

**BEFORE THE HARYANA REAL ESTATE REGULATORY  
AUTHORITY, GURUGRAM****Date of Decision: 09.01.2026**

NAME OF THE BUILDER		KNS Infracon Private Limited and Tashee Land Developers Private Limited	
PROJECT NAME		"Capital Gateway"	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/6144/2024	Anuradha Yadav VS KNS Infracon Private Limited & Tashee Land Developers Private Limited	Manmohan Yadav (Advocate) Rishabh Jain (Advocate for res no.1) None (respondent no. 2)
2.	CR/5168/2025	Rantumani Thakuria and Nandini Thakuria VS KNS Infracon Private Limited & Tashee Land Developers Private Limited	Ms. Prerana (Advocate) Rishabh Jain (Advocate for res no.1) None (respondent no. 2)
3.	CR/5219/2025	Subodh Kumar Singh & Archanna Singh VS KNS Infracon Private Limited & Tashee Land Developers Private Limited	Ms. Prerana (Advocate) Rishabh Jain (Advocate for res no.1) None (respondent no. 2)
4.	CR/5169/2025	Pallvi Ahlawat & D.S. Ahlawat VS KNS Infracon Private Limited & Tashee Land Developers Private Limited	Ms. Prerana (Advocate) Rishabh Jain (Advocate for res no.1) None (respondent no. 2)

**CORAM:**

Shri Arun Kumar

**Chairman****ORDER**

1. This order shall dispose of four (4) complaints titled as above filed before this authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 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.
- The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Capital Gateway" being developed by the same respondents/promoters i.e., M/s KNS Infracon Private Limited and Tashee Land Developers Private Limited. The terms and conditions of the buyer's agreements, fulcrum of the issues involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking delay possession charges along with interest and other.
  - The details of the complaints, reply to status, 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:

<b>Project Name and Location</b>	<b>"Capital Gateway" situated in Sector- 111, Gurugram.</b>				
<b>Project Area</b>	10.46 Acres				
<b>DTCP License No.</b>	34 of 2011 dated 16.04.2011 valid till 15.04.2029				
<b>RERA Registered</b>	<b>Registered</b>				
<b>Possession Clause: -</b> "2.1 .... the First Party/Confirming Party proposes to handover the possession of the Flat to the Purchaser within <b>approximate period of 36 months from the date of sanction of the building plans of the said colony.</b> The Purchaser agrees and understands that the First Party/Confirming Party <b>shall be entitled to a grace period of 180 days (One Hundred and Eighty) days, after the expiry of 36 months, for applying and obtaining the occupation certificate in respect of the Colony from the concerned authority...</b> "					
<b>Occupation certificate: - 24.10.2024</b>					
<b>Sr. No.</b>	<b>Complaint no. / Title/ Date of Filing / Reply</b>	<b>Unit no. and area</b>	<b>Date of flat buyer agreement</b>	<b>Status of Possession</b>	<b>Total sale consideration and amount paid</b>
1.	CR/6144/2024 Anuradha Yadav VS KNS Infracon Private Limited & Tashee Land	101, 1 <sup>st</sup> floor, tower F 1695 sq. ft.	15.02.2014	Not offered	<b>TSC:</b> Rs.2,23,11,340/-  <b>AP:</b> Rs.65,53,751/-



	Developers Private Limited DOF 16.12.2024 Reply Not filed				
2.	CR/5168/2025 Rantumani Thakuria and Nandini Thakuria VS KNS Infracon Private Limited & Tashee Land Developers Private Limited DOF 08.10.2025 Reply Not filed	902, 9 <sup>th</sup> floor, TOWER C 2102 sq. ft	20.07.2012	30.11.2024	<b>TSC:</b> Rs.1,22,76,519/- <b>AP:</b> Rs.69,12,945/-
3.	CR/5219/2025 Subodh Kumar Singh & Archanna Singh VS KNS Infracon Private Limited & Tashee Land Developers Private Limited DOF 08.10.2025 Reply Not filed	1102, 10 <sup>th</sup> floor, Tower-C 2012 sq. ft	01.03.2013	11.02.2025	<b>TSC:</b> Rs.1,52,21,109/- <b>AP:</b> Rs.83,66,257/-



4.	CR/5169/2025 Pallvi Ahlawat & D.S. Ahlawat VS KNS Infracon Private Limited & Tashee Land Developers Private Limited  DOF 08.10.2025  Reply Not filed	1403, 13 <sup>th</sup> floor, Tower-F  1760 sq. ft.	15.09.2014	11.02.2025	<b>TSC:</b> Rs.1,30,03,049/-  <b>AP:</b> Rs.80,88,191/-
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**Note: In the table referred above, certain abbreviations have been used. They are elaborated as follows:**

Abbreviation	Full form
DOF	Date of filing complaint
TSC	Total Sale consideration
AP	Amount paid by the allottee(s)

- The aforesaid complaints were filed against the promoter on account of violation of the buyer's agreement against the allotment of units in the project of the respondents/builders and for not handing over the possession by the due date, seeking award of possession along with delayed possession charges.
- It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondents 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.
- The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/6144/2024 titled as Anuradha Yadav VS KNS Infracon Private Limited & Tashee Land Developers Private Limited** are being taken into

consideration for determining the rights of the allottee(s) qua delayed possession charges along with interest and others.

