



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	456 of 2024
Date of filing.:	29.03.2024
Date of first hearing.:	07.05.2024
Date of decision.:	23.07.2026

Rakesh Sharma S/o Late Sh. Banarsi Lal Sharma
R/o House no. 593, Sector-9
Faridabad, Haryana-121006

....COMPLAINANT

VERSUS

M/s BPTP Limited
28, ECE House, first floor, K.G. Marg
New Delhi-110001

....RESPONDENT

CORAM: Parneet Singh Sachdev

Chairman

Nadim Akhtar

Member

Dr. Geeta Rathee Singh

Member

Chander Shekhar

Member

Present: - None for complainant.

Mr. Hemant Saini, Counsel for the respondent.

ORDER (PARNEET S. SACHDEV-CHAIRMAN)

1. Present complaint has been filed by complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the project.	Parkland, Faridabad.
2.	Nature of the project.	Residential
3.	RERA Registered/not registered	Not Registered
4.	Details of unit.	Plot no. 17, Block J-10, 349 sq.yds..

5.	Date of builder buyer agreement with original allottee	03.02.2007
6.	Date of Endorsement in favor of complainant	11.01.2013 or 18.01.2013
7.	Due date of possession	03.02.2009
8.	Possession clause in BBA (Clause 22.1- 24 months)	<i>22.1 That the possession for the said Plot as proposed to be delivered by the Seller/Confirming Party to the purchaser(s) within about 24 months from sanctioning of the Service Plans of the entire colony, simultaneous to execution of sale deed subject however to Force Majeure and the Purchases(s) making all payments within the stipulated period and complying with the terms and conditions of this agreement.</i>
9.	Total sale consideration	₹ 28,04,090/-
10.	Amount paid by complainants	₹ 41,70,899.50/-
11.	Offer of possession.	18.05.2013.
12.	Possession taken on	April,2015.
13.	Date of conveyance deed	22.04.2015
14.	Part Completion Certificate/Completion Certificate	Not obtained.



B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. "That the Original Allottee (Shailesh Goswami) for the booking of the unit no. "J10-17" situated in the BPIT Parkland Plots Sector-84, Faridabad Haryana. That the Allottee/Respondent both signed the Plot Buyer's Agreement (PBA) on 03.02.2007. According to clause 22.1 of the agreement, possession was to be offered within 24 months from 03.02. 2007, which equates to 03.02.2009.
4. That the Respondent issued the 'Allotment letter' on dated 12th May 2007 for the plot no. J10-17 plot size of 292.140 Sq. Mtrs. tentatively admeasuring 349 sq.yds. situated in sector-84, Faridabad, Haryana. However, the respondent failed to provide ready-to-move-in possession of the developed plot for residential usage to the complainant within the prescribed time period stated in the Agreement. For the term 'ready-to-move-in possession', it should include a plot with provisions for sewerage, electrification, STP, roads, or any other amenities approved in the demarcation-cum-zoning plan, essential for a habitable environment (as per the guidelines of the competent authority). As of now, the respondent has not obtained the completion certificate for the project (J-Block). The allottee nominated Plot No. J10-17 in respect of the Complainant on 18.01.2013, and the Complainant executed a conveyance deed on 20.04.2015.



5. That the current status of the project is not suitable for possession due to several reasons. Firstly, there is no connectivity of roads leading to the plot, and the internal roads within the project have not been constructed. Additionally, essential supporting infrastructure such as street lights, parks, and horticulture work are still nonexistent. The project remains in a raw phase, with the only development being the placement of soil on both sides of the plots and the creation of temporary roads. Furthermore, the respondent has been dispatching electric city and maintenance bills quarterly. In an email communication, the respondent indicated that the units will be handed over 'as is where is basis', and holding charges will commence from April 1, 2024. Annexure-C/10
6. That the Complainant has regularly corresponded with the respondent regarding this matter. In this challenging environment, establishing a family on the property has become increasingly difficult for the Complainant, who has been renting since 2009.
7. That the complainant requests delay compensation until the completion certificate is obtained and infrastructure is developed by the respondent. This compensation should be calculated and compensated according to the rate specified in Rule 15 of HIRERA Rules, 2017, i.e., SBI MCLR + 2% (10.75%).



8. That Clause 22.3 of the agreement delay with delay compensation. The relevant portion of the clause is reproduced below:

"22. Possession

22.1 That the possession for the said Plot as proposed to be delivered by the Seller/Confirming Party to the purchaser(s) within about 24 months from sanctioning of the Service Plans of the entire colony, simultaneous to execution of sale deed subject however to Force Majeure and the Purchaser(s) making all payments within the stipulated period and complying with the terms and conditions of this agreement.

22.2 That the Purchaser(s) shall make all payments, get the Conveyance Deed executed & registered and take possession of the said Plot within 30 days of the Seller/Confirming Party dispatching a Written Notice the Purchaser(s) for this purpose. If the Purchaser(s) neglects or fails to take possession of the said Plot and/or get the conveyance deed executed for the said Plot within 30 days from the date of Notice for any reason whatsoever, the Purchaser(s) will be deemed to have received possession of the said Plot. In such an event, the said Plot shall lie at the risk and cost of the Purchaser(s) and the Purchaser(s) shall be liable to pay Holding Charges @Rs.6/- per sq. mtr. per month for the period the Purchaser(s) does not take actual physical possession of the said plot at the rate decided by the maintenance agency. Such Holding Charges shall be payable by the Purchaser(s) on the expiry of the Notice period of 30 days as aforesaid. The Holding Charges shall be in addition to the amount payable by the Purchaser(s) as his/her/their share of the Govt., or Municipal taxes maintenance or other administrative charges, on a proportionate basis, as determined by the Seller/Confirming Party or the maintenance agency, until the Purchaser(s) has taken actual physical possession.

22.3 However, in case the Seller/Confirming Party fail to offer possession of the plot within the time stipulated hereinabove, but subject to Force Majeure circumstances, Seller/Confirming Party shall also be liable to pay the Purchaser an amount of Rs. 6/- per sq. mtr. per month for period of such delay."

