

**REAL ESTATE REGULATORY AUTHORITY
HIMACHAL PRADESH**

Complaint no.HPRERA20250026/C

IN THE MATTER OF:-

1 Sh. Sapan Kumar, Son of Sh. Madan Lal, Resident of flat no. 520
Jacaranda B5, Omaxe Parkwood 1 Baddi, Solan, Himachal
Pradesh, 173205

.....Complainant

Versus

1 Omaxe Chandigarh, Resident of Plot no. 23, Village Chahhar
Majra, Majra, Mullanpur, New Chandigarh, Punjab Chandigarh,
Chandigarh,140901

.....Respondent

Present:- Sh. Sapan Kumar complainant

**Sh. Shivank Singh Panta, Ld. Counsel for respondent
promoter**

Final date of hearing: 03.01.2026

Date of pronouncement of order: 28.02.2026

Order

Coram: Chairperson and Member

1. FACTS OF THE COMPLAINT

The complainant, Sh. Sapan Kumar, booked and purchased a residential flat in the project known as Omaxe Parkwood, Baddi in January 2017. The sale transaction was completed and the registration of the said flat was finally conducted during September-October 2019. That at the time when the complainant visited the Chandigarh office of the respondent for execution of the sale deed and for obtaining necessary documents, the respondent forcibly demanded

a sum of Rs. 25,000/- towards club membership and categorically informed the complainant that unless the said amount was paid, the registration of the flat would not be carried out. It was stated that the complainant left with no alternative and in order to get the registration done, the complainant arranged the demanded amount from other sources and paid Rs. 25,000/-. It was further stated that the complainant came to know from several other allottees residing in the same society that club membership was not compulsory. The complainant personally enquired from at least ten allottees, all of whom confirmed that they neither paid any amount towards club membership nor was their registration ever withheld on this ground. That it has further come to the knowledge of the complainant that out of more than 700 flats in the said project, hardly about 50 allottees have taken club membership, clearly establishing that the club membership is optional and not mandatory. That despite repeated emails, telephonic communications, and personal requests made by the complainant to the respondent seeking refund of the amount of Rs. 25,000/-, the respondent has failed and refused to refund the said amount, stating that the same is non-refundable. That as per the possession letter issued by the respondent, the cost of the flat is Rs. 14,45,000/-, whereas the complainant has paid a total sum of Rs. 14,70,000/- to the respondent, which includes the illegally collected club membership charges. In view of the aforesaid facts the complainant is therefore entitled to refund of Rs. 25,000/- collected towards club membership, as the said membership was neither compulsory nor uniformly charged from all allottees, and the amount was not compulsory.

2. REPLY FILED BY THE RESPONDENT

The respondent is a public limited company duly incorporated under the provisions of the Companies Act, 1956, having its registered office at Shop No. 19-B, First Floor, Omaxe Celebration Mall, Sohna Road, Gurugram (Haryana) and its corporate office at 7, LSC, Kalkaji, New Delhi. The respondent company has filed their reply to the present complaint through its authorized representative, Sh. Vishal Chawla, who is duly authorized, well conversant with the facts of the case, and competent to authorize on behalf of the respondent company. The authorization in his favour has been placed on record. The present reply has been filed in response to the complaint instituted by the complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016, read with the obligation of the promoter under Section 34(f) of the said Act. It is an admitted position that the complainant, along with his wife, had expressed interest in purchasing a residential flat in the project known as "Omaxe Parkwoods", developed and constructed by the respondent company on land situated in the revenue estate of Village Chakkan and Billanwali Gujran, Pargana Dharampur, Tehsil Nalagarh, District Solan. Pursuant thereto, the complainant filled up the application form seeking allotment of a residential unit/flat in the said project. In furtherance of the said application, an Agreement for sale dated 29.11.2016 was executed between the respondent company and the complainant along with his wife. Under the said Agreement, the complainant was allotted Unit No. 520 in JACARANDA-B Tower, having a super/carpet area of 779 square feet. The Agreement was executed voluntarily, with full knowledge and understanding of its terms and conditions, which were duly explained to and accepted by

