

**BEFORE THE REAL ESTATE REGULATORY AUTHORITY
HIMACHAL PRADESH AT SHIMLA**

Complaint no.HPRERA2024022/C

In the matter of:-

- 1 Sh. Rajesh Sachdeva, Son of Sh. Chander Prakash Sachdeva, resident of X-111, DLF, Capital Greens, Phase 3, Shivaji Marg, Moti Nagar, Karam Pura, Ramesh Nagar, West Delhi, Delhi,110015, also Park Bells flat no.402, Mussorie Dehradun, Diversion Road, Opposite Foot Hills Garden, Malsi Sinola, Dehradun, UK-248003
- 2 Smt. Asha Sachdeva, wife of Sh. Rajesh Sachdeva, resident of X-111, DLF, Capital Greens, Phase 3, Shivaji Marg, Moti Nagar, Karam Pura, Ramesh Nagar, West Delhi, Delhi,110015 and also Park Bells flat no.402, Mussorie Dehradun, Diversion Road, Opposite Foot Hills Garden, Malsi Sinola, Dehradun, UK-248003

..... Complainants

Versus

Sh. Rajdeep Sharma son of Sansar Chand Sharma, being developer, Registered office at SCO-12, 1st Floor, Hollywood Plaza, VIP Road, Zirakpur-150603.

..... Respondent

Present: Sh.Rajesh Sachdeva, complainant

None for respondent promoter M/s Rajdeep & Company infra Pvt. Ltd;

Final date of hearing. 11.11.2025

Date of pronouncement of order:22.11.2025

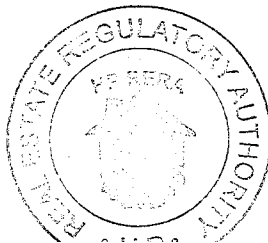
Order

Coram: Members

1. FACTS OF CASE:

The Complainants, who are senior citizens and permanent residents of Park Belles, Flat No. 402, Mussoorie, Dehradun, Diversion Road, Opposite Foot Hill Garden, Malsi Sinola, Dehradun, Uttarakhand,

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entered into an Agreement dated 28.12.2021 with the Respondent, Rajdeep Sharma, Developer of the project "Kasauli Paraiso," having his registered office at SCO-12, 1st Floor, Hollywood Plaza, VIP Road, Zirakpur. Under the said Agreement, the Complainants agreed to purchase Residential Unit No. D-302, a 3-BHK Duplex in Tower-D + Attic in "Kasauli Paraiso," Tehsil Kasauli, District Solan, Himachal Pradesh, for a total sale consideration of Rs. 44,00,000/-, out of which Rs. 21,00,000/- was paid through cheque dated 23.11.2021 and the remaining amount of Rs.23,16,748/- was to be adjusted against rent payable by the Respondent for Flat No. 312, Ansal Bhawan, New Delhi, leased by the Complainants for the period 01.04.2021 to 31.03.2023. The Respondent duly acknowledged the receipt and adjustment of said amount through the Letter of Allotment dated 28.12.2021 issued to the Complainants. As per the terms of Agreement for sale dated 28.12.2021, the possession of the fully completed flat was to be delivered to the Complainants on or before 30.04.2022, with a grace period of three months. Despite the expiry of the stipulated period, long ago, the Respondent failed to hand over possession for reasons best known to him. The Complainants, having purchased the property to spend their remaining life in the peaceful climate of Kasauli and to avoid the extreme summers and pollution of Delhi-NCR, repeatedly, requested the Respondent to honour the Agreement, but, there was delay in handing over the vacant possession of the said flat. It is further the case of the Complainants that despite having paid a substantial portion of the sale consideration by them and despite issuance of the Allotment Letter, the Respondent failed to deliver possession. When reminded of the payment details vide email dated 15.04.2024, the Respondent convened a meeting on 20.04.2024 and assured that possession would be handed over on or before 30.05.2024. However, even this revised timeline expired without