9. Feeling aggrieved, present complaint has been filed."



C. RELIEF SOUGHT

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

- i. Direct the respondent to pay complainant the delay compensation interest charges w.e.f from 03.02.2009 as per prevailing Rule 15 of HIRERA Rules, 2017 i.e. SBI MCLR +2% (10.75%) HIRERA regulations.
- ii. The respondent to complete pending work, handover the floor and execute the conveyance deed in favour by the complainant at earliest.
- iii. Direct the respondent to pay the complainant Rs 8,00,000/- (Rupees Eight Lac Only) for mental agony/harassment and for deficiency of service and Rs 50,000/- (Rupees Fifty Thousand only) towards cost of legal expenses; and
- iv. Pass any other order(s)/ Direction(s) that this Hon'ble Court may deem fit and proper in the present facts and circumstances.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondents filed detailed reply on 06.05.2024 pleading therein:



11. That the Original Allottees, Mr. Rajesh Kumar and Mr. Dev Raj, being interested in making an investment approached the Respondent in year 2006 and made a request for making a booking of a plot in the real estate Project known under the name and style of "Parklands" and hence thereby applied for the same vide Application/Booking Form dated 04.02.2006. That it is pertinent to mention herein that the inaugural discount of Rs 1,05,000/- and timely payment discount of Rs. 6,499/- has been given to the Complainant by the Respondent. It is submitted that it was agreed between the parties that the timely payment discount is the rebate given by the Respondents to the Complainants against the total sales consideration of the unit and does not form part of the total sales consideration of the unit. A copy of the Application Form dated 04.02.2006 is annexed as Annexure R1.
12. That thereafter the Original Allottees surrendered the unit in favour of subsequent allottee, namely Shailesh Goswami and thereby a plot bearing no. 17, Block J10, Phase II admeasuring 291.80 sq. yds. in the Project of the Respondent. Subsequently, a Plot's Buyer Agreement dated 03.02.2007 was executed between the Subsequent Allottee and the Respondent. A copy of the Surrender Letter dated 11.10.2006 is annexed as Annexure R2. A copy of the Agreement dated 03.02.2007 is annexed as Annexure R3.
13. That after the execution of the Agreement, the allottee namely Shailesh Goswami endorsed the unit in favour to the Complainant namely, Rakesh Sharma, which was duly acknowledged by the Respondent vide Nomination



Letter dated 18.01.2013. The copies of letter for transfer of the allotment by Transferor and Transferee and the Nomination Letter dated 11.01.2013 is annexed as Annexure R4(Colly).

14. At this stage, it is pertinent to note that the Complainant was well aware about the terms and conditions of the Agreement already executed between the parties and only after being completely satisfied with the same had made an independent decision to purchase the said plot in question. That the relationship between the parties was purely contractual and flowed from the explicitly agreed terms and conditions of the Agreement. It is not germane to mention that the fact of execution of the Agreement has been duly noted by the Complainant herself and the terms of the same are also agreed and not under challenge. Hence, the absolute applicability of the same needs to be noted in the present case.
15. That the Complainant being a second subsequent buyer, has no right to seek delay possession charges. At the time of nomination of the Complainant, the Complainant had complete knowledge of the status of the construction of the project and had willingly and voluntarily entered into the agreement for sell and the transfer documents thereof leading to their nomination.
16. That such prior knowledge, willing and self-initiated endorsement of the Complainant, without any protest, amounts to acceptance of the existing circumstances and the Complainant cannot be allowed to reap benefits by extracting monies from the Respondent and forgoing their complete



satisfaction against the Unit. Hence, the Complaint is liable to be dismissed with costs against the Complainant. The Hon'ble Supreme Court has held in Laureate Buildwell Pvt. Ltd vs. Charanjeev Singh 2021 SCC OnLine SC 479 that:

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

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

18. It is imperative to note at this stage that after the nomination of the Complainant on 11.01.2013, the Complainant was lawfully offered the possession of the unit vide Offer of Possession dated 18.05.2013, i.e., within a period of 4 months from the nomination of the Complainant. A copy of the Offer of possession dated 18.01.2013 is annexed as Annexure R5.
19. Moreover, without prejudice to the submissions made by the respondent, it is submitted that as per Clause 7.2(A) of the Annexure-A to the Real Estate (Regulation and Development) Rules, 2017, the Promoter upon obtaining the approved demarcation-cum-zoning plan in respect to the plotted colony shall offer possession of the plot within three months of receiving the same. Thus, there is no need of any Completion Certificate to offer possession to the Allottee. Furthermore, all the essential services like Road, street lights, parks, storm, water drainage, sewerage etc., have been provided and are fully functional at the time of offer of possession of the unit.
20. That after due inspection and being completely satisfied, the Complainant happily, willingly, and voluntarily took possession of the Unit in April 2015 and executed the Conveyance Deed on 22.04.2015. A copy of the Conveyance Deed dated 22.04.2015 is annexed as Annexure R6.
21. That the present complaint is not maintainable before this Authority as the complainant had bitterly failed to disclose any cause of action against the respondent. Admittedly, the conveyance deed was executed with the complainant on 22.04.2015 which marks the end of the contractual

- relationship between the parties and hence no cause of action persists after execution of conveyance deed.
22. That the complainant after having executed the conveyance deed taking peaceful possession of the unit and having enjoyed the possession for such a long period, should not be entitled to claim the interest on the delayed possession or seek any other relief. Physical possession was taken after a detailed inspection on all material aspects including but not limited to area of the unit as is also evident from clause 3 of the conveyance deed. On the basis of the complete satisfaction of the complainant, he had also clarified that no claim in this regard shall be raised in the future.
23. That the present complaint is being filed by the complainant after 8 years 10 months and 25 days of the execution of conveyance deed and hence is barred by limitation. Complainant has been sleeping over his rights and hence no equity can be granted in favor of complainant.

E. ADDITIONAL DOCUMENTS FILED BY THE PARTIES

24. Document filed by the complainant in registry on 20.01.2025- Complainant has stated that respondent is not in possession of the completion certificate for the land in J-block Sector-84, Faridabad. This fact is substantiated by an official communication from the Directorate of Town and Country Planning (DTP), confirming that no completion has been granted for J-Block to date.



That critical infrastructure and essential facilities within the project remain incomplete and deficient:

-No construction of internal roads has commenced.

-There are no provisions for footpaths, horticultural landscaping, streetlights or security measure.

-Charges for an STP (Sewerage treatment plant) were collected, yet the STP has not been constructed.

-The area is unsafe due to frequent sightings of wild animals, rendering the plot uninhabitable for families.

25. Document filed by the complainant in registry on 24.06.2025- Complainant has placed on record reply of CM window action taken report dated 19.11.2024 confirming that 'no completion has been granted till date'.