the complainant prior to execution. The total sale consideration agreed between the parties was Rs. 14,70,003.45/-, which comprised the basic sale price of Rs. 14,15,003.45/-, additional charges including external development charges, club charges, taxes and statutory levies amounting to Rs. 35,000/-, and maintenance security/maintenance deposit of Rs. 20,000/-. The payment plan was clearly stipulated in the Agreement for sale and the respondent company raised demand notices strictly in accordance with the construction-linked milestones. It was stated that upon completion of the construction and fulfillment of all statutory and contractual requirements, the parties proceeded to execute a registered Sale Deed dated 19.10.2019 in respect of the said unit. The Sale Deed was executed only after all necessary approvals were obtained and the unit was ready for conveyance. By executing the Sale Deed, the complainant accepted the property, its specifications, and the terms and conditions governing the transaction, thereby confirming that all mutual obligations had been duly fulfilled and the title stood lawfully transferred in his favour. The respondent further submitted that the present complaint is not maintainable in view of the complainant's own conduct and written acknowledgments. The complainant had executed an Undertaking dated 12.12.2016, wherein he specifically requested the respondent company to defer the demand of club membership charges till the time of offering possession and execution of the conveyance deed. In the said undertaking, the complainant unequivocally acknowledged that the liability towards club membership charges was not waived and undertook to pay the same as and when demanded by the respondent company upon completion of the construction of the club, at the prevailing membership rate. The

respondent company agreed to the said request purely as a matter of accommodation, without waiving the complainant's contractual liability. It was further established on record that the complainant, through a handwritten communication dated 20.09.2019, informed the respondent company that he had voluntarily deposited an amount of Rs. 29,500/-, inclusive of 18% GST, towards club membership charges. The said written intimation constitutes a clear and unconditional acceptance of the club membership charges in accordance with the earlier undertaking furnished by the complainant. The complainant thereafter remained completely silent for nearly six years and raised no objection, or demand for refund during this period. The complainant also addressed an email dated 20.09.2019 to the respondent company wherein he acknowledged that although he had initially requested exemption from club charges at the time of booking, he had subsequently deposited an amount of Rs. 25,000/- along with applicable GST, totaling an amount of Rs. 29,500/-, after submission of registry stamp papers and documents for the purpose of registration. The conduct of the complainant clearly demonstrates acquiescence, waiver, and acceptance of the club membership charges. The complainant failed to raise any objection or dispute for an inordinate period of nearly six years and has approached this Authority after an unexplained and unreasonable delay. Such prolonged silence attracts the principles of delay and laches, estoppel, waiver, and acquiescence, rendering the complaint non-maintainable. It is also relevant to note that club membership charges are a one-time levy imposed at the stage of allotment or agreement and do not constitute a continuing cause of action. Any alleged cause of action, if at all, arose in the year 2019 when the

payment was made and accepted without protest. Having voluntarily paid the charges and remained silent for several years, the complainant cannot now seek refund or cancellation of the same. In view of the aforesaid facts, circumstances, and settled principles of law, the complaint lacks merit and is liable to be dismissed.

3. REJOINDER FILED BY THE COMPLAINANT

The complainant, Sh. Sapan Kumar, is a permanent resident of District Kangra, Himachal Pradesh. He booked a residential flat in the project known as Omaxe Parkwood, Baddi, District Solan, Himachal Pradesh, in December 2016 and was handed over possession of the said flat in January 2017. After making the initial down payment, the complainant availed a housing loan from a bank and took possession of the flat. The respondent company started issuing letters to the complainant requesting him to complete the registration of the flat at the earliest. In order to comply with the said request, the complainant availed another loan from the bank and visited the respondent's New Chandigarh office during September–October 2019 for the purpose of collecting the requisite documents for registration of the property. At the time when the registration documents were being processed, the officials of the respondent company informed the complainant that he would also be required to purchase club membership, despite the fact that the dealer of the respondent company, through whom the flat had been purchased, had earlier clearly stated that club membership was not compulsory. The complainant was thereafter harassed by the respondent company and was told that the registration of the flat would be carried out only if he agreed to take club membership. It was stated that to avoid further delay in registration, the complainant issued a cheque for an amount of Rs. 29,500/- and handed over the

