

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

Date of decision: 13.01.2026

NAME OF THE BUILDER		M/s Senior Builder Pvt. Ltd.	
S. No.	Case No.	Case title	Appearance
1.	CR/3440/2023	Alka Verma. & Vinod Kumar VermaV/S Senior Builder Pvt. Ltd.(R:1), Avdesh Yadav(R:2), Dhananjay Rao (R:3) & Advance India Projects Limited(R:4)	Ms. Daggar Malhotra (Complainant) Sh. Rishabh Gupta (Respondent no.1) Sh. Dhruv Rohtagi (Respondent no.2& 3) Sh. Venket Rao & Gunjan Kumar (Respondent no.4)
2.	CR/3442/2023	Vinod Verma & Alka Verma. V/S Senior Builder Pvt. Ltd.(R:1), Avdesh Yadav(R:2), Dhananjay Rao (R:3) & Advance India Projects Limited(R:4)	Ms. Daggar Malhotra (Complainant) Sh. Rishabh Gupta (Respondent no.1) Sh. Dhruv Rohtagi (Respondent no.2&3) Sh. Venket Rao & Gunjan Kumar (Respondent no.4)

CORAM:

Shri Arun Kumar

Chairman

ORDER

1. This order shall dispose of the aforesaid complaints titled above filed before this authority 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 details of the complaints, status of reply, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project Name and Location	"Senior Destination Point- MG Road, Gurugram" (shopping mall)	
<p>Clause 16 "The allotment of the said premises is proposed to be made and confirmed by the Company to the Intending Allottee(s) within 24 months from the date of sanction of Building Plans. The Company shall not incur any liability if it is unable to make and confirm the allotment of the said premises by the time aforementioned, if the completion of the Building(s) is delayed by reason of non-payment of timely instalments by the Intending Allottee(s) or non-availability of steel and/or cement or other building materials, or water supply or electric power or slow down strike or due to a dispute with the construction agency employed by the Company, civil commotion or by reason of war, or enemy action, or earthquake or any act of God, or if non - completion of the building is as a result of any act, notice, order, rule or notification of the Government and/or any other public or competent authority or for any other reason beyond the control of the Company and in any of the aforesaid events the Company shall be entitled to a reasonable extension of time to make and confirm the allotment of the said premises to the Intending Allottee(s)." (Emphasis supplied)</p>		
Occupation Certificate: Not obtained; Offer of possession: Not offered		
Complaint no.	CR/3440/2023	CR/3442/2023
Date of MOU executed between the respondent, a financier and intending lessee "Piramyd Retail Limited", an associate of Indiabulls Wholesale Services Limited	01.02.2008 [Page 42 of complaint]	01.02.2008 [Page 26 of complaint]
Allotment letter in favour of complainant	26.06.2008 (page 35 of complaint)	16.06.2008 (Page 34 of complaint)
Unit no. and area	T-23, 3rd floor (Page 35 of complaint), 412.89 sq. ft. (Page 35 of complaint)	T-22, 3rd floor (Page 34 of complaint) 407.45 sq. ft. (Page 35 of complaint)
Addendum to Allotment letter	26.06.2008 Assured returns/ Monthly returns- Rs.24,773.40/- till	16.06.2008 Assured returns/ Monthly returns- Rs.24,447/- till the

	the time of offer of possession of unit to complainants. (Page 54 of complaint)	time of offer of possession of unit to complainants. (Page 53 of complaint)
Basic sale consideration	Rs.15,02,920/- (as per allotment letter at page 38 of complaint)	Rs.14,83,118/- (as per allotment letter at page 39 of complaint)
Amount paid by the complainants	Rs.15,02,920/- (as per MOU at page 54 of complaint)	Rs.14,83,118/-(as per allotment letter at page 53 of complaint)

1. Direct the respondent to pay interest for delay on the total amount paid by the complainants at prescribed rate of interest for every month of delay, till the date of actual handing over of the possession of the unit.
2. Direct the respondent to pay pending monthly returns to the complainants as per Addendum to allotment @Rs.24,447/- per month with 12% escalation every three years on prevailing rent as per T & C India Bulls MoU Annexure C2 and addendum to allotment letter Rs.24,447/- per month from January 2009 till the date of this present complaint.
3. Direct the respondent to pay pending monthly returns to the complainants as per Addendum to allotment @Rs.24,447/- per month with 12% escalation every three years on prevailing rent as per T & C India Bulls MoU Annexure C2 and addendum to allotment letter Rs.24,447/- per month from date of this complaint till the date of offer of possession of duly leased out unit.
4. Direct the respondent to complete construction/handover of possession of the said unit to the complainants.
5. Direct the respondents not to charge maintenance from the complainants till the present matter is decided.

3. It has been decided to treat the aforesaid 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 promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
4. The facts of the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/3440/2023 titled as Alka Verma & Vinod Kumar Verma V/s Senior Builders Pvt. Ltd. & Anr. are** being taken into consideration for determining the rights of the allottee(s) qua the reliefs sought by the complainant-allottees.

