Paras Dews" situated at Sector-106, Gurugram, and buyer's agreement was also executed between the complainant and the respondent regarding the said allotment on 19.07.2016. Further, in terms of Clause 3 of the said buyer's agreement, the respondent was obligated to hand over possession of the said unit within a period of 42 months with an additional grace period of 6 months from the date of execution of this agreement or date of obtaining all licenses or approvals for commencement of construction, whichever is later. The date of execution of buyer's agreement being later, the due date of handing over of possession is reckoned from the date of buyer's agreement and the grace period of 6 months is also allowed being unqualified/unconditional. Therefore, the due date of handing over of possession comes out to be 19.07.2020. The complainant has paid an amount of Rs. 1,02,23,100/- against the sale consideration of Rs. 86,04,720/-.
40. The respondent has stated that the present complaint is barred by limitation and, on this ground alone, is liable to be dismissed. The respondent obtained the Occupation Certificate on 15.01.2019 and thereafter offered possession

on 24.01.2019. The present complaint has been filed after a period of 5 years, 4 months, and 10 days from the date on which the cause of action arose. It is settled law that the limitation period for filing a complaint before the Authority is three years from the date of the cause of action. The respondent made a valid offer of possession to the complainant, and from the date of the offer of possession, i.e., 24.01.2019, till 03.06.2024, the prescribed period of three years had already expired. Hence, on this ground alone, the present complaint is liable to be dismissed.

41. The complainant is seeking delayed possession charges from the respondent while the respondent on the other hand is pleading that the present complaint is barred by limitation as the complainant has got the offer of possession on 24.01.2019 and his conveyance deed executed on 20.08.2021, the transaction between the complainant and the respondent stands concluded upon the execution of the conveyance deed and the complainant has filed the present complaint after a long delay on 03.06.2024.
42. Though both parties, through their respective counsel, advanced submissions regarding the maintainability of the complaint on the ground of limitation, in view of the settled proposition of law, the complainant's case cannot be dismissed as being barred by limitation. In the present case, the buyer's agreement was executed on 19.07.2016. As per the agreement, possession of the unit was to be offered on or before 19.07.2020 upon completion of the project. However, the respondent offered possession prior to the due date, i.e., on 24.01.2019, after obtaining the Occupation Certificate on 15.01.2019, which ultimately led to the execution of the conveyance deed on 20.08.2021. Therefore, the limitation period, if any, for the cause of action would accrue to the complainant with effect from 24.01.2019 and not from 20.08.2021. The present complaint, seeking delay possession charges and other reliefs, was filed on 03.06.2024, i.e., beyond three years from

24.01.2019. However, in view of the authoritative pronouncement of the Hon'ble Supreme Court in Suo motu proceedings vide order dated 10.01.2022, the period from 15.03.2020 to 28.02.2022 stands excluded while computing the period of limitation. Moreover, no case for delay possession charges is made out, as the Occupation Certificate was obtained by the respondent on 15.01.2019 and possession was offered on 24.01.2019, i.e., prior to the due date for handing over possession (19.07.2020).

43. With respect to entitlement of delay possession charges after the execution of conveyance deed, the Authority is of the view that the taking over the possession and thereafter execution of the conveyance deed can best be termed as respondent having discharged its liabilities as per the builder buyer's agreement. The same view has also been upheld by the Hon'ble Supreme Court in case titled as **Wg. Cdr. Arifur Rahman Khan and Aleya Sultana and Ors. Vs. DLF Southern Homes Pvt. Ltd. (now Known as BEGUR OMR Homes Pvt. Ltd.) and Ors. (Civil appeal no. 6239 of 2019) dated 24.08.2020.**
44. As noted above, the possession of the subject unit was offered to the complainant on 24.01.2019 after obtaining occupation certificate on 15.01.2019. Thereafter, the conveyance deed of the unit was executed between the parties on 20.08.2021 and the present complaint was filed on 03.06.2024. There has been complete inaction on the part of the complainant for a period of more than three years till the present complaint was filed in June 2024. The complainant remained dormant of his rights for more than 3 years and they didn't approach any forum to avail his rights. There has been such a long unexplained delay in pursuing the matter. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be stretched to an extent that basic principles of jurisprudence are to be ignored and are given a go by especially

when the complainants allottees have already availed aforesaid benefits before execution of conveyance deed.

45. 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 their 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.
46. 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.
47. In the light of the above stated facts and applying aforesaid principles, the authority is of the view that the present complaint is not maintainable after such a long period of time as the law is not meant for those who are dormant over their rights. The Act has been established to regulate real estate sector and awarding relief in the present case would eventually open pandora box of litigation. The procedure of law cannot be allowed to be misused by the

litigants even in cases where allottees have availed certain benefits prior to the execution of conveyance deed. It is a settled principle of natural justice that no person's right should be prejudiced due to the unexplained inaction or negligence of another. In the present matter, the complainant has failed to offer any justification for the inordinate delay of nearly a decade. In these circumstances, the complaint is held to be non-maintainable being barred by limitation and the reliefs prayed for cannot be granted.

48. Complaint is dismissed being barred by limitation.
49. File be consigned to the registry.



(Phool Singh Saini)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

20.01.2026

HARERA
GURUGRAM