



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2042 of 2019
Date of filing:	21.08.2019
Date of first hearing:	10.10.2019
Date of decision:	02.07.2026

BP1P Park Floors II Resident Welfare Association, Sector-76, Faridabad-121002 represented through its President Mr. Narander Singh,

...COMPLAINANT

VERSUS

1.M/s BP1P Ltd., though its Promoters/Directors, M-11, Middle Circle, Connaught Place, New Delhi-110001

2. M/s Business Park Maintenance Services (BPMS) Ltd., though its Directors, M-11, Middle Circle, Connaught Place, New Delhi-110001

...RESPONDENTS

CORAM:	Parneet Singh Sachdev	Chairman
	Nadim Akhtar	Member
	Dr. Geeta Rathee Singh	Member
	Chander Shekhar	Member

Present: Mr. Denson Joseph, Counsel for the complainant-association through VC.
Mr. Hemant Saini, Counsel for the respondent,

ORDER (PARNEET S. SACHDEV-CHAIRMAN)

1. Present complaint dated 21.08.2019 has been filed by the complainant's association 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. FACTS OF THE COMPLAINT

2. That the complainants are a duly registered society under the Haryana Registration and Regulation of Societies Act, 2012 and it represents the interest of all residents living in the project-BPTP, Park Floor-II, Sector-76, Faridabad. Copy of complainant's registration certificate is attached as Annexure C-1. Copy of the resolution alongwith minutes of the governing body meeting authorizing the filing of this complaint is attached as Annexure C-2.
3. That the opposite party 1 is the developer of the aforesaid project while opposite party 2 is the sister concern of OP1, nominated by it to conduct and manage the business of maintenance activities in all of its project that it develops from time to time. Details of project as on date is as follows:-

BPTP PARK FLOOR 2 PROJECT			
AT A GLANCE AS ON 30.07.2019			
Proposed flats 672	Allotment & Occupation Status		
	Allotted		Not Allotted
Completed flats 672	Occupied	Not Occupied	7
	115	550	

4. That the cause for this Notice has arisen because of the Opposite Parties failure/ default in fulfilling the very promises that they had made to the Residents in the Flat Buyers Agreement signed with them besides a maintenance agreement signed separately with each. Pictures of the issue at hand, requiring urgent attention and intervention of this Authority, are attached as Annexure - C4.
5. That the first set of possessions of the Flats within BPTP Park Floors II were given during the month of November 2013. A copy of one of such allotments as allotted to the initial allottees from whom the Complainant in the instant matter bought a Flat in the said project is appended for the reference of this Hon'ble Authority as Annexure - C5.
6. That the first Resident in the Project, Mrs. Indra Bharti w/o Mr. Om Prakash Verma moved into his Flat no. T-3/203 in the Project in the same month and the Registration of the Sale Deed was done during August 2013.



7. That though the Opposite Parties have collected substantial amount of payments from the allottees, they have failed to provide the requisite services in the Society though they are mentioned in the "Flat Buyer Agreement". A reference copy of the BBA that the Complainant's Authorized Representative had executed with the Opposite Party is attached as Annexure-C6. A reference copy of the Conveyance Deed executed in favour of the Complainant's Authorized Representative is also attached as Annexure - C7
8. That the services that were promised by the Opposite Party(s) but not provided by them inspite of repetitive reminders, protests and rigorous follow-ups are as follows: -
- a)Power-grid electric connection is not available in the name of the Society due to which there is a tangible difference in the power tariff every month.
 - b)The DG sets provided are not of the required capacity and therefore it is not able to take the load of all the residents especially during summers damaging the home appliances due to fluctuations. Even this DG set is rented and not owned by the Society and these are kept in the open without making proper acoustic arrangement to avoid noise pollution;
 - c) Further the Automatic Power Changeover Panel (APCP) is still missing though it has been discussed and promised umpteen times.
 - d)Also as discussed on various occasions the Independent Power Monitoring Display (IPMD) which was to be installed in each Flat to know

at the outset the source from where the power is being supplied from at any given point in time i.e. whether the Generator or the Power-Grid; is still not installed.

e) The kids park, jogging and walking track, seating arrangement for the residents especially senior citizens, recreational club and Shopping centre etc. is not available whereas all amenities ought to have been readied at/before the offer of possession.

A copy of various email communications written by the Complainant to get the grievances redressed is attached herewith as Annexure - C8.

9. That the approved plan of the Society has not been provided to the residents.
10. That despite the fact that 99% of the flats have been allotted as on the date of this complaint, the Occupation Certificate has not been provided till date and this amounts not only to deficiency of services viz. Consumer Protection Act, 1986 but also the criminal offence of breach of trust under the Indian Penal Code, 1860;
11. That besides the above ever since the Complainants have moved in, many deficiencies were noted and brought to the Opposite Party's attention time and again thru repetitive emails particularly but they have chosen not to respond to our woes. It is urgent to note that the condition of the building is extremely poor. To be more specific some of the lacunae which make

living conditions in this project even more hazardous to the life and property of persons are as follows:

- (i) The plastering has peeled off in most parts of the structure;
- (ii) There is seepage in almost all the buildings;
- (iii) The roof top is in bad condition due to leakage of water from tanks and solar water heater tanks;
- (iv) The Ground floor bathrooms in Towers T24, T25 and T4 in particular are frequently facing the issue of back-pressure from the sewerage often making it difficult to live for the residents in these flats;
- (v) The Lifts of almost all the buildings are in very bad condition and does not work most of the time;
- (vi) A copy of the Fitness certificate of buildings and lifts has not been provided.
- (vii) The inadequate maintenance of the now functional STP and its non-connection to the main HUDA Sewage Line is still awaited and a cause of concern. The techno-legal status report of the same ought to be shared with and provided to the Residents Welfare Association;
- (viii) The quality of electric cables that get burnt at various points intermittently showing that the cables laid are not as per the required load as that what happened in T-40/202 & even in T-38.
- (ix) The stair-case railing in Towers 39 to 44 is designed badly and there are chances of kids falling from the upper stairs.

(x) The shaft for pipes and cables does not have proper door facility. This is dangerous because we have seen reptiles creep into these shafts since the doors are not closed properly;

(xi) There is no communication system from the gate to different flats which is an important security measure provided in all the flats of similar type.

(xii) There is no arrangement for parking for the visitors to the Society.

12. That presently the Complainant is paying common area maintenance (CAM) of Rs.2.10 per sq.ft per month as maintenance to BPMS which is a sister concern of BPTP and nominated by the BPTP. Although it was agreed under clause 2(f) of the settlement deed signed in June 2016 that any revision in the annual CAM rates will be affected only post mutual discussions between the BPMS and the RWA but like other terms agreed to, this too has remained unaddressed or neglected since almost 3 years now.

13. That the maintenance has been very poor since the inception. Some of the points which need immediate redressal are as highlighted below:

(i) Due to poor maintenance none of the solar heaters are in working condition throughout the year especially in the winters;

(ii) The security services are very poor leading to many untoward situations;

(iii) The house-keeping and Horticulture is sub-standard as compared to the charges given by the residents, it being done by unprofessional agencies.

