BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Date of order: 17.07.2026

NAME OF THE BUILDER		M/S BESTECH INDIA PRIVATE LIMITED	
PROJECT NAME		"ORIENT - BESTECH BUSINESS TOWER" at Sector – 34, Village Khandsa, NH – 8, Gurugram.	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/60/2026	Mukesh Advani V/S M/s Bestech India Private Limited	Shri Vikram Bhaskar, Advocate for complainants And Shri Ishaan Dang, Advocate for respondent
2.	CR/61/2026	Vasant Ramji Ganatra V/S M/s Bestech India Private Limited	

CORAM:	
Shri Arun Kumar	Chairman

ORDER

1. This order shall dispose of both the complaints titled as above filed before the Authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "The Rules") for violation of Section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "**Orient - Bestech Business Tower**" at Sector – 34, Village Khandsa, NH – 8, Gurugram being developed by the same respondent/promoter i.e., M/s

Bestech India Private Limited. The terms and conditions of the builder buyer agreement and allotment letter against the allotment of unit in the said project of the respondent/builder and fulcrum of the issues involved in these cases pertains to failure on the part of the promoter to complete the construction of the project, seeking delay possession along with interest at the prescribed rate, delay possession charges and the execution of the conveyance deeds.

3. 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:

Project Name and Location	**"ORIENT - BESTECH BUSINESS TOWER"** at Sector – 34, Village Khandsa, NH – 8, Gurugram.
Project Area	5.093 Acres
Nature of the project	Commercial Business Tower
DTCP License No.	1128 of 2006 dated 15.09.2006 valid up to 14.09.2015.
Name of Licensee	M/s Orient Crafts
RERA Registered	**Un-registered**
Possession clause: -	**Clause 14.** *That subject to provisions of clauses 15 and 16 the possession of the said premises is* ***proposed to be delivered by the DEVELOPER to the ALLOTTEE(S) within twenty-four (24) months from the date of this Agreement...*** ***[Emphasis supplied]***
Due date of possession:	**31.12.2011** [Note: Due date of possession is calculated 24 months from the date of execution of buyer's agreement i.e., 31.12.2009]
Occupation certificate: -	**08.05.2013**
Intimation w.r.t receipt of OC/ Offer of possession: -	**01.07.2013**

Sr. No.	Complaint no. / Title/ Date of Filing / Reply	Unit No. and Area	Date of AL and BBA	Basic & Total sale consideration and Amount Paid
1.	CR/60/2026 Mukesh Advani V/S M/s Bestech India Private Limited	720 on 7th floor, IT Space 2500 sq. ft. (super area)	**Agreement to sell:** 07.06.2007 *[Between complainant and original allottee (M/s Hiteshi Leasing and Housing Pvt. Ltd.)]*	BSC: - **Rs.1,22,50,000/-** & TSC: - **Rs.1,36,37,500/-**

	DOF 06.01.2026 Reply 13.02.2026	[As mentioned in BBA at page 41 & 42 of complaint]	[As per page 31-35 of reply] **Endorsement in favour of complainant:** 07.06.2007 [As per page 36 of reply] **BBA:** 31.12.2009 *[Between complainant and promoter]* [page 39 of complaint]	[As mentioned in Annexure-I of BBA at page 63 of the complaint] AP: - **Rs.1,38,62,500/-** [As alleged at page 10 of complaint]
2.	CR/61/2026 Vasant Ramji Ganatra V/S M/s Bestech India Private Limited **DOF** 06.01.2026 **Reply** 13.02.2026	729 on 7th floor, IT Space 2500 sq. ft. (super area) [As mentioned in BBA at page 42 & 43 of complaint]	**AL:** 30.06.2008 [As per page 38 of complaint] **BBA:** 04.06.2009 [As per page 39 of complaint]	BSC: - **Rs.57,50,000/-** & TSC: - **Rs.71,37,500/-** [As mentioned in Annexure-I of BBA at page 64 of the complaint] AP: - **Rs.74,37,500/-** [As alleged at page 10 of complaint]

The complainant(s) in the above-mentioned complaint(s) have sought the following relief(s):

1. Allow the present complaint and direct the respondent to handover the possession of the unit complete in all aspects;
2. Direct the respondent to pay a delay penalty @MCLR + 2% on the amount deposited by the complainant with the respondent with effect from the due date of possession promised in the agreement, till the date of execution of sale deed in favour of the complainant;
3. Direct the respondent to facilitate the leasing out of the unit to a third-party on behalf of the complainant as per the agreed terms;
4. Direct the respondent to waive off the entire arbitrary maintenance charges levied on the complainant;
5. Direct the respondent to pay compensation of Rs.5,00,000/- to the complainant towards for mental agony, harassment, discomfort and undue hardship caused to the complainant as a result of the above acts and omissions on the part of the respondent;

6. Direct the respondent to pay a sum of Rs.1,00,000/- to the complainant towards litigation costs;
7. Any other relief as Authority may deem fit and proper in the fact and circumstances of the case.

Note: In the table referred above, certain abbreviations have been used. They are elaborated as follows:

Abbreviation	Full form
DOF	Date of filing complaint
AL	Allotment letter
BBA	Builder Buyer's Agreement
BSC	Basic Sale consideration
TSC	Total Sale consideration
AP	Amount paid by the allottee(s)
CD	Conveyance Deed

4. The aforesaid complaints were filed against the promoter on account of violation of the apartment buyer's agreement and allotment letter against the allotment of units in the project of the respondent/builder and for not handing over the possession by the due date, seeking award of possession along with delayed possession charges.