same to the respondent company. Thereafter, upon returning home, the complainant applied for an additional loan of Rs. 25,000/-. A few days later, the complainant again visited the respondent's Chandigarh office, where he was made to fill up and sign an application form for club membership under continued harassment by the respondent company. It was further submitted that the complainant was initially asked to give a cheque of Rs. 29,500/- towards club membership charges, inclusive of taxes. However, the officials of the respondent company thereafter informed the complainant to ignore the tax component and instead issue a cheque for Rs. 25,000/- only. Consequently, the complainant issued a cheque of Rs. 25,000/- in favour of the respondent company, which was duly deposited into the respondent's bank account. The cheque bearing No. 058022 clearly evidences that the amount actually charged and received by the respondent company towards club membership was Rs. 25,000/- and not Rs. 29,500/-. The complainant further submitted that the respondent company has incorrectly claimed receipt of Rs. 29,500/- towards club membership, whereas in fact only Rs. 25,000/- was charged, and received, by the respondent company. The complainant therefore seeks refund of Rs. 25,000/- only, which was unlawfully collected from him. It has come to the complainant's knowledge that out of more than 700 flats in the said project, only about 50-60 flat owners have taken club membership. It has further come to light that at least two to three members have cancelled their club memberships and have been refunded the amount of Rs. 25,000/- by the respondent company. The complainant further submitted that if club membership were genuinely compulsory, the respondent company ought to have uniformly charged the same from all allottees at the

time of booking or allotment, and not selectively from only a small number of flat owners. It was further submitted that in the consolidated statement of all payments made by the complainant to the respondent company, the club membership amount appears as the last entry and is clearly mentioned therein as "interest-free and refundable". Despite this clear representation, the respondent company has failed to refund the said amount. The complainant further submitted that he was compelled to avail a loan even for payment of the club membership charges. Despite the passage of several years, the respondent company has not handed over the club to the society. It is also submitted that with effect from July 2025 onwards, the respondent company has fixed a booking amount of Rs. 10,000/- for organizing any function or programme in the club, which is applicable equally to both club members and non-members, thereby rendering the club membership meaningless. The complainant submitted that the club at Omaxe Parkwood, Baddi, cannot be constructed with contributions from merely 50-60 members when there are more than 700 flats in the project. The respondent company has already collected club membership charges from a limited number of allottees, including the complainant, without completing or handing over the club facilities. In view of the above facts, the complainant prayed that the amount of Rs. 25,000/- was illegally and forcibly collected from him towards club membership, which is not compulsory and is therefore entitled to refund of Rs. 25,000/-.

4. ARGUMENTS ON BEHALF OF THE COMPLAINANT

The complainant submitted that the amount of Rs. 25,000/- was forcibly collected from him by the respondent company in the year 2019 at the time of registration of the flat. It was argued that the

registration of the flat was deliberately withheld and the complainant was subjected to harassment, with a clear demand that unless club membership charges were paid, the registration would not be processed. The complainant stated that the club membership was never part of the Agreement for sale and was not a contractual obligation. It was further submitted that the complainant was compelled to sign the club membership application form under coercion solely to get the registration completed. The complainant categorically denied that the payment was voluntary and stated that the cheque was issued only due to pressure by the respondent company. The complainant clarified that the respondent has wrongly claimed receipt of Rs. 29,500/- towards club membership. In fact, only Rs. 25,000/- was finally deposited, which is evident from cheque no. 058022 and the payment statement issued by the respondent himself. The complainant submitted that an earlier cheque of Rs. 29,500/- was not acted upon and was replaced by a cheque of Rs. 25,000/-, which was deposited. The complainant seeks refund only of Rs. 25,000/-. It was further argued that club membership was not compulsory, as out of more than 700 flats in the project, only about 40-50 allottees have paid club charges. Several residents have categorically stated that they never paid any club membership amount. The complainant further submitted that 2-3 allottees have already obtained refund of Rs. 25,000/-, which establishes discrimination on the part of the respondent. The complainant emphasized that the consolidated statement of payments issued by the respondent himself mentions the club membership amount as "interest-free and refundable" in the last entry. Despite this clear representation, the respondent has failed to refund the amount. The

complainant further submitted that even after more than years passed, no benefit of club membership has accrued to him. The club has not been handed over to the society and remains non-operational, with locks placed on the premises. It was argued that even club members are required to pay a booking amount of Rs. 10,000/- for any function, which is also applicable to non-members, rendering the membership meaningless. It was also argued that the respondent collected club membership charges from a very small number of allottees, which is insufficient to construct or maintain a club facility meant for a project of over 700 flats. The complainant denied that club construction was completed in 2019 or 2023 and submitted that no completion certificate or handover document has been provided. It was contended that the club is not operational even as on date. The complainant prayed that the rejoinder may be treated as his final submissions and sought refund of Rs. 25,000/- along with interest, stating that he has suffered harassment for several years due to the respondent's arbitrary conduct.

