

<b>PROCEEDINGS OF THE DAY</b>		<b>61</b>
Day and Date	Tuesday and 07.04.2026	
Complaint No.	CR/6251/2024 Case titled as Ramkumar Sehrawat and Santosh Sehrawat VS Tashee Land Developers Private Limited & KNS Infracon Private Limited	
Complainant	Ramkumar Sehrawat and Santosh Sehrawat	
Represented through	Shri Sanjeev Kumar Sharma Advocate	
Respondent	Tashee Land Developers Private Limited & KNS Infracon Private Limited	
Respondent Represented through	Shri Rishabh Jain Advocate for R1 None for R2	
Last date of hearing	17.03.2026	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

**Proceedings-cum-order**

The present complaint has been received on 26.12.2024 and registered as complaint no. 6251 of 2024 and the reply is not received till date.

On 01.01.2026, Respondent no.2 filed an application for dismissal of complaint stating that complaint is barred by **Res-Judicata** as complainant has earlier filed a complainant bearing no. 1222 of 2022 with same issues which has already been decided by Authority on 13.07.2023.

That the complaint **bearing no. 1222 of 2022 titled as Ramkumar Sehrawat and Anr. Vs Tashee Land Private Limited & KNS Infracon pvt. Ltd.** already decided on 13.07.2023. The operative part of the order is reproduced below for ready reference:-

*" 28. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations*



**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/6251/2024

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

*cast upon the promoter as per the function entrusted to the authority under section 34(f):*

- i. *The respondents are directed to pay delayed possession charges at the prescribed rate of interest i.e., 10.70% p.a. for every month of delay on the amount paid by the complainant to the respondents from the due date of possession (i.e., 07.06.2015) till offer of possession plus 2 months after obtaining OC or handing over of possession whichever is earlier.*
- ii. *The respondent shall not charge anything which is not part of the flat buyer's agreement.*
- iii. *The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e. 10.70% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.*
- iv. *The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period and the respondent shall handover the possession within a period of one month after receipt of occupation certificate from the competent authority.*
- v. *The respondents are directed to pay arrears of interest accrued within 90 days from the date of order of this order as per rule 16(2) of the rules."*

That after consideration of all the facts and circumstances, Authority is of view that the present complaint seeking the direction to respondents not to cancel the unit is not maintainable in light of the fact that the allottee had already exercised the remedy under Section 18 of the Real Estate (Regulation and Development) Act, 2016 ("RERA Act") which was granted on 13.07.2023.

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.”

Arguments heard.

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.

Further, if any party fails to abide by the directions mentioned 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).

Matter stands disposed of. File be consigned to the registry.

  
Arun Kumar  
Chairman  
07.04.2026