IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Institution: 25.11.2020
Date of hearing: 08.07.2026
Date of Decision: 07.09.2026

COMPLAINT CASE NO.- 273/2020

IN THE MATTER OF

MR. ROHIT JAIN,
S/O MR. J.K. JAIN,
FLAT NO. CGQ171,
DLF CAPITAL GREENS,
15, SHIVAJI MARG,
NEW DELHI – 110015.

(Through: Kohli & Sobti, Advocates)

…Complainant

VERSUS

DLF HOME DEVELOPERS LIMITED,
(FORMERLY DLF UNIVERSAL LTD AND PRIOR THERETO DLF RETAIL DEVELOPERS LTD.)
HAVING REGISTERED OFFICE AT:
DLF CENTRE, SANSAD MARG,
NEW DELHI – 110001.

(Through: Karanjawala & Co.)

…Opposite Party

CORAM:

HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)
HON'BLE MS. BIMLA KUMARI, MEMBER (FEMALE)

Present: Mr. Ajay Kohli and Ms. Apoorva Agarwal, counsel for the complainant.
Mr. Pravin Bahadur and Mr. Kalyan Kumar Thevar, counsel for the OP appeared through VC.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)

JUDGMENT

1. The present complaint has been filed by the Complainant before this commission alleging deficiency of service and unfair trade practice by the Opposite Party and has prayed the following reliefs:

   a) Direct the Respondent to pay Rs.1,18,70,779/- being the interest computable @ 18% p.a., on the sum of Rs.1,26,21,773, being the total amount, having already been paid by the Complainant to the Respondent towards the subject Apartment computed for the period from September 2012 till 14.04.2018, that is, the date of actual handing over possession of the Apartment to the Complainant; for having inordinately delayed the construction, development and handing over possession of the said Apartment;

   b) Direct the Respondent to refund the additional charges relating to (i) car parking (ii) club along with interest at 18% per annum;

   c) Direct the Respondent to pay a sum of Rs.50.00 Lacs as compensation towards mental agony and harassment caused to the Complainant;

d) Direct the Respondent to refund the excess/additional sum of Rs. 8,89,200/-l- claimed from the Complainant vide its Final Statement of Account dated 27.06.2017 on account of illegal claims of increase in super Area.;

e) Award cost of litigation in favour of the Complainant and against the Respondent;

f) Pass any other order as this Hon'ble Court may deem fit in the interest of justice, equity and good conscience.

2. Brief facts necessary for the adjudication of the present complaint are that, on the representation made by the Opposite Party, the Complainant booked a residential flat in the project namely *DLF Capital Greens* of the Opposite Party, situated at 15, Shivaji Marg, New Delhi–110015. The Opposite Party vide allotment letter dated 29.09.2019, initially allotted residential flat bearing No. CGN-193 on the 19th floor in Tower N along with parking No. PN2050. Subsequently, at the request of the Complainant, the Opposite Party vide letter dated 09.10.2009, changed the aforesaid allotment to flat No. CGM-141 along with parking No. PM2013.

3. Thereafter, an Apartment Buyer Agreement dated 30.03.2010 was executed between the parties with respect to the said apartment for a total consideration of Rs. 1,19,27,000/-. The Complainant noted several one-sided, arbitrary and unfair clauses in the said Agreement but the Complainant had no option to cancel the booking due to the apprehension of losing the money paid towards earnest money. Moreover, as per Clause 11(a) of the said Agreement, the Opposite Party was required to hand over possession of the said apartment within 36 months from the date of booking of the apartment.

