

**BEFORE THE HARYANA REAL ESTATE REGULATORY  
AUTHORITY, GURUGRAM**

Complaint no. :	4792 of 2022
Date of filing complaint:	27.07.2022
Date of decision:	09.08.2024

Rajesh Khatana R/O: Village Rehtoj (169), Tehsil-Sohna, Haryana - 122102	<b>Complainant</b>
Versus	
Signature Global Homes Private Limited Regd.Office: 1309, 13th Floor, Dr. Gopal Das Bhawan, 28 Barakhamba Road ,New Delhi-110001	<b>Respondent</b>

<b>CORAM:</b>	
Shri Sanjeev Kumar Arora	<b>Member</b>
<b>APPEARANCE:</b>	
Sh. Rajan Kumar Hans (Advocate)	
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 29 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 provision of the Act or the rules and regulations made there under or to the allottee as per the agreement for sale executed inter se.

**A. Unit and project related details**



2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession and delay period, if any, have been detailed in the following tabular form:

S.No.	Heads	Information
1.	Name of the project	Signature Global Park-II Village-Dhunela, Gurugram, Haryana.
2.	Rera Registered/Not Registered	Registered GGM/429/161/2020/45 dated 09.11.2020 valid up to 31.12.2022
3.	DTCP License No.	39 of 2019 dated 01.03.2019 valid up to 29.02.2024
4.	Date of booking	02.07.2020 (page 2 of reply)
5.	Allotment letter	10.08.2020 (page 36 of reply)
6.	Unit no.	N-13, 2 <sup>nd</sup> Floor (page 36 of reply)
7.	Unit admeasuring	Super area- 745.515 sq. ft. (page 36 of reply)
8.	Date of execution of agreement for sale	Not executed
9.	Possession clause	<b>16. "That the company shall complete the construction of the above independent floor within 24 months from the date of booking + grace period of 6 months."</b>  (as per application form on page 24 of reply)
10.	Due date of delivery of possession	02.01.2023 (Calculated from the date of booking)



		(grace period is allowed being unqualified)
11.	Total sale consideration	Rs.37,60,202/- (page no. 19 of reply)
12.	Total amount paid by the complainant	Rs.3,79,635/- (page 15 of complaint)
13.	Pre-cancellation notice	13.03.2021 (page 46 of reply)
14.	Cancellation notice	09.07.2021 (page 39 of reply)
15.	Reminder letter	19.07.2021 , 02.08.2021 (page-40 , 42 of reply)
16.	Final Settlement letter (cancellation letter)	31.10.2021 (pg. 15 of complaint)
17.	Legal notice for refund	29.04.2022 (pg. 16 of complaint)
18.	Mail by respondent requesting for execution of BBA	18.06.2021, 29.06.2021 (pg. 37 of reply)
19.	Occupation certificate	Not obtained
20.	Offer of possession	Not offered

### **B. Facts of the complaint**

3. That the project in question is known as "Signature Global Park-2", located in Sector-36, Sohna, Gurgaon promoted by respondent builder i.e Signature Global Homes Pvt. Ltd.

4. That the complainant along with their family members visited the site. The location was excellent and they consulted the local representative of



the developer. The local representative of the developer allures the complainant with specification of the project.

5. That on 02.07.2020, the complainant paid an amount of Rs. 40,000/- as the booking amount. The respondent failed to get the builder buyer agreement executed for the said unit. The respondent even without getting the builder buyer agreement executed, pressured the complainant to shell out more money to pay for the unit.

6. That the unit in question is unit no. n-13, second floor, tower-s2 and the basic sales price of the unit arrived at Rs. 37,60,190/- .On various demands of the respondent, till date the complainant has already paid an amount of Rs.3,79,635/-.

7. That the respondent demanded more money from the complainant and was not even executing the builder buyer agreement for the said unit. The respondent sent a final settlement letter dated 31.10.2021, as per the final settlement letter the refundable amount shown is Rs. 3250/- only against the amount Rs.3,79,635/- paid to the respondent.

8. That the complainant sent a legal notice to the respondent dated 29.04.2022 , as per the legal notice the respondent was not following the Real Estate (Regulation & development) Act,2016 properly.