A. Project and unit related details

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

Sr.No.	Particulars	Details
1.	Name and location of the project	"Senior Destination Point- MG Road, Gurugram" (shopping mall)
2.	Project area	6600 sq. yards
3.	Nature of the project	Commercial Complex
4.	DTCP license no. and validity status	Project was scrapped in 2012 as a result of DTCP order dated 14.11.2011 for cancellation of DTCP licence (Page no. 7 of reply)
5.	RERA registered/ not registered and validity status	Not Registered
6.	MOU executed between the respondent, a financier and intending lessee "Piramyd Retail Limited", an associate of Indiabulls Wholesale Services Limited	01.02.2008 (Page 26 of complaint)
7.	Allotment letter in favour of complainant	26.06.2008(Page 35 of complaint)
8.	Unit no.	T-23, 3 rd floor (Page 35 of complaint)
9.	Unit area admeasuring	412.89 sq. ft. (Page 35 of complaint)
10.	Possession Clause	Clause 16. "The allotment of the said premises is proposed to be made and confirmed by the Company to the Intending Allottee(s) within 24 months from the date of sanction of Building Plans. The Company shall not incur any liability if it is unable to make and confirm the allotment of the said premises by the time aforementioned, if the completion of the Building(s) is delayed by reason of non-payment of timely instalments by the Intending Allottee(s) or non-availability of steel and/or cement or other

		<i>building materials, or water supply or electric power or slow down strike or due to a dispute with the construction agency employed by the Company, civil commotion or by reason of war, or enemy action, or earthquake or any act of God, or if non - completion of the building is as a result of any act, notice, order, rule or notification of the Government and/or any other public or competent authority or for any other reason beyond the control of the Company and in any of the aforesaid events the Company shall be entitled to a reasonable extension of time to make and confirm the allotment of the said premises to the Intending Allottee(s).”(Emphasis supplied)</i> (Page 40 of complaint)
12.	Addendum to Allotment letter	That the said monthly return shall be paid to you till such time the possession of the said unit is offered to you duly leased on the basis and terms and condition of the said lease document, the lease rent of which shall not less than the said monthly return. (Page 54 of complaint)
13.	Basic sale consideration	Rs.15,02,920/- (as per allotment letter at page 38 of complaint)
14.	Amount paid by the complainants	Rs.15,02,920/- (as per MOU at page 54 of complaint)
15.	Date of occupation certificate	Not obtained
16.	Date of offer of possession	Not offered

B. Facts of the complaint

6. The complainants have filed an amended complaint and made the following submissions:
- i. That, the complainants were desirous of purchasing a commercial unit in Gurugram, and, the respondents advertised their project, a shopping mall,



by the name of "Senior Destination Point - M.G. Road, Gurgaon" also known as 22 "Senior Mall and Senior Destination Mall", being developed on land measuring roughly 6600 sq. yards forming a part of Khasra no. 39/14/1, Khasra no. 17/1/1 and Khasra no.17/1/5 situated on MG Road at Village Sarhaul, Tehsil & District Gurgaon, which seemed suitable to the requirements of the complainants. The said project- "Senior Destination Point - M.G. Road, Gurgaon" was being jointly developed by respondent no.1 i.e., M/s Senior Builder in collaboration with respondent no.2 i.e., Amar Singh. Respondent no. 2 i.e., Amar Singh the landowner in earlier complaint has died and the subject land has been transferred to the legal heirs and successor in interest i.e., respondent no. 2 Avdesh Yadav and respondent no.3 Dhananjay Rao in the present amended complaint. Furthermore, as per project site inspection dated 19.05.2025, it was discovered AIPL (Respondent no.4) is the new investor in the said project and at present the board of AIPL is also visible at the front barricading of the site, hence AIPL is being impleaded as the respondent no.4 in the present amended complaint.

- ii. That the above fact in relation to change in scheme between the respondents were not known to the complainants and not informed by any respondent hence the original complaint was filed against M/s Senior builder, however, upon discovery of the new facts, the complainants are craving leave to amend the complaint as per new facts and discovery. Post discovery of the new facts, it can be concluded that respondent no.1, 2, 3 and 4 are jointly and severally liable.
- iii. The respondents shared the brochure of the said project which also included details of other completed and upcoming projects of the respondents. The respondents also shared a Memorandum of



Understanding dated 01.02.2008 entered between the respondents, a financier and an intending lessee. The respondents claimed that the units in the said project were already confirmed to be leased out to the intending lessee namely M/s Piramyd Retail Limited, an associate of Indiabulls Wholesale Services Limited and that the complainants would not only receive from Senior builders' monthly returns till handover of possession but also lease rentals from the intending lessee post-handover. The same gave a sense of confidence to the complainants and believing said representation so made by the respondent, jointly applied for booking of a commercial shop/unit in the above-mentioned project of the respondents.

