



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

**Complaint no.** : 1816 of 2024  
**Date of filing** : 01.05.2024  
**Date of decision** : 07.01.2025

Neena Sekharan

**R/O** : 1201, Tower 14, Vipul Greens, Sector 48,  
Sohna Road

**Complainant**

Versus

1. M/S Maxworth Marketing Private Limited and Vipul Ltd and Orchid Infrastructure Developers Pvt Ltd.  
Regd. office : Vipul Techsquare, Golf Course Road, Sector-43, Gurgaon 122009, Haryana
2. M/S Vipul Greens Residents Welfare Association  
Regd. Office: RWA office, Vipul Greens, Sector - 48, Sohna Road.
3. Amit Jindal as President of Vipul Greens Residents Welfare Association  
Regd. Office: Tower 5, Flat 1401 Vipul Greens, Sohna Road.
4. Dheeraj Garg as General Secretary of Vipul Greens RWA  
Regd. Office: Flat no 502, Tower 19 Vipul Greens, Sohna Road
5. OTIS Elevator Company India  
Regd. Office: 423, Qutub Plaza, DLF Phase 1, Gurugram
6. Municipal Corporation Gurugram through its Commissioner  
Regd. Office: Plot No. C-1, Info. City, Sec-34, Gurugram
7. Chief Town Planner Gurugram



- Regd. Office: HUDA Complex, Sec-14,  
Gurugram
8. Maxworth Marketing Private Limited  
Regd. Office: Vipul Techsquare, Golf  
Course Road, Sector-43, Gurugram
9. Vipul Ltd.  
Regd. Office: Vipul Techsquare, Golf  
Course Road, Sector-43, Gurugram
10. Orchid Infrastructure Developers Pvt Ltd  
Regd. Office: Level II, Global Arcade,  
Mehrauli-Gurgaon Road.

**Respondents**

**CORAM:**

Shri Arun Kumar  
Shri Ashok Sangwan

**Chairman**  
**Member**

**APPEARANCE:**

Complainant in person  
Sh. Harshvardhan proxy counsel  
Sh. Rishab Gupta (Advocate)  
Sh. Ishaan Dang (Advocate)

**Complainant**  
**Respondents no. 2,3 and 4**  
**Respondents no. 1,8 & 9**  
**Respondent no. 10**

**ORDER**

1. The present complaint has been filed by the complainant against 10 respondents, seeking the relief of restraining respondent no. 2, namely VGRWA, from constructing or installing lifts in the basement of the project. The other reliefs sought are related to the above main relief. No specific section of the Act has been cited in support of the alleged violations by the respondents

**A. Unit and project related details**

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



S.No.	Particulars	Details	
1	Name of the project	"Vipul Greens", Sector-48, Gurugram	
2	Nature of the project	Residential Group Housing Colony	
3	Rera Registered/Not registered	Not registered	
4	Building Plan	23.11.2000	
5	Revised building plan	20.07.2014	
6	Total no. of units as per approved building plan	Towers 1023 (644 units) EWS Block (127 units) Shops (14) Community Centre Nursery School	
7	Occupation certificate	Dates	Towers
		04.07.2007	6-12
		04.03.2008	14-20
		22.06.2010	3,5,22
		14.01.2011	1,2,4 & 21
		29.12.2012	EWS Block (127 units), Shops (14), Community Centre
	15.05.2013	23	

**B. Facts of the complaint**

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

- I. That the complainant is female lawyer and a resident and owner of apartment no 1201 Tower 14 located in the residential gated society named 'Vipul Greens' in Sector-48, Sohna Road, Gurugram along with two parking lots namely no. 121 in upper basement and no. 002 in lower basement in Phase 3 of 'Vipul Greens. Complainant has been residing at this apartment since June 2008.
- II. That the residential colony 'Vipul Greens' has been in existence since 2007 and is home to nearly 2,500 residents in the 23 residential towers housing 644 individual apartments spread over 17.18 acres in three phases and with each phase having a two-level basement for parking of personal vehicles under an artificially created park.
- III. That the Vipul Greens Resident Welfare Association ('VGRWA') with Registration ID: HR 018201300203 constituted under Haryana Apartment Act 1983, are operating through its office bearers primarily the president namely Amit Jindal and Secretary namely Dheeraj Garg. Both president and secretary take day to day decisions of working of the VGRWA along with support from other office bearers of the RWA.
- IV. That M/s Maxworth Marketing Private Limited (R8) owns the 17.188 acres of land in Village Tikri, Tehsil & District-Gurgaon, Haryana along with easement rights on which the group housing project of 'Vipul Greens' has been developed.
- V. That respondent 7, M/S Vipul Ltd (respondent 9) and M/S Orchid Infrastructure Developers Pvt Ltd (respondent 10) enter a into a development agreement dated 22.10.2003 for development of the said



plot for a Group Housing Project originally named 'Orchid Greens' and subsequently changed name to 'Vipul Greens'.