26. Document filed by the complainant in registry on 14.07.2025-That the respondent's failure to obtain the completion certificate and complete the infrastructure violates Sections 14,18 and 19(10) and Rule 15 of HIREA Rules,2017. The possession offer of April 29, 2015 is invalid without a CC, as affirmed by the Supreme Court in Wing Commander Arifur Rahman Khan, Samruddhi and Dharmendra Sharma and by HIREA Panchkula in Sanju Jain vs TDI Infrastructure (Complaint no. 144-2019). Complainant entitled to delay interest from Feb 03,2009 until the CC is granted and relief from maintenance charges until lawful possession is offered. The complainant request the Hon'ble Authority to consider this matter during the



hearing on July 17,2025 and grant the above prayers to ensure justice. I am available to provide any additional documents or clarification required by the Authority.

27. Document filed by the complainant in registry on 17.07.2025- Submission of evidence and reply to order dated 10.07.2025 in complaint no. 456-2024. The complainant in the above referenced complaint, respectfully submit this written response to the Hon'ble Authority's order dated 10.07.2025, directing me to provide evidence of steps taken during the 9 year period (2015-2024) to claim delay interest from the respondent. I am submitting evidence of my family's medical emergencies, which prevented timely pursuit of the claim, alongwith arguments supporting my entitlement to delay interest under Section 18 of Real Estate (Regulation and Development) Act,2016, due to respondent's failure to obtain a completion certificate and deliver physical possession.

28. Additional affidavit filed by the complainant in registry on 28.08.2025- Content of the affidavit is as follows:-

- "1. That the deponent has filed the captioned complaint which is pending consideration before this Hon'ble Authority and is fixed for consideration on 11.09.2025.*
- 2. That the present affidavit is being filed in pursuance and in compliance of the order dated 10.07.2025 and 17.07.2025.*
- 3. That the present complaint is filed for directing the respondent to complete pending work and handover the possession as also for directing the respondent to pay delay penalty with effect from 03.02.2009 as per prevailing Rule 15 of RERA Rules, 2017.*
- 4. That the deponent states that in terms of Clause 22.1 of the Plot (IIA) Buyers Agreement dated 03.02.2007 the possession of the plot J10-17, BPTP*



Park Lands, Sector 84, Faridabad was to be delivered within 24 months from sanctioning of service plans of the entire colony. For ready reference Clause 22.1 is reproduce as under:-

"Clause 22.1

That the possession for the said plot as proposed to be delivered by the seller/confirming Party to the purchaser(s) within 24 months from sanctioning of the Service plans of the entire colony, simultaneous to execution of sale deed subject however to force majeure and Purchases(s) making all payments within the stipulated period and complying with the terms and conditions of this agreement."

5. That the deponent states that he has paid a total amount Rs. 49,13,173/-, Believing the assurance of the respondent that all the services have been laid and the project is complete in all respects in as much as the roads having being constructed, essential supporting infrastructure such as street lights, parks, horticulture work, STP, sewerage, electrification and all other amenities as approved in the demarcation-cum-zoning plan have been erected, and in good faith the deponent got the conveyance deed executed in his favour on 20.04.2015,

6. That the deponent states that the possession was not handed over till that time and on 29.04.2015 i.e. nine days after execution of conveyance deed the respondent issued a letter with two original copies titled No Objection Certificate for giving possession. It was stated in the said letter that the deponent was to approach one Mr. Sanjay Nehru at the site office who would hand over the physical possession of the aforesaid plot on submitting this NOC in original to him. While the deponent went to the site for taking possession with the representative of the company, on not being able to find the subject unit and on finding that the entire project was in a raw state and on being confronted that there were no connectivity of roads leading to the plot and the internal roads within the project having not being constructed and neither any supporting infrastructure such as street lights, parks, electrification, STP and Sewerage etc. having been constructed, the representative left the deponent in the middle of nowhere and fled the spot. The deponent is in possession of two original copies of the letters/NOC for giving possession dated 29.04.2015 which establishes beyond doubt that the possession of the plot is still with the respondent. The deponent undertakes to produce the two original copies as stated above for perusal of this Hon'ble Authority on the next date of hearing.

7. That the deponent submits that based on the conveyance deed he is the lawful owner of the subject plot and for bringing an action for delivery of possession based on title the law provides him a period of 12 years. Article 65 of the Limitation Act, 1963 provides for a period of 12 years for action related to possession of immovable property bases on title. The present



complaint was filed in the year 2024 which is well within the period of limitation.

8. That the deponent states that the builder is obligated to develop and complete the project in accordance with the sanctioned plans, layout plans and specification as approved by the competent authorities (Section 14).

9. That the deponent states that the Act provides that if the promoter fails to complete or is unable to give possession of an apartment or a building in accordance with the terms of the agreement and duly completed by the date specified therein, the promoter will be liable to pay interest for every month of delay till the handing over of the possession at such rate as may be prescribed (Section 18).

10. That the deponent states under the Act every allottee is bound to take possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or a building as the case may be (Section 19(10)). The deponent states that the completion certificate of the subject unit has not been granted so far by the competent authority therefore, the deponent is not bound or can be compelled to take possession under a threat of adverse consequences on his failure to take possession. The law does not provide for any adverse consequence in case he refuses to take the possession which has been offered without obtaining the completion certificate as envisaged in the act.

11. That the deponent states that in terms of clause 22.3 in case the seller fails to offer possession of the plot within the stipulated time (24 Months from sanctioning of the service plans of the entire colony) the seller shall be liable to pay the purchaser an amount of Rs. 6 per sq. mtr. per month for period of such delay. The deponent submits that the liability to pay for the delay in offering possession is open ended as the clause does not stipulate any upper time limit after which the said liability will cease to operate. "For period of such delay" is an unambiguous expression and will continue to operate irrespective of the delay being of one year or ten years. It is a continuous cause of action and the limitation will start to run only after a lawful possession in terms of the agreement and after obtaining all the necessary approvals as envisaged in law are completed. It is further submitted that a deficient offer of possession or execution of conveyance deed does not stop the cause of a claim of payment of delay penalty.

12. That the deponent states that under the Indian Contract Act governing the performance of contracts a promisee is not bound to perform, unless reciprocal promise is ready and willing to perform his part of the contract. Section 51 of the Indian Contract Act reads as under:-

51. Promisor not bound to perform, unless reciprocal promisee ready and willing to perform.-

When a contract consists of reciprocal promises to be simultaneously performed, no promisor need perform his promise unless the promisee is ready and willing to perform his reciprocal promise.