9. That the main grievance of the complainant in the present complaint from respondent , is that neither the builder buyer agreement was executed but the respondent wanted to demand more money and the respondent has forfeited the amount paid by the complainant.

10. That for the first time cause of action for the present complaint arose on 02.07.2020, when booking amount was paid by the complainant .Further the cause of action again arose when builder buyer agreement was not executed of the unit and various occasions, when the payments were paid

and protests were lodged with the respondent about its failure to provide the buyer's agreement of the unit. The cause of action is alive and continuing and will continue to subsist till such time as this Hon'ble Authority restrains the respondent by an order of injunction and/or passes the necessary orders.

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

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

- i. Direct the respondent to refund the amount received by the promoter in respect of allotted unit with interest at the prescribed rate.

**D. Reply by respondent:**

The respondent by way of written reply made the following submissions:

12. That the complainant had booked Flat No.N13, 2ND Floor, Signature global Park-II, Sohna, Gurgaon on making part payment of booking amount i.e. Rs.40,000/- on 02.07.2020 against which allotment letter dated 10.08.2020 was issued to the complainant.

13. That complainant categorically agreed in duly submitted application form to get forfeited 10% cost of the flat along with GST and interest over dues. The complainant before submitting the duly filled application, admittedly not only visited the project site but also make extensive enquiry about proposed terms and conditions of allotment. Thereafter being satisfied with proposed terms and conditions of allotment, complainant booked the unit.

14. That in terms of the allotment letter dated 10.08.2020 the complainant was to make payment of the balance amount as per the schedule attached



with the allotment letter. However, the complainant could pay only a sum of Rs.3,29,635/- vide receipt dt.27.07.2020 and no further payment was made to the respondent against the allotment of the said flat.

15. That the respondent sent several email for execution of the buyer's agreement but the complainant miserably failed to execute the buyer's agreement until date.

16. That the complainant also sent various reminders through email and by way of letters for making payment of the balance amount in accordance with the allotment letter but in vein.

17. That since the complainant failed to make payment of the aforesaid amount within the time stipulated despite various reminders, the respondent cancelled the allotment vide email dated 31.07.2021 and in accordance with the application form the amount was forfeited to the extent of 10% cost of the flat, GST and interest overdues and no amount was left to be refunded. In view of the above the complaint deserves to be dismissed.

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

**E. Jurisdiction of the authority:**

19. The plea of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. 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**

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**

20. 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.*

21. 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 complainants at a later stage.

22. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgements passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers***

***Private Limited Vs State of U.P. and Ors. 2020-2021 (1) RCR (c) 357 and reiterated in case of M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down 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. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, is extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016.”*

23. Hence, in view of the authoritative pronouncement of the Hon’ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

**F. Entitlement of the complainant for refund:**

**F.I Direct the respondent to refund the amount received by the promoter in respect of allotted unit with interest at the prescribed rate.**

24. In the present matter the subject unit was allotted to the complainant on the basis of allotment letter on 10.08.2020. No buyer’s agreement is executed between the parties. The due date of possession is calculated as





per clause 16 of the application form dated 02.07.2020. The respondent was obligated to deliver the possession of the unit within 24 months from the date of booking plus grace period of 6 months. The period of 24 months ends on 02.07.2022. As far as grace period of 6 months is concerned the same is allowed being unqualified. Therefore, the due date of handing over of the possession of the unit comes out to be 02.01.2023.

25. The respondent sent reminder letters for making the payments due and requesting the complainant for executing the BBA. The respondent after waiting patiently for complainant to come forward to execute the BBA and make the outstanding payments, cancelled the unit of the complainant vide letter dated 31.10.2021 wherein the amount paid being 10% was forfeited by the respondent. Since the respondent issued the said cancellation letter dated 31.10.2021 after issuing appropriate reminder letters accordingly, the said cancellation letter is being upheld by the authority and no case of refund is made out.

26. Complaint stands disposed of.

27. File be consigned to the registry.

**HARERA**  
**GURUGRAM**

  
(Sanjeev Kumar Arora)  
Member

**Haryana Real Estate Regulatory Authority, Gurugram**

**Dated: 09.08.2024**