- VI. That as per the terms of the abovementioned development agreement dated 22.10.2005, respondent no. 8 agreed to transfer all their rights, entitlements and interests in construction of corresponding 13, 10, 241 Sq. ft. of floor area ratio (hereinafter referred to as "FAR") area including proportionate area for EWS along with proportionate undivided share in the land underneath in the said group housing scheme, into respondent 8, respondent 9 and respondent 10 along with the rights to develop, market and sell the FAR in the said Vipul Greens.
- VII. That respondent 9 and respondent 10 entered into the abovementioned development agreement dated 22.10.2003 with Respondent 8 for the development of the said plot for a Group Housing project originally named 'Orchid Greens' and subsequently changed to 'Vipul Greens.
- VIII. That on 21.02.2013, the office of Senior Town Planner, Gurgaon, on behalf of DTCP Haryana had issued a directive to the various colonizers and developers including respondent 8, 9 & 10 to handover part of the condominium to VGRWA for which occupation certificate had been granted.
- IX. That on 27.03.2018, the complete maintenance and operation services of the condominium was entrusted to the respondent no.2 with effect from 01.04.2018. The RWA bills and collects maintenance and other charges from the individual apartments/their owners on regular/monthly basis, and RWA president and RWA are under obligation to use this money for

various activities for welfare of the residents of the Vipul greens society, as per wish and consent of all the members of the RWA.

- X. That the complainant being owner of an apartment at Vipul Greens, Sohna Road Gurgaon is also member of RWA, and regularly pays fee for being a member of this association.
- XI. That the basement is common area along with the internal roads and gardens and owners of individual apartments pay for their maintenance and use on a quarterly basis.
- XII. That in August 2023, the Vipul Greens Residents Welfare Association (VGRWA) has arbitrarily decided to create a fresh amenity of passenger lifts in the basement parking which was not in the original plan based on which the owners have received occupation certificate. They have also not taken any statutory approvals from competent authorities prior to the commencement of the civil work.
- XIII. That the creation of a fresh amenity of passenger lifts in the basement parking which was not in the original plan based on which the owners have received occupation certificate is defined as 'development' under section 2(s) of the RERA Act, 2017.
- XIV. That as per the original approved plans of 'Vipul Greens', on the basis of which occupation certificate was granted to the owners of the society, the residential towers are not connected directly to the basement through any lift and the residents need to walk to the basement which is a few meters away from every tower. The entry to the basement is on the ground level and individuals can reach their personal vehicles by taking



the stairs or the ramp whose entry points are near the periphery of the park developed on top of the two-level basement structure.

- XV. That in the month of December 2023, by way of invoice raised by the VGRWA, the complainant was informed that VGRWA members have decided to install new lifts connecting the basement with the ground floor level in the park in each of the three phases.
- XVI. That the civil work for the installation of the fresh amenity of passenger lifts in the basement parking commenced on 15.02.2024 without obtaining statutory approvals / permissions from competent authorities as required under the Haryana Building Code 2017.
- XVII. That on 17.02.2024, the vipul greens maintenance office shared a notice / circular number Circular no. VGRWA/2023-24/025 dated 16.02.2024 through the MyGate App used by all residents stating the following:  
*"Lift installation for basement parking the lift installation work consists of two parts, civil and lift. The civil work has commenced and should be completed in about a month. The civil work is being done in the lift wells provisioned by the builder in the initial design. Order for the lifts has been placed with OTIS. OTIS will help us with all the necessary compliance approvals and NOCs before the lifts are installed."*
- XVIII. That the statement through the above said notice "OTIS will help us with all the necessary compliance approvals and NOCs before the lifts are installed" clearly shows that no approvals for undertaking any construction and / or civil work were taken till that day even though the notice says that the civil work has already "*commenced and should be completed in about a month*".