Illustrations

(a) A and B contract that A shall deliver goods to B to be paid for by B on delivery. A need not deliver the goods, unless B is ready and willing to pay for the goods on delivery. B need not pay for the goods, unless A is ready and willing to deliver them on payment.

(b) A and B contract that A shall deliver goods to B at a price to be paid by installments, the first installment to be paid on delivery.

A need not deliver, unless B is ready and willing to pay the first instalment on delivery.

B need not pay the first installment, unless A is ready and willing to deliver the goods on payment of the first installment.

13. It is submitted that in the present case in terms of the principles of the Indian Contract Act, firstly, the company is required to offer a lawful possession in terms of the agreement and after completion of the development works and obtaining the completion certificate from the statutory bodies and it is only thereafter that the allottee can be obliged to take over the possession. In absence of the company performing its part/promise the onus cannot be shifted on the allottee to take possession in absence of statutory compliances by the company. The cart cannot be put before the horse. The issue of limitation does not arise in the present case as the first stage of starting limitation has not arrived yet as the company is yet to offer a lawful possession as stated above.

14. That the deponent has not filed any such or similar affidavit before this Hon'ble Tribunal or any other court of law."

29. Additional documents filed by complainant in registry on 24.04.2026-

That J-block is still an incomplete project as completion certificate has not been issued till date. Physical possession of the unit has not been taken till date and an affidavit to this effect has already been filed. Since the completion.

Since the Completion Certificate for the entire J-Block has not been issued and physical possession has never been handed over, the project



cannot be treated as complete. Consequently, the question of "delay of nine years" raised in the order dated 10.07.2025, 17.07.2025 and 27.11.2025 appears to be based on an incorrect premise. **Section 18 of the RERA Act clearly entitles the allottee to claim interest for delay in handing over possession when the promoter fails to complete the project and obtain the necessary Completion Certificate.**

In view of the above, I most respectfully pray that:

- a) The Authority may kindly clarify the specific grounds on which the delay of nine years is being questioned, especially when the DTCP (IIQ) document, RTI reply, and the affidavit regarding non-taking of physical possession conclusively establish that J-Block is still incomplete and possession has never been delivered.
- b) The proceedings may be conducted in a proper and streamlined manner and an appropriate decision be rendered strictly in accordance with the provisions of the RERA Act, 2016.

F. ARGUMENTS OF COUNSEL FOR COMPLAINANT AND RESPONDENT

30. I.d. counsel for respondent relied upon Section 11(4) (a) of RERA Act, 2016 which is as follows:-

Section 11 Functions and duties of promoter.

.....(4) ***The promoter shall(emphasis laid)—***

- (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:

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

31. He argued that word used in section is 'shall' and till the 'conveyance of apartments'. Proviso deals in negative specifying only for structural defect. Legislature has specifically used 'shall' till the conveyance and thereafter role of proviso comes in. Herein, stage of execution of conveyance deed has been categorized. Builder is liable for all obligations and responsibilities only upto stage of conveyance deed. Legislature consciously used word 'shall' which establish that after conveyance deed what all survives. Proviso has been incorporated in to specify the obligations/duties which will survive after execution of conveyance deed. There is no ambiguity in language. After execution of conveyance deed, relation of promoter and allottee comes to an end qua the obligations of promoter/builder. As soon as execution of conveyance deed takes place, relations of parties as well as obligations of the parties comes to an end.
32. He referred to Section 14 (3) of RE (R&D) Act, 2016 to submit that the time period of 5 years has been prescribed in Act for bringing into notice that the structural defect.



Section 14-Adherence to sanctioned plans and project specifications by the promoter.

.....(3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.

33. For relying upon the interpretation of word 'till', reference has been made to Cambridge dictionary, wherein it has been stated as '**till-up to (the time); until**'. Example like, before, by , till , until. He stated that by using word 'till' in Section 11 (4) (a), legislature was aware of the fact that time period has been specified.

34. Judgment (page 4 wherein issues have been framed) passed by the Authority in complaint no. 328/2021 titled as Alka Sibbal vs Countrywide Promoters Pvt Ltd passed on 17.08.2022 has been referred in support of plea that no contractual relationship between the parties after execution of conveyance deed. He stated that appeal has been filed by complainant's counsel which is pending before Hon'ble Real Estate Appellate Tribunal, Chandigarh.

35. He referred to Section 11 (g) of RE (R&D) Act, 2016 to submit that Legislature was alive to situation/circumstances of Real Estate Sector and

has wisely inserted the proviso where the obligations of builder was supposed to be continued even after execution of conveyance deed.

Section 11 (g)- pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project):

Provided that where any promoter fails to pay all or any of the outgoings collected by him from the allottees or any liability, mortgage loan and interest thereon before transferring the real estate project to such allottees, or the association of the allottees, as the case may be, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefor by such authority or person;

Duties and obligations of the builder has been specified throughout the scheme of Act. Words and proviso has been used to specify the stage as to upto when those obligations will subsists.

36. Several judgments has been referred in support of plea that when words of stature are clear and unambiguous then there is no room for any further interpretation of it. Courts/Authorities are bound to give simple meaning to it.

I. All words employed therein must be given their full meaning unless the same results in absurdity

1. Illachi Devi (D) by LRs Vs. Jain Society Protection of Orphans Ltd.

(Flag 1 Para 26)

2. Gurudevdata VK SSS Maryadit Vs. State of Maharashtra. (Flag 8 Para 26)

Words must be understood in their natural, ordinary or popular sense unless leads to some absurdity.

3. Sutters Vs. Briggs (Flag B Para 26)

No reason for limiting the natural and ordinary meaning of words used.

4. Dental Clinic of India Vs. Hariprakash (Flag C Para 26)

Golden Rule: when words are not ambiguous, literal meaning has to be applied.

5. Dayal Singh Vs. UOI (Flag 1, Illachi Devi Para 29)

The question is not what is supposed to have been intended but what has been said.

6. Grasim Industries Vs. Collector of Customs (Flag F)

Where words are clear and there is no obscurity, intention is clearly conveyed and no scope for court to take upon itself the task of amending /altering statutory provisions.

7. Illachi Devi (Flag 1 Para 32)

When legislature has employed a plain language, court is not concerned with consequences.

8. Referred /Argued in Lalu Prasad Yadav Vs. State of Bihar (Flag 3 Para 8 onwards, 18 to 21)



Robert Mitchell Vs. Soren (Para 17)

Words ought to be understood according to genuine and natural signification.