4. Further, in March 2010, the Complainant was allotted an additional parking space, thereby making the total cost of both parking spaces Rs. 6,75,000/-. The Complainant opted for the construction-linked payment plan and made payments amounting to a total sum of Rs. 1,25,48,772.61/- towards the said apartment. In the meanwhile, the Complainant received a letter dated 19.07.2012, wherein the Opposite Party informed the Complainant that it had received building plan approvals from the competent authorities on 20.10.2011. Therefore, the Opposite Party revised the period for handing over possession from 36 months to 52 months by taking shelter under the force majeure conditions.
5. Thereafter, the Complainant received a letter dated 28.02.2013 from the Opposite Party, calling upon him to deposit a sum of Rs. 6,57,473/- on account of an increase in the super area from 1,520 sq. ft. to 1,602.52 sq. ft., without any prior intimation or suitable explanation for the same. However, the Complainant had no choice but to pay the said arbitrary charges.
6. After the passage of 57 months from the date by which possession was required to be handed over, the Opposite Party issued an offer of possession dated 27.06.2017 along with a statement of account, thereby calling upon the Complainant to pay a sum of Rs. 16,93,180.58/- by 27.03.2018. Alternatively, the Complainant was given the option to clear the outstanding dues on 11.08.2017 and 25.09.2017 after availing a nominal discount of 5.5% and 4.5%, respectively.
7. Moreover, the Complainant was also called upon to sign and execute an indemnity-cum-undertaking in favour of the Opposite Party as a pre-condition for handing over possession, and the Complainant had no option but to sign the said undertaking. The Complainant was

shocked to find that the Opposite Party had denied the timely payment rebate as well as compensation for the delay in possession in the final statement of account. Therefore, the Complainant made several communications vide emails dated 05.07.2017, 07.07.2017, 08.07.2017, 13.07.2017, 21.07.2017, 27.07.2017, 03.08.2017, 10.08.2017 and 14.08.2017, pointing out the factual discrepancies in the statement of account.

8. Accordingly, the Opposite Party vide email dated 19.08.2017, handed over a revised credit statement, whereby an additional credit of Rs. 13,01,796/- was given, comprising compensation for delay in possession amounting to Rs. 4,83,296/- and a timely payment rebate of Rs. 8,18,500/-. Therefore, the Complainant had to make the remaining payment of Rs. 3,69,858/-. However, the Opposite Party kept dilly dallying and did not provide any clarification with respect to the handing over of possession. The Complainant, on 22.08.2017 and 10.10.2017, made communications requesting possession of the said apartment. As a result, the Opposite Party finally vide possession letter dated 28.10.2017 (pre-dated 25.10.2017), called upon the Complainant to take possession of the said apartment by 01.12.2017.
9. Pursuant to receipt of the said possession letter, the Complainant addressed an email dated 06.11.2017 expressing his willingness to take possession and also requested a site visit of the said apartment. Accordingly, the Complainant visited the site and found that the apartment was not ready for possession, as the construction thereof was incomplete. The person in charge at the site also informed the Complainant that the apartment could not be handed over on 25.11.2017. The Complainant again visited the site on 28.11.2017, but the condition of the apartment remained unchanged. The

Complainant, vide emails dated 22.11.2017 and 29.11.2017, also communicated with the Opposite Party regarding the condition of the apartment and reiterated that he would not take possession of the incomplete apartment. However, the Opposite Party failed to respond to the aforesaid emails.

10. The Complainant also sent emails dated 13.02.2018 and 11.04.2018, to which the Opposite Party replied stating that possession would be handed over on 14.04.2018. Accordingly, the possession of the said apartment was finally handed over on 14.04.2018, i.e., 67 months after the proposed date for handing over possession. Thus, the Complainant approached this Commission alleging deficiency in services and unfair trade practice on the part of the Opposite Party.
11. The Opposite Party has contested the present case and has raised preliminary objections as to the maintainability of the complaint case. The counsel of the Opposite Party submitted that the Complainant is not consumer under the Consumer Protection Act, 2019 as the possession of said apartment was handed over to the Complainant without protest, therefore, he ceases to be a consumer. He further submitted that the Complainant has no cause of action to file the present complaint.
12. The counsel for the Opposite Party further submitted that the present complaint is barred by the law of limitation as the possession of the said apartment was offered to the Complainants on 27.06.2017, which was taken by the Complainant on 14.04.2018 without any protest. Therefore, the present complaint is filed beyond the period of 2 years from the date of offer of possession. He further submitted that the Complainant is liable to pay charges for increase in super area, club charges and parking charges as per the terms and condition of agreement. He also submitted that the there is no

deficiency in services on the part of the Opposite Party as the Opposite Party duly discharges its duty as per agreed terms and condition of the said agreement. Lastly, he submitted that the Opposite Party cannot be made liable for the delay caused by the competent authorities in providing the necessary approvals. Pressing the aforesaid objections, the Opposite Party prayed for dismissal of the present complaint with heavy cost.