The employees go on strike often since they are not paid wages on time by BPMS. Till date, they have gone on strike for 125 days for which they have taken charges from the residents;

(iv) The NOC from the fire department has not been obtained till date and not provided to the residents;

14. That all of the above deficiencies, have caused mental agony and undue harassment to our Client(s). It is simply not understandable why the Opposite Parties are not fulfilling the promises which were categorically mentioned in their Brochure and the Flat Buyers Agreement. The Complainant (who represent the interest of all the residents living in the Project) are feeling defrauded. It is pertinent to note that although the Complainant had several communications and many rounds of discussion with the BPMS representatives but all of it has resulted into a nought.

15. That despite the Complainant fulfilling their part of the agreement the conduct of the Opposite parties has been unfair and have miserably failed to honor their part of the transaction/Agreement.

16. That the acts of the Opposite parties are evidently grossly deficient, defective, negligent, unsatisfactory and extortionary. The state of affairs as it stands today, i.e., after about 8 months of having sent the Opposite Parties a legal notice and numerous failed attempts by the Complainant to

resolve issues amicably clearly prove that the Opposite Parties have deceitfully induced the Complainant into believing that the payment on their part would only help the Opposite Parties to finish the construction work faster and deliver the Project complete in all respects whereas the Opposite Parties have left the residents orphaned and at the mercy of the Opposite Party no.2.

17. That inspite of repeated pleas and efforts by the Complainant to meet, discuss and settle the matter amicably, the Opposite Parties only rebuffed the Complainant(s) each time they approached them.

18. That complainant had to undergo severe mental trauma and agony at the hands of the Opposite Parties besides living under dangerous conditions and cannot be left at the behest of unscrupulous Companies like the Opposite Parties. Thus, the present complaint.

B. RELIEFS SOUGHT

In view of the facts mentioned above, complainant prays for the following relief(s):-

- i. Direct the Opposite Parties to handover a certified copy of the Occupation Certificate to the Complainants within 2 weeks from the date of first/final hearing of this Complaint;
- ii. Direct the Opposite Parties to handover the maintenance of the Project to the Complainants within 2 weeks from the date of first/final hearing of this Complaint;

- iii. Direct the Opposite Parties to handover all outgoings collected by them from the allottees or any liability, IFMS, mortgage loan and interest thereon before transferring the Project to the Complainants as mandated under section 11(g) of the ACT within 2 weeks from the date of first/final hearing of this Complaint; In exercise of powers under Section 35 of RERA and Rule 21 of HRE (R&D), Rules, 2017, to provide complete details of EDC/IDC and statutory dues paid to the Competent Authority and pending demand if any.
- iv. Direct the Opposite Parties to pay a sum of ₹1,00,000/- (Rupees One Lakh only) to the Complainant(s) as a whole, towards litigation costs as mandated vide the provisio under section 11(g) of the ACT;
- v. Direct the Opposite Parties to complete all the replastering work and to correct all other deficiencies as pointed out by the Complainants within 30 days as mandated under section 14(3) of the ACT;
- vi. Grant any other and further relief in favor of the Complainant(s) as this Hon'ble Authority may deem fit and proper in the fact and circumstances of the case.

C. REPLY SUBMITTED ON BEHALF OF RESPONDENT ON 22.09.2021.

19. That the complaint under reply is not maintainable in view of the fact that the respondent had on 01.05.2012 applied for grant of Occupation Certificate for the project in question namely Park Floors II and the same



has not been rejected till date. The Chief Administrator, HUDA, Panchkula in his report dated 20.02.2013 submitted before Director General, Town and Country Planning that the external services with respect to Towers of the Group Housing Colony set up by the respondents had been checked and operational/functional at the site. The services included water supply, sewerage, storm water drainage, roads, street lighting and horticulture. Further, the Superintending Engineer (HQ), HUDA, Panchkula in his report dated 18.03.2013 submitted before Director General Town and Country Planning that the towers had been inspected so far as Public Health Internal Services were concerned and it is found that the Public Health Internal Services laid by the respondents were as per approved building plans except some minor changes which met the Public Health Norms and the services laid were functional.

20. In the present case, the occupation certificate was applied on 01.05.2012 and the same has not been rejected yet. However, the reports of the Chief Administrator and Superintending Engineer, HUDA Panchkula were submitted to Director General Town and Country Planning way back in 20.02.2013 and 18.03.2013, respectively regarding the internal and external services with respect to towers of the group housing colony set up by respondents which were completed by the respondents as per the approved plans. Only, thereafter, the respondents issued the possession letters to the allottees and conveyance deeds were registered. Thus, the

complaint filed by the applicant is not maintainable and is liable to be dismissed.

21. That the complainants have approached this Hon'ble Authority alleging 'structural defects' after the lapse of more than 5 years from the date of initial handing over of the actual possession in the project.

22. That the Hon'ble Authority has the jurisdiction to adjudicate upon the allegations qua the structural defects as per the Rule 2(u) of RERA Rules, 2017. However, the Rule 2(u) (supra) is subject to the provisions enshrined under Section 14 (3) of the Real Estate (Regulation and Development) Act, 2016 which clearly mandates the law of limitation of 5 years. Provisions enshrined under Section 14(3) are read as follow:

"Section 14 (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."

In view of the aforesaid premise at this juncture it is pertinent to mention here that the first Offer of Possession/Conveyance Deed was sent/executed between the allottee, namely Apan Kumar and the Respondents way back in 07.06.2013. Even if we take a liberal interpretation of the aforesaid law, the time period of 5 years lapsed on 07.06.2018.

23. That the Respondents upon receipt of the request from the Complainant with respect to the revision of the CAM Charges addressed the same in the timely manner. It is pertinent to mention herein that the Respondent sent a letter dated 10.12.2019 to the Complainant along with the singed cost sheet, wherein, the Respondent No. 2 has addressed the issue regarding the CAM Charges. Also, in mutual agreement with the Complainant the Respondent No. 2 agreed on the negotiated rate of Rs. 1.95/- per Sq. ft. (excluding applicable taxes and CAFE). Further, during the meeting held with the Complainant on 29.10.2020 in compliance of the Order passed by this Hon'ble Authority, kind attention of the Complainant was drawn towards the fact that despite having lowest CAM rates and huge outstanding of Rs 2.72 Crores (including outstanding on account of electricity amounting to Rs. 36,00,000/-), the Respondent No. 2 endeavoured to continue the services. Also, as on date the total IFMS collected is Rs. 3,96,00,000/-, whereas, the Total Outstanding including the deficit CAM Billing for the F/Y 2018-19 and 2019-20 is Rs. 5,13,00,000/-. However, due to the paucity funds it is difficult for the Respondent No. 2 to provide the uninterrupted services. As such funds are necessary for operation & maintenance of services, purchase of consumables including diesel to make payments to various vendors as well as for safeguard of company's assets in the complex. Further, the Respondent has proposed that in such circumstances, RWA i.e. the Complainant either take over the operations & maintenance

of services or provide support in collection of outstanding dues. Copy of sheet dated 12.09.2021 evincing the total outstanding with deficit billing is annexed as Annexure R-17.