**A. Unit and project related details**

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

S. N.	Particulars	Details
1.	Project name and location	'Capital Gateway, Sector-111, Gurugram (Phase 1)
2.	Project area	10.462 acres
3.	Nature of the project	Group Housing
4.	DTCP license no. and validity status	34 of 2011 dated 16.04.2011 valid upto 15.04.2024 Renewed vide letter dated 01.08.2024, valid upto 15.04.2029
5.	Name of licensee	KNS Infracon Pvt. Ltd. and others
6.	Unit no.	101, 1st floor, Tower F [as per FBA at page 20 of complaint]
7.	Unit area admeasuring	1695 sq. ft. (approx.) [Page 20 of complaint]
8.	Date of Flat Buyers Agreement [FBA]	15.02.2014 (page no. 18 of complaint)
9.	Date of approval of building Plan of phase 1	07.06.2012 [As per information obtained by Planning Branch]
10.	Possession clause	<b>2. Possession</b> "2.1 ... the First Party/Confirming Party proposes <b>to handover the possession of the Flat to the Purchaser within approximate period of 36 months from the date of sanction of the building plans of the said colony.</b> The Purchaser agrees and understands that the First Party/Confirming Party <b>shall be entitled to a grace period of 180 days (One Hundred and Eighty) days, after the expiry of 36</b>

		<b>months</b> , for applying and obtaining the occupation certificate in respect of the Colony from the concerned authority..."
11.	Due date of possession	07.06.2015 07.12.2015 including grace period
12.	Total sale consideration	Rs. 2,23,11,340/- (as per SOA on page 115 of complaint)
13.	Amount paid by the complainant	₹ 65,53,751/- (as per SOA at page 115 of complaint)
14.	Occupation certificate [Part OC for tower-A, B, C, D, E, F, G & EWS-1&2, Commercial-1 Lower & upper basement (phase-1)]	24.10.2024 [As per data available on DTCP website and OC attached wat page 285 of complaint]
15.	Notice of possession	Not offered
16.	Intimation by respondent regarding cancellation stating due to non-payment	09.12.2024 [Page 120 of complaint]

### B. Facts of the complaint

8. The complainant has made the following submissions: -
- i. That the complainant booked the unit F-101 in project of the Respondents entered into the BBA dated 13.12.2014 and an amount of Rs. 1,18,56,173/- paid to the respondents in total out which Rs.65,53,751/- was paid in account and the remaining amount was paid in cash i.e. Rs.56,35,875/- which was duly accepted by the respondent in appeal filed before Hon'ble H-REAT also.
  - ii. That as per the BBA, the complainant has to pay an amount Rs. 72,28,730/- account to account towards the Unit in total out of which Rs.65,53,751/- was already paid.
  - iii. That it is pertinent to mention here that the complainant has to pay the amount of Rs. 6,73,988/- towards the remaining amount.

- iv. That the complainant also filed the complaint 813/2021 with regard to Delay in Possession Charges and the Hon'ble Authority vide Judgement dated 09.07.2021 ordered in favour of the complainant.
- v. That the respondent challenged the Judgment dated 09.07.2021 before the Appellate tribunal vide Appeal No. H-REAT 583/2021 and the Hon'ble Appellate Authority dismissed the appeal vide Appeal order dated 11.03.2022.
- vi. That as per the Judgement issued on 09.07.2021 in the complaint no.813/2021, the Hon'ble authority directed the respondent that the respondent will deduct the remaining outstanding charges and make the balance payment to the complainant.
- vii. That as per the Demand note issued by the respondent on 12.01.2021, the complainant have to make the payment of Rs.13,68,222/-. That it is pertinent to mention here that Rs. 6,76,979/- towards the remaining amount & Rs.6,91,243/- towards the increase area.
- viii. That it is pertinent to mention here that the intentions of the respondents from the very initial is to cheat the allottee and to extort the money by any means which includes increase of super area but it is pertinent to mention here that as per the BBA, Clause A specifically mentioned that the total land which the respondents are going to develop is 10.462 Acres and there is no additional land was purchased by the respondents till today and no reason was mentioned why the super area change and as per the Judgement passed by Hon'ble Supreme Court in the matter Civil Appeal No.1434 of 2023 Experion Developers Pvt Ltd Vs. Himanshu Dewan and Sonali Dewan and others held that the Developer must share the actual reason for increase in the super area based on the comparison of the originally approved building plan and finally approved building on completion. Basically, the idea is that the allottee must know the change

in the finally approved lay out and areas of common spaces and originally approved lay-out and areas.