13. The Complainant has filed the Rejoinder rebutting the written statement filed by the Opposite Party. Both the parties have filed their Evidence by way of Affidavit in order to prove their averments on record.

14. The Complainant has filed the written arguments and reiterated the allegations made in the present complaint. He further relied upon the following judgments:

    a. *DLF Home Developers Limited (Earlier known as DLF Universal Limited) & Anr. Vs. Capital Greens Flat Buyers Association & Ors. (2021) 5 SCC 537.*
    b. *Capital Greens Flat Buyers Association & Ors. Vs. DLF Universal Limited & Anr. 2020 SCC OnLine NCDRC.*
    c. *Chillukuri Adarsh Vs. M/s. Ess Ess Vee Construction CC No. 111 of 2012; NCDRC.*
    d. *Experion Developers Private Limited Vs. Himanshu Dewan & Ors. 2023 SCC OnLine SC 1029*
    e. *Jag Mohan Chhabra & Anr. Vs. DLF Universal Ltd. OP No. 91 of 2006; NCDRC.*
    f. *Kavit Ahuja Vs. Shipra Estate Ltd. & Jai Krishna Estate Developers Pvt. Ltd. CC No. 137 of 2010; NCDRC.*
    g. *Laxmi Engineering Works Vs. P.S.G. Industrial Institute (1995) 3 SCC 583.*

h. *Shri Sunil Gupta Vs. Today Homes Infrastructure (P) Ltd. CC No. 5 of 2014; NCDRC.*

i. *Vikas Mittal Vs. DLF Universal 2022 SCC OnLine NCDRC 104.*

15. The Opposite Party has filed the written arguments and relied upon the following judgments:

a. *Judgments/orders passed this Hon'ble Commission in similar matters bearing Consumer Complaint Nos. 275/2020, 155/2021, 163/2021, 166/2021, 208/2021 and 111/2021.*

b. *Order dated 22.08.2023 passed by the Hon'ble NCDRC in FA No. 726/2023.*

c. *Orders dated 22.03.2024 passed by the Hon'ble NCDRC in FA Nos. 503/2023, 515/2023, 516/2023 and 530/2023.*

d. *Judgment dated 02.03.2023 passed by the Hon'ble NCDRC in CC No. 789/2020.*

e. *Judgment dated 11.10.2023 passed by the Hon'ble NCDRC in CC No. 307/2020.*

f. *Judgment dated 03.01.2020 passed by the Hon'ble NCDRC, reported as 2020 SCC OnLine NCDRC 3.*

g. *Judgments passed by the Hon'ble Supreme Court in Jijo George Vs. DLF Southern Homes (CA Diary No. 21371/2020) and Sunil Kumar Singh Vs. DLF Southern Homes.*

h. *Order dated 20.09.2022 passed by the Hon'ble NCDRC in CC No. 1370/2018.*

i. *Order dated 14.12.2020 passed by the Hon'ble Supreme Court in Civil Appeal Nos. 3864–3889 of 2020.*

16. We have perused the material available on record and heard the counsel for the parties.
17. Before delving into the merits of the case, we deem it appropriate to adjudicate the preliminary issues involved in the present matter.
18. The main question for consideration w***hether the present complaint is barred by limitation under Consumer Protection Act, 2019?***
19. The Opposite Party has contended that the present complaint is barred by limitation under Section 69 of the Consumer Protection Act, 2019, wherein it is provided as under:

    69. Limitation period. —

    (1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed ***within two years from the date on which the cause of action has arisen.***

    (2)Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the Complainant satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period: Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be, records its reasons for condoning such delay."
20. A perusal of the above statutory provision, it is clear that the complaint shall be filed before the State Commission within two years from the date on which the cause of action has arisen. Further, the Opposite Party in the written submissions filed by it relied upon ***Complaint no.***

789/2020 titled ***Avtar Singh Chauhan vs. DLF Home Developers Ltd. & Anr. decided on 02.03.2023*** passed by the Hon'ble NCDRC, wherein it is stated in that in case where the possession of the property in question has already been handed over to the allotee/buyer then the limitation period shall commence from the date of offer of possession.