24. Issues raised by the complainant association has been addressed by stating as follows:-

A. ISSUE WITH RESPECT TO THE OCCUPATIONAL CERTIFICATE

It is imperative to mention herein that with respect to the non-availability of the OC, it has been intimated to the Complainant time and again that the buildings/ towers in the project of the Respondents are complete in all respect and all the services are operational in its entirety. It is apt to mention herein that the Respondents are in receipt of all the necessary permissions, whatsoever, from the concerned government departments/authorities for the operationalization of the building, such as:

- i. Verification by Fire Authority.
- ii. Public Health Department for internal and external services (water supply, sewage, storm water drainage, lighting, landscaping roads etc.)
- iii. Chief Electrical Inspectorate for lifts.
- iv. Report on completion of building structure.
- v. Electrification schemes as sanctioned by DIIBVN
- vi. Water Connection Approval
- vii. DG set permission to run back up power etc.

It has been clarified to the Complainant that respondents at all times have sincerely adhered to the construction times. Also, to their duties and the obligations. The project of the Respondent is Complete in its entirety, however, the OC could not be released owing to administrative reasons, i.e., the partial compliance by the Co-Developer namely "ERA GROUP" who were/ are accountable for the development of the part group housing, i.e., Phase-I. Also, in whose name in principle approval has been accorded post facto under beneficial interest policy. In addition to the aforesaid it has also been surfaced before the Complainant that the OC has been withheld by the concerned authorities under the disguise of imposing the conditions with retrospective effects for completion of the EWS units. It would be apt to mention herein that for such units, building structure stands completed however only finishing work has been left behind. Further, the Complainant has been apprised that the buildings/towers are technically fit for occupancy and all the occupants (having possession and conveyance deed registered in their name) are contentedly and merrily residing therein and admiring the uninterrupted services since 2012. Copy of the building fitness certificate dated 16.02.2011 is annexed as Annexure R-18.

B. PEELING OFF OF THE PLASTER OF THE STRUCTURE:

With regard to the allegation that the condition of the building is extremely poor, in furtherance of this it is submitted that the allottees are contractually obligated to pay the maintenance charges to the Respondents No. 2, i.e., the



Maintenance Agency, for day to day maintenance of the project. However, the allottees of the project have miserably failed to do so. As on date considerable amount of Rs. 5,13,00,000/- is outstanding and the Respondents are unable to spot any whereabouts of the Complainant, whatsoever, in the direction of remitting the said amount at the earliest. It has been very difficult for the Respondent No. 2 to even perform the day to day maintenance work. However, despite not having suffice resources available with Respondent No. 2, the maintenance and keeping of the project is being conducted by the Respondent No. 2 to the best of their abilities. That there was no lack in quality of the construction, design, or the materials used in the project, however, the Buildings tend to depreciate rapidly and after a lapse of more than five years, building becomes due for fresh round of maintenance. The peeling of plasters or seepages of water from roof tops is a natural occurrence. The Respondent No. 2 is attending to all day to day maintenance related repairs but major repair work like repairing of plasters or seepages of water from roof tops will attract additional burden and cannot be treated as part of the day to day maintenance.

Since the RWA, i.e. Complainant(s) is willing to get the repairing of the peeling of the plaster done at the earliest, therefore, considering the same the Respondents at the meeting held with the Complainant apprised them about the fact that the said repair being a cost intensive activity has



not been covered under the calculation of the Common Area Maintenance Charges ("CAM") Charges, thus the cost of the same shall be charged separately from the residents. It was also agreed in the said meeting that cost of plastering and repainting shall be recovered in shape of the additional CAM Charges. Besides this, the Respondents also surfaced before the Complainant the total estimated cost of Rs. 2.50 Cr. Over which the final decision is yet to be taken by the Complainant.

C. POWER GRID ELECTRIC CONNECTION

That it has been informed to the Complainants the location of the project in question comes down in the region where HUDA and DIIBVN have not yet completed the electrification work, despite the fact that electrical scheme has been approved. Also, as on date there is sufficient power supply available to the Residents of the project in question, despite that, the Complainant is standing firm on the demand of having additional electrification. Considering the same the Respondent addressed the two proposals of the Complainant. Out of which one is a cost intensive proposal and the other one would end up in a futile exercise. Both the proposals are mentioned herein for the sake of ready reference.

Sector 68, Nawada Proposal;

It has been proposed by the Complainant that electrification wire can be laid between the Nawada located at Sector 68 Faridabad and the Park



Floors II, Sector 70, Faridabad (Project in question). It was then apprised to the Complainant by the authorized representative of the Respondent that Nawads and location of the project in question are 14.5 Kms apart which would in turn result in laying double run electricity cables which will eventually land on the estimated cost of Rs. 12 crores.

Sector 72 Proposal:

It has been apprised to the Complainant that if the wires are laid down between the Sector 72 and Sector 70 (location of the project in question) it would be a temporary recourse as the government would terminate it in the near future as the wire will pass through the road which eventually is a government property.

In view of the aforesaid premise the Respondent apprise the Complainant that in both the cases the cost have to been borne by the residents despite the fact that they are having the sufficient power supply. Also, the same would result into the loss of considerable amount of money and the efforts of the Respondents as well as of the Complainant. Hence the decision for the same are still pending with the Complainant for the reasons best known to them.

D. DG SETS

That in order to meet the power requirement 3 DG sets of 1830 KVA. Capacity in toto (one owned (320 KVA) and 2 rented (500 KVA & 1010



KVA) are available at the site which are much higher than the capacity required. Moreover, the Complainant was apprised of the fact that at the time of handing over of the administration and maintenance of the group housing to the RWA **one DG set will be provided to them by the respondents.**

**E. AUTOMATIC POWER CHANGEOVER PANEL (APCP),
INDEPENDENT POWER MONITORING DISPLAY (IPMD),
KIDS PARK, JOGGING AND WALKING TRACK, APPROVED
BUILDING PLAN AND SEEPAGE**

That with respect to the issue regarding the APCP and IPMD, it is humbly submitted that the APCP has been installed and commissioned at the group housing, whereas, the IPMD in 670 numbers has already arrived at the site and the same have been installed. As such the Respondents in a time bound manner have addressed the grievances of the Complainant. As such no delay has been caused or if any has been caused is due the present pandemic, i.e. Covid-19 due to which the supply got slowed down since the entire world including the Respondents herein were caught up under the labyrinth of the same.

It is apposite to mention that there are adequate arrangements at the group housing relating to Kids Park, jogging and walking track along with the arrangement for senior citizens. After carrying out the joint visit with the complainant of the group housing on 23.11.2020, a



quotation evincing the estimated cost for the rectification/ repair of slides and swings has been obtained from the respective vendor and the same was forwarded to the RWA. Complainant herein for their approval. However decision with respect to the same has been kept in abeyance till date by the RWA for the reasons best known to them.

Further the approved building plan of the group housing has been handed over to the members of the Complainant, i.e., RWA during the meeting dated 29.10.2020. Nevertheless on the visit of the group housing by the respective officials of the Respondents it was brought to the knowledge of the respondent that none of the building shafts, open cuts has any seepage as on date.

The Complainant, i.e., RWA shown only one photograph of a gully trap (GT) where there was a slight checking of water, wherein, it was informed by the officials of the Respondents that the particular circumstances occurred due to choking of line owing to disposal of undesirable material in toilets. However, cleaning of line has already been done and it is matter of day-to-day maintenance that is being carried out regularly.

F. BAD CONDITION OF ROOF TOP AND SOLAR HEATER MAINTAINANCE

That the Respondents humbly submits that as on date there is no seepage/ leakage on the roof top. It has been maliciously alleged by the



Complainant that the tanks, the towers comprising of 3 BHK, tends to over flow. However, the same is a result of negligent attitude of the members of the Complainant as all tanks are connected with single line as per the design parameters and owing to no timing fixed for supply of water (morning-evening), the occupants immediate upon getting their tanks empty start complaining for supply of water, consequently the attendant is compelled to start the pump. This cause few tanks to get over flow.