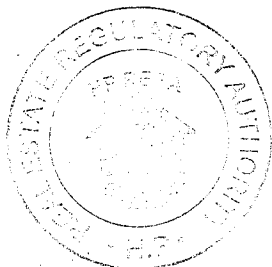


action. The Complainants, vide email dated 12.06.2024, informed the Respondent that both the contractual possession date and the subsequently assured date had expired, yet, the possession remained undelivered and the copies of email dated 15.04.2024 and 12.06.2024 were also appended with the complaint. Instead of complying with his obligations, the Respondent, vide email dated 14.06.2024, falsely, alleged that the Complainants were facing financial difficulties and were seeking cancellation and refund of the unit. However, this allegation was categorically denied by the Complainants through their email dated 21.07.2024, wherein, they again requested the Respondent to hand over possession within 15 days. Despite this, the Respondent persisted through emails dated 09.07.2024 and 28.07.2024 in asking the Complainants to cancel the unit and initiate refund formalities, even though the Complainants had never expressed any intention to cancel the allotment. The Complainants further submitted that, as per their information, the construction of the project has been completed and the project now stands registered with this Authority, yet, possession continues to be unjustifiably withheld and denied. In these circumstances, the Complainants have approached this Authority seeking that the Respondent Promoter be directed to hand over the vacant and peaceful possession of the allotted unit, strict legal action be taken against the Respondent for failure to perform the contractual obligations amounting to deficiency in service and unfair trade practice, and that any other order or direction deemed just, fair, and appropriate in the facts and circumstances of the case be passed.

2. REPLY ON BEHALF OF THE RESPONDENT

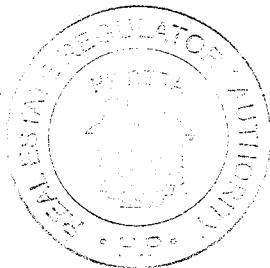
The Respondent has opposed the complaint by submitting that the Complainants have no cause of action and that the complaint is liable to

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be dismissed. It is stated that the Complainants have not approached this Authority with clean hands and have suppressed important facts, which, according to the Respondent, disentitles them to any relief. The Respondent also asserted that the Complainants have no locus standi to maintain the present complaint and are estopped from filing of complaint because of their own conduct. The Respondent alleged that the complaint has been filed only to harass the Respondent and to avoid the Complainants' own obligations under the Agreement for sale. The Respondent further relied on Clause 34 of the Agreement for Sale dated 28.12.2021, which provides that all disputes arising out of the Agreement are to be settled first through mutual discussions through arbitration under the Arbitration and Conciliation Act, 1996. The clause also states that arbitration proceedings shall take place in Chandigarh and that the Courts at Chandigarh shall have exclusive jurisdiction in all matters arising out of the Agreement. The Respondent, therefore, stated that this Authority does not have jurisdiction to entertain or decide the present complaint. On the merits of the case, the Respondent admits the address of the Complainants and the fact that both parties signed the Agreement for Sale for Unit No. 302, 3BHK in Tower-D of Kasauli Paraiso. However, the Respondent denies that the Complainants are competent to file this complaint. The Respondent admitted receiving an amount of Rs. 21,00,000/- through cheque dated 23.11.2021 but stated that he does not have complete knowledge regarding the alleged adjustment of Rs.23,16,743/- towards rent. The Respondent also stated that although the possession date mentioned in the Agreement was 30th April, 2022 with three months grace period, the construction work had to be stopped due to orders passed by the National Green Tribunal in the **Yogendra Mohan Sengupta** matter, which resulted in the Municipal Corporation, Shimla, not processing map approvals. According to the

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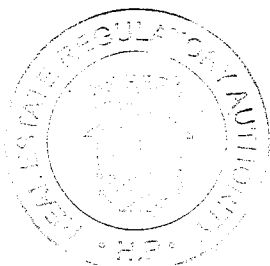