5. It has been decided to treat the aforesaid complaints as an application for non-compliance of statutory obligations on the part of the promoter/ respondent in terms of Section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.

6. The facts of the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/60/2026 titled as Mukesh Advani Vs. M/s Bestech India Private Limited*** *are* being taken into consideration for determining the rights of the allottee(s) qua the reliefs sought by the complainants-allottees.

A. Unit and Project related details:

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

CR/60/2026 titled as Mukesh Advani Vs. M/s Bestech India Private Limited

S. N.	Particulars	Details
1.	Name and location of the project	"Orient – Bestech Business Tower" at Sector – 34, Village – Khandsa, NH-8, Gurugram.
2.	Project area	5.093 Acres
3.	Nature of the project	Commercial Business Tower
4.	DTCP license no. and validity status	1128 of 2006 dated 15.09.2006 Valid up to 14.09.2015
5.	Name of the Licensee	M/s Orient Crafts
6.	RERA registered/ not registered and validity status	**Un-registered**
7.	Unit no.	720 on 7th floor, IT Space (as mentioned in BBA at page 41 & 42 of complaint)
8.	Unit area	2500 sq. ft. (super area) (as mentioned in BBA at page 41 & 42 of complaint)
9.	Agreement to sell *[Between complainant and original allottee (M/s Hiteshi Leasing and Housing Pvt. Ltd.)]*	07.06.2007 (as per page 31-35 of reply)
10.	Endorsement/ Transfer letter by respondent to the complainant	07.06.2007 (as per page 36 of reply)
11.	Date of execution of buyer's agreement *[Between complainant and promoter]*	31.12.2009 (as per page 39 of complaint)
12.	Possession clause	**Clause 14.** *That subject to provisions of clauses 15 and 16 the possession of the said premises is proposed to be delivered by the DEVELOPER to the ALLOTTEE(S) within twenty-four (24) months from the date of this Agreement...* **[Emphasis supplied]** (as per page 47 of the complaint)
13.	Due date of possession	**31.12.2011**

		[Note: Due date of possession is calculated 24 months from the date of execution of buyer's agreement i.e., 31.12.2009]
14.	Basic sale consideration	Rs.1,22,50,000/- (as mentioned in Annexure-I of BBA at page 63 of the complaint)
15.	Total sale consideration ***[BSP + EDC/IDC + Car parking + IFMS]***	Rs.1,36,37,500/- (as mentioned in Annexure-I of BBA at page 63 of the complaint)
16.	Amount paid by the complainant	Rs.1,38,62,500/- (As alleged at page 10 of complaint)
17.	Application for grant of occupation certificate	26.10.2012 (As per page no. 96 of reply)
18.	Occupation certificate	**08.05.2013** (As per page no. 29-30 of reply)
19.	Intimation w.r.t receipt of OC/ Offer of possession	01.07.2013 *[Note: Maintenance charges reduced from Rs.15/- per sq. ft. to Rs.3 per sq. ft. w.e.f 01.09.2013 till 31.08.2014 or till the date of lease of the said space, whichever is earlier]* (As per page 97-99 of reply)
20.	Letter by complainant *[W.r.t DPC, enhanced EDC/IDC, maintenance charges & interest]*	17.07.2013 (As per page 100-101 of reply)
21.	Reply by respondent to the letter dated 17.07.2013	05.10.2013 (As per page 102-103 of reply)
22.	Legal notice by complainant *[for non-performance of the provisions of BBA]*	23.09.2019 (As per page 104-110 of reply)
23.	Reply to the legal notice	13.11.2019 (As per page 111-123 of reply)
24.	Rejoinder to the reply to the legal notice	13.12.2019 (As per page 124-128 of reply)

B. Facts of the complaint: -

8. The complainant has made the following submissions: -

a. That in or around the year 2009, the respondent commenced the advertising, marketing, and booking of commercial units in a project named 'Orient Bestech Business Tower', situated at Vill – Khandsa, NH- 8, Gurgaon being developed by M/s Bestech India Private Limited, having its registered office at Unit No. 5D, 5th Floor, Assets Area 4, Delhi Aerocity Hospitality, District West Delhi, Delhi - 110037.

b. That during the aforesaid period, the Directors and other authorized representatives of the respondent, on multiple occasions, approached the complainant and persistently induced him to invest in the project. In doing so, the Directors made several assertions and representations with respect to the respondent longstanding presence, reputation and goodwill in the real estate sector, claiming decades of industry experience and projecting the respondent as a leading and reputed developer in the National Capital Region (NCR). Relying upon the representations made by the Directors and authorized representatives of the respondent, including inter alia through the promotional materials, brochures, and other marketing documents shown to the complainant, the complainant was persuaded to consider making an investment in the project.

c. That the authorized representatives and Directors of the respondent extended certain lucrative and alluring representations during the in-person meetings and discussions with the complainant, etc. about the purported state-of-the-art construction quality of the project, comprising premium amenities. The Directors and the authorized representatives assured that the proposed project would be a premier commercial hub, strategically situated at a prime location, and was projected to yield substantial returns in form of rental income for the allottees.