But this overflow is properly controlled on rooftop and causing no stagnation of water. Besides aforesaid, it is pertinent to mention herein that some of the residents of the group housing have unauthorizedly installed softener plant on the roof top which at the earliest needs to removed.

Further, some of the residents have intentionally broke the solar water heater and tanks with malafide intention which eventually resulted into slight seepage/leakage. However the Respondent being the customer centric organization addressed the grievances of the Complainant and it was intimated that cost of rectification shall be obtained from third party vendor. Subsequently quotation has been obtained for Rs. 6,52,000/- for repairing and Rs. 18, 99,000/- for replacement and the same have been forwarded to the Complainant on

24.11.2020. However decisions on the same are still awaited as the Complainant has kept the same in abeyance.

G. PVC SHEETS, LIFTS AND BUILDING FITNESS CERTIFICATE

That the sheet over the towers has already been replaced and as such there is no issue in existence. With regard to the conditions of the lift, it is submitted that the 40 lifts are available and functioning in the towers. Further, it is submitted the lifts in all the towers of the group housing are in toto fit and properly working. The Respondents in accordance with the rule and regulations has obtained "No Objection Certificate" time and again from the concerned department of the government. On the other hand the lift of Tower -31 has been revisited by technical team and found it functional and it has also been assured to the Complainant that all efforts shall be made to avoid any stoppage, whatsoever.

H. INADEQUATE MAINTENANCE OF SEWAGE TREATMENT PLANT (STP).

That the STP is functioning properly and treated water is being used for gardening and other purposes. A copy of consent to operate with reference to STP was handed to the Complainant during the meeting held with them. With regard to its connection with HISVP's lines, it is submitted that their lines are still non-contiguous thus non-functional. It is pertinent to mention herein that the Respondents suggested the complainants to make an application to the higher authorities in HISVP

and endeavour for getting the HSVP's trunk sewer line (laid on sector dividing road of sector-75 & 76) joined with sector dividing road of sector-81 & 80 (where trunk sewer lines have become functional) through sector dividing road of sector-80 & 79 (which has already been constructed). In furtherance of the same the Respondent has already made an application to the concerned government department/authorities and the decision on the same is awaited from the department/authorities.

I. ISSUES REGARDING ELECTRIC CABLES AND STAIR CASES

That stair case railings have been constructed on the basis of the layout plan which was known to all the allottees since the inception of the contract as well as at the time of purchasing the unit. Further, at the time of taking possession of their respective units way back in 2013, the allottees were well aware about the staircases and cables. However, with mala fide intentions having an afterthought, the Complainant has raised the said issue for the first time in the present Complaint after more than 5 years of handover of the possession. Hence the claims if the Complainants are not only barred by estoppel but also limitation from raising such allegations.

It is pertinent to mention herein that on visit of the group housing by the respective officials of the Respondents it has been carried out that no issue qua the electric cables persist on which the Complainant has

also given their consent and agreed in toto. Whereas, qua the issues regarding stair cases it is apt to mention that the said cost is to be borne by the Complainant for which the quotation regarding estimated cost received from the vendor has been shared with the Complainant on 26.11.2020 on which the decision from the Complainant is still awaited.

**J. ISSUES WITH RESPECT TO DOOR FACILITY ON SHAFTS
AND PARKING SLOTS FOR FLATS AND VISITORS**

That it is the humble submission of the Respondent that the issue with respect to the door facility on shafts has been addressed by the Respondents and the same has been agreed during the meeting that doors on the shaft have been fixed therefore the issues of creeping of reptiles into shafts stood addressed.

In regard to open sky shaft in Tower-43 & 44 those have no direct entry into it (except from the window of ground floor unit), it is submitted that windows facing said shaft shall be covered by placing MS box with mosquito jail so as to stop throwing of unused material / garbage. The cost of Rs. 1, 44,000/- has already been conveyed to RWA on 26.11.2020 However, the decision on the same is still awaited as the same has been kept in abeyance by the Complainant herein. Further, on 23.11.2020, while having a joint visit to the group housing along with the Architect and other team members, the issue reading the parking slots has been addressed. It is out of nowhere to mention herein that the



appropriate numbering for the respective parking slots for the residents has been carried out.

Besides this, the adequate parking for the visitors has also been provided to the Complainant.

K. ISSUES REGARDING COMMUNICATION SYSTEM AND SOLAR HEATER

With regard to the communication system from gate to different flats and provision of visitors parking in the society, it is submitted that these provisions were neither promised to the allottees as per the duly executed FBA nor as per the Maintenance & Service agreement executed between the allottees and Respondent No. 2. However, the Respondents being the customer centric organisation addressing the said demand of the Complainant and considering the hardship faced by them has already provided and activated a communication from gate or remote communication, Visitor Management Application "Nobrokerhood" which is functioning successfully. Apart from it, a landline connection and an entry gate has also been provided for better communication. Further, it is noteworthy that some of the residents have intentionally broke the solar water heater and tanks with malafide intention which eventually resulted in damaging the same. However the Respondent being the customer centric organization addressed the grievances of the Complainant and it

was intimated that cost of rectification shall be obtained from third party vendor. Subsequently quotation has been obtained for Rs. 6,52,000/- for repairing and Rs. 18,99,000/- for replacement and the same have been forwarded to the Complainants on 24.11.2020. However decisions on the same are still awaited as the Complainant has kept the same in abeyance.

In view of the aforesaid premise and contentions put forth by the Respondents it is evident that the Respondents till date have addressed each specific grievance of the Complainant in a time bound manner. It is the allottees of the project who as on date has failed to pay the outstanding amount of Rs. 5,13,00,000/- to the Respondent No. 2. Despite having insufficient resources, respondent No. 2 is taking care of the maintenance of the project to the best of their abilities. The strike of the employees is a result of the huge outstanding balance which is still to be paid by the allottees of the project.

25. It is submitted that the allottees of the project had duly executed the FBA with the Respondent No.1 which is the whole and sole basis of subsisting relationship with between the contesting parties. It has been agreed therein that in case there arise any dispute, whatsoever, between the Respondent and the Complainant, the parties have agreed for amicable settlement of disputes and in the event of failure of amicable settlement, to refer the matter to arbitration. Apparently, the Complainant instead of invoking the



Arbitration Clause (Clause 32) of the FBA chose to file the instant complaint with ulterior motive and the same is in the breach of the agreement duly executed between the parties. Since the matter in dispute require the comprehensive adjudication and examination of evidences, cross examination of the parties etc., therefore, the same cannot be adjudicated in the summary proceedings.

D. ADDITIONAL DOCUMENTS FILED BY THE PARTIES.

26. Complainant in compliance of order dated 17.08.2022 had placed on record list of all the active members of BPITP Park Floor-2, RWA. Wherein, it is stated that *'We have 368 members whose membership is active and 14 members are pending for their membership renewal at the time of submitting this letter.'*

27. Status report of the project as on 01.11.2024 qua the deficiencies filed by the complainant in registry on 08.11.2024.