- iv. In pursuance of the same, the respondent no. 1 Senior Builders, vide allotment letter dated 26.06.2008 allotted a unit bearing no. T-23 on third floor having a super area 412.89 sq. ft. for a basic sale consideration of Rs. 15,02,920/- to the complainants. The said sum was paid upfront in advance by the complainants. The said fact is duly recorded in the addendum to allotment dated 26.06.2008 (recitals -para 3) wherein it is mentioned that Rs 15,02,920/- has been received by the respondents from the complainants as full payment towards the said unit and that the respondents binds themselves to pay the complainants a sum of Rs.24,773/- per month as 'monthly returns.' with 12% escalation every three years on prevailing rent as per TNC India bulls MoU annexure C-2 and addendum to the allotment letter. As per clause 1 of the addendum to allotment, the monthly returns were to be paid to the complainants till possession of the said unit was offered by the respondents to the complainants and provided that the unit was duly leased out at a lease rental not less than the amount of monthly returns.

- v. That, as per clause 1 of the allotment letter, a formal commercial buyers' agreement was to be given to the complainants on completion of the project/shopping mall. That, till date, even after coming into force of the Act, the respondents have failed to execute a commercial buyers' agreement, after having received the total basic sales consideration in advance. The same is in violation of Section 13 of the Act and the said violation on the part of the respondents has been continuous till date as even till date no buyers' agreement has been provided by the respondents.
- vi. That, as per clause 16 of the allotment letter, the respondents were obligated to give the completed unit within 24 months from the date of sanction of building plans. The building plan had already been sanctioned much prior to the date of signing of allotment letter. The exact date was not within the knowledge of the complainants and for the purpose of calculation of due possession, 24 months had been calculated from the date of allotment letter. However as per information given in development agreement with AIPL the building plans were approved in 12.2005. The due of possession/completion being 26.06.2010. Clause 19 of the allotment letter provided for alternative reliefs and compensation to be given by the respondents in case of the respondents' failure to complete the project within the stipulated time period. Said project- "Senior Destination Point - M.G. Road, Gurgaon" was being developed by earlier respondent no.1 in collaboration with respondent no.2 in lines with collaboration agreement dated 16.04.2003. The same is also clearly stated in para 2 of the allotment letter dated 26.06.2008. However, respondent no.4 in present amended complaint has taken over from respondent no.1 in earlier complaint, also respondent no. 2 and 3 being legal heirs and successors-in-interest of respondent no.2 in earlier complaint.

Accordingly, both, respondent no.1, 2, 3 & 4, can be termed its 'promoters' as per the definition of Act. Thus, all the respondents are the promoters i.e., respondent no.1, 2, 3 and 4 are jointly and severally responsible towards the complainants and the reliefs are being sought against all the respondents.

- vii. That, the respondents defaulted in completion of construction of the unit by the due date and further more defaulted in making the payments of monthly returns to the complainants. Barely, six months of monthly returns were received by the complainants after allotment and post that, the respondents completely failed to honor their liability of making payments of monthly returns to the complainants January 2009 onwards.
- viii. That respondent claimed that the project was scrapped in the year 2012, however, the respondent no.1 vide letter dated 28.06.2019 applied for the grant of increase FAR under TOD policy and renewing of our old commercial CLU project in the name of M/s Senior Builders Ltd. Vide no. 11711 dated 17.10.2003. The company applied for the grant of Occupation Certificate, and the concerned department directed the respondents to apply for OC under the policy dated 29.04.2010, however, in view of decision dated 17.04.2012, the competent authority kept the grant of OC in abeyance. Furthermore, the respondents filed an appeal under Section 350 of HMC Act, 1994 and subsequently the Appellate Authority vide order dated 15.06.2020 set aside and withdrew order dated 17.04.2012 passed by DG, TCP. Hence, it can be concluded that the respondents have sought grant of OC when the project was complete and that too in the year 2019, which in toto means that the project is an 'Ongoing' as per the RERA Act. It will not be out of place to mention that the respondents till date have not



offered possession to the complainants despite the respondents making application before the competent authority to grant OC.

- ix. That, the act of the respondents by seeking OC in 2019, that the project is ongoing hence the Authority has full jurisdiction as envisaged under HRERA Act, 2016. Further, the complainant wrote a letter dated 30.09.2024 to the Director of Urban Local Bodies for clarification in regard of status of the project and vide letter dated 01.10.2024 the District Town Planner replied with all the necessary details in respect of the project.
- x. That Appellant Authority vide order dated 15.06.2020 had set aside and withdrew order dated 17.04.2012 passed by DG, TCP. Hence, the respondents who had full knowledge of the same, is misleading the Authority and shall be dealt with heavy hands of law for filing frivolous and misleading application. Respondents have reportedly paid a sum of Rs. 1,92,700/- in the year 2019 to the competent Authority in respect to the project in question which enumerate that the respondent has full ownership of the project.
- xi. That, till date the project/unit's construction is not complete i.e., even after a delay of approx. 13 years from the due date of possession and a period of 15 years from the date of allotment, the respondents have miserably failed in completing construction of the project.