d. That furthermore, the Directors of the respondent assured the complainant that possession of the commercial/office space, once booked, will be delivered within a period of 24 months from the date of signing of the agreement, whereafter, the complainant would be in a position to lease out the said commercial/office space to national/multinational IT companies, thereby securing promising substantial returns on investment by way of lease rentals. It was further represented that the respondent would proactively facilitate the process of leasing out the commercial/office space booked by the complainant to third parties in order to ensure that the complainant is able to derive the maximum possible return on his investment.

e. That the aforementioned assurances extended by the respondent left no doubt in the mind of the complainant about the financial viability and profitability of the project, and as such, the complainant proceeded with the booking of a commercial/office space in the project by duly submitting an application form to the respondent and accordingly paid a sum of Rs.19,13,187/- towards the booking amount on 07.06.2007. In furtherance of the same, the complainant was allotted the IT/Cyber Space No. 720, situated at the 7th floor of the project, admeasuring a super area of approximately 2500 sq. ft., along with the transfer of an undivided and impartible proportionate share in the land underneath the building in the same proportion which the super area of the unit bears to the total super area of all the units in the project, vide an allotment letter.

f. That thereafter, in furtherance of the booking amount paid by the complainant and the subsequent allotment of the unit, a buyer's agreement dated 31.12.2009 was executed between the complainant and the respondent, wherein the terms of allotment and possession as agreed upon between the parties were formally recorded. As per clause 1 of the agreement, the total sale consideration as agreed between the parties for the unit was Rs.1,25,12,500/-, calculated at the rate of Rs.5,005/- per sq. ft. of the unit's super area, which is inclusive of the EDC charges as per clause 10 of the agreement.

g. That the terms and conditions of the agreement were manifestly one-sided, arbitrary, unreasonable, and heavily skewed in favour of the respondent.

However, since the complainant had already remitted substantial payments prior to the execution of the agreement, he was left with no bargaining power to oppose, contest or negotiate such terms as the same would have led to the cancellation of his unit and forfeiture of earnest money as per clause 5 of the agreement.

h. That one such arbitrary provision is clause 15 of the agreement vide which the respondent deceitfully vested with itself the absolute discretion to lease out the unit to any third party of its choice at the rate of lease rentals unilaterally determined by itself, which would be binding upon the complainant, without any right of objection. Further, if the complainant were to not comply with the execution of the documents with respect to such lease finalized by the respondent, the latter shall be further vested with the right to purchase the unit from the complainant at the value at which it was sold.

i. That similarly under clause 16 of the agreement, the complainant's entitlement to the lease rentals was made conditional upon the execution of the documents acknowledging and admitting the lessee, unilaterally chosen by the respondent, to be a lawful tenant of the unit. Till such time the complainant does not acknowledge the same, the respondent shall withhold the lease rentals and appropriate them at its discretion, without the complainant having any claim thereto.

j. That further, as per clause 17 of the agreement, the respondent reserved the unilateral right to allot an entirely different unit to the complaint in lieu of the unit booked in case the complainant chooses to utilize the unit for his self-use, which was in blatant disregard to terms agreed between the parties and the representations earlier made by the authorized representatives of the respondent. It is evident that the complainant had little or no control over the unit allotted to him, towards the sale consideration of which, the complainant had paid substantial amounts, while the respondent retained wide discretion to lease, transfer, withhold possession and the lease rentals, and substitute the unit with another, all without the consent of the complainant.

k. That it is pertinent to mention that as per Clause 14 of the agreement, subject to the provisions of clause 15 and 16 of the agreement, the respondent undertook an unequivocal obligation to hand over possession of the unit to the complainant within 24 months from the date of the execution of the agreement, i.e. by 31.12.2011. That as per Clause 15 and 16 of the agreement, the respondent had undertaken to finalize the lease on behalf of the complainant and pursuant thereof, the complainant would be entitled to the lease rental amounts paid by the lessee, and that the respondent may get an exemption from delivering the possession of the unit by the period stipulated under Clause 14 of the agreement. However, the respondent has, till date, failed to fulfil its obligations to either hand over the legal, valid, and complete possession of the unit by the agreed date, complete the construction of the project, or to lease out the unit to a third-party and facilitate the transfer of lease rentals. On one hand the respondent is promising legal and valid possession to the complainant by 31.12.2011; however, on the other hand, the respondent is cleverly exempting itself from such obligation by unilaterally controlling the leasing of the unit at rates decided by itself. Despite having paid the full consideration, the complainant is deprived of the right to decide how to use his own property.

l. That the complainant had duly and consistently complied with the payment schedule annexed as annexure-I to the agreement, and the payment demands as and when raised by the respondent, and has in accordance whereof, paid a total sum of Rs.1,38,62,500/- towards the sale consideration of the unit. Despite the complainant making such payments timely and in compliance with the payment demands as raised by the respondent, the respondent failed to complete the construction of the project in time and has, till date, failed to offer legal and valid possession of the Unit even after an inordinate delay of 14 years.

m. That notably, the respondent offered incomplete and invalid possession for fit-out of the unit to the complainant, after a delay of over a year i.e. by July 2013 without completing the necessary construction. Along with such offer of possession, the respondent attached the occupancy certificate for the project which it claimed to have obtained on 08.05.2013, i.e. around 2 years after the due date of possession. The complainants rightly refused to accept the fit-out possession of the units, considering the same were neither habitable for self-use nor feasible to be leased out to a commercial enterprise, despite the respondent claiming to have received the occupancy certificate from DTCP, Haryana.