- XIX. That the complainant also sent an email to vipul greens maintenance office and to the vipul greens residents welfare association regarding supply of documents relating to any technical feasibility study and/or approval for such construction but no response to said email has been given to complainant.
- XX. That on 18.02.2024 a meeting was held from 11:30 AM to 1:45 PM at the Vipul Greens approximately 30 other residents including the complainant. During the said meeting, the VGRWA office bearers admitted that NO technical feasibility study was done for the construction and installation of the lifts in the basement and the work started based only on assessment by staff of the contracted elevator company namely OTIS Elevator company. VGRWA office bearers also informed that that 90% of the costs have already been paid to - Respondent 5 which is the OTIS Elevator company without any evidence of a technical feasibility study or mandatory statutory approvals for the project.
- XXI. That on 22.02.2024, the complainant filed a Civil Suit CS/665/2024 in the District Court in the basement until statutory approvals have been obtained. The application seeking ad-interim permanent and mandatory injunction to stop the work on the lift in the basement until statutory approvals have been obtained WAS DISMISSED by the Hon'ble Civil Judge (Junior Division) vide order dated 16.03.2024.
- XXII. That in the order of the abovementioned application, the Hon'ble Civil Judge (Junior Division) relied on submission by the Respondents 2, 3 & 4





that the lift is "being this residential colony is an artificially created park that lies on top of a two level basement below the park, wherein the basement serves as a parking lot for the residents' personal vehicles and for whose benefit they want to install the lifts in the basement. What the Defendants 2, 3 & 4 have described as "pits in the park" are in fact openings in the park formed by beams and pillars of the basement that lie under the park and any unplanned impact on them during the civil work for installing lifts and even after could prove fatal.

XXIII. That the Municipal Corporation of Gurugram (hereinafter called 'MCG') also Respondent 6 in the instant HARERA complaint has been made a party in the abovementioned Civil Suit CS/665/2024 in the District Court of Gurugram seeking a permanent and mandatory injunction to stop the work on the lift in the basement until statutory approvals have been obtained. ' The MCG has filed an application under Order 1 Rule 10(2) of the Civil Procedure Code stating that "the said area of Vipul Green, Sector - 48, Gurugram is a licensed colony and does not fall within the limit of Municipal Corporation, Gurugram" even though the owners of every apartment of Vipul Greens have been paying property tax to the MCG since the colony came into existence.

XXIV. That the DTCP has been made a respondent in the abovementioned Civil Suit CS/665/2024 in the District Court of Gurugram seeking a permanent and mandatory injunction to stop the work on the lift in the basement until statutory approvals have been obtained and that the DTCP has not yet filed their Written Statement in this abovementioned Civil Suit.



- XXV. That based on a complaint made by the complainant to the Haryana CM Office vide complaint number CMOFF/N/2024/023265, the DTCP summoned the VGRWA Office bearers and were wrongly informed by the VGRWA Office bearers that the work has not started and that they would get the statutory approvals from the DTCP.
- XXVI. That the STP Gurgaon Town and Country Planning was informed as below: *"As per the report received from DTP(E), Gurugram the construction work has not been started. The concerned RWA appeared in this office on dated 03.04.2024 and informed that the matter is sub-judice before the Hon'ble District Court, Gurugram and as per the orders dated 16.03.2024 passed by said Court the same has been allowed subject to approval under lifts and escalators Act, 2008 within a period of one month of the installation. The RWA undertook that they will get the needful approval from this Department also. In view of the same and report of DTP(E), Gurugram & since the matter is sub-judice, the grievance may be filed from this portal."*
- XXVII. That despite informing the DCP that they would secure necessary approvals and WRONGLY claiming that the work has not yet started, the work continues to this date without obtaining the statutory approvals from competent authorities. The recent photographs from the three different phases in Vipul Greens have been annexed.
- XXVIII. That the structural stability of the framed structure is at danger as the foundation mat (foundation of the basement), which is continuous along both the axis, has been cut, including reinforcement, thereby the area of

the foundation has been reduced. The discontinuity of foundation slab shall result in redistribution of flexure and shear. This damage is irreparable.

- XXIX. That due to decrease in foundation area, there can be a concentration of load which will exceed the safe bearing capacity of soil and can result in column settlement.
- XXX. That in the likely event of heavy rainfall, the flooding of the basement cannot be ruled out and, in such circumstances, the structural change done to the foundation mat may prove fatal.
- XXXI. That the DCP did not conduct any site visit to verify whether the claims made by the VGRWA Office bearers was true and the work had indeed not started although enough documentary and photographic evidence has been made available that the civil work had begun without securing statutory approvals from the competent authorities.
- XXXII. That as per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the instant case, the project 'Vipul Greens' is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.
- XXXIII. That the VGRWA and their Office bearers being responsible for the day-to-day maintenance and operation services of the condominium since 01.04.2018 are responsible for the decision for the installation of the lifts

in the basement of the three phases of the Vipul Greens residential colony undertaken without obtaining statutory approvals from the competent authorities and are therefore liable to be penalized by this Authority under the RERA Act 2017.