C. Relief sought by the complainant

The complainant has filed the present compliant for seeking following reliefs:

- i. Direct the respondents to pay interest for delay on the total amount paid by the complainants @ prescribed rate of interest for every month of delay, till the date of actual handing over of the possession of the unit.
- ii. Direct the respondents to pay the pending monthly returns to the complainants as per the addendum to allotment @ Rs.24,773.40/- per month from January 2009 till the date of this present complaint.

- iii. Direct the respondents to pay the pending monthly returns to the complainants as per the addendum to allotment @ Rs.24,773.40/- per month from date of this complaint till the date of offer of possession of duly leased out unit.
 - iv. Direct the respondents to complete construction/handover of possession of the said unit to the complainants.
7. On the date of hearing, the authority explained to the respondent/promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act and to plead guilty or not to plead guilty.

D. Reply by the respondent no.1

- i. That the Authority has no jurisdiction to entertain the present complaint as the project was scrapped in year 2012 and does not fall under "Ongoing" definition. The DTCP passed an order dated 14.11.2011 for cancellation of DTCP license and due to non-obtaining of necessary permissions.
- ii. That after scrapping of project in year 2012, the provisions of RERA Act are not applicable upon the present complaint as the project has already abandoned before coming into force of RERA Act.
- iii. That due to non-approval and sanction of permissions from the government departments, the respondent has abandoned the project in year 2012. The complainant has not filed any objection to this abandoned project in any court of law.
- iv. That the said project is neither ongoing project nor is required to be registered under the Act due to non-approval/sanctions of permission from concerned department, the said project has been abandoned in year 2012. The Hon'ble Rajasthan RERA Act are not applicable upon the abandoned project before coming into force of RERA Act. It has also been held by *Rajasthan RERA Tribunal in Sharad Poddar V/s Carnation Developers Pvt. Ltd. and Ors* complaint no. RAJ-RERA-C-2018-2640 that

abandoned project is not liable to be registered under the statutory provision.

- v. Thus, as per provisions of Rules 2017 applicable w.e.f. 28.07.2017 as well as Act, 2016 applicable w.e.f. 25.03.2016, this Authority has no jurisdiction to try the present complaint and is liable to be outrightly dismissed with cost. In view of the facts and circumstance, the present is liable to be dismissed with cost.

E. Reply by respondent no.2 & 3

- i. That without prejudice to the rights and contentions and the objection as stated above, the present complaint is not maintainable. It is the case of the complainants that the booking done by them pertains to the year 2008, while the complaint is filed in the year 2023, i.e. after a lapse of more than 15 years. The complainants have been sleeping over their rights and the complaint is barred by limitation. The alleged cause of action, if any, arose to the complainants as per their own case, on 26.06.2010, i.e., 24 months from the date of allotment letter dated 26.06.2008, i.e. the alleged due date of possession. Thus, as per the own averment of the complainants, the due date being that of 26.06.2010, the complaint filed in the year 2023, after 13 years is grossly barred by limitation. Furthermore, for the sake of argument, if it is assumed that the cause of action to claim the assured lease rentals arose from January 2009 onwards, as alleged in the complaint, the limitation to claim the same expired way back and the complaint, filed after 14 years is not maintainable.
- ii. That the complaint is not maintainable and the complainants have no locus standi or cause of action to file the complaint. The project in question was got scrapped way back in the year 2012 and is not an ongoing project.



- iii. That the Authority lacks the jurisdiction to adjudicate the present complaint, which is in respect of a project, proposed way back in the year 2008 and was scrapped in the year 2012. It is a matter of record and the own submission of the complainant that the project in question is not RERA registered. In such circumstances, the complaint is not maintainable before the Authority. Reference is hereby drawn to the Judgment of the **Madras High Court** in the matter of *M/s Devinarayan Housing and Property Developments Private Limited Vs Manu Karan & Ors.*, bearing *CMSA Nos. 23 and 24 of 2020*, decided on *20.09.2023*, to contend that where the project is not registered under RERA, the jurisdiction of the Authority to adjudicate the complaints is ousted.
- iv. That the respondents no.2 and 3 cannot be held liable for the actions or inactions on the part of the respondent no.1. The respondent no.2 and 3, who are the successors in interest of Late Shri Amar Singh, are the landowners and had collaborated with the respondent no.1 for development of the commercial building, which was to be developed by the respondent no.1 exclusively at its own cost and expense, in terms of clause 3 of the collaboration agreement dated 16.04.2003. The respondent no.2 and 3 or their erstwhile predecessor in interest had neither taken the booking of the complainant, nor made any representations to them or took any consideration from the complainants. Thus, the respondent no.2 and 3 cannot be fastened with any liability whatsoever.
- v. That a collaboration agreement dated 16.04.2003 was executed between the respondent no.1 and Late Shri Amar Singh for development of a commercial building known as "Senior Mall", on the land of Late Shri Amar Singh. As per clause 15 & 19 of the collaboration agreement dated 16.04.2003, it becomes abundantly clear that the developer had taken all