Respondent, this caused unavoidable delay and the Complainants were kept informed about these developments. The Respondent further stated that no further payment was demanded from the Complainants in view of the stalled construction. The Respondent denied the allegations regarding the meeting dated 20.04.2024 and stated that there was no assurance of handing over possession by 30.05.2024. Instead, the Respondent stated that the discussions between the parties were regarding the Complainants' own request to cancel the unit because of financial difficulties faced by them after shifting from Delhi to Dehradun. The Respondent relied on the email dated 14.06.2024 in support of this version and alleged that the Complainants are misrepresenting the facts. The Respondent also stated that several emails dated 28.07.2024, 05.08.2024 and 15.10.2024 were sent to the Complainants to resolve the matter, but instead of responding, the Complainants chose to approach this Authority and distorted the facts in the complaint. The Respondent denies that any prejudice or intentional delay has been caused to the Complainants and asserted that the complaint is filed only to exert pressure and make unreasonable demands. On these grounds, the Respondent prays that the complaint be dismissed with exemplary costs and that any other order deemed appropriate in favour of the Respondent may be passed.

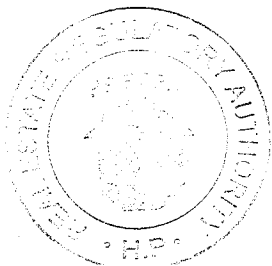
3. REJOINDER

The Complainants have filed a rejoinder denying the preliminary objections raised by the Respondent. It is submitted that the Respondent's objection regarding the absence of any cause of action is completely baseless. The Complainants stated that they had agreed to purchase Residential Unit No. 302, (3-BHK Duplex) in Tower-D of the project "Kasauli Paraiso," Tehsil Kasauli, District Solan, Himachal Pradesh, for a total consideration of Rs.44,00,000/- including society

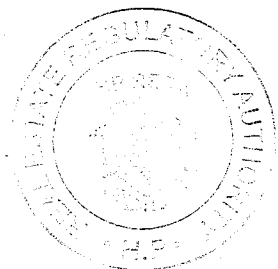
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charges and applicable GST. As per the Agreement, the fully completed possession of the flat was required to be handed over on or before 30 April 2022. Despite receipt of the entire consideration, the Respondent has failed to deliver possession. This failure constitutes a clear and continuing cause of action, entitling the Complainants to approach this Authority. The Complainants further denied the allegation that they approached this Authority with unclean hands. It is submitted that the Respondent has not specified what material fact has been allegedly concealed. The Complainants also denied the Respondent's assertion regarding lack of locus standi, stating that they are the lawful allottees of the flat in question and that the possession has not been delivered despite contractual commitments. Therefore, they have every right to maintain the present complaint before this Authority. It is further submitted that there is no estoppel against the Complainants, as they have acted strictly in accordance with the Agreement and have been forced to approach this Authority only due to the Respondent's failure to hand over possession. The Complainants admit that Clause 34 of the Agreement provides for arbitration, however, they submit that such a clause does not override the provisions of the H.P. Real Estate (Regulation and Development) Act, 2016, which is a special statute enacted to regulate real estate development and to protect consumers. It is submitted that this Authority has exclusive jurisdiction under the Act to adjudicate such disputes, and therefore, the arbitration clause in the Agreement does not bar the maintainability of the present proceedings. The complaint is thus fully maintainable. The Complainants further stated that, the denial of liability by the Respondent is completely misconceived. It is the Complainants' case that the Respondent has failed to comply with the terms of the Agreement, and such failure constitutes a violation attracting the provisions of the H.P. Real Estate