5. ARGUMENTS/ SUBMISSIONS ON BEHALF OF THE RESPONDENT

The ld. counsel for the respondent argued that the complaint is vague, misconceived, and devoid of material particulars. It was submitted that the complainant has not pleaded when the club was constructed, whether it was operational or non-operational, whether any benefits were denied, or whether any promised amenity was not provided, and therefore the complaint does not fall within the scope of Sections 11 or 18 of the RERA Act. It was further submitted that the complainant himself executed an Affidavit-cum-Undertaking dated 12.12.2016, wherein he specifically requested the respondent company to defer the demand of club membership charges and unequivocally acknowledged

that the liability to pay club charges was not waived. The complainant undertook to pay the charges as and when demanded upon completion of the club at the prevailing membership rate. The ld. counsel further relied upon the complainant's handwritten communication dated 20.09.2019 and his email of the same date, wherein the complainant expressly acknowledged deposit of Rs. 25,000/- plus GST towards club membership and requested the respondent to add the club membership to his flat. It was argued that these documents constitute clear and voluntary acceptance of the club membership charges. It was contended that the complainant approached the Authority only in 2025, whereas the payment was made in 2019, and therefore the complaint suffers from gross delay and laches. The complainant failed to provide any cogent or reasonable explanation for not approaching the Authority earlier. The ld. counsel further argued that club membership charges are a one-time levy and do not constitute a continuing cause of action. Once the charges were accepted and paid without protest, the cause of action, if any, stood exhausted in 2019. It was further submitted that the club has been constructed and is operational, and therefore the complaint does not fall within the Sections of 11 or 18 of the RERD Act. In case the complainant was alleging mental harassment or inconvenience, the appropriate remedy would have been to approach the Adjudicating Authority or Consumer Forum, which he has not done. The respondent also objected that the complainant has not placed any documentary evidence on record, such as photographs or official records, to establish that the club is non-operational. It was argued that oral submissions without documentary proof cannot form the basis of directions against the respondent. The ld. counsel for the

respondent further submitted that he would place on record the completion certificate and documents showing operational status of the club within a short period and to supply an advance copy to the complainant. The respondent finally prayed that the complaint be dismissed as barred by delay, waiver, acquiescence, and lack of merit.

6. ISSUE TO BE DECIDED: - On the basis of pleadings of the parties, following issue arises for determination.

- Whether the club membership charges of Rs. 25,000/- were contractually payable under the Agreement for Sale executed between the parties and whether the complainant is entitled to refund of Rs. 25,000/-?

7. DISCUSSION AND FINDINGS ON THE ISSUE:-

- **Whether the club membership charges of Rs. 25,000/- were contractually payable under the Agreement for Sale executed between the parties and whether the complainant is entitled to refund of Rs. 25,000/-?**

This Authority has carefully examined the Agreement for Sale dated 29.11.2016, along with its Annexure-B (Part-I), Annexure-B (Part-II) and Annexure-B (Part-III), which form an integral and binding part of the contractual arrangement between the parties. From Annexure-B (Part-II) – “Cost Details of Unit”, it is evident that an amount of Rs. 25,000/- is specifically mentioned under the head “Club Cost”. The said club cost is not shown as optional or conditional but forms part of the total sale consideration agreed to between the parties. The total cost of the unit has been calculated after including the club cost along with other charges such as maintenance security and statutory levies. Further, under Clause

8(a) of the Agreement for sale, the complainant/ buyer has agreed to pay the basic sale price and other charges as mentioned in Annexure-B. The clause specifically provides that the complainant/ buyer shall pay all charges as applicable under the Agreement. The clause 8(a) of the agreement for sale is reproduced as under:-

"The Buyer(s) hereby agrees to pay to the Company in timely manner the Basic Sale Price, Additional Cost, Preferential location charges, etc. as per the payment plan opted by the Buyer(s) in Annexure-B(Part-III), which is the essence of this Agreement. In addition to the above, the Buyer(s) specifically agrees to pay promptly to the Company, the applicable Service Tax, Cess etc. levied/ to be levied by the Government on services undertaken/ to be undertaken by the Company while constructing or developing the said Unit / Project. The Buyer(s) further agrees to pay directly or if paid by the Company then reimburse to the Company on demand any Govt. levies, Property Taxes, other charges etc. leviable in future on the said Land and/or Project developed/ constructed on the said Land or the said Unit, as the case may be, as assessable/ applicable in respect of the said Unit to the Buyer(s) and the same shall be borne and paid by the Buyer(s) in proportion to the area of the said Unit to the area of all the Units in the said Project as determined by the Company. If such charges/cost are increased (including with retrospective effect) after the sale deed has been executed then such charges/cost shall be treated as unpaid sale price of the said Unit and the Company shall have the first charge/ lien on the said Unit for recovery of such charges/cost from the Buyer(s).

