BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.: 5416 of 2024
Date of decision: 23.10.2026

Umesh Ahuja And Jyoti Ahuja
R/o: - H No 901 Tower A 8 Olive County,
Sector 5 Vasundhara, Ghaziabad, UP 201012 **Complainant**

Versus

M/s Raheja Developers Ltd
Regd. Office At: - W4A,204/5 Keshav Kunj Western Avenue Cariappa Marg Sainik Farms New Delhi 110062 **Respondent**

CORAM:
Shri Arun Kumar **Chairman**

APPEARANCE:
Shri Col MS Sehrawat **Complainant**
None **Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se.*

A. Project and unit related details

2. The particulars of unit details, 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:

S. N.	Particulars	Details
1.	Name of the project	Raheja Atharva, Sector-109, Gurgaon
2.	Nature of the project	Residential group housing
3.	RERA Registered/ not registered	Un-registered
4.	License no. and validity	257 of 2007 dated 07.11.2007
5.	Unit no.	F-0703 on 7th floor, tower - F [As per BBA Pg. 20 of complaint]
6.	Unit area admeasuring	1640 sq. ft. [As per BBA Pg. 20 of complaint]
7.	Allotment letter	21.01.2009 [as per page 16 of complaint]
8.	Date of Agreement to Sale	21.01.2009 [Pg.19 of complaint]
9.	Payment Plan	Instalment payment Plan [Pg.39 of complaint]
10.	Possession clause	Clause 4.2 of BBA *The company shall endeavor to give possession of the apartment to the allottee(s) within 36 months from the date of execution of this agreement and after providing necessary infrastructure in the sector by the government.* *[page 26 of complaint]*
11.	Due date of possession	21.01.2012 [36 months from BBA.]
12.	Total sale consideration	Rs.47,56,000/- [Pg.21 of complaint]
13.	Amount paid by the complainant	Rs.64,19,065/- [Pg.50 of complaint]

14.	Occupation certificate /Completion certificate	Dated 19.11.2014 [as per records of project branch]
15.	Possession letter	07.01.2018 [Pg.47 of complaint]
16.	No dues certificate by the builder	04.01.2019 [as per page 55 of complaint]

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -

I. The complainants, husband and wife, Umesh Ahuja and Jyoti Ahuja, decided to own their house in the MILLINIUM CITY, Gurgaon ,applied for a unit in Raheja Atharva sector 109 Gurugram on 06-10-2008 and paid 4,75,600/- as booking amount vide cheques 472674 & 657438 ICICI Bank.

II. That the allotment letter and agreement to sell were signed on 21-01-2009 and unit no F-0703 was allotted admeasuring 1640 Sq. Ft. which was increased to 1808 Sq. Ft., at RAHEJA ATHARVA, 109 Gurgaon Haryana.

III. That the possession was handed over by respondents to complainants vide their letter dated 07 -01- 2018. Stamp duty and legal registration was paid on 22-12-2014 amounting to Rs 2,85,00/ and Rs 25,200/-, conveyance deed is pending. LPG connection fee of Rs 38,764/- was paid on 22-12-2014 however no LPG connection has been provided yet.

IV. That no dues certificate was submitted to respondent for conveyance deed, IFMS Rs 164000/- and club membership Rs 50,000/- paid to respondent and meant to be transferred to RWA Raheja Atharva ,has not been done so far. That, though the possession was given on 07-01-2018, since then complainants running from pillar to post to get a conveyance deed of their property executed and the respondent has been making

promises after promises but conveyance deed was never executed till date by the respondent.

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

4. The complainant has sought following relief(s):

I. To direct the respondent company to execute the deed of conveyance in favour of the complainants and its registration before the competent authority forthwith in accordance with the agreement and the applicable law, rules and regulations made there under.

II. To direct the respondent company to execute the deed of conveyance in favour of the complainants and its registration before the competent Authority forthwith in accordance with the agreement and the applicable Law , Rules and Regulations and in accordance with Section 17 of the Act, And the Rules and Regulations made there under.

III. Direct respondent to pay interest at prescribed rate of interest on stamp duty amount of Rs 2,85,400 /- and Rs 24,200/- taken from

IV. complainants on 22-12-2014 till actual registration of conveyance deed.

V. To direct respondent to refund LPG connection charges amounting to Rs 38764/- from 22-12-2014 till providing of service or liquidation @ prescribed rate of interest.

VI. To direct respondent company to hand over one set of possession related documents to the complainants.

5. 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 by the respondent**

A. The Authority observes that despite due service of notice, neither anyone has appeared on behalf of respondent nor reply to the present complaint has been received on its behalf till date. In view of the above, vide order dated 23.10.2026, the respondent is proceeded ex-parte.

6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the complainant.

E. Jurisdiction of the authority

7. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

8. 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

9. 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) The promoter shall-*
>
> *(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*
>
> ***Section 34-Functions of the Authority:***

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

10. So, in view of the provisions of the Act 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 complainant at a later stage.

F. Findings on the relief sought by the complainant

I. To direct the respondent company to execute the deed of conveyance in favour of the complainants and its registration before the competent authority forthwith in accordance with the agreement and the applicable law, rules and regulations made there under.

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V. To direct respondent to refund LPG connection charges amounting to Rs 38764/- from 22-12-2014 till providing of service or liquidation @ prescribed rate of interest.

VI. To direct respondent company to hand over one set of possession related documents to the complainants.

11. The above-mentioned reliefs sought by the complainant are being taken together, as the findings in one relief will necessarily affect the outcome of the others and the same being interconnected.

12. The present complaint pertains to the real estate project "Raheja Atharva", situated in Sector-109, Gurugram, Haryana. It is an admitted and undisputed position on record that the competent authority had granted the occupation certificate dated 19.11.2014 in respect of the said project and possession letter was offered on 07.01.2018. 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.

13. 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. 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;*

14. 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.

15. 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."*

16. 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.

17. 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."*

18. 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.

19. 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 19.11.2014, 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.

20. 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.

21. 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 "ongoing project" within the meaning of Section 3 of the Act. The absence of this foundational fact renders the present complaint outside the purview of the Act and beyond the jurisdiction of this Authority.

22. 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.

23. In view of the foregoing reasons, the Authority finds no merit in the present complaint and the same is accordingly dismissed. Pending applications, if any, also stand disposed of.

24. File be consigned to registry.

Dated: 23.10.2026

Arun Kumar
Chairman
Haryana Real Estate Regulatory
Authority, Gurugram

HARERA
GURUGRAM