28. Complainant had filed latest status report qua the deficiencies filed by the complainant in registry on 03.02.2026. Respondent had filed its reply to the deficiencies in registry on 10.03.2026. Tabular data is reproduced below for reference:-

S. No	Nature of Deficiency as in the Complaint	Present Status	Remarks by the respondent
1.	The Occupation Certificate has not been provided till	No Change	That the complainant and respondent have entered into settlement deed 22.12.2022. A copy of the settlement deed annexed as Annexure-1.

2.	date Power-grid electric connection is not available in the name of the Society due to which there is a tangible difference in the power tariff every month.	According to the HERC (Haryana Electricity Regulatory Commission) order dated November DH/GGRFR/3244/2020, it was mandated that the builder provide a dedicated electrical connection of a MV (Mega Volt) within 45 days with adequate infrastructure to support the load for Park Floor-2, However, the builder has only provided a 1 MV connection to Park Floor-2, which is a clear violation of the HERC, order. Builder was trying to Install 33KV substation which is stopped by the DTP enforcement Faridabad, due to non- approved lay of the building and order to demolish the 33 KV station which is illegal and does not full fill the safety concern (Stay Order of DTP Enforcement is Attached)	That the electricity connection for the Group Housing Society at Park Floor-2 is planned to be provided through the 33 KV Switching Station located in Sector 79, as sanctioned by DHBVN. This switching station has already been constructed and energized after obtaining all necessary approvals, including technical drawings, estimates, and statutory clearances from DHBVN and HVPN authorities. The ultimate sanctioned load of 3053 KVA for the Park Floor-2 Group Housing Project including EWS blocks and the Convenient Shopping area has already been sanctioned. With the 33 KV infrastructure now in place, the 33 KV feeder cable has been laid from the Sector 79 Switching Station to Park Floor-2. Further, a 4 MVA, 33/11 KV Power Transformer has been delivered and installed at Park Floor-2 at the designated and approved location. However, an objection has been raised by Mr. Uniyal who is a chronic litigator and member of RWA, regarding the installation of the transformer, specifically challenging its location, despite the fact that it fully conforms to the approved layout. The installation is in accordance with Indian Electricity Rules and the electrical drawings already approved by the Chief Electrical Inspector, Chandigarh. It is pertinent to mention that, as per the provisions of BR- III for Park Floor-2, approval of all electrical infrastructure drawings from the CEI, Chandigarh is mandatory prior to energization. This requirement has been duly complied with in the present case. However, due to the intervention of the DTCP office, the energization work has been withheld to date, despite the fact that the entire external electrical infrastructure has already been laid.
3.	The DG sets are under capacity besides they have to be PNG based and acoustically too	Builder recently installed of two new DG (Diesel Generator) sets in our society. However, these DG sets may not comply with the guidelines set by the Haryana State Pollution Control Board (HSPCB). According to these guidelines, the use of DG sets is banned in the NCR (National Capital Region); and they can only be used if	RECD installed as per HSPCB Guidelines, Photographs evidences of DG set and RECD installed, annexed herewith as Annexure 2 (Colly).

	compliant as per the latest pollution control norms.	they are concerted to PNG (Piped Natural Gas) for environmental reasons. (Picture of Diesel Tank is Attached)	
4.	The Automatic Power Changeover Panel (APCP) is still missing through it has been discussed and promised umpteen times	Resolved	No remark as it stand resolved.
5.	Independent power Monitoring Display (IPMD) which was to be installed in each flat to know at the outset the source from where the power is being supplied from at any given point in time i.e. whether the Generator of the power - Grid ; is still not installed	Resolved	No remark as it stand resolved.
6.	THE KIDS PARK, Jogging/ Walking track entire extends to a total area of about 0.5 Acre only which is 4.54% of site area and the same has	No change	As per approved layout.

	been provided on the roof of basement to Park floor-II Residents. As per the Haryana Govt. Guidelines it ought to be about 15% of site area		
7.	The approved plan of the Society has not been provided to the residents	No change	That the Directorate of Town and Country Planning, Haryana vide MEMO NO-ZP-192/ID(DK)/2010/15767 dated 03.11.10, had approved the building plan of Group Housing colony, annexed herewith as Annexure 3 (Colly).
8.	The plastering has peeled off in almost all the buildings ;	Resolved	No remarks as it stand resolved.
9.	There is seepage in almost all the buildings.	No change (picture attached)	That as per the Settlement Deed, plaster and paints are done at the site and there is no seepage. Photograph evidences of no seepage at site is annexed herewith as Annexure 4.
10.	The roof top is in bad condition due to leakage of water from tanks and solar water heater tanks.	No change (picture attached)	That condition of the Rooftop are perfectly maintained, Photographs evidence annexed herewith as Annexure 5.
11.	The PVC sheets meant to cover the common-area and protect the residents from rain and free- falling	Only Resolved in 3BHK and 2 BHK is still pending	That the Complainant is demanding PVC Sheets in 2BHK, it submitted that as per design Respondent had to provide it in 3 BHK only, which has been duly provided. Photographs evidence of the PVC sheets installed in 3BHK annexed as Annexure 6.

	objects are all torn down and in a dilapidated state in almost all the buildings and the same has not been replaced till date		
12.	BPTP made a commitment to provide high-speed lifts in all the towers in our society. However, out of the 40 towers in our development, only for towers have been equipped with high-speed lifts. This means that 36 towers are still equipped with traditional model lifts, falling short of the promised standards. It's important to note that this matter has also been highlighted in the local Commissioner's report.	No change (Picture attached)	That the lifts are as per standard design and photographs evidence of all lifts are working is annexed herewith as Annexure 7.
13.	A copy of the fitness certificate of buildings and lifts has not been	No change	That the CDPL (THIRD PARTY) have visited the site on 14.04.2022, wherein there is no structural failure was observed, however there was damage to the external walls plaster which have been taken care by the Respondent Company. It is pertain to

	provided.		mention herewith that there is no structural failure at the site. A copy of CDPL Certificate is annexed as Annexure 8.
14.	The inadequate maintenance of the now functional STP and its non-connection to the main HUDA sewage line is a cause of concern. The techno legal status report on the same ought to be shared with and provided to the Residents Welfare Association ;	No change	That the STP is fully functional, photographic evidence is annexed herewith as Annexure 9 (COLLY)
15.	The quality of electric cables that get burnt at various points intermittently showing that the cables laid are not as per the required load as that what happened in T-40/202 & even in T-38.	No change (picture attached)	That the Complainant as submitted that cables of T-40/202 & T-38 got burned. It is submitted that, it was repaired at the same time by the Respondent.
16.	The stair-case railing in Tower 39 to 44 is designed badly and there are chances of kids falling from the	No Change (picture attached)	That the Respondent has fixed railing on the stair-case so that no damage or harm can be caused to the residents. Photographs evidence of railing is annexed herewith as Annexure 10 (COLLY)

17.	upper stairs. The shaft for pipes and cables does not have proper door facility. This is dangerous because we have seen reptiles creep into these shafts since the doors are not closed properly.	No change (picture attached)	That the requirement of the Complainant RWA have been fixed and proper door have been installed. Photography evidence is annexed herewith as Annexure 11.
18.	INADEQUATE Parking is major issue in the society. The project has 672 flats, but the builder has only provided 635 parking slots. Responded builder ought to provide adequate parking for each flat as well as additional visitor parking.	No change (picture attached)	No remarks
19.	There is no communication system from the gate to different flats which is an important security measure provided in all the flats of similar type.	No change	That the Respondent, had duly installed "no broker hood" app which is already active for communicate with residents and second Telephone also active # 01294135500.
20.	There is no arrangement of parking for	No change	No remarks