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

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

- I. To Grant Interim Injunction and restrain the VGRWA from undertaking any construction or digging for installation of lifts in the basements at Vipul Greens, Sohna Road Gurugram, till the time all necessary approvals are obtained from Govt Authorities, and structural safety assessment is done through some empanelled structural Engineer.
- II. On account of urgency that the VGRWA are undertaking construction making structural changes to the existing structures, hence an Ex Parte Ad Interim injunction be granted against the Respondents restraining them from doing any construction or digging for installation of lifts in the basements, till the time all necessary approvals are obtained from competent Govt Authorities, and structural safety assessment is done through an empanelled structural Engineer.
- III. Restrain respondent 5 from installing any lift in the basements until all statutory approvals have been obtained from competent authorities by respondents.
- IV. Refrain respondents from harassing the complainant.
- V. Impose suitable penalty on the Respondent 2, 3, 4, 5, 6 & 7 for their dereliction of duties and for making misleading statements to the Government Authorities.
- VI. Direct Respondents to cooperate with the Complainant in ensuring the safety and security of life and property at Vipul Greens with respect to the construction of the lift in the basements.
- VII. Grant litigation cost of Rs. 1,00,000 to the Complainant.

5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the act to plead guilty or not to plead guilty.

**D. Reply by the respondent no. 2, 3 and 4: -**

6. The respondents have contested the complaint on the following grounds.
- The present reply is being filed on behalf of respondents 2, 3 & 4 (hereinafter referred to as "**Answering Respondents**") pursuant to the notice received by the answering respondents for filing a reply to the instant complaint.
  - It is submitted that the present complaint has been filed on frivolous grounds by the complainant and no cause of action has been made out against the answering respondent.
  - That the respondents by submitting the short reply challenging the maintainability of the complainant qua them and hereby reserve their rights to file a detailed reply to the present complaint at the appropriate stage of proceedings if required.
  - That the complainant has admittedly mentioned that lifts are being installed in the basements for entries in the basement. It is further submitted that the complainant cannot plead ignorance of facts for the reason the complainant has been staying in the society since 2008. The cloud of illusion has been created by the complainant to portray as if the lifts are being installed in the main towers. Further, the lifts are being installed for the benefit of the residents especially the senior citizens who are otherwise unable to climb and descend the steep stairs which is

presently the only way to enter the basements. It is not out of the place to mention that the tower lifts are not touched for the present purposes as admitted by the complainant in para 18 of her complaint.

- e. That secondly, insofar as the approvals are concerned, the answering respondents hereby submit the following:

*“structural audit conducted by the audit agency in February 2024 who conducted ‘rebound hammer and cover meter test’ to conclude “as per the NDT work done the structure is found to be safe for installation of RCC lift in the basement only some civil norms need to be followed which was mentioned in the report end.” copy of the structural audit report is annexed.*

- f. That Structure Stability Certificate was also issued on 25.02.2024 by O.B. Developers (Structure Audit Agency), which certifies that the proposed lifts are safe and stable and Structural Stability will not get hampered due to lift installation.

- g. That on 06.08.2023 answering respondent VGRWA (Vipul Greens Residents Welfare Association) conducted its annual general meeting, in which planned projects of 2023-24 were discussed among the members. It is apposite to mention here that approximately 80 members of the answering respondent RWA attended the aforesaid meeting and in Item no. 5 of minutes of meetings dated 12.08.2023 following agenda was affirmed as under:

***“Majority of the members present passed all the projects. Expenses for these projects will be invoiced one time to resident”.***

- h. That the respondent no.2 herein Vipul Greens Residents Welfare Association is a body registered with the District Registrar, Firms & Societies Gurgaon vide Registration No. DR/GGN/47 dated 16.10.2008 and as such is a residents welfare association, acting for and on behalf of apartment owners of Vipul Greens Complex by the name of VIPUL GREENS, Sector 48, Gurgaon ("**Vipul Greens**") since October 2008. The said Registration was further re-affirmed vide Registration Certificate No. HR/018/2013/00203 in accordance with the provisions of the Haryana Registration and Regulation of Societies Act, 2012 ("**HRRS**"). It is pertinent to mention that a registered society under the provisions of HRRS does not fall under the purview of RERA and thus, the present complaint filed by the complainant is liable to be dismissed *in limine*.
- i. That the complainant is a disgruntled resident of Vipul Greens Complex and has approached multiple forums without having any knowledge of facts and law. It is submitted that Vipul Greens Complex consists of 644 residential flats housing more than 2,500 people and out of all the residents only 1 resident i.e., the complainant is creating unnecessary hindrances and obstructions in the works meant for the welfare of the residents.
- j. The complainant on February 22, 2024, filed a Civil Suit bearing CS No. 665 of 2024 before the Ld. District Court, Gurugram seeking the following prayers:
- i. *Pass a decree of permanent and mandatory injunction against the defendant no 1, defendant no 2 & 3, restraining defendants from proceeding with construction work, for erecting new lifts without safety checks, without technical feasibility study,*