II. Courts not to adopt hypothetical construction

9. Union of India Vs. Hansoli (Flag 4)

When language is plain and unambiguous, Court must give effect to words used and not be open to adopt hypothetical construction. Para 9, 10)

10. Ajay Pradhan Vs. State of MP (Flag 5 Para 7)

If plain words, we are bound to construe them in ordinary sense.

King Emperor Vs. Benori Lal Sharma (Para 7)

"We must give effect to it whatever may be the consequences."

12. Swedish Match Vs. SEBI (Flag 6)

Where wordings are absolutely clear, recourse to different principles of interpretation may not be resorted to. (Para 51)

Harmonious construction, where expression is capable of more than one meaning (Para 85 to 87)

Literal Construction (Para 93 to 97, 102)

III. Literal Interpretation

13. Swedish Match Vs. SEBI (Flag 6 Para 93-97)

14. Nathi Devi Vs. Radha Devi Gupta (Flag 7 Para 13)

15. Nasiruddin Vs. Sita Ram (Flag N, Para 14)



Cannot re-write or recast legislation

16. High Court of Gujrat Vs. Gujrat Kishan Mazdoor (Flag 2 Para 16 of Nathi Devi)

17. Gurudev datta Vs. State of Maharashtra (Flag 8 Para 28)

18. Union of India Vs. Popular Construction (Flag 15)

Express Exclusion: but "not thereafter"

19. Padmasundera Vs. State of Tamil Nadu (Flag 17)

Court cannot read something in statute which is not there in it. (Para 12 to 16)

IV. Superior Court/ Inferior Court

20. M.M.Thomas Vs. State of Kerala (Flag 10)

Nothing is within jurisdiction of Inferior Courts unless expressly shown (Para 15)

V. Interpretation must remain interpretation and not descend into interpolation.

21. Illachi Devi Vs. Jain Society (Flag 1 Para 28)

VI. Intention of legislature

22. Dayal Singh Vs. UOI (Illachi Flag1 Para29)

Intention must be found out from the language employed in Statute itself.

23. Padma Sundara Rao Vs. State of Tamil Nadu (Flag 17)



Court cannot read anything into a statutory provision which is plain and unambiguous.

24. Harbhajan Singh Vs. Press Council of India (Flag I)

Legislature does not waste its words.

No other meaning can be assigned except by doing violence to the language employed.

25. Grasim Industries Vs. Collector (Flag I)

26. Illachi Devi (Flag I Para 32)

27. Nathi Devi Vs. Radha Devi Gupta (Flag 7)

Irrespective of consequence (Para 11)

If plain, no question of construction of Statute

Function is to discover true legislative intent.

Construction attributing redundancy will not be accepted. (Para 12)

28. Col. Prithi Pal Vs. UOI (Flag 18 Para 8)

Court should adopt literal construction if it does not lead to an absurdity (Flag 18 Para 8)

VII. Casus Omissus

29. Dr. Baliram Waman Hiray Vs. Mr. Justice B.L.entin (Flag G)

30. Kanta Devi Vs. UOI (Flag II)

31. Shrimati Tarulata Shyam Vs. Commissioner of Income Tax (Flag I)

If there be casus Omissus, defect can be remedied only by legislation and not by judicial interpretation.



32. Major & St. Mellons Vs. Newport (Flag K Para 14 of Illachi)

Duty of Court is to interpret words legislature has used.

Travel outside on voyage of discovery- prohibited.

VIII. Legislation seeks to obviate some mischief

33. Union Bank Vs. Abhijit Tea Co. (Flag J)

34. RBI Vs. Peerless

No part of Statute and no word of Statute can be construed in isolation.

35. Gurudev data Vs. State of Maharashtra (Flag 8) Para 24)

IX. Purposive Construction

36. Illachi Devi (Flag 1 Para 40, 45/1)

37. Punjab Land Development Vs. Presiding Officer, Labour Court Chandigarh (Flag L)

38. Gopal Reddy Vs. State of Andhra (Flag M)

Purposive Approach for interpreting is necessary.

39. Swedish Match Vs. SEBI (Flag 6 Para 15 of Nathi Devi Vs. Radha)

X. Not permissible to add words:

40. Lalu Prasad Vs. State of Bihar (Para 21)

41. Quebec Railway Vs. Vandry

Not permissible to add words which are not there.

37. He referred to Section 39 of RE(R&D) Act, 2016 stating that power of review has been not given to the Hon'ble Authority. Whereas in Section



Section 53 (c) of RE(R&D) Act,2016 dealing with powers of Tribunal has specifically provided power to *'reviewing its decisions'*. Proper structure has been laid down by the legislature. At one stage, Power of review is not given but at the other stage, it is expressly given. Powers cannot travel beyond statute. Distinction of stage/powers has been made by the legislature.

38.He relied upon Para 34 of judgment dated 24.08.2020 passed by Hon'ble Supreme Court in Civil Appeal no. 6239 of 2019 titled as Wg. Cdr. Arifure Rahman Khan and Ors vs DLF Southern Homes Pvt Ltd.

39.He argued that complainant herein enjoys ownership right of the plot and has not placed any evidence of protest to any payments/ execution of conveyance deed. Nothing bonafide has been placed on record to show that they were aggrieved at time of execution of conveyance deed.

40. In present case, all obligations qua Section 11 of Act stands fulfilled. Development works are complete at site. Chief Engineers report of year 2017 has already been on record. After getting conveyance deed in year 2015, complainant has filed present complaint after expiry of around 9 years. It is a hopelessly time barred case. Infact, complainant herein purchased the plot from open market. He is a subsequent allottee. No entitlement is made out in favor of complainant to any of the reliefs sought.



41. During the course of hearing on 30.04.2026, Adv. Nitin Kant Setia, arguing counsel for complainant argued that there are twin obligations upon the respondent first; builder has to develop property within the stipulated time frame and second to transfer ownership rights in favor of allottee. In present case, respondent has failed to deliver the possession by stipulated time (in terms of BBA). Section 18 of R&D Act, 2016 is not linked to conveyance deed. It provides interest for the delay caused by respondent in handing over of possession. As a matter of fact, delay has been caused by the respondent. Section 11 provides for obligations of promoter. Section 14 provides for duties casted upon builder in respect of adherence to sanctioned plans etc. Neither of these two section provides clarity on issue that what will be the obligation of parties in case where project gets delayed. For the delay part, builder is liable to pay the delay interest to the allottee.
42. Conveyance deed in present case got executed on 22.04.2015. Complaint seeking delay interest has been filed on 29.03.2024. Article 65 of limitation Act provides time period of 12 years. Complaint is well within the limitation. Moreover, the cause is re-occurring.
43. Right to claim delay interest accrues in favor of allottee from date of nomination that in year 2013. Complainant is today praying for actual possession of the unit. Offer made by the respondent in year 2013 was not a valid offer of possession as it was not supported with completion



certificate. Section 19 (10) of RE (R&D) Act, 2016 provides for the stage as to when the allottee is obligated to take possession i.e. within 2 months of receipt of occupation/completion certificate. As such, completion certificate has not been obtained till date.