21.	the visitors of the Society. There is no arrangement to prevent stray dogs entering the Society there by creating a permanent threat of fatal or non- fatal attack on the unwary kids, women and the aged residents.	No change	That the Respondent had duly done fencing to avoid any such entry of stray dog in the group housing. A photography evidence of the fencing is annexed as Annexure 12.
22.	Due to poor maintenance none of the solar heaters are in working condition throughout the year especially in the winters.	No change	That the solar heater are installed at the site, photograph evidence of solar heaters are annexed as Annexure-13 (COLLY).
23.	The security services are very poor leading to many untoward situations;	No change	That the Respondent had outsourced Security Services to HINDUSTAN INVESTIGATION who are providing proper security to the project. Photograph evidence of security services present at site are annexed as Annexure 14.
24.	The house-keeping and Horticulture is sub-standard as compared to the charges given by the residents, it being done by unprofessional agencies.	No change	That Respondent is providing proper housekeeping and horticulture services at site, a photograph evidence are annexed as Annexure 15 (colly)
25.	The NOC from the fire departments has not been	No change	That Fire Safety Certificate is valid for three years, a copy of NOC received from Assistant Divisional Fire Officer/Fire station officer is attached as Annexure 16.

	obtained till date and not provided to the residents;		
26.	The service contractors engaged by the BPMS does not have the approval of the Office Bearers' of RWA and the invoices does not have the certification of the Office Bearers; of RWA. This is a pre-requisite for any expenditure to be taken cognisance by the RWA and if not, it cannot be taken into consideration for the calculation of CAM.	The practice of obtaining signature on the invoices started from January, 2019	No remarks.
26.	Boundary Wall: The boundary wall of the Society is in a dilapidated state. This poses a serious security risk to the residents and compromises their safety.	No change (Picture Attached)	That the boundary wall are as per design.
27.			Respondent has stated that CA certificates for previous 4 years is attached for reference of IFMS. Annexed as Annexure 17.

28.			In respect of handover, respondent has stated that 'respondent had approached complainant for various times for meeting with regards to handover, however complainant is raising baseless demands. It is pertinent to mention that respondent is open for discussion and to obligate/perform its responsibilities as a promoter'
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E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

29. During the course of oral arguments, Id. Counsels appearing on behalf of both parties reiterated their submissions as made in pleadings. Id. Counsel for complainant relied upon the latest status report detailing out the deficiencies of project. In respect of due towards CAM charges, he stated that no bill has been raised by the respondent or BPMS till date. He pressed upon rectification of said deficiencies by the respondent at the earliest. He sought handover of project along with IFMS amount. It is the stand of Id. counsel for the respondent that maintenance work and rectification of deficiencies has been taken care of by the respondent. For the seepage, an amount of ₹1.70 crores has already been spent on one basement. For the second basement, respondent is ready but the residents are not allowing labourers to enter/work. For the lifts, he stated that building consisting of 3rd floor or 5th floor, high speed lifts are not viable. All other all services are in working condition. In respect of IFMS, he stated that no figures/document has been relied upon by complainant. To this, Id. Counsel

for complainant made a statement that no account statement is available to place on record.

30. ISSUES FOR ADJUDICATION AND OBSERVATION OF THE AUTHORITY ON THE VARIOUS RELIEFS SOUGHT BY THE COMPLAINANT.-

(a) Whether the complaint is maintainable or not?

31. Authority vide its detailed order dated **17.08.2022** has decided the issue of maintainability which is reproduced below for reference:-

"Regarding issue of maintainability of present complaint, it is observed that majority of allottees had already taken possession between the years 2013-2015. In majority of cases, even conveyance deeds have also been executed. The status of occupation certificate as submitted by respondent is that respondent after completing construction work had applied for occupation certificate on 01.05.2012. In support he is relying upon the report of chief Administrator dated 18.03.2013. However, said certificate was withheld by the department on the ground that EWS were incomplete. Respondent's submission in respect of EWS as of today is that they have already completed building structure of EWS units and only finishing works are pending with respect to these units. Considering the fact that majority of allottees had already taken possession of their booked unit and had also got their conveyance deeds executed without any protest around 5-6 years ago. So, Authority now has limited jurisdiction to deal with the grievances of the allottees association specifically pertaining to deficiencies pointed out by the local commissioner and handing over of IFMS charges to the Association."

(b) Whether the complainant is entitled to the reliefs as sought in the complaint or not?

32. Before proceeding on merits of the case, it is pertinent to refer to detailed order passed by the Authority in captioned complaint. Vide order dated



29.07.2021, it was observed by the Authority that in order to ascertain the current status of project and to ascertain the deficiencies in the project, local commissioner be appointed at the cost of respondent. Accordingly, local commissioner was appointed to inspect the site and check the deficiencies in project.

33. Local commissioner had visited the site on 14.09.2021 and submitted its final report on 21.09.2021 in registry. Said report was duly considered by the Authority in its order dated 17.08.2022. Order dated 17.08.2022 is reproduced below for ready reference:-

"Local commissioner was appointed on 29.07.2021 to prepare report on these deficiencies. Report has been submitted on 21.09.2021. Copies of the same were supplied to the parties. Summary of the said report is also being recorded in these orders in following manner:

- (i) IFMS amount of Rs. 3.96 crore has been kept separately by the respondent's maintenance agency BPMS Pvt. Ltd. Further, there is an outstanding amount of Rs. 5.13 crore from the flat owners of this project.*
- (ii) Money already collected by the respondent BPTP Ltd for power backup installation charges has been kept by the respondent.*
- (iii) Two rented DG sets of capacity 500 KVA and 1010 KVA have been installed by the respondent and they have assured to provide new DG sets required capacity at the time of handing over the project to RWA. Financial record of money collected for this purpose is given by respondent to the local of commissioner.*
- (iv) Solar panels are not functional for last 4 years.*

- (v) *Security services are available and is part of maintenance and service agreement between BPMS Pvt Ltd and Individual Flat owners.*
- (vi) *Power grid connection has not been provided to this project and electrical power is being provided from another site of the respondent situated in sector 75 Faridabad.*
- (vii) *Manual charge over is provided instead of automatic changeover panel.*
- (viii) *Independent power monitoring display is not provided to the flat owners.*
- (ix) *Children Park with an area of 0.5 acre is provided which amounts to 4.54% of site area. Same is less as per Haryana govt guidelines which requires park to be of 15% area.*
- (x) *Respondent has applied for Occupation certificate on 01.05.2012 but same was not granted by the concerned department as project was incomplete with respect to EWS flats and shopping complex in accordance with sanction plans. Project has got fitness certificate dated 16.02.2021, NOC from fire department dated 12.01.2017 valid up to 12.01.2022, NOC for lifts valid up to 12.01.2022 and approved building plan.*
- (xi) *Apart from above, he has also commented on condition of building in following manner:*
 - Plastering is of cheap quality and is in very bad condition.*
 - RCC quality is poor as it has been collapsed from balconies and paragola beams.*
 - Seepage in many flats inside and outside specially in ground floor flats.*
 - Leakage on many water tanks.*



-Back pressure in bathrooms of T-24, T-25, T4 and many other blocks at ground floor due to blockage.