n. That at the time of such offer of possession, the construction of the project and specifically the unit of the complainant was still not complete, consisted of structural defects and was clearly not as per the specification as provided in the agreement. On the date of offer of fit-out possession, which is in July 2013, the entrance to the project site was compromised and restricted by way of a wide unhygienic drain, and there was no direct access to the project site from the adjacent high-road. Furthermore, even the high-road leading to the Project site was plagued with potholes and uneven patches, leading to flooding and water-logging right in front of the project site. Due to the aforesaid reasons, the footfall of the project, which was portrayed as an attractive and premier rental destination for national/multinational companies, has been substantially reduced.

o. That at the time of such offer of possession, the unit was still not complete and consisted of structural defects and was clearly not as per the specification as provided in the agreement. On the date of offer of fit-out possession which is in July 2013, there was no demarcation, in the form of walls or demarcating boundaries, of the complainant's unit on the floor which separates it from other units in the project.

p. That immediately thereafter, the complainant approached the authorized representatives and directors of the respondent to convey their grievances, but to no avail, as the same were either inadequately addressed or ignored altogether. The structural defects as raised and conveyed by the complainants, as far back as in the year 2013, have not yet been rectified and that no requisite steps have been taken by the respondent to obtain the necessary sanctions and approvals such as the valid occupancy certificate for the project and offer legal and valid possession to the complainant complete in all respects. Furthermore, the respondent has failed to discharge its obligation towards the facilitation of leasing out the unit to any third party as assured under the aforementioned terms of the agreement, and resultantly the complainant is, as on date of filing of the present complaint, left in severe financial distress, having been deprived of the agreed and promised high returns on his investment.

q. That importantly, the respondent has been, in clear contravention of the terms and conditions of the agreement and despite the consistent protest and demur at the complainant's instance, for the past many years, raising demands towards payment of maintenance charges for the unit from the complainant. On a detailed perusal of terms of the agreement and based on the principles of equity, it can be inferred that such demands are illegal, unjustified and unwarranted, for reasons enunciated in the forthcoming paragraphs.

r. That the respondent has levied various maintenance charges including electricity charges, power backup charges, insurance premiums, staff salaries, etc. in terms of Clause 41(a) to Clause 41(h) of the agreement, wherein the complainant was imposed with the liability to pay the maintenance charges towards the maintenance of the building, common areas, and the unit, to the respondent at the rate of 1.2 times the actual maintenance costs incurred. However, the aforesaid provisions could not be read in isolation and have to read with the other terms of the agreement.

s. That it is pertinent to note here that the payment demands raised by the respondent towards the maintenance charges levied on the complainant's unit along with the interest accrued thereon, amount to a total of Rs.73,74,179/-, as on 11.07.2025, which, as a matter of fact, is around 60% of the total sale consideration of the unit which is Rs.1,25,12,500/-.

t. That the aforementioned maintenance charges cannot lawfully be imposed without the complainant either having been offered the possession of the unit complete in all respects, or the unit being leased out to a third-party lessee on his behalf. On one hand, the respondent has miserably failed to fulfil its obligations to deliver possession and to facilitate the such lease, thereby generating the assured substantial return on the complainant's investment, yet has nonetheless, imposed arbitrary and unjustified maintenance charges.

u. That as per the terms of the agreement, the question of the complainant's liability to pay maintenance charges arises only upon the delivery of possession and leasing of the unit to a third party, whereafter, the complainant would receive the assured lease rentals. Since there has been a delay of more than 14 years in discharging such obligations, the question of maintenance any corresponding liability at the complainant's instance doesn't arise.

v. That the complainant has made repeated and bona fide attempts to contact the representatives and key officials of the respondent company, including approaching their offices and initiating multiple communications, with the genuine intent of seeking clarity and resolution regarding his concerns regarding the offer of possession, the lease of the unit, and the imposition of arbitrary maintenance charges. However, all such efforts were met with deliberate silence, evasive responses, and complete inaction, thereby leaving the Complainant remediless and aggrieved.

w. That the complainant, having exhausted all possible avenues for a peaceful resolution, and having received no constructive response from the respondent, is now left with no other efficacious remedy but to invoke the jurisdiction of the Authority.

x. That it is respectfully submitted that the agreement although sets out the consequences in the event of a default in the payment of the sale consideration and the maintenance charges by the complainant. As per Clause 22 of the agreement, the respondent has vested in itself the arbitrary right to withhold the possession of the unit in case the complainant defaults in payments towards sale consideration and maintenance charges. Furthermore, as per Clause 9 of the agreement, the respondent has imposed a further liability on the complainant to pay a penalty of 18% in case he defaults on the payments towards the sale consideration, and that a penalty at similar rate is levied on the default on part of the complainant to pay the maintenance charges as per Clause 41(e) of the agreement. However, no such penalty or consequences have been set out in the agreement in case of the respondent defaulting on its obligations towards the complainant under the agreement. Such arbitrary and one-sided provisions were imposed on the complainant subjecting him to the fear of forfeiture of earnest money and the amounts deposited by him.

C. Relief sought by the complainant:

9. The complainant has sought following relief:

i. Allow the present complaint and direct the respondent to handover the possession of the unit complete in all aspects;
ii. Direct the respondent to pay a delay penalty @MCLR + 2% on the amount deposited by the complainant with the respondent with effect from the due date of possession promised in the agreement, till the date of execution of sale deed in favor of the complainant;
iii. Direct the respondent to facilitate the leasing out of the unit to a third-party on behalf of the complainant as per the agreed terms;
iv. Direct the respondent to waive off the entire arbitrary maintenance charges levied on the complainant;
v. Direct the respondent to pay compensation of Rs.5,00,000/- to the complainant towards for mental agony, harassment, discomfort and undue hardship caused to the complainant as a result of the above acts and omissions on the part of the respondent;
vi. Direct the respondent to pay a sum of Rs.1,00,000/- to the complainant towards litigation costs;
vii. Any other relief as Authority may deem fit and proper in the fact and circumstances of the case.