- ix. That it is pertinent to mention here that till today nothing has been provided by the respondents with respect to computation of change of super area. That it is pertinent to mention here that there is no change in finally approved lay and area of common spaces and originally approved lay out and areas.
- x. That it is pertinent to mention here that as per the demand note issued on 11.11.2024, the demand of the respondent increased vide amount Rs. 1,19,19,918/- towards the Unit price in total and levied the interest charges amounting Rs.94,43,013/- and also levied tax i.e. amounting Rs. 9,48,409/- which means respondents are demanding Rs.1,57,57,589/-.
- xi. That as per statement of account issued on 25.11.2024 & 07.12.2024 received on 09.12.2024, the demand was increased from Rs. 1,57,57,589/- to Rs. 1,80,45,968/-.
- xii. That base sale price was increased due to cost escalation in construction by the respondent 50%.
- xiii. That it is pertinent to mention here that sale price increased due to cost escalation is not applicable on the basis of administrative facts as well as legal aspects on the following grounds i) Escalation cost in construction is not applicable where agreement is based upon on fixed price basis ii) Escalation cost in construction is not applicable where unit is charges as per rate per sq. ft. basis. iii) Builder cannot claim any extra amount under unfair trade practice, even interest on delay payment cannot claim if there is delay in possession than the agreed period. The Hon'ble Supreme Court of India already decided similar cases wherein demand of builder on account of escalation cost have been rejected and in view of the settled law above said amount is not applicable to the present case iv) The

Hon'ble Supreme Court of India already rejected such demand of builder even if mentioned in MOU /BBA decided on the ground of one-sided agreement.

- xiv. That it is pertinent to mention here that Kashinath Shukla was in the initial Managing director of M/s Tashee Land Developers Pvt. Ltd who has contested assembly election in UP and wasted huge amount of hard earned money given by the allottee's in the project Capital Gateway as well as in other development of other project Orion Galaxy registered with RERA Vide RERA ID RERA-GRG-PROJ-578-2020 and later on resigned from the post of Director to escape from the liability and delay on construction is due to negligence of the respondent.
- xv. That the respondent also mentioned in the agreement, with regard to car parking, the decision of Judgement of Hon'ble Supreme Court will be binding upon the Judgement debtor i.e. Nahalchand laloochand Pvt. Ltd. Vs Panchali Co-operative Housing Society Ltd and as per the Judgement passed by Supreme Court, Car parking will be the part of common area.
- xvi. That it is pertinent to mention here that as the facility of Club was not provided by the Respondent than it should be reduced by Rs.1,50,000/- which is mentioned in the BBA also as well as the super area was reduced due to which the space for Club was not available in phase-1.
- xvii. That the respondents raised the Basic sale price increase due to cost escalation in construction i.e. Rs. 32,88, 328/- but in fact it has been increased by diverting the funds of the buyer in contesting the election as well as in developing the other project.
- xviii. That it is pertinent to mention here that the complainant paid an higher amount to the respondent which was not showed by the respondents in their account and as per the demand also complainant already paid an amount of Rs.1,18,56,173/- which means Rs.63,745/-.

- xix. That it is pertinent to mention here that the complainant demanded certain documents from the respondent due to which, the respondents issued the intimation letter with regard to cancellation of unit of the complainant on 09.12.2024 received on 10.12.2024.
- xx. That the letters issued on 11.11.2024, 26.11.2024, 07.12.2024 and 09.12.2024 send all the letters by speed-post which showed the intentions of the respondents to extort the amount from the complainant and put pressure upon the complainant to withdraw the execution filed against the respondents and bow down in-front of the illegal demand. That the complainant deposited 95% of the Unit which was not disputed at any point of time by the respondent.
- xxi. That the complainant issued first demand note on 11.11.2024 and the complainant moved the application with regard to this illegal demand note in the Execution No. 5147/2021, where the respondent made the submissions on 25.11.2024 that they will not press their demand note till the Next date of hearing i.e. 10.12.2024.
- xxii. That on 26/11/2024 again issued a statement of account after making the submission which amounts the contempt of the court.
- xxiii. That on 10/12/2024, the warrant has been issued against the directors, where the Hon'ble Adjudicating Officer also issued direction in other executions which were taken after the lunch that respondent will not create any third party right in all executions.
- xxiv. That as per the Judgement issued on 09.07.2021 in the complaint no.813/2021, the Hon'ble authority directed the respondent that the respondent will deduct the remaining outstanding charges and make the balance payment to the complainant. That it is pertinent to mention here that the cancellation letter issued by the respondents are also amounting the contempt of this authority in terms of the Judgement dated

09.07.2021. That it is pertinent to mention here that the cancellation letter showed that the respondents have funds but they don't have any value of the Judgement passed by the Hon'ble Authority on 09.07.2021.