- without report from some structure engineer and without all necessary approvals from MCG, DTCP and other relevant government and statutory authorities.*
- ii. *Pass a decree of permanent and mandatory injunction against the defendant no 1, defendant no 2 & 3 directing defendants to carry out any work only with approval of all the residents of Vipul Greens, Sector 48, Sohna Road, Gurugram, and not upon arbitrary decision of a few individuals.*
  - iii. *Pass a decree of permanent and mandatory injunction directing defendant no 1 and its office bearers, not to harass the plaintiff in present and future.*
  - iv. *Costs be awarded in favour of plaintiff and against defendants.*
  - v. *Pass any other order in favour of plaintiff and against defendants which this court may deem fit and appropriate under the present facts and circumstances.*
- k. That In the aforesaid suit, the complainant also filed an application seeking interim injunction against the answering respondents. However, the same was dismissed vide order dated 16.03.2024.
- l. That during the pendency of the suit, the complainant admittedly filed another complaint on CM Window Portal bearing number CMOFF/N/2024/023265 raising the verbatim objections as already sub-judice before Ld. District Court, Gurugram. The said complaint was marked for disposal and no relief was granted to the complainant as she was not able to prove her case.
- m. It is pertinent to mention that the complainant is still pressing her application seeking an interim injunction against Otis Elevator Company India Respondent No. 5 herein and the hearing for the same is coming up on 14.08.2024 before the Ld. District Court, Gurugram.
- n. That the complainant in the very first para of the complaint has claimed herself to be a lawyer and yet has drafted a defective memo of parties which clearly shows her knowledge of law and facts. It is imperative to mention that in the complaint the complainant has named the same parties twice i.e., the Respondents 1, and 8, 9 & 10 are identical, being,



M/s Maxworth Marketing Pvt. Ltd., M/s Vipul Ltd. and M/s Orchid Infrastructure Developer Pvt. Ltd.

- o. That the complainant is attempting to evade the Hon'ble Regulatory Authority's scrutiny by duplicating the respondents and listing respondent no. 1 multiple times without any substantive differentiation. Furthermore, the complainant has failed to provide any rationale for the duplication of respondents. This deliberate omission by the complainant highlights the complainant's intent to obfuscate the issues and create unnecessary confusion.
- p. All other averments made in the complaint were denied in toto.
- q. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the parties.

**E. Jurisdiction of the authority**

7. The authority has complete territorial and subject matter jurisdiction to adjudicate the present

**F Findings on the relief sought by the complainant.**

F.I Grant Interim Injunction and restrain the VGRWA from undertaking any construction or digging for installation of lifts in the basements at Vipul Greens, Sohna Road Gurugram, till the time all necessary approvals are obtained from Govt Authorities, and structural safety assessment is done through some empanelled structural Engineer.

F.II On account of urgency that the VGRWA are undertaking construction making structural changes to the existing structures, hence an Ex Parte Ad Interim injunction be granted against the Respondents restraining them from doing any construction or digging for installation of lifts in the

basements, till the time all necessary approvals are obtained from competent Govt Authorities, and structural safety assessment is done through an empanelled structural Engineer.

F.III Restrain respondent 5 from installing any lift in the basements until all statutory approvals have been obtained from competent authorities by respondents.

F.IV Impose suitable penalty on the respondent 2, 3, 4, 5, 6 & 7 for their dereliction of duties and for making misleading statements to the Government Authorities.

F.V Direct respondents to cooperate with the complainant in ensuring the safety and security of life and property at Vipul Greens with respect to the construction of the lift in the basements

8. The above mentioned reliefs no. F.I, F.II, F.III, F.IV & F.V as sought by the complainant is being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected
9. At the outset, it is relevant to reproduce the provisions of Section 31 of the Act, 2016 wherein the procedure of filing of complaint has been laid down as under:
- Section 31: Filing of complaints with the Authority or the adjudicating officer.*
- 31. (1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.*
- Explanation.—For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.*
- (2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be 1 [prescribed].*
10. Furthermore, 11(4) lays down the obligations of the promoter towards the allottees in detail.

11. The Authority observes that in term of Section 31 of the Act, 2016, a complaint can only be filed against the following entities: 'Promoter, allottee or real estate agent, as the case may be'.
12. A perusal of the array of parties impleaded by the complainant shows that respondents No. 2 to 