10. On the date of hearing, the Authority explained to the respondent/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.

D. Reply filed by the respondent:

11. The respondent has contested the complaint on the following grounds:

a. That the present complaint is not maintainable in law or on facts. The provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the 'Act') are not applicable to the project in question. The occupation certificate in respect of the project was issued by the competent authority on 08.05.2013, i.e. well before the notification of the Haryana Real Estate Regulation and Development Rules 2017 (hereinafter referred to as the 'Rules'). Thus, the project in question is not an 'Ongoing Project" under Rule 2(1)(o) of the Rules. This Authority does not have the jurisdiction to entertain and decide the present complaint. The present complaint is liable to be dismissed on this ground alone.

b. That without prejudice to the grounds mentioned in the instant reply, it is submitted that the notice issued by the Authority is not maintainable in the eyes of law as it is violative of the mandatory procedure prescribed under the Haryana Real Estate (Regulation and Development) Rules, 2017 (HRERA Rules) as amended.

c. That the notice has been issued in a mechanical manner without due application of mind in violation of the mandatory requirement of the HRERA Rules rendering it non-speaking, cryptic, and perfunctory in nature. A notice that does not inform the respondent of the specific case they have to meet is a nullity in procedure and violates the fundamental principles of natural justice.

d. That the complaint is barred by limitation and liable to be dismissed on this ground as well.

e. That the present complaint is bad for non-joinder of necessary party i.e. Park View Facilities Pvt. Ltd. The complainant is conscious and aware that maintenance charges have been levied by Park View Facilities Pvt. Ltd. yet has deliberately chosen to impugn the levy of maintenance charges without impleading the aforesaid company as party to the present proceedings. That the complainant is estopped by his own acts, conduct, acquiescence, laches, omissions etc. from filing the present complaint.

f. That the present complaint raises issues of such a nature which cannot be decided by way of summary proceedings contemplated under the Act. The said issues require extensive evidence to be led by both the parties and examination and cross-examination of witnesses for proper adjudication. Therefore, the disputes raised in the present complaint are beyond the purview of the Act and can only be adjudicated by the Civil Courts. The present complaint deserves to be dismissed on this ground alone.

g. That the complainant is an investor and not "aggrieved person" under the Act and as such the present complaint is not maintainable at the complainant's behest.

h. That the respondent, Bestech India Private Limited (hereinafter "Bestech") is a reputed and renowned real estate developer, enjoying an impeccable reputation in the real estate industry for the disciplined and time bound execution of projects undertaken by it. The projects implemented by Bestech are considered to be architectural landmarks. Bestech has successfully developed residential, commercial and IT projects in Gurgaon after obtaining necessary permissions and approvals from the competent authorities in accordance with law. The associate companies of Bestech have also constructed and made operational Radisson Hotels in Gurgaon, Indore (Madhya Pradesh), Noida and at Nagpur. The respondent has promoted and developed "Bestech City" a duly approved residential colony in Dharuhera, District Rewari.

i. That the complainant had entered into an agreement to sell with M/s Hiteshi Leasing and Housing Pvt. Ltd. for an area of 2500 sq. ft. in the Information Technology Park known as "Orient Bestech Business Tower" located on NH8 in Village Khandsa, Gurgaon, Haryana, hereinafter referred to as "the project".

j. That by letter dated 07.06.2007, Bestech confirmed the allotment in favour of the complainant. It is pertinent to mention herein that the complainant had opted for a construction linked payment plan in which the first two installments were time bound and the remaining installments were payable upon achievement of the construction milestone indicated therein.

k. That although the complainant had agreed and undertaken to make timely payment of installments as per the applicable payment plan, the complainant was extremely irregular in making payments, right from the very beginning. Consequently, Bestech was compelled to issue demand notices and reminders for payment to the complainant from time to time.

l. That in the meanwhile, under cover of letter dated 27.05.2009, the buyer's agreements were sent to the complainants for execution.

m. That buyer's agreement was eventually executed by the complainants on 31.12.2009. It is pertinent to mention that the buyer's agreement was willingly and consciously executed by the complainant after fully understanding and accepting its terms and conditions. The complainant was provisionally allotted IT/cyber space no. 720 on the 7th Floor of the said project admeasuring 2500 sq. ft. approximately. That the complainant's copy of the buyer's agreement was returned to the complainant under cover of letter dated 16.01.2010.

n. That initially the 4th floor of the project had been identified for such allottees who wanted to avail possession of the units booked by them for their own use. Such units have been duly partitioned by construction of intervening walls, provisioning of electrical wiring, internal fixtures, fittings etc at the cost of the allottees.

o. That at the time of booking it was communicated to the complainant that in case of units meant for self-use, in addition to the bare shell cost of the unit for self-use, the allottees would also be liable to bear the charges towards the necessary works including construction of partitions, electrical wiring, internal fixtures, fittings etc in accordance with clause 4.3 of the buyer's agreement. The complainant was not prepared to make payment for such works and as such opted for a unit on 7th floor, ear marked for leasing. Accordingly, IT space /cyber unit bearing no 720, located on the 7th floor of the project and earmarked for leasing was allotted to the complainant, which allotment was duly accepted by the complainant by execution of the buyer's agreement in respect of the unit.