- the necessary authorizations from Late. Shri. Amar Singh and had undertaken to clear all advances, bookings etc. with specific statement that Lt. Sh. Amar Singh shall not be liable to any payment.
- vi. That even as per the recitals of the allotment letter, issued by the respondent no.1, in favour of the complainants, there is no affirmation, privity, representation, assurance or any payment exchange between the complainants and the respondents or Late Shri Amar Singh.
- vii. Thus, from the above, it is writ large that there has neither been any representation, assurance, transaction or any privity of contract between the complainants and the answering respondents no.2 and 3 or between the complainants and the predecessor in interest of respondents, i.e. Late Shri Amar Singh. Hence, no liability can be fastened on to the respondents.
- viii. That the respondent no.1, never adhered to the terms and conditions of the collaboration agreement executed with Late Shri Amar Singh and having failed to comply with their obligations, the respondent no.1 was left with no right under the collaboration agreement dated 16.04.2003. It is submitted that after the failure of the respondent no.1 to comply with its obligations, the father of the respondent no.2 and the grandfather of the respondent no.3 transferred the land in question to the respondents herein by virtue of a transfer deed dated 04.08.2014, registered as document no. 10859, book no.1, Jild no. 13085 at page no. 118. The respondents were fully competent and under rights to deal with the land owned and received by them way back in the year 2014, and they have legally and validly entered into a development agreement/agreement dated 18.04.2022 with M/s Advance India Projects Limited for development of the land in question and the respondent no.1, which had been left with no right under the alleged collaboration agreement of the



year 2003 and was arrayed as a party in the development agreement with M/s Advance India Projects Limited, only to avoid any technical objection in development of the land by M/s Advance India Projects Limited, before the competent Authority. The respondent no.1, never performed its part of the agreement/collaboration agreement with the predecessor of the respondents herein, nor ever completed the construction of the project for many years and indulged itself into illegal and unauthorized transactions with the third parties without there being any right, title or interest to do so. The complainants, who have been sleeping over their rights against the respondent no.1, cannot claim any bonafides and disturb the project in question.

- ix. That the very fact that the respondents no. 2 and 3 entered into the development agreement dated 18.04.2022, after more than 8 years of having received the land from the erstwhile owner, shows the bonafide. The respondents cannot be held responsible for the fact that the complainants had been sleeping over their rights for over 16 years and never took any action against the respondent no.1. The respondent no.2 and 3 or the development agreement dated 18.04.2022, cannot be prejudiced due to the lapses of the complainants or the respondent no.1.

F. Reply by the respondent no.4

- i. That the complaint has been preferred by the complainant on frivolous and unsustainable grounds and the complainant has not approached the Authority with clean hands and is trying to suppress material facts relevant to the matter. The Complainant is making false, misleading, fatuous, baseless and unsubstantiated allegations against the Respondent with malicious intent and sole purpose of extracting unlawful gains from



- the Respondent. The instant Complaint is not maintainable in the eyes of the law and is devoid of merit, therefore is fit to be dismissed *in limine*.
- ii. At the very outset, from a mere perusal of the complaint and the allotment letter dated 26.06.2008, it is evident that the complainants are real estate investors and with the intention of investing in the real estate sector of Gurugram had applied for booking of a unit T-23, on 3rd floor, in a shopping mall to be known as "Senior Destination Point-M.G. Road, Gurgaon", 'proposed' to be constructed, on the land measuring roughly 5521 sq.mts, situated in the Mehrauli-Gurgaon road at village Sarhaul, Tehsil & District, Gurgaon, Haryana, by the respondent no.1. The unit was booked by the complainants in future proposed project of the respondent no.1 which can also be verified from a mere perusal of the subject of the allotment letter, wherein it is categorically stated that the project was proposed to be developed. This makes it abundantly clear that as and when the alleged investment was made by the complainants, there was no real estate project.
 - iii. That in the Year 2008, when the complainant and the respondent no. 1 had entered into the transaction of alleged sale and purchase of the unit in the proposed project, the respondent no. 4 was not associated with the respondent no. 1, 2 and 3 in in any whatsoever manner nor did the respondent no. 4 have any involvement or interest in the transaction entered into by the respondent no. 1 and the landowners. In fact, the alleged allotment letter dated 26.08.2008 has come into the knowledge of the respondent no.4 only vide the present complaint.
 - iv. Additionally, the complainants have relied and filed the instant complaint based on the allotment letter dated 26.08.2008 executed between the complainants and respondent no.1. The respondent no.4 was not a party



to the said allotment letter nor the transaction/understanding entered into between the complainants and the respondent no.1. The terms and conditions contained therein are absolutely alien to the respondent no.4. Also, a perusal of the said allotment letter it can be seen that there are no obligations or liabilities which have been bestowed upon the respondent no.4. The complainants have unnecessarily dragged the respondent no.4 into the false and frivolous litigation, basis the allotment/ understanding/ transaction which was not even in the knowledge of the respondent no.4 prior to the complaint.