-Poor quality of electrical wires.

-Lifts are in working condition but out of 40 lifts only 4 lifts are high speed with automatic sliding doors and rest 36 are conventional ones with manual collapsible doors.

(xii) Contract of operation and maintenance of STP plant has been given M/s Limetex India on 10.04.2021.

(xiii) No sewer connection with HUDA and waste water is disposed off with tankers on the expenses of CAM charges. Sewer connection has been applied for on 15.02.2021 by respondent M/s Countrywide Promoters Pvt. Ltd.

(xiv) For communication systems one landline phone is available but intercom facility from gate to individual flats is not available.

3. Reply filed by the respondent on 22.09.2021. In said reply, it is stated that there were total 672 flats in project. Possession has already been offered to 656 flat owners whereas 564 have executed conveyance deeds. Jurisdiction of RERA is barred by limitation as 5 years have already been lapsed from the date of handing over of possession to the allottees. There is a chief administrator HUDA's report dated 18.03.2013 which shows that services had been laid. Occupation certificate had been applied for by the respondent on 01.05.2012. Said certificate was withheld by the department on the ground that EWS were incomplete. Respondent has already completed 5 building structure of EWS units and only finishing works are pending with respect to these units.

4. Apart from above submissions respondent has further submitted details given on following pages:



-IFMS amount of Rs. 3.96 crore has been kept separately by the respondent but there is an outstanding amount of Rs. 5.13 crore from the flat owners of this project.

-In respect of peeling of plaster and seepage it is submitted that building tend to depreciate in due course after 5 years or so. Further, peeling of plasters or seepages of water is a natural occurrence. Allottees have not paid CAM amounting to Rs. 5.13 crores due to which major repair works like repairing of plasters or seepages of water from roof tops were pending. Complainant has also been informed that major repair works like repairing of plasters or seepages being cost intensive activity would be charged separately as additional CAM. Estimated cost of Rs. 2.50 crore would be incurred for these works. Decision with respect to same is pending with the complainant.

-As far as issue of power grid electric connection is concerned, it is stated that complainant has been informed that location of the project is in a region where HUDA and DHBVN have still not completed, nevertheless electrical scheme has already been approved. However, there is sufficient power supply available to project.

-DG sets: 3 DG sets of total 1830 KVA (one owned 320 KVA + 2 rented DG sets of 500 KVA and 1010 KVA) are available at site. New DG sets of required capacity at the time of handing over the project to RWA will be provided.

-Automatic power changeover panel has been installed and commissioned. Further, independent power monitoring display (670) have also been installed.

-There are adequate arrangements relating to children park, jogging and walking track. Estimated cost of repair of slides and swings has been handed over to association and pending for their decision.



- *Overflow of water tanks: All tanks are connected with single line as per design parameters. Occupants force the attendant to start the pump as and when their tanks get empty and this causes few tanks to over flow.*

-*All the lifts are in working condition.*

-*In respect of STP, it is stated that it has been functioning properly and treated water is being used for gardening and other purposes. With regard to its connection with HSNP's lines, it is submitted the lines are still non-functional and an application to the concerned department has already been made however decision on the same is awaited.*

-*In respect of solar heaters, it is submitted that some of the residents have intentionally broken the solar water heater and tanks with mala fide intention which resulted in damage of the same. However, respondent being customer centric company has invited tenders for cost of rectification of said water heater against which an amount of Rs. 6,52,000/- has been quoted for repairing and Rs. 18,99,000/- for replacement. Said quotation has already been shared with complainants on 24.11.2020 however decision of complainants with respect to the same is pending.*

5. *Ld. counsel for the complainant association has referred to the findings given by local commissioner and has sought relief for rectification of pointed deficiencies. Further, He argued that occupation certificate has not been received by the respondent till date.*

6. *Ld. counsel for respondent argued that complainants had not approached this Authority by forming a proper association and has not placed on record list of allottees. Further, he argued that complainants had already taken possession of their booked units around 5-6 years ago prior to filing of present complaint. Furthermore, he apprised the Authority that respondent after completing the construction work of the project had applied for occupation certificate on 01.05.2012 and had*

obtained report of Chief Administrator on 18.03.2013 wherein it was stated that internal and external services have been laid down.

7. After considering local commissioner's report briefly stated above in para 2 and hearing argument of both parties Authority observes and orders as follows:

- (i) Complainant Association is directed to place on record list of allottees along with requisite proof of their membership in the present Association. (ii) Regarding issue of maintainability of present complaint, it is observed that majority of allottees had already taken possession between the years 2013-2015. In majority of cases, even conveyance deeds have also been executed. The status of occupation certificate as submitted by respondent is that respondent after completing construction work had applied for occupation certificate on 01.05.2012, In support he is relying upon the report of chief Administrator dated 18.03.2013. However, said certificate was withheld by the department on the ground that EWS were incomplete. Respondent's submission in respect of EWS as of today is that they have already completed building structure of EWS units and only finishing works are pending with respect to these units. Considering the fact that majority of allottees had already taken possession of their booked unit and had also got their conveyance deeds executed without any protest around 5-6 years ago. So, Authority now has limited jurisdiction to deal with the grievances of the allottees association specifically pertaining to deficiencies pointed out by the local commissioner and handing over of IFMS charges to the Association.*
- (iii) On perusal of local commissioner report it is found that IFMS amount of Rs. 3.96 crore has been kept separately by the respondent's maintenance agency BPMS Pvt. Ltd and there is an outstanding amount of Rs. 5.13 crore from the flat owners of this project. Complainant association is directed to provide justification as to why they are not*



clearing their outstanding dues. They shall also provide list of outstanding due of each allottee who is a part of this association.

(iv) Respondent is directed to submit plan of action for rectification of the structural deficiencies pointed out by local commissioner one week before the next date of hearing with an advance copy to the complainant association."

34. In respect of cost of local commissioner, it is to mention here that bill dated 07.12.2021 for payment has been filed by local commissioner in registry on 07.12.2021. However, payment against said bill has not been made by the respondent till date. As per office record, cost of ₹ 41,300/- has been paid by the Authority vide noting/approval dated 08.12.2021. Further Authority had directed the respondent to pay ₹41,300/- to the Authority through letter dated 23.05.2022 as fees to be paid to local commissioner. But respondent has not made the payment of cost. *Therefore, respondent is directed to submit the cost of ₹ 41,300/- towards appointment of local commissioner upto 20.08.2026 with an intimation of same filed in registry.*

35. Complainant association, through the present complaint, has sought various reliefs as elaborated in Para B of this order, in respect of certain deficiencies alleged on the part of the respondent. In light of the extensive nature of these reliefs, they are being adjudicated one by one, simultaneously, based on the report of local commissioner and submissions of parties and arguments presented during the hearing.



36. **Relief no. (i):** Direct the opposite parties to handover a certified copy of the occupation certificate to the complainants within 2 weeks from the date of first/final hearing of this complaint;

During the course of hearings, the respondent had stated that they had indeed applied for the Occupation Certificate. As the hearings progressed, the respondent not only shared with the bench as well as with the complainant, how defects were being cured in the project, but also that the grant of occupation certificate by the DTCP was in progress.