p. That spaces meant for self-use and those earmarked for leasing are dealt with differently in the buyer's agreement. Units such as the unit allotted to the allottees, meant to be leased out by Bestech to prospective lessees are sold on bare shell basis, without any partitions and not capable of independent use as prospective lessees prefer to take entire floors of the building on lease and carry out fit outs/interiors as per their individual convenience.

q. That clauses 14, 15 and 16 of the buyer's agreement deal with IT spaces/cyber units that are intended to be leased out to proposed lessees to be identified by Bestech. In such cases physical possession of the IT space/cyber unit is not intended to be offered to the allottee. Instead, Bestech is authorised by the allottee to identify a suitable lessee, at its absolute discretion, and to negotiate the terms and conditions of lease on behalf of the allottee. Upon identification of a lessee by Bestech, the period stipulated in the contract for delivery of possession shall not apply. The allottee in such case shall be entitled to rent paid by the lessee and shall not be entitled to possession of the cyber unit. The respondent craves leave of this authority to refer to and rely upon the said amongst other clauses of the buyer's agreement, at the time of addressing arguments in the matter.

r. That clause 17 provides that where an allottee is desirous of obtaining possession, in that case, Bestech has the absolute discretion to allot a different cyber unit situated on a floor which may be subsequently identified for self-users in the project.

s. That clause 18 of the buyer's agreement provides that where the option of lease is not availed by the developer and possession is delivered to the allottee, in such case, the allottee upon taking possession of the said premises shall not have any claim against the developer in respect of any item of work, design, specification, building material etc.

t. That clause 4.3 of the buyer's agreement provides that the price of the IT space/cyber unit includes bare shell space, chilled water pipe upto the AHUs and single-point electric connection on each floor of the building and does not include the cost of electric fittings, internal fixtures, switches, electrical panels, electrical wiring, air handling units, fans, geysers, electric and water meters and connections etc., which shall be installed by the allottee at his/her own cost.

u. That Clause 14 of the buyer's agreement provides that subject to timely payment of sale consideration by the allottee and subject to delays caused due to reasons beyond the power and authority of the developer, possession of the unit was proposed to be offered within 24 months from the date of execution of the buyer's agreement.

v. That after competition of construction, Bestech made an application for issuance of occupation certificate on 26.10.2012 and the same was issued on 08.05.2013. Bestech cannot be held liable for time taken by statutory authorities in issuing the occupation certificate and other approvals. Upon receipt of the occupation certificate dated 08.05.2013, symbolic possession of the unit was offered to the allottees vide letter dated 01.07.2013. The complainant was called upon to make payment of outstanding amount as per the attached statement of account. it was also mentioned in the said letter that as a gesture of goodwill, maintenance charges had been reduced from Rs.15/- per sq. ft. to Rs.3/- per sq. ft. w.e.f. 01.09.2013 till 31.08.2014 or date of lease which ever was earlier.

w. That the complainant instead of clearing his outstanding dues as per the demand raised by the respondent, the complainant addressed a letter dated 17.07.2013 seeking, inter alia, compensation, waiver of delayed interest, maintenance to be linked to leasing and payment of the same on tenancy only.

x. That vide letter dated 05.10.2013, the complainant was informed that the charges demanded by the respondent have been demanded strictly in accordance with the covenants of the buyer's agreement. It was further pointed out to the complainant that there is no delay in completion of construction of the project.

y. That the complainant failed to remit the charges due and payable by him on time to the respondent. However, the complainant deliberately failed to do the needful. Moreover, after lapse of around 5 years, the complainant addressed a legal notice dated 23.09.2019 to the respondent wherein the complainant falsely and fallaciously sought to attribute unwarranted lapses and faults upon the respondent. The said notice was duly replied to by the respondent vide reply dated 13.11.2019. The complainant, whereafter, issued a rejoinder dated 13.12.2019 to the said reply. A perusal of the notice dated 23.09.2019 and rejoinder dated 13.12.2019 make it doubtless that the alleged grievances sought to be advanced by the complainant by way of the present complaint have been within his knowledge since last more than a decade. As such, the present complaint is barred by limitation. It is for this reason that the aforesaid communications have been concealed by the complainant from this honourable authority. It is submitted that the complainant cannot be legally permitted to revive time-barred causes of action by abusing the process of law. The present complaint is liable to be dismissed on this ground alone.

z. That as has been submitted hereinabove, the unit allotted to the complainant is/was intended to be leased out by Bestech on best effort basis. In fact, Bestech had already leased out 1 lakh sq. ft. area in both Towers of the project. However, post Covid 19 pandemic, almost all corporates preferred work from home concept for their employees and consequently lesser enquiries were being received from proposed lessees. Nevertheless, Bestech continued making sincere and earnest efforts to identify a suitable lessee. Bestech , on its part, made diligent efforts to identify a suitable lessee to take on lease the cyber unit allotted to the complainant as well as other units located in the building but was unable to do so due to prevailing market conditions/water logging on the service road leading to access to the project. In the meanwhile, the allottees were requested to clear their outstanding dues towards maintenance charges for the maintenance of the common areas and services of the project, in accordance with the buyer's agreement. The complainant was duly kept apprised by Bestech about its search for a suitable lessee.