- v. That as per the well-established principle of law of "**Privity of Contract**", only parties to a contract/agreement are allowed to sue each other to enforce their rights and liabilities and no stranger is allowed to confer obligations upon any person who is not a party to the contract/agreement.
- vi. Furthermore, the respondent no. 4 has no role to play in what seems to be a dispute between the respondent no.1 and the complainants. In the instant case, respondent no. 4 is a stranger to the allotment letter issued by the respondent no.1 having no involvement or obligations towards the complainants. Therefore, it is most humbly submitted that no action can be brought against the respondent no.4 by the complainants.
- vii. That the alleged money has been admittedly paid to the respondents no. 1 only and the respondent no.4 has not received a single penny nor there are any communications between the complainants and the respondent no.4 with respect to alleged allotment made by the respondent no.1.
- viii. That the respondent no. 4 is liable to be deleted from the array of parties in the complaint as there is no privity of contract between the complainants and the respondent no.4. Furthermore, the respondent no.4 is completely unaware of any transaction between the complainants and



respondent no. 1 and cannot be held liable or accountable for any action of the respondent no. 1, 2 and 3. Also, a perusal of the complaint reveals that no specific allegation or averments have been made against the respondent no. 4. Hence, the respondent no. 4 deserves to be deleted from the array of parties as the instant complaint is not maintainable against the respondent no.4.

- ix. That from a bare perusal of the allotment letter it is evident that the respondent no.1, somewhere in 2008, proposed to develop the aforementioned project and the complainants with an intention of benefiting from the growing real estate sector of Gurugram applied for allotment of a unit in the proposed project of the respondent no.1. Accordingly, an allotment letter 26.06.2008, was issued in favor of the complainants for allotment of a Unit post completion of the project.
- x. That, due to force majeure situations and other reasons best known to the respondent no.1, the proposed project by the respondent no.1 could not be completed and was discontinued and shelved. Thereafter, Mr. Avdesh Tyagi i.e., respondent no. 2 and Mr. Dhanajay Rao i.e., respondent no.3 and M/s Senior Builder Ltd. i.e., respondent no.1 entered into a development agreement dated 18.04.2022 with the respondent no.4 i.e., M/s Advance India Projects Ltd., the respondent no.1 exclusively granted/transferred the development rights of the project land which was granted to the respondent no.1 under the collaboration agreement executed with the landowners, to the respondent no.4.
- xi. That after execution of the development agreement, the respondent no.4 would conceive a completely new- fresh project on the said project land upon new sanctions and approvals being granted by the competent

- authorities. The respondent no. 4 does not have anything to do with the erstwhile proposed project of the respondent no.1.
- xii. That due to force majeure situations and other reasons beyond the control of the respondent no.1 the proposed project was discontinued and shelved by the respondent no.1. Clause 19 of the allotment letter, it has been categorically agreed between the complainants and the respondent no.1 that in case for any reasons within or beyond the control of the respondent no.1, the allotment is not confirmed within the agreed time period, then the complainants shall be entitled to terminate the registration of the allotment, and thereafter, the respondent no. 1 shall refund the amount paid by the complainants.
- xiii. That the Authority in the hearing dated 21.05.2025 appointed the local commissioners to inspect and submit a report with respect to the status of construction and project on the site. In view of which, the associate legal executive and associate engineer executive duly submitted a report dated 24.06.2025.
- xiv. That the proposed project by the respondent no.1 has been abandoned and they no longer are perusing to develop the said project. In view of which the agreed conditions as mentioned in the clause 19 of the allotment letter becomes applicable to the complainants. Thus, in light of clause 19 of the allotment letter, it is evident that the complainants were provided with a specific remedy of refund in the event when the allotment was not confirmed. Therefore, since a mechanism for refund has already been established and agreed upon by respondent no.1 and the complainants in the allotment letter, there is no justification for the present complaint to proceed. Consequently, the complaint is liable to be dismissed solely on this ground only.



- xv. That the complaint is not maintainable against the respondent no. 4, as no real cause of action has either been pleaded or exists against the respondent no. 4 and it is verily believed that the complaint is nothing but an instigated and motivated attempt at pressurizing the respondent no. 4 without any basis or cause of action.
- xvi. That complaints based on the illusory cause of action must be nipped in the bud in order to prevent the streams of justice from being polluted by unscrupulous litigants and to prevent abuse of the process of law. It is also noteworthy to mention that "*cause of action is a bundle of essential facts-necessary for the plaintiff to prove so that he can succeed in the case (A 1991 Ker137, 138)*". In the instant case the true material and essential facts adequately signifies that respondent no.4 is being unfairly dragged in the instant matter.
- xvii. That all the allegations levied by the complainants are against the respondent no. 1 only, and the complainants, of their own admission and admittance, have only specifically named respondent no.1 in every allegation and grievance. Further, the complainants have no locus standi to file the complaint against respondent no.4. The respondent no. 4 is impleaded as a party in the present matter with an ulterior motive to unnecessarily drag the respondent no.4 into frivolous litigation without any basis or cause of action.
- xviii. That the complainants have not levied any particular/specific grievance against the respondent no.4 rather the dispute exists between the complainants and respondent no.1 which has arisen from the allotment letter dated 26.06.2008 to which the respondent no.4 was not even a party. In fact, the complainants have specifically pointed out their grievances against the respondents no.1. No specific reliefs have been sought against



the respondent no.4. Further, respondent no.4 is not a necessary party to the complaint and the complainants with a *malafide* intention of extracting unjust enrichment from the respondent no.4 have dragged the respondent no. 4 into this unnecessary litigation. Therefore, the complaint should be dismissed with respect to respondent no.4.