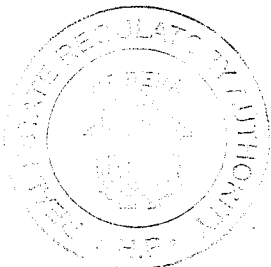
(Regulation and Development) Act, 2016. The Complainants further stated that they had paid Rs.21,00,000/- through cheque dated 23.11.2021, and as regards the amount of Rs. 23,16,748/-, the Respondent had taken the Complainants' premises on rent and the said rental amount was duly adjusted towards the sale consideration. The applicable TDS on notional rent was deducted and deposited by M/s Rajdeep & Co. Infrastructure Pvt. Ltd., which is clearly reflected in the Form no. 26 (AS), copy of the same is appended. The Respondent has already accepted this amount, and therefore, the Respondent's denial is false and misleading. The Complainants further deny the Respondent's contention that the delay was caused due to non-sanctioning of maps. It is submitted that the group housing project had already been sanctioned as per the Agreement and is registered with this Authority. The Respondent cannot now take the plea that map sanctions were delayed. Such a stand is only an attempt to mislead this Authority and to escape from contractual obligations. The Complainants further stated that the Respondent has failed to honour the timeline despite repeated requests. The Complainants strongly deny the Respondent's allegations regarding meetings, cancellation, financial difficulty or any alleged request for refund. It is reiterated that the Complainants invested their hard-earned money to purchase the said flat, and despite several reminders and meetings, the Respondent failed to deliver possession and instead continued to make excuses. The Complainants stated that the Respondent's allegations of financial hardship or alleged requests for cancellation are false and fabricated, intended only to mislead this Authority. The Complainants also deny the allegation that the complaint is false or vexatious. They affirm that they were compelled to approach this Authority only because the Respondent failed to deliver possession even after the expiry of the agreed timeline. In view of the above, the



Complainants humbly pray that the complaint be allowed and that the reliefs sought therein be granted in the interest of justice. They further pray that any other order deemed just and proper in the facts and circumstances of the case may also be passed in their favour.

4. ARGUMENTS ON BEHALF OF THE COMPLAINANT

The Complainants argued that they are entitled to an order directing the Respondent to hand over the possession of the allotted flat and to compensate them for the prolonged delay. They submitted that the booking of the unit was made on 28.11.2021, the Allotment Letter was issued on 28.12.2021, and the entire sale consideration of Rs. 44,00,000/- was paid on 23.11.2021. As per the Agreement to Sell, possession of the fully completed flat was required to be handed over on or before 30.04.2022, however, despite the lapse of more than two years, no possession has been delivered. The Complainants contended that they repeatedly communicated with the Respondent through email and personal visits, but the Respondent failed to fulfill his obligations. They further argued that during one of their visits, the Respondent threatened them and openly stated that he would not hand over the flat even if directed by this Authority. The Complainants further argued that they last visited the Respondent's office on 24.04.2024 at Chandigarh, where they met the Respondent and his staff, but the Respondent declined to give possession and behaved in an intimidating manner. The Complainants further argued that they are senior citizens aged above 62 years and had purchased the property with the bona fide intention of spending their remaining years in a peaceful environment. They further submitted that despite making the full payment, they have been left without possession or any legitimate justification for the delay. The Complainants argued that the Allotment Letter clearly mentions Flat No. 302, Tower-D, and no alterations in the unit were ever communicated.

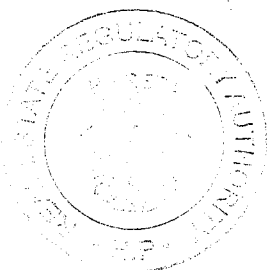


They submitted that although they were initially shown and assured a 3-BHK duplex measuring approximately 1920 sq. ft. with an attic, upon inspection they discovered that the Respondent was offering a 2-BHK unit of about 960 sq. ft. They further argued that when they questioned the Respondent regarding the reduced area and mismatch in the agreed specifications, the Respondent refused to rectify the discrepancy and insisted that they accept the smaller unit. According to the Complainants, this conduct shows a clear breach of contractual obligations and wrongful intent on the part of the Respondent. The Complainants also submitted that despite having been granted several opportunities and being directed to file written submissions, the Respondent failed to appear and did not place any argument on record. They therefore prayed that, considering the facts, documentary record, and the Respondent's conduct, this Authority may be pleased to direct the Respondent to hand over lawful possession of the flat, award appropriate relief for the delay, and grant such other relief as may be deemed just in the circumstances.