aa. That in the meanwhile, the complainant as well as several other allottees in the project who had also booked units intended to be leased out, had also sought possession of their units. Under these circumstances, as a gesture of good will, Bestech decided to earmark the 3rd and 5th floor of the project, in addition to the 4th floor, for self-use so that possession of the units located on these floors could be handed over to the concerned allottees including the complainant if the complainant was interested in a unit for self-use.

bb. That Bestech orally communicated to the complainant that possession of a unit earmarked for self-use could be allotted to him in place of the presently allotted unit. however, such a unit in bare shell condition could not be handed over to the complainant and that bestech was willing to construct partitions, electrical wiring, fittings, fixtures and other works necessary to make the unit suitable for self-use. In such case, the complainant would be required to make payment for the said work in accordance with clause 4.3 of the buyer's agreement. The Complainant was also reminded that the project being a Cyber Park, the unit could only be utilized for the IT/Cyber usage purposes in accordance with the usage as permitted by Government Authorities The complainant did not provide his consent for allotment of an alternate unit on another floor and to make payment for work to make the alternate the unit suitable for self-use and instead orally requested Bestech to continue its efforts locate a suitable lessee for their unit.

cc. That nothing further was heard from the complainant thereafter until the institution of the present false and frivolous complaint.

dd. That Bestech has made every effort to accommodate the complainant by offering an alternate unit and by undertaking the requisite work to make the unit ready for self-use, upon the applicable charges as set out in the buyer's agreement as the unit allotted to the complainant is not capable of independent/self-use. It is pertinent to mention herein that Bestech is not under any legal or contractual obligation to make such an offer but has done so in a spirit of goodwill. However, the said offer has not been accepted by the complainant. There is no breach or default whatsoever that can be legitimately imputed to Bestech. Bestech cannot be held liable for its inability, due to circumstances beyond its power and control, to locate a suitable lessee for the unit in question.

ee. That thus the allegations levelled by the complainant against the respondent are totally baseless and do not merit any consideration by the Authority. From the facts and circumstances set out in the preceding paras, it is evident that Bestech has acted strictly in accordance with the terms and conditions of the contract between the parties. There is no default or lapse on the part of the respondent. The allegations made in the complaint by the complainant are fabricated and concocted with a view to justify his own breaches and lapses. The complainant is not entitled to any relief. This is without prejudice to the submission of the respondent that RERA is not applicable to the project in question and that the delay, if any, has been caused due to reasons which were wholly beyond the power and control of the respondent.

12. All other averments made in the complaint denied in toto.
13. 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 submissions made by the parties.

E. Jurisdiction of the Authority:

14. The respondent has raised a preliminary submission/objection that the Authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

E.I Territorial jurisdiction

15. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

16. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

> ***"Section 11(4)(a)***
> *Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings,*

as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottee and the real estate agents under this Act and the rules and regulations made thereunder."

17. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Maintainability of present complaint:

18. In the present case, M/s Hiteshi Leasing and Housing Pvt. Ltd. (original allottee), booked a unit bearing no. 720 on the 7th floor, measuring 2500 sq. ft. (super area), in the project "Orient – Bestech Business Tower," Sector-34, Gurugram, being developed by the respondent herein. On 07.06.2007, the original allottee entered into an agreement to sell with the complainant, pursuant to which the respondent issued a letter endorsing the said unit in favour of the complainant.

19. Thereafter, a buyer's agreement dated 31.12.2009 was executed between the complainant and the respondent. As per clause 14 of the agreement, the possession of the unit was to be delivered within 24 months from the date of execution this buyer's agreement, therefore, the due date of possession comes to 31.12.2011. The complainant has paid an amount of Rs.1,38,62,500/- against the total sale consideration of Rs.1,36,37,500/- of the subject unit. However, it is an admitted fact that the respondent obtained the Occupation Certificate from the competent authority only on 08.05.2013 (at page 29 – 30 of reply) and intimated the complainant about the same on 01.07.2013 (at page 97 – 99 of reply).

20. At the very threshold, this Authority is required to examine whether the statutory conditions necessary for assumption of jurisdiction are satisfied.

Jurisdiction under the Act is not automatic, nor does it arise merely from the filing of a complaint. The Authority is a creation of statute and derives its powers strictly from the legislative mandate. It is, therefore, incumbent upon this Authority to first ascertain the existence of jurisdictional facts, without which the exercise of adjudicatory power would be impermissible in law.

21. The Real Estate (Regulation and Development) Act, 2016 is a regulatory statute designed to govern a specific class of real estate projects identified by the legislature. The applicability of the Act is circumscribed by Section 3, which mandates compulsory registration of real estate projects with the Regulatory Authority. However, the legislature has, in its wisdom, expressly excluded certain categories of projects from the operation of the Act, 2016. Section 3(2)(b) categorically provides that no registration shall be required where the promoter has received a completion certificate for a real estate project prior to the commencement of the Act. The relevant portion of the Section is reproduced below: -

> *3. Prior registration of real estate project with Real Estate Regulatory Authority: -*
> *(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required*
> ***(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;***

22. Further Rule 2(1)(o)(ii) of the Rules, 2017, also defines the on-going project. The relevant portion of the section is reproduced below: -

> *(o) "on going project" means a project for which a license was issued for the development under the Haryana Development and Regulation of Urban Area Act, 1975 on or before the 1st May, 2017 and* ***where development works were yet to be completed on the said date, but does not include:***
> *(i) any project for which after completion of development works, an application under Rule 16 of the Haryana Development and Regulation of Urban Area Rules, 1976 or under sub code 4.10 of the Haryana Building Code 2017, as the case may be, is made to the Competent Authority on or before publication of these rules and*
> ***(ii) that part of any project for which part completion/completion, occupation certificate or part thereof has been granted on or before publication of these rules.***

23. This exclusion is neither incidental nor ancillary; it is a substantive legislative determination forming an integral part of the statutory scheme. The statutory framework thus makes it abundantly clear that the Act is not intended to operate retrospectively so as to reopen completed transactions or subject concluded projects to a new regulatory regime. The jurisdiction of the Authority is, therefore, confined only to such projects as fall squarely within the definition and scope prescribed by Section 3 of the Act.