G. ISSUES FOR ADJUDICATION

44. Whether the complainant is entitled to the reliefs sought or not? If Yes, the quantum thereof.

H. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

45. At the outset, respondent has taken an objection that complainant had executed a conveyance deed dated 22.04.2015 and therefore, the transaction between the complainant and the respondent has been concluded and no right or liability can be asserted by respondent or the complainant against the other. Therefore, the complainant is estopped from claiming any interest in the facts and circumstances of the case. At this stage, it is important to look at the definition of the term, deed, itself in order to understand the extent of the relationship between an allottee and promoter. A deed is a written document or an instrument that is sealed, signed and delivered by all the parties to the contract (buyer and seller). It is a contractual document that includes legally valid terms and is enforceable in a court of law. It is mandatory that a deed should be in writing, and both the parties involved must sign the document. Thus, a conveyance deed is essentially one wherein the seller transfers all rights



to legally own, keep and enjoy a particular asset, immovable or movable. In this case, the asset under consideration is immovable property. On signing a conveyance deed, the original owner transfers all legal rights over the property in question to the buyer, against a valid consideration (usually monetary). Therefore, a conveyance deed, or 'sale deed' implies that the seller has signed a document stating that all authority and ownership of the property in question has been transferred to the buyer.

46. From above, it can be said that taking over the possession and thereafter execution of the conveyance deed can best be termed as respondent having discharged its liabilities as per the buyer's agreement and upon taking possession, and/or executing conveyance deed, the complainant never gave up his statutory right to seek delayed possession charges.

47. It is noteworthy to mention here that in Appeal no. 272, 273, 274 of 2019 titled as Manju Arya vs M/s TDI Infrastructure Pvt Ltd, Hon'ble Haryana Real Estate Appellate Tribunal, Chandigarh vide order dated 19.01.2021 has observed that the cause of action which had already accrued to the allottee against the promoter due to non-fulfilment of the obligations as per the agreement for sale shall stand extinguished with the execution of the conveyance deed. Whatever statutory rights had accrued to the allottee prior to the conveyance deed cannot be defeated with the subsequent execution and registration of the conveyance deed. Relevant part of the order is reproduced below:



"18. As far as appeal no.273 of 2019 is concerned, no doubt, the conveyance-deed was already executed and registered on the date of filing the complaint no.718 of 2018. But, in our view the execution and registration of the conveyance-deed will not absolve of the promoter of the liability which had accrued before the execution and registration of the conveyance-deed. **The moment the delay has occurred in the delivery of possession, the statutory right to claim the compensation had occurred to the appellant which cannot be subsequently extinguished with the execution and registration of the conveyance-deed.**

19. The learned Adjudicating Officer has referred to Section 11 sub section 4 (a) of the Act to dislodge the claim of the appellants which reads as under: -
"11. Functions and duties of promoter.

(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; Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed

20. As per the aforesaid provision of law, the promoter shall be responsible for all the obligations, responsibilities and functions under the provisions of the Act or the rules and regulations made thereunder or to the allottees as per the, agreement for sale till the conveyance of all the apartments, plots or buildings, as the case may be. This provision does not say that the cause of action which had already accrued to the allottee against the promoter due to non-fulfilment of the obligations as per the agreement for sale shall stand extinguished with the execution of the conveyance-deed. Whatever statutory rights had accrued to the allottee prior to the conveyance-deed, cannot be defeated with the subsequent execution and registration of the conveyance-deed.

21. The Hon'ble Apex Court in case Wg. Cdr. Arifur Rahman Khan and Ors. Vs. DLF Southern Homes Pvt. Ltd. and Ors. 2020(3) RCR (Civil) 544 has laid down as under: - "The developer in the present case has undertaken to provide a service in the nature of developing residential flats with certain 15 had Complaint No.808/2020 amenities and remains amenable to the jurisdiction of the Consumer Fora. Consequently, we are unable to subscribe to the view of the NCDRC that flat purchasers who obtained possession or executed Deeds of Conveyance have lost their right to make a claim for compensation for the delayed handing over of the flats."

22. Thus, the Hon'ble Apex Court has categorically laid down that the purchasers will not lose their right to claim compensation for the delayed handing over of the unit on the ground that the possession has been delivered and deed of conveyance has been executed. This authority is squarely applicable to the controversy in hand.

23. Even though this judgment has been rendered by the Hon'ble Apex Court under the Consumer Protection Act, 1986 but the principle of law laid down by the Hon'ble Apex Court in the aforesaid judgment will also be applicable to the cases under the Act. Thus, we are of the considered opinion that mere execution of the conveyance-deed by the respondent/promoter qua plot no.663, Block no.L, TDI City at Kundli, Sonipat, Haryana (Complaint No.718/2018, Appeal No.273/2019) will not extinguish the right of the appellant/allottee to claim the compensation which had already accrued to her much before the execution of the conveyance-deed."

Also, the para 35 of judgment dated 24.08.2020 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) is reproduced herein below:

"35. The flat purchasers invested hard earned money. It is only reasonable to presume that the next logical step is for the purchaser to perfect the title to the premises which have been allotted under the terms of the ABA. But the submission of the developer is that the purchaser forsakes the remedy before the consumer forum by seeking a Deed of Conveyance. To accept such a construction would lead to an absurd consequence of requiring the purchaser either to abandon a just claim as a condition for obtaining the conveyance or to indefinitely delay the execution of the Deed of Conveyance pending protracted consumer litigation."

48. Authority observes that the complainant/allottee has invested his hard-earned money and there is no doubt that the promoter has been enjoying benefits of it. Next step thereafter is to get their title perfected by executing a conveyance deed which is the statutory right of the allottee. Also, the obligation of the developer promoter does not end with the execution of a conveyance deed. The essence and purpose of the Act was to curb the menace created by the developer/promoter and safeguard the interests of the allottees by protecting them from being exploited by the dominant position of the



developer which he thrusts on the innocent allottees. Therefore, in furtherance to the Hon'ble Apex Court judgment and the law laid down in the Wg. Cdr. Arifur Rahman (supra), this Authority holds that even after execution of the conveyance deed, the complainant cannot be precluded from his right to seek delay possession charges from the respondent-promoter. Keeping in view the aforesaid discussion, it is decided that the complaint is maintainable. However, the reliefs sought by the complainant has to be evaluated on basis of other principles like delay and laches, applicable of statutory provisions etc.. Same has been dealt below at length in further paragraphs.