5. ARGUMENTS ON BEHALF OF THE RESPONDENT

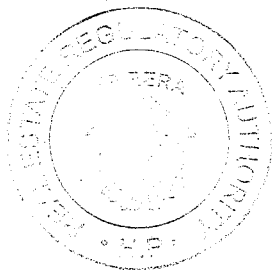
The Respondent was granted several opportunities to appear and address oral arguments, and was specifically directed to place written submissions on record. Despite having been granted repeated opportunities to address the matter, the respondent has consistently attempted to delay the proceedings. Even on the present date, although, the case was listed for final arguments, no one has appeared on behalf of the respondent, nor has any intimation regarding non-appearance been furnished. Such persistent attempts to delay the process amount to a denial of justice to the complainant. In view of the fact that, despite

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several opportunities granted, the Authority is of considered view that the respondent has deliberately failed to appear or advance submissions. Further, it is also observed that the Authority vide its order dated 15.10.2025 had granted an exception opportunity in the interest of justice and also directed that in case of failure to advance arguments verbally or written the right to argue the matter would stand closed. However, despite that, no written arguments were submitted and accordingly, the Authority is constrained to hear/consider the matter on the basis of the pleadings and documents filed by the parties. On examination of the reply, already filed, by the Respondent it is observed that the Respondent had taken specific defense on the maintainability of the complaint, cause of action, locus standi of the compliant, the Complainants have not approached this Authority with clean hands and that Clause 34 of the Agreement requires all disputes to be referred to arbitration, thereby, ousting the jurisdiction of this Authority. The Respondent further took defense of the fact that the delay was caused due to orders passed by the National Green Tribunal regarding non-processing of maps by the Municipal Corporation, Shimla, which allegedly hampered construction. It was further contended that the Complainants had, at some stage, shown an inclination to cancel the unit due to personal financial difficulty. The Respondent denies any assurance to hand over possession by 30.05.2024 and alleges manipulation of facts on the part of the Complainants. The Respondent, however, did not appear to substantiate these contentions nor produced any documentary evidence in support thereof, despite being given adequate and repeated opportunities.

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6. ISSUES AND FINDINGS:

On the basis of pleadings of the parties and the submissions made by the complainant the following issues are framed for adjudication/ decision:

- I. Whether the Authority has jurisdiction to entertain and decide the matter?
- II. Whether the Respondent has received the entire sale consideration of Rs. 44,00,000/-, including the adjusted rental amount of Rs. 23,16,748/-?
- III. Whether the Respondent has failed to hand over lawful and peaceful possession of Unit No. D-302 within the stipulated time?
- IV. Other Issues and directions including imposition of Penalty?

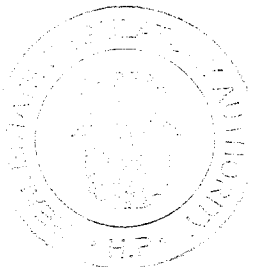
7. FINDINGS OF THE AUTHORITY:

Since, the aforesaid issues are mixed question of facts and law and as such are being decided separately/ point wise:

I. **Whether the Authority has jurisdiction to entertain and decide the matter or not?**

Yes, this Authority has jurisdiction to entertain and decide the complaint in view of findings herein below. In order to address this issue, the relevant provisions of the Act, contained under Section 31, is required to be considered which prescribes that any aggrieved person can file a complaint before the Authority or the Adjudicating Officer, as the case may be, for any violation of the provisions of the Act ibid and Rule 23 of the Himachal Pradesh Real Estate (Regulation and Development) Rules, 2017 provides the procedure of filing complaint with the Authority and prescribes Form M' for filing a complaint. At this juncture, it is relevant to point out that the respondent has not disputed the fact that the complainant were not the allottee of the aforesaid flat and as such it is appropriate to consider the fact as to who is aggrieved person as per