On 02.07.2026, the respondent again asked for an adjournment stating that the occupation certificate proceedings were at an advanced stage and he needed 2-4 weeks to obtain the same. On the earlier occasion also, one adjournment had been sought on the same ground.

The complainant counsel 'vehemently opposed' the fresh request for adjournment and requested the bench to pass the final order so that the complaint proceedings come to an end.

Given the fact that an earlier adjournment request of the respondent had been acceded to on the same request and arguments had already taken place, the Authority decided to end the proceedings so that a final order could be passed.

It is clear from the fact that the 'vehement' opposition to the request for time to obtain occupation certificate by the complainant counsel clearly indicated that the complainant was not interested in pursuing relief no1.



In any case, as and when the occupation certificate is received by the respondent, he is duty bound to share the same with the allottees.

Moreover, Authority observes that the issuance of a completion certificate/occupation certificate falls within the jurisdiction of the Town and Country Planning Department, Haryana. The process of granting a completion/occupation certificate is a statutory function governed by the relevant building and development regulations and it involves compliance with prescribed norms, submission of requisite documents and physical verification of the project. In the present case, if the complainant association has any grievance or query regarding the issuance or status of the completion/occupation certificate, the appropriate course of action would be to approach the Town and Country Planning Department, Haryana, as it is the competent authority to examine such matters. Authority, being a regulatory body under the Real Estate (Regulation and Development) Act, 2016, does not have the jurisdiction to interfere in the procedural aspects or technical considerations involved in granting occupation certificate.

As per submission of respondent recorded in order dated 02.04.2026, respondent had already applied for occupation certificate but it has not been received yet. Since the matter pertains to a different department, this Authority cannot adjudicate on the matter.



37. **Relief no. (ii):** Direct the opposite parties to handover the maintenance of the project to the complainants within 2 weeks from the date of first/final hearing of this complaint.

Relief no. (iii): Direct the opposite parties to handover all outgoings collected by them from the allottees of any liability, IFMS, mortgage loan and interest thereon before transferring the project to the complainants as mandated under Section 11(g) of the Act within 2 weeks from the date of first/final hearing of this complaint.

38. Complainant vide present complaint and latest status report had reflected various deficiencies in the project. Grievances of the complainant which requires adjudication are as follows:-

a. **Power Grid Electric Connection, Kids Park and Functional STP**

Authority observes that the complainants have sought directions for the establishment and completion of various infrastructural facilities, including the proper STP, grid electric connection, kids park as per the sanctioned plans and government approvals. It is the stand of respondent that all services are in place and functional. However, it is pertinent to note that neither party has placed on record requisite documentary evidence that would substantiate the specific obligations of the respondents in this regard. It is a settled principle that any infrastructural obligation of the promoter must be in accordance with the duly sanctioned plans, approved service plans, and service estimates as



approved by the competent authorities. In the absence of such documentary evidence on record, it is not possible for the Authority to determine whether the reliefs sought align with the approved project specifications or whether any deviation has occurred.

Furthermore, as per the provisions of the Real Estate (Regulation and Development) Act, 2016, the promoter is bound to develop the real estate project in accordance with the sanctioned plans and approved specifications. *Any non-compliance with the approved plans and service estimates can be raised before the competent planning or regulatory authority, such as the Town and Country Planning Department or the concerned Electricity Regulatory Commission.*

- b. **Issue of car parking-** It is submission of complainant that there are total 672 flats but respondent has provided only 635 parking. There is issue of inadequate car parking. Authority notes that the relief pertaining to parking is inherently an individual right of each allottee and not a collective right of the association as a whole. The allocation of parking spaces is generally determined as per individual agreements executed between the allottees and the developer and any grievance regarding the same would require an individual claim rather than being adjudicated under a complaint filed by the association. Moreover, no parking plan has been placed on record to substantiate the claim.

In view of the above, Authority finds that the relief sought cannot be granted in the present case as the association is representing the collective interests of its members.

- c. **IFMS amount**-Complainant is claiming that IFMS be refunded by the respondent. Respondent is admitting the fact of refunding the amount of IFMS to complainant only after adjustment/deduction of all expenses incurred on maintenance of the project. Upon perusal of report of local commissioner, it is revealed that an amount of ₹ 3.96 crores has been kept separately with BPMS Ltd. But there is outstanding deficit bill of ₹ 5.13 crores towards individual members of complainant-association. Complainant has not placed on record any documentary evidence in support of his claims. Respondent has placed on record CA certificate for 4 previous years as Annexure 17 in registry on 10.03.2026 as reply to status report.

It is well understood that the amount of IFMS is not part of the sale consideration of an apartment or plot but rather a security deposit collected in addition to the sale price to ensure the future maintenance of the project. This amount is contributed by all allottees and is meant to be handed over to the Association of Allottees upon its constitution. If any portion of this amount has been utilized for maintenance or other expenses, a separate account of such expenditure must also be handed over to the Association of Allottees.

In view of the above, Authority directs both parties to mutually appoint a neutral third party, preferably a Chartered Accountant (CA), who shall examine the relevant financial records in the presence of both parties and determine the actual amount payable as IFMS after deducting the expenses already incurred for maintenance. Cost of Chartered Accountant shall be borne by both the parties i.e. complainant and respondents in equal share. This entire exercise is to be completed in next three months from the date of uploading of this order. Upon such determination, the respondent shall pay the due amount to the complainant association within the next 30 days and handover the project to the association with necessary approvals. Compliance with this direction is essential to ensure that the IFMS amount is properly accounted for and transferred in accordance with its intended purpose.

39. **Relief clause (iv):** Direct the opposite parties to pay a sum of ₹ 1,00,000/- to the complainant(s) as a whole towards litigation costs as mandated vide the proviso under section 11 (g) of the Act.

In this regard, 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

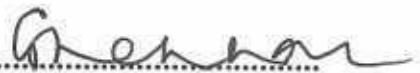
& litigation expense shall be adjudged by the learned Adjudicating Officer and not by the Authority, having due regard to the factors mentioned in Section 72.

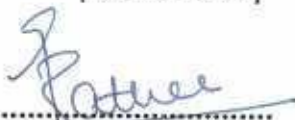
40. **Relief clause (v):** Direct the opposite parties to complete all re-plastering work and to correct all other deficiencies as pointed out by the complainants within 30 days as mandated under Section 14(3) of the Act.

With regard to rectification of deficiencies (like seepage, Maintenance of roof top, electric cabs, lifts, PVS sheets, Railings, shafts, security, housekeeping), Authority observes that the responsibility for repair, maintenance, and up-keeping of the common areas in a real estate project primarily falls upon the association of allottees once it is duly constituted and takes over the maintenance functions from the promoter. The Interest-Free Maintenance Security (IFMS) amount collected from the allottees serves as a fund for future maintenance and unforeseen repair work. Association is within its rights to utilize this amount for necessary repair, up-keep and other maintenance activities as and when required.

Authority further observes that regular repair and renovation works are an ongoing necessity and are largely influenced by external factors such as natural weather conditions, general wear and tear, and the aging of the structure. Such maintenance obligations cannot be indefinitely imposed upon the promoter, especially in the absence of a contractual or statutory obligation to that effect.

41. In view of the aforesaid observations, the case is **disposed of**. File be
consigned to the record room after uploading of this order on the website
of the Authority.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]


NADIM AKHTAR
[MEMBER]


PARNEET S. SACHDEV
[CHAIRMAN]