24. The constitutional validity of this legislative classification and the scope of the Act have been examined in depth by the Hon'ble Supreme Court in ***Pioneer Urban Land and Infrastructure Ltd. v. Union of India.*** The Hon'ble Supreme Court has authoritatively held as under:

> *"The Real Estate (Regulation and Development) Act, 2016 is a prospective legislation and applies only to those real estate projects which are brought within its fold by the legislature."*
> *"Parliament has consciously made a distinction between ongoing projects and completed projects, and has deliberately excluded the latter from the purview of the Act."*
> *"Such exclusion is founded on an intelligible differentia and forms an integral part of the statutory scheme."*
> *"The Act cannot be interpreted in a manner so as to retrospectively apply its provisions to projects which had already been completed in accordance with law prior to its commencement."*
> *"Courts and authorities are bound to give effect to the legislative classification and cannot, by interpretative process, expand the scope of the Act beyond what the legislature has expressly provided."*

25. The above pronouncement lays down, in unequivocal terms, that the Act is prospective in nature and that completed projects constitute a distinct and excluded class. The exclusion is founded on intelligible differentia and bears a rational nexus with the object of the legislation. The Hon'ble Supreme Court has further cautioned that neither courts nor statutory authorities can, by interpretative ingenuity, enlarge the scope of the Act so as to bring within its fold projects which the legislature has consciously kept outside. This declaration of law binds this Authority and admits of no deviation.

26. The jurisdictional limits of the Authority have been further elucidated by the Hon'ble Supreme Court in ***Newtech Promoters and Developers Private Limited v. State of Uttar Pradesh and Others.*** In the said judgment, the Hon'ble Supreme Court has delineated the contours of jurisdiction under the Act in the following terms:

> *"The Real Estate Regulatory Authority is a creature of statute and can exercise only such powers as are expressly conferred upon it by the Act."*
> *"The existence of an 'ongoing project' is a jurisdictional fact which must be established before the Authority can assume jurisdiction under the Act."*
> *"If the project is not an ongoing project within the meaning of Section 3 of the Act, the Regulatory Authority would have no jurisdiction to entertain a complaint in respect thereof." "Jurisdiction cannot be conferred upon the Authority by consent of parties, nor can it be assumed on considerations of equity or hardship."*
> *"When the statute clearly defines the limits of jurisdiction, neither the Authority nor the Courts can travel beyond the same by interpretative exercise."*

27. This judgment reinforces the principle that jurisdiction under the Act is conditional and not plenary. The existence of an "ongoing project" is not a mere procedural formality but a foundational jurisdictional fact. In the absence of such a fact, the Authority lacks competence to entertain, adjudicate, or grant relief. The Hon'ble Supreme Court has further clarified that jurisdiction cannot be assumed on sympathetic considerations, nor can it be conferred by consent, or waiver of parties. The limits of jurisdiction, once statutorily defined, are binding and inviolable.

28. When the aforesaid principles are applied to the facts of the present case, it becomes evident that the project in question had already attained completion to the extent certified prior to the commencement of the Act. The occupation certificate dated 08.05.2013, which predates the coming into force of the Act on 01.05.2017, conclusively demonstrates that the project, to that extent, stood completed in accordance with law. Such completion brings the project squarely within the exclusion contemplated under Section 3(2)(b) of the Act.

29. Once the statutory exclusion is attracted, the project ceases to be an "ongoing project" for the purposes of the Act. In such circumstances, this Authority cannot, by interpretative expansion or equitable reasoning, assume jurisdiction where none exists. To do so would amount to rewriting the statute and transgressing the limits of authority conferred by Parliament.
30. In view of the statutory scheme, and in light of the binding law declared by the Hon'ble Supreme Court, this Authority holds that the present project does not satisfy the jurisdictional pre-condition of being an "on-going project" within the meaning of Section 3 of the Act, 2016 as well as Rule 2(1)(o) of the Rules, 2017. The absence of this foundational fact renders the present complaint outside the purview of the Act and beyond the jurisdiction of this Authority.
31. Accordingly, the complaint is held to be not maintainable under the Real Estate (Regulation and Development) Act, 2016, for want of jurisdiction, and is liable to be dismissed on this ground alone.
32. In view of the foregoing reasons, the Authority finds no merit in the present complaint and the same is accordingly dismissed, being not maintainable. Pending applications, if any, also stand disposed of.
33. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
34. Complaint as well as application, if any, stands disposed of accordingly.
35. True certified copy of this order shall be placed in the case file of each matter.
36. File be consigned to registry.

(Arun Kumar)
Chairman
Haryana Real Estate Regulatory Authority, Gurugram

Dated: 17.07.2026