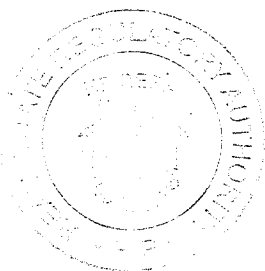
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Section 31 of the Act. Though, the term, aggrieved person, has not specifically been defined under the Act, yet, the term "Person" has been defined in Section 2(zg) which includes an individual (relevant for our purpose) and if these terms that is allottee as well as an individual are read together in conjunction with the section 31, it can be well concluded that the complainants fall within the purview of aggrieved person. Further, the proviso to Section 18 of the RERD Act, 2016 prescribes that in case allottee (herein, the complainants) does not intend to withdraw from the project then, promoter shall pay interest for every month of delay till the handing over of possession of the flat to the complainant at such rate as may be prescribed. As such, as per proviso of Section 18, interest is to be calculated for every month of delay till the possession is handed over to the complainant. Thus, the moment due date for handing over possession is over, the claim of interest for delay of every month is accrued to the complainant as per Section 18 of RERD Act, 2016. Right to claim interest is a statutory right once it is accrued and it lasts till the possession is handed over. Once delay is caused in handing over possession, it is recurring cause of action to get possession and consequently interest on period of delayed possession continues. Further, in the case of **Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. and Ors MANU/SC/1056/2021**, it was held by the Hon'ble Supreme Court in para 86 of the judgment as under:

*"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, " **it is the regulatory authority which has the power to examine and determine the outcome of a complaint**" ... emphases supplied.*

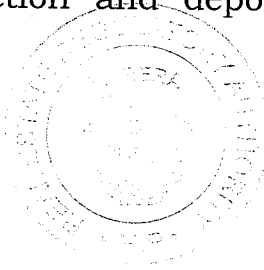
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Thus, from the reading of the above provisions of the Act as well as law laid down by the Hon'ble Supreme Court, it is amply clear that the Authority has power to adjudicate various matters, including refund and interest, and interest on delayed possession under Section 18 of the Act and imposition of penalty under the Act whereas the compensation is to be adjudged by the Adjudicating Officer under Section 71 of the Act *ibid*. Further, the contention of the respondent that there was an arbitration clause in the agreement between the complainant and the respondent which would take place in Chandigarh then it is clarified, and as also in light of the decision of the Hon'ble Supreme Court as mentioned above that this Authority has jurisdiction to hear the matter and that any clause of an agreement cannot over-ride the provision of this Act which authorises this Authority to hear these matters. Hence, this issue is decided against the respondent.

II. Whether the respondent has received the entire sale consideration of Rs. 44,00,000/- or not ?

In order to decide this issue, it is relevant to examine the pleadings and documents placed on record by the parties and from perusal thereof, this Authority is satisfied, after having gone through the Agreement for Sale dated 28.12.2021 and the Allotment Letter dated 28.12.2021, issued by the Respondent, that the Respondent has received the entire sale consideration of Rs. 44,00,000/- (Rs. 21,00,000/- through cheque dated 23.11.2021+ Rs. 23,16,748/-) towards the allotment of Unit No. D-302. Further, the complainant has pleaded that aforesaid amount of Rs.23,16,748/- was to readjusted from rent payable by the respondent for flat no.312 , Ansal Bhawan, New Delhi, in this regard, the complainant has appended annual Tax Statement which clearly reflects certain deduction and deposit of TDS on the notional rent by M/s