49. Factual matrix of the case is that a unit was booked by the original allottee in the project being developed by the respondent namely "Parklands" situated at Faridabad, Haryana in the year 2006. Allotment rights were sold to subsequent allottee (Shailesh Goswami) on 11.10.2006. Builder buyer agreement for plot no. J-10-17 having area 291.80 sq. yds. was executed between the subsequent allottee (Shailesh Goswami) and respondent on 03.02.2007. In terms of clause 22.1, the possession of the unit was to be delivered within a period of 24 months from the date of sanctioning of service plans. Complainant had purchased allotment rights from subsequent allottee and got the unit endorsed in his favor on 18.01.2013. An amount of ₹ 41,70,899.50/- has been paid by the complainant against the sale consideration of ₹ 27,04,750/-. Out of said amount, last amount of ₹ 35,251/- has been paid by complainant on 21.04.2015.



50. As per clause 22.1 of the builder buyer agreement, possession of the unit was to be delivered within 24 months from date of sanctioning of service plans of the entire colony. At the outset, it is relevant to comment with regard to clause of the agreement where the possession has been subjected to sanction of service plan. Drafting of this clause is vague and uncertain and heavily loaded in favour of the promoter. Incorporation of such clause in the plot buyer agreement by the promoter is just to evade the liability towards timely delivery of the unit and to deprive the allottee of his right accruing after delay in delivery possession. The respondent in its reply has not provided the date of sanction of service plans of the colony. Thus, the contention of the respondent to calculate deemed date of possession from the date of sanction of service plans is rejected. In light of these facts, the deemed date of possession is being calculated from the date of execution of floor buyer agreement, which comes out to 03.02.2009.

51. It is pertinent to highlight the 'Sequence of events' of the present case for better adjudication of claim of complainant. Same is incorporated in the table below:-

Sr. No.	Letters/correspondences/Payments	Issued/relied by	Contents of the documents
i.	Application form by by original allottee on 04.02.2006.	Respondent	Copy annexed at page 28-30 of reply.



ii.	Booking amount paid by second allottee(Shalesh Goswami)on 11.10.2006 Surrender letter in favor of second allottee(Shalesh Goswami) on 11.10.2006	Complainant	Receipt issued on 08.11.2006 by respondent for an amount of ₹ 50,000/-. Annexed at page 20 of complaint.
iii.	Plot buyer agreement with second allottee(Shalesh Goswami)	Complainant and respondent	Copy of agreement annexed in complaint as Annexure C-2. In reply, it is annexed as Annexure R-3.
Deemed date of possession works out to 03.02.2009 as per clause 22.1 of agreement. (Refer para 47 of this order)			
iv.	Complainant (third allottee) purchased allotment rights of plot after expiry of deemed date of possession. Vide nomination letter dated 18.01.2013.	Complainant	Relevant documents annexed as Annexure C-6 to complaint.
v.	Offer of possession issued with receipt of completion certificate on 18.05.2013.	Complainant and respondent	Copy of offer of possession annexed at Annexure R-5 to reply. Said offer was accompanied with



			demand of ₹ 5,66,691/- inclusive of ₹ 3,49,000/- for stamp duty charges and ₹ 15,700/- for conveyance deed registration charges. Amount was to payable upto 17.06.2013.
vi.	Complainant paid the amount of ₹ 5,66,691/- on 28.05.2013.	-----	Receipt issued on 28.05.2013 annexed at page 57 of complaint. (Amount was paid within 10 days of offer of possession.)
vii.	Complainant paid an amount of ₹ 2,02,131/- on 22.11.2013 for stamp duty. -Then paid an amount of ₹ 11,990/- on 19.12.2014 for maintenance charges. -Then paid an amount of ₹ 1,14,310/- on 16.01.2015 for maintenance security deposit. -Then paid an amount of ₹ 34,900/- on 09.03.2015 for maintenance charges. Then paid an amount of ₹ 19,787/- on 21.04.2015 for holding. -Then paid an amount of	Complainant and respondent.	Receipts dated 22.11.2013, 19.12.2014, 16.01.2015, 09.03.2015, 21.04.2015 are annexed at page 58-63 of complaint file.

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	₹ 15,464/- on 21.04.2015 for miscellaneous charges.		
viii.	Maintenance and service agreement executed between BPMS Pvt Ltd and complainant on 15.12.2014.	Complainant	Copy of agreement is annexed at page 64 of complaint. Relevant clauses of agreement. <i>Clause E. Whereas the plot buyer has agreed to deposit and keep deposited with BPTP Ltd or its nominated maintenance agency as maintenance security deposit at the rate of Rs 200/- per sq. yds per plot and to pay maintenance charges to be decided by the maintenance agency.</i> <i>Clause 1. BPMS will provide its services from the 30 day of offer of possession of plot i.e. 18-6-2013. It is understood that in the event, the plot buyer agreement has failed to take possession of the said plot on the date specified in the possession notice to the plot buyer, the plot buyer shall be liable to pay maintenance charges.</i> (Rs 200/- per sq. yds for plot of 349 sq. yds works out to Rs 69,800/-. Said amount was paid by complainant vide receipt dated 16.01.2015 as maintenance charges).
x.	Conveyance deed executed in favor of complainant on 22.04.2015.	Complainant and respondent.	Copy of conveyance deed annexed as Annexure C-8 to complaint and Annexure R-6 to reply. Relevant clauses <i>Clause 1 That consideration of Rs 35,92,655/- which has been willingly paid by the Vendee to the Vendors the receipt whereof hereby acknowledged by the vendors, the vendors do hereby grant, convey, and transfer unto the vendee all that piece and parcel of land comprising plot bearing no. J-10-</i>

		17 in Block-J parklands, Sector-84, Faridabad. Together will all rights, easements and advantages, appurtenant to the said plot subject to the exceptions, reservations, conditions and covenants contained herein. The vendee is entitled to hold, use, and enjoy the said plot in the manner permitted by the DGTC without any hindrance or claim from the vendors except as mentioned herein. Clause 3-That the vacant and actual physical possession of said plot has been handed over by the vendors to the vendee and the vendee has taken over the physical possession of same after a detailed inspection of the said plot including but not limited to its area, location, dimensions etc. and the vendee does not have any objection and is fully satisfied with the said plot. Since, the vendee has completed due diligence of the said plot to his complete satisfaction and therefore, it undertakes not to raise any dispute/claim/whatsoever either in present or in future against the vendors. The vendee confirms and agrees that the vendee shall be fully responsible for the said plot including maintaining possession of the said plot.
xii.	No communication/letter/correspondence between the parties during the years ranging from 2015-2024. Present complaint filed on 29.03.2024.	