- xix. That respondent no. 4 is liable to be deleted from the array of parties in the complaint, as there is no privity of contract between the complainants and respondent no.4. Furthermore, respondent no.4 is completely unaware of any transaction between complainants and respondent no.1 and cannot be held liable or accountable for any action of the respondent no.1.
- xx. That as per the agreed terms and conditions of the development agreement dated 18.04.2022, the respondent no. 1 has specifically agreed to indemnify the respondent no. 4 from any losses or liabilities, costs(s), claims, actions, proceedings or third-party claims that may arise against the respondent no.4 in relation to the surrender of the project CLU.
- xxi. That *vide* Order dated 21.05.2025, the Authority, had directed the planning branch of the Authority, to inspect the project site and submit the report with respect to status of the construction. The project site was inspected by the executives of the Authority and a detailed report was prepared on 24.06.2025, extract of which was reproduced in order dated 16.07.2025, in the conclusion of the report it is mentioned that AIPL i.e., respondent no. 4 is new investor in the project and its board is also visible at the front barricading of the project site. Since, the respondent no.4 name was mentioned in the site report, therefore, the complainants, during the hearing dated 16.07.2025, made oral submissions/requests to implead the respondent no. 4 as a party to the complaint.

xxii. That the respondent no. 4 has been impleaded in the complaint only on the assumption that respondent no. 4 is the new investor and its board is visible at the project site.

xxiii. That the respondent no. 4 cannot be impleaded as party to the present complaint only on the ground that the respondent no. 4 is the new investor, whereas there is absolutely no proof that the respondent no.4 was involved in the allotment made in favor of the complainants by the respondent no.1. The respondent no. 4 is a stranger to the allotment made in favor of the complainants; hence, the respondent no. 4 cannot be held liable for the acts of the respondent no.1. Also, since the allotment letter dated 26.06.2008 was never in the knowledge of the respondent no.4 and hence disputed, therefore, basis a disputed document the Authority cannot assume jurisdiction and adjudicate the present matter. The grievances, if any, of the complainants should be taken up before a civil court.

xxiv. The complaint is barred by law of limitation as the complainants have allegedly been allotted the subject unit vide allotment letter issued on 26.06.2008, whereas the complaint is filed on 10.08.2023.

xxv. That the present complaint is not maintainable against the respondent no. 4 as it miserably fails to establish any promoter-allottee/builder-buyer relationship between the complainants and the respondent no.4. Without prejudice to the contentions raised herein, it is most humbly submitted that the complainants have no cause of action against the respondent no. 4 and as such the complaint deserves to be dismissed against the respondent no.4.

8. All other averments made in the complaint were denied in toto.

9. 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.

G. Jurisdiction of the Authority

10. The preliminary objections raised by the respondent regarding jurisdiction of the Authority to entertain the present complaint stands rejected. The Authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

G.I Territorial jurisdiction

11. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with office 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.

G.II Subject-matter jurisdiction

12. Section 11(4)(a) of the Act 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.

13. 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 as per provisions of section 11(4)(a) of the Act leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

H. Maintainability of complaint.

14. The complainants submitted that the respondents, vide allotment letter dated 26.06.2008 allotted unit bearing no. T-23, on the third floor having a super area of 412.89 sq.ft. for a basic sales consideration of Rs.15,02,920/- to the complainants against which the complainant has paid an entire sale consideration. As per clause 1 of the addendum to allotment, the monthly returns were to be paid to the complainants till possession of the said unit was offered by the respondents to the complainants and provided that the unit was duly leased out at a lease rental not less than the monthly returns. Further, as per clause 16 of the allotment letter, the respondents were obligated to give the completed unit within 24 months from the date of sanction of building plans. The due date of possession being 26.06.2010. The complainant is seeking delayed possession charges from the respondent.
15. In its contrary the respondent no.1 submitted that the Authority has no jurisdiction to entertain the present complaint as the project was scrapped in year 2012 and does not fall under the "ongoing" definition. The DTCP passed an order dated 14.11.2011 for cancellation of DTCP license and due to non-obtaining of necessary permissions. Also, the complaint is barred by limitation. Per contra, the counsel for the complainant submits that the plea of limitation is untenable, as construction of the project and possession is also under continuous default and these breaches have not ceased. Therefore, as per

Article 55 of limitation Act the three years period of limitation has not even started for monthly return as well as possession.