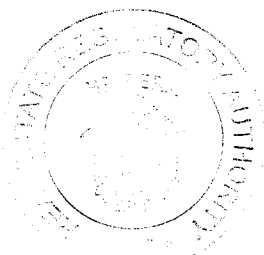


Rajdeep & Co. Infrastructure Pvt. Ltd. However, since, the respondent, vide aforesaid allotment letter dated 28.12.2021, has already acknowledged the entire consideration amount, each detail is not required to be scrutinized. It is also observed that the Respondent has merely taken the plea that he has "no knowledge" regarding the adjustment but has failed to produce any ledger, rent statement, bank record, or TDS summary, to rebut the documentary evidence relied upon by the Complainants. The respondent's subsequent denial cannot displace the written acknowledgements and independent statutory tax records. Moreover, despite being granted repeated opportunities, the Respondent neither appeared before this Authority nor filed any supporting material in support of his denial. In these circumstances, this Authority holds that the Complainants have proved the payment of the entire agreed consideration of ₹44,00,000/-and as such there remains nothing more to discuss this issue and, hence, the issue is decided against the respondent.

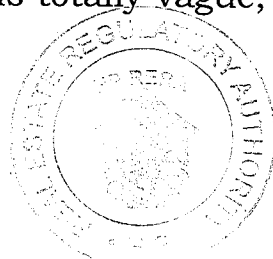
III. Whether the respondent has failed to handover the lawful and peaceful possession of Unit no. D-302 within the stipulated time?

On the undisputed facts and documentary record, it is clear that the Respondent has failed to hand over lawful and peaceful possession of Unit No. D-302 within the contractual timeline as stipulated in agreement for sale dated 20.12.2021. it is observed that the rights and obligations of parties are governed by the terms and conditions contained under the Agreement for Sale which expressly specify the date of possession on 30 April 2022 (with a three-month grace period).Despite the inclusion of said stipulation, the possession, therefore, became due long ago and the Complainants' claim for delayed delivery is a continuing

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cause of action. Further, it is also observed that the Complainants have paid the entire sale consideration amount which is evident from aforesaid Allotment Letter and once the promoter had accepted the consideration amount, he was under legal/contractual obligation to deliver possession within the stipulated time. It is also evident from the record that certain communications were exchanged between the complainant and respondent. Despite repeated written communications, especially, e-mail dated 12.06.2024, wherein, the complainants have referred to the meeting held on 20.04.2024, also acknowledged by the respondent in email dated 14.06.2024, and requested the respondent to handover the possession. However, despite that the possession was also not handed over and the Respondent's conflicting assertion that, the Complainants sought cancellation, is not supported by any document which can refute the allegation of complainants. It is further observed that the Respondent's invocation of regulatory delays (NGT/orders affecting map processing) is pleaded in bare terms and, in the absence of any supporting material or appearance before this Authority, the respondent cannot absolve him of the contractual breach. Moreover, the respondent has not placed on record copy of any interim or final order of Hon'ble NGT, as the case may be, along with reply in order to support his contention. Further, it is also observed that the agreement for sale dated 28.12.2021, para no. 2, reflects that the map of the building/ structure (in question) was approved from TCP vide order no. HIM/ATP/KSL/CASENO1047/2020-811 dated 12.03.2020 and, therefore, the plea of respondent, contained in his reply, to the fact that due to order of Hon'ble NGT in Yogendera Mohan Sen Gupta matter, the MC Shimla was not processing the map, consequently the maps were stalled and the developer had to stop the construction work of the apartment, is totally vague, in view of the aforesaid approval by the ATP,



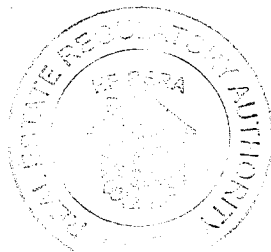
Sub-Divisional Town Planning Office, Kasauli Distt. Solan, H.P and as such, the same has no relation with the map approvals by MC Shimla. On these facts, the Respondent's continuing withholding of possession constitutes a clear breach of the Agreement for sale and deficiency of service under the RERA Act, giving the Complainants a right to relief, including directions for delivery of vacant possession and statutory interest for each month of delay under the proviso to Section 18 of RERA Act until possession is actually handed over. Hence, this issue is decided against the respondent.