Further, the Agreement for Sale expressly provides that additional charges, including club cost, shall be payable by the allottee and may be demanded by the company at the time of offer of possession. The table of the cost detail is reproduced as under:-

ANNEXURE-B(PART-II)

COST DETAILS OF UNIT

(A) BASIC COST OF SAID UNIT				
Basic Sale Price said unit				
Area		Rate		Total BSP
779	72.37	1816.44	19552.35	1,415,003.45
Sq.Ft.	Sq. Mtr.	Sq.Ft.	Per Sq. Mtr.	

(ii) Preferential Location Charge (PLC)		0.00
(B) ADDITIONAL COST		
1.	Electrical Equipment Cost-1	10,000.00
2.	Club Cost	25,000.00
(C) MAINTENANCE SECURITY		
1.	Interest Free Maintenance Security	20,000.00
(D) GOVT. LEVIES		
TOTAL (A+B+C+D): Rs. 1,470,003.45 (Rupees Fourteen Lakh Seventy Thousand Three And Forty-Five Paise Only)		
Stamp Duty, Registration Charges, Cost towards individual Electricity Meter, External Electrification, Water & Sewerage, External Development Charges & Infrastructure Development Charges (any increase), car parking (if any), Club (if any), any other cost are not included in price and shall payable by the Buyer(s) on demand by the Company on offer of possession of the said unit or as and when demanded by concerned Competent Authority (in case of EDC & IDC, Lease Rent, Other Govt. Levy, imposition etc.)		

This clause clearly establishes that the parties consciously agreed that club membership charges were payable, though the timing of demand was deferred to the stage of possession. Careful perusal of the Agreement for sale shows that the complainant voluntarily accepted the complete cost structure, including the club cost, at the time of execution of the Agreement. The complainant never disputed


the inclusion of club cost in the Agreement at the time of signing, nor sought deletion of the said clause. Therefore, the contractual obligation to pay club membership charges became binding upon the complainant from the date of execution of the Agreement for Sale. The Authority also notes that the undertaking dated 12.12.2016 executed by the complainant further emphasizes this position. In the said undertaking, the complainant specifically acknowledged the liability to pay club membership charges and merely sought deferral of payment till offer of possession. Such an undertaking amounts to a clear admission that the club charges were payable and not waived. The request for deferral does not refute or deny the contractual liability already accepted by the complainant. Once a charge is expressly mentioned in the Agreement for Sale and is accepted by the allottee/ complainant, the same cannot be treated as optional merely on the basis of subsequent conduct or selective enforcement. The rights and liabilities of the parties flow from the Agreement for Sale executed between them and the complainant is bound by the terms of the Agreement for sale which he has voluntarily accepted. The contention that some other allottees may not have paid club charges cannot override the clear contractual obligation contained in the complainant's own Agreement for Sale. Any deviation or concession granted by the respondent to other allottees does not absolve the complainant from complying with his contractual obligations. Therefore, on a careful perusal of the Agreement for Sale along with its annexures, this Authority holds that club membership charges of Rs. 25,000/- were a contractual and mandatory charge as per the agreement for sale, payable by the complainant, and the

complainant was legally liable to pay the same at the time of offer of possession. Accordingly, under the Real Estate (Regulation and Development) Act, 2016, particularly Sections 11 and 18, refund is considered where there is delay in possession, cancellation of allotment, failure of the promoter to complete the project, or violation of statutory obligations by the promoter. In the present case, the complainant has neither sought cancellation of allotment nor alleged delay in possession attributable to the respondent. The grievance relates solely to club membership charges which were part of the agreed cost under the agreement for sale. Therefore, once club membership charges are held to be contractually payable, this Authority finds no legal ground under the Act to direct refund of Rs. 25,000/-.

In view of the findings recorded above, and in exercise of the powers conferred upon this Authority under the Real Estate (Regulation and Development) Act, 2016 and the Rules, holds that, the complaint filed by the complainant seeking refund of Rs. 25,000/- towards club membership charges is dismissed as the complainant was legally liable to pay the said amount at the time of offer of possession.



**R.D. DHIMAN
(CHAIRPERSON)**



**VIDUR MEHTA
(MEMBER)**