**C. Relief sought by the complainant:**

9. The complainant has sought following relief(s):
  - I. Direct the respondent to immediately handover possession.
  - II. Direct the respondent to declare the cancellation letter is illegal.
  - III. restrain the respondent from creating any third party right in the unit allotted.
  - IV. Cancel all demand note and statement of account issued by respondent.
  - V. Direct the respondent to pay an amount of Rs. 10,00,000/- towards cost for such illegal demand.
  - VI. Direct the respondent to adjust the amount of car parking.
  - VII. Direct the respondent to adjust the amount of club membership charges as no club was made by respondent in the project.
  - VIII. To refund the EDC/IDC, FMS charges as per BBA.
10. On the date of hearing, the Authority explained to the respondents/promoter about the contraventions as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.
11. Despite due service of notice and specific direction for filing reply in the matter, neither anyone has put in appearance on behalf of respondents before the Authority, nor any written reply to the present complaint has been received from it. Thus, the respondents were proceeded ex-parte. In view of the above, the Authority is deciding the complaint on the basis of these undisputed documents available on record and submissions made by the complainant.
12. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Maintainability of complaint:**

13. In the present complaint, the complainant intends to continue with the project and is seeking direction to the respondent to handover the possession of the unit, execution of conveyance deed and not to charge illegal charges i.e. club membership charge, car parking charges, maintenance and any other charge. The complainant has submitted that a complaint bearing no. CR/813/2021 was filed by him seeking handover of possession and payment of delay possession charges and vide order dated 09.07.2021, the said reliefs were granted in favour of the complainant along with a direction not to charge anything which is not part of buyer agreement. The complainant further states that in the order dated 09.07.2021, there was no direction for possession of the flat in question due to non-availability of occupation certificate.
14. The complainant filed an execution petition bearing no. 5147 of 2021 wherein on 27.12.2021. It is important to note that Occupation certificate was received by the respondent on 24.10.2024 and despite obtaining of occupation certificate the respondent have not handed over the possession of the unit. Thus, the present complaint has been filed by the complainant.
15. The Authority observes that the complainant has previously filed a complaint bearing no. CR/813/2021 against the subject unit before the Authority seeking possession along with payment of delay possession charges. Thereafter, vide order dated 09.07.2021, the respondents were directed to pay delay possession charges w.e.f. 07.06.2016 till offer of possession after obtaining OC plus 2 months or actual handing over of possession, whichever is earlier. At the time of disposal of the earlier complaint, a specific relief seeking handover of possession of the unit was duly prayed for. However, while disposing of the said complaint, no explicit direction was issued with respect to the handover of possession. It is important to note that the right to obtain possession of the allotted unit is an inherent and vested right of the

complainant arising out of the allotment and the contractual relationship between the parties. Merely because a specific direction was not expressly recorded in the earlier order does not extinguish or defeat such right. The respondent, being under a corresponding legal and contractual obligation, cannot deny or withhold the handover of the unit on this ground. Accordingly, the respondent remains bound to comply with its obligation to deliver possession of the unit to the complainant in accordance with law and the terms of the allotment.

16. After considering the documents available on record as well as submissions made by the parties, the Authority is of the view that the present complaint is not maintainable before the Authority as is barred by the principle of res-judicata as the matter in issue between the parties has already been heard and decided by the Authority vide order dated 09.07.2021 in the former complaint bearing no. CR/813/2021. Further, if any party fails to abide by the directions mentioned in the said order, then the same shall be enforced by the executing authority as provided under Section 40 of the Act of 2016 read with Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017, in such manner as may be prescribed. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be fetched to an extent that basic principles of jurisprudence are to be ignored. Therefore, subsequent complaint on same cause of action is barred by the principle of res-judicata as provided under Section 11 of the Code of Civil Procedure, 1908(CPC). Section 11 CPC is reproduced as under for ready reference:

*"11. Res judicata.—No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.*

**Explanation I.**—The expression “former suit” shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

**Explanation II.**—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

**Explanation III.**—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

**Explanation IV.**—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

**Explanation V.**—Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

**Explanation VI.**—Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

**1[Explanation VII.**—The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

**Explanation VIII.** —An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.]”

17. The Authority is of view that though the provisions of the Code of Civil Procedure, 1908 (CPC) is, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the Authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the Act if such provision is based upon justice, equity



and good conscience. Thus, in view of the factual as well as legal provisions, the present complaint stands dismissed being not maintainable.

18. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
19. File be consigned to the registry.

  
**(Arun Kumar)**  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 09.01.2026



**HARERA**  
**GURUGRAM**