52. Fact remains that an offer for possession was issued to complainant on 18.05.2013 along with demand of ₹ 5,66,691/-. In acceptance of said offer, an

amount of ₹ 5,66,691/- was paid by the complainant on 28.05.2013. Thereafter, complainant had executed maintenance agreement with BPMS Pvt Ltd on 15.12.2014. Paid maintenance charges of ₹ 69,800/- on 16.01.2015. Thereafter, complainant got conveyance deed executed in his favor on 22.04.2015. Now, present complaint has been filed on 29.03.2024 seeking delay interest from deemed date of possession till a valid offer of possession duly supported with completion Certificate is issued. During the period ranging from year 2015-2024, no document revealing the correspondence/communication/efforts made by complainant to pursue their claim for delay interest is placed on record. Aforesaid table establish that no objection of any kind was made by the complainant towards the payments/delay interest/maintenance made to respondent.

53. Authority observes that the cause of action for the present complaint first arose in year 2013, when the complainant allegedly made payments in lieu of acceptance of offer to the respondent. Second, in year 2014 at the event of signing of maintenance agreement. Thirdly, in year 2015 at time of execution of conveyance deed. However, at none of these instances, the complainant made any objection or file any complaint against the respondent. It is the stand of complainant that actual physical possession has not been handed over to him by the respondent till date. Perusal of facts incorporated in aforesaid paragraphs proves that complainant made the payments well within the granted time. Never objected to execution of maintenance agreement and payment in terms of it. No



written correspondence has been placed on record to establish that complainant after making whole of payment in year 2013 is still waiting to have possession of unit. Conduct of complainant is rather opposite to oral/written submissions made during proceedings. As such, complainant remained silent for good number of 8.5 years. Such inordinate delay indicates that the complainant failed to exercise due diligence and has raised the present claim long after the relevant cause of action arose. Further, the Authority notes that the complainant has failed to annex any documentary evidence showing that he ever communicated with the respondent for the purpose of seeking delay interest. The delay, coupled with the absence of any documented interaction between the parties regarding the issues of actual offer and delay interest, weighs heavily against the maintainability of the present reliefs.

54. It is a well-settled principle of equity that a litigant who sleeps over his rights for an inordinate period cannot later invoke the discretionary jurisdiction of a judicial forum to revive a stale claim. The doctrine of delay and laches is founded upon the maxim *vigilantibus non dormientibus jura subveniunt* i.e the law assists those who are vigilant, not those who slumber over their rights. The Hon'ble Supreme Court has repeatedly held that courts may refuse relief where a party approaches the adjudicatory forum after unreasonable delay without satisfactory explanation. In *Union of India v. N. Murugesan* (2022) 2 SCC 25, the Court reiterated that the doctrine of laches involves negligence or remissness



in asserting a right and that equitable relief may be declined where a litigant approaches the court after inordinate delay.

55. Closely allied to the doctrine of laches is the principle of acquiescence, which arises where a person, with knowledge of his rights, stands by and allows another party to act to its prejudice, thereby implying assent to the existing state of affairs. The Supreme Court has explained that while delay may bar a remedy, acquiescence may extinguish the very right itself. In *Power Control Appliances v. Sumet Machines (P) Ltd.* (1994) 2 SCC 448, the Court observed that acquiescence implies conduct inconsistent with the enforcement of a right and may therefore preclude a litigant from raising the claim belatedly.

56. The Supreme Court has also emphasized that claims brought after long and unexplained delay ought not to be entertained as they disturb settled rights and create prejudice to the opposite party. In *State of Uttaranchal v. Shiv Charan Singh Bhandari* (2013) 12 SCC 179, the Court held that inordinate delay would "invite disaster for the litigant who knocks at the doors of the court belatedly," and that courts must guard against entertaining stale claims which upset settled positions created over time. In support, reliance is placed upon judgement dated 18.04.2024 passed by Hon'ble Apex Court in Civil Appeal nos. 5027 of 2024 ((a) Special leave Petition (civil) no. 30152 of 2018) *Mrinmoy Maity versus Chhanda Koley and others.*

57. Applying the aforesaid principles to the present case, the complainant admittedly accepted possession of the plot in the year 2015 (that too before



RERA came into being) and has been enjoying ownership of plot continuously for a decade. During this entire period, no grievance regarding delay in delivery of possession was raised before any competent forum. Such prolonged silence, coupled with the acceptance and enjoyment of the property, unmistakably indicates acquiescence in the alleged delay. Entertaining a claim for delay compensation after eight years would not only revive a stale cause but would also defeat the equitable principles governing adjudicatory discretion. Therefore, Authority is of the considered opinion that the complainant, having acquiesced in the situation by accepting and enjoying possession, cannot now be permitted to agitate a claim for delay interest. The said claim is therefore rejected.

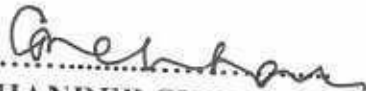
58. In respect of relief clause (ii), it is observed that the complainant is seeking completion of pending work along with handover of the floor and execution of conveyance deed. Fact remains that unit herein is plot not the floor. Conveyance deed already stands executed in favor of complainant on 22.04.2025. Therefore, no direction is passed in respect of this relief.

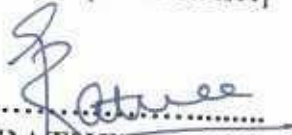
59. In respect of relief clause (iii), it is observed that the complainant is also seeking relief of compensation for mental harassment and agony and deficiency in service and litigation cost. For this the complainant- allottee is entitled to claim compensation under Sections 18(3) of the RERA Act. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. & ors.*"



(supra.), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. Therefore, the complainant is free to approach the Adjudicating Officer for seeking the aforementioned reliefs.

60. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]


NADIM AKHTAR
[MEMBER]


PARNEET S. SACHDEV
[CHAIRMAN]