IV. Other issue including imposition of penalty.

It is observed by this Authority that the Respondent Promoter has not fulfilled his obligations as per section 11(4) of the Act by delivering possession of the Unit No. D-302, a 3-BHK Duplex in Tower-D to the complainants in terms of agreement for sale. The Authority is of firm view that respondent/promoter must be held liable and penalized under Section 61 of the Act *ibid*, in view of Sections 34 (f) and Section 37 of the Act which empower the Authority to ensure compliance of the obligation(s)/direction(s) cast upon the promoter, for their failure to fulfill the obligations as promoters as prescribed in Section 11 and 18 of the Act, *ibid*. Section 11(4) (a) of RERA Act, 2016 casts responsibility on the promoter to fulfill the obligation under "agreement for sale" as well as other obligations mentioned in the RERA Act, 2016. It is also observed that the Authority also has power to impose penalties or interest under Section 38 (1) of the Act.

It is pertinent to point out that an email has been received in the office of HPRERA on 21.11.2025 with the request to frame the issues in the

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present matter and this was also the date of pronouncement of final order.

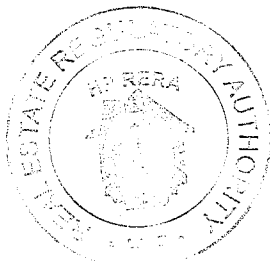
However, after considering the application, we are of the considered view that this is just an endeavor to delay the pronouncement of the order, as the pronouncement was fixed for 21.11.2025. Numerous opportunities had been given to the respondent and he kept on delaying the final delivery of judgment. At this belated stage, when the orders are ready, we cannot take cognizance of his application, which is just delaying tactics and to scuttle the process of delivery of justice.

8 RELIEF:

Keeping in view the above findings, this Authority, in exercise of power vested in it, under various provisions of the Act, Rules and Regulations made there under, issues the following orders/directions:


- a. The Complaint is hereby allowed and respondent is directed to ensure expeditious handing over of the unit.
- b. The respondents directed to pay the interest for delayed possession, at the SBI highest marginal cost of lending rate plus 2% as prescribed under Rule 15 of the Himachal Pradesh Real Estate (Regulation and Development) Rules, 2017 to the complainants. The present highest MCLR of SBI is 8.85%. Hence the rate of interest would be 8.85 % + 2 % i.e. 10.85 % per annum on the amount paid by the complainant i.e. Rs 44,16,748/- for every month of delay from the due date of possession i.e. 30.04.2022 till the date when valid offer of possession is made.
- c. That in view of Section 61 of the Act which prescribes the maximum penalty that could be imposed for the contravention of any other provision of the Act other than Section 3 and 4, as five percent of the


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violation of sections 11 (4)(a) and 18 (1) (a) of the Act and penalty is attracted under section 61 of the Act. It is observed from the language of provision that the same prescribes for maximum penalty to be imposed is up to five percent of total cost of the project and whereas no minimum ceiling is prescribed. However, after having considered all the facts, the Authority deems it appropriate to impose the penalty of Rs.15 lakhs upon the respondent for contravention of the provisions contained under Sections 11(4)(a) and 18(1)(a) of the Act ibid which is below five percent of the project cost. Hence, the penalty imposed, shall be deposited by the respondent in the bank account of this Authority, operative in the name of "Himachal Pradesh Real Estate Regulatory Authority Fund bearing account no."39624498226", State Bank of India, HP Secretariat Branch, Shimla, having IFSC Code. SBIN0050204, within a period of 60 days from the passing of this order, failing which the respondent shall be liable for coercive action for non-compliance of directions as per law.

- d. The Complainant shall be at liberty to approach the Adjudicating Officer for compensation under Section 71 of the Act ibid.


(Amit Kashyap)
MEMBER


(Vidur Mehta)
MEMBER