21. On the other hand, the Complainant has relied on the ***order dated 23.03.2020*** passed by the ***Hon'ble Supreme Court in Suo Moto writ petition bearing W.P. (Civ) no. 3 of 2020,*** wherein, the limitation period was extended due to spread of Covid-19.

22. At this stage, we further deem it appropriate to refer complaint no. 789/202 titled as ***Avtarsingh Chauhan vs. DLF Home Developers Ltd. & Anr decided on 02.03.2023***, wherein the Hon'ble National Commission has held as under:

> *"14. ..... It is undeniable that in the present case, the Occupancy Certificate was received by the OP on 21.2.2017, and only after that the offer of possession was made to the Complainants on 23.3.2017. Consequently, the period of limitation starting from the latter date would end. On 23.3.2019. Any Complaint filed after that date would per se be beyond limitation. But the Complainants in the present case have resorted to a novel method to bring their claims within the statutory limitation period. Their contention is that the letter dated 23.3.2017, which according to the Opposite Parties was the offer of possession made subsequent to receipt of the Occupancy Certificate was nothing more than a "forwarding letter of the Statement of Accounts" of the Complainants. Their further contention is that the actual offer of possession ought to be treated as 17.5.2019 i.e., when*

the "possession letter" of that date was issued by the Opposite Parties...

15. ……..There is no document whatsoever on record to show that at any stage the Complainants had raised any objections to any of the conditions mentioned in the offer of possession dated 23.3.2017 which were not acceptable to them, or which were raised with the Opposite Parties.

16. ***For the aforesaid reasons, we are of the considered view that the present Complaints are manifestly barred by limitation, since the same were filed more than three years after the offer of possession was made to the Complainants in the month of March, 2017.***

17. The same are dismissed"

23. The above dicta reflects that if possession of the property in question has already been delivered to the buyer, the period of limitation begins from the date of offer of possession. On perusal of record, it is noted that the Opposite Party duly sent the Complainant an offer of possession letter dated 27.06.2017 along with statement of account and the possession was taken by the Complainant on 14.04.2018.

24. Moreover, it is clear from the record that the Complainant had objected to the aforementioned statement of account as the Opposite Party had failed to give the timely payment rebates as assured and compensation for the delay in handing over the possession. Accordingly, the Opposite Party sent a revised statement of account on 23.08.2017, wherein the Opposite Party gave credit of Rs. 13,01,796/- i.e., Rs. 4,83,296/- towards compensation for delayed possession and Rs. 8,18,500/- towards timely payment rebates and called upon the Complainant to

clear the outstanding dues of Rs. 3,69,858.58/-. The Complainant paid the aforesaid amount without raising any objection.

25. Furthermore, we find nothing on record to show that the Complainant had raised any objection regarding the delayed compensation or timely payment rebates. The Complainant has also failed to place on record any evidence to show that he had made any objection towards the super area, car parking or any additional charges. Accordingly, we are of the view that the Complainant has failed to produce any evidence or document to show that he had raised any objection to any of the conditions/amount mentioned in the Offer of Possession dated 23.08.2017, which were allegedly not acceptable to him. On the other hand, the Complainant has filed the present seeking delayed compensation along with other charges on 25.11.2025, which is beyond the period of two years from the date of the Offer of Possession as well as from the date of the revised Statement of Account dated 23.08.2017.

26. The Complainant's reliance on the order dated 23.03.2020 passed by the ***Hon'ble Supreme Court in Suo Moto writ petition bearing W.P. (Civ) no. 3 of 2020*** cannot be taken into consideration as the limitation period was extended from the date 15.03.2020 and the limitation period to file the present complaint was closed on 23.08.2019. Therefore, it is clear that the period of limitation to file the present complaint expired much prior to the advent of Covid- 19 pandemic.

27. Relying on the above settled law and the facts of the present case, we hold that the present complaint is barred by limitation under Section 69 of the Consumer Protection Act, 2019 as the same was not filed within two years from the date of offer of possession. Consequently, ***the present complaint stands dismissed*** with no orders as to cost.

28. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.
29. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 2019. The judgment be uploaded forthwith on https://e-jagriti.gov.in for perusal of the parties
30. File be consigned to record room along with a copy of this Judgment.

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

BIMLA KUMARI
MEMBER (FEMALE)

Pronounced On:

07.09.2026

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