16. The respondent no. 2 & 3 submits that the complaint is not maintainable as the booking was done by the complainants in the year 2009, while the present complaint has been filed in the year 2023 i.e., after a lapse of more than 15 years. The complainants have been sleeping over their rights and the present complaint is barred by limitation.
17. Further, the respondent no. 4 states that there is no privity of contract between the respondent no.4 and the complainants as it has not received a single penny and no communications between the complainants and respondent no.4 has been made. The development agreement dated 18.04.2022 was executed between respondent no. 1,2,3 and 4. Respondent no.1 exclusively granted/transferred the development rights of the project land which was granted to it under the collaboration agreement executed with the landowners. Hereby, respondent no.4 and has nothing to do with the erstwhile project of the respondent no.1. Respondent no.4 would conceive a completely fresh project upon new sanctions and approvals being granted by competent authority.
18. In line with the aforesaid facts and submissions made by the parties and documents placed on record, the Authority directed the planning branch to inspect the site and submit the report w.r.t. the status of construction and the project on site within a period of 2 weeks. The project site was inspected on 19.05.2025 by the Executive of the Authority prepared a detailed report on 24.06.2025 and gave the following observations:

"3. Site/Unit Observations:

As per the directions of the authority, the site of the project has been inspected on 19.05.2025 in accordance with the status of construction and the project on site and it is observed that:-

Location of the project:- Mehrauli-Gurgaon Road, Adjacent to the Vatika City Point, near MG Road Metro Station.

- ***At present the site is covered with the temporary compound wall of tin shed and board of AIPL has been displayed on it.***

A. Structural condition:

- *The structure appears to be a multi-story building.*
- *The construction seems to have stalled at site, only the RCC framework (columns, beams, slabs) is partially completed.*
- *At present there seems to be a significant structural degradation of existing building at the site and further the reinforcement bars have been exposed also.*
- *Unfinished and severely damaged beam-column joint.*
- *At present the work of demolition of existing structure has been started at the site and near about a floor seems to be demolished by the builder.*

B. Site condition:

- *The site at present is in a state of disrepair and abandonment.*
- *Debris and rubble are scattered across the site, including pieces of broken concrete, bricks and reinforcement.*
- *Vegetation growth is visible along the periphery and within the site, indicating prolonged inactivity.*
- *Construction materials and waste is visible all over the place. Further, only 2 security guards were present at the site and as per their statement work of demolition has been stopped at the site last 5-6 months.*

C. Conclusion:

- *The site is abandoned or halted min-construction, with no sign of ongoing activity or maintenance.*
- *As per letter dated 28.06.2019 (Annexure PA-1), AIPL is the new investor in the said project and at present the board of AIPL is also visible at the front barricading of the site.*
- *The AIPL team had been contacted several times regarding their role in development of the project, however, no response had been received from their end.*

19. In pursuant to the above-mentioned reports, it was observed that the project has been abandoned. Further, the respondent no.1 has also submitted that the project was scrapped in 2012. The DTCP passed an order dated 14.11.2011 for cancellation of DTCP license and due to non-obtaining to necessary permissions.

Now the question arises that the complaint is being dismissed or maintainable on the ground of limitation?

20. It is a matter of record that an allotment letter in favour of the complainant was issued by the respondent no.1 i.e., Senior Builders Limited on 26.06.2008 and allotted a unit bearing no. T-23, 3rd floor area ad-measuring 412.89 sq.ft. for a sale consideration of Rs. 15,02,920/- against which the complainant has paid an entire sale consideration. As per clause 16 of the allotment, the respondent

was liable to handover the possession of the unit within 24 months from the date of sanction of building plans. The complainant themselves submitted in their complaint that the building plans were approved in 12.2005 and the same is admitted by the respondent no.1 in its reply. Therefore, the due date comes out to be 12.2009.

21. The respondent no.1, 2 & 3 has taken the plea that the complainant is not maintainable as the complainants remained quite from 2012 till filing of complaint.
22. Upon perusal of documents, it is pertinent to mention~~ed~~ that the project was scrapped in the year 2012. The DTCP passed an order dated 14.11.2011 for cancellation of DTCP license and due to non-obtaining to necessary permissions. Moreover, as per report submitted by the planning branch of the Authority, the project site is abandoned. The cause of action in the present complaint arose in 2009 when the complainant stopped receiving assured return from the respondent. However, the complainant has approached the Authority in the year 2023. There has been complete inaction on the part of the complainant for a period of more than fourteen years till the present complaint filed in 2023. The complainant remained dormant of his rights for more than fourteen years and has not approached any forum to avail his rights. Also, the complainant failed to provide evidence of any communication seeking pending assured and possession of the subject unit. 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 the basic principles of natural justice are to be ignored.
23. 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.

24. 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.
25. 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 and the entire real estate sector would cripple down thereby defeating the ultimate purpose of framing this Act. It is a principle of natural justice that nobody's right should be prejudiced for the sake of other's right, when a person remained dormant for such an unreasonable period of time without any just cause. In light of the above, the complaint stands dismissed.
26. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.



27. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
28. Files be consigned to registry.

(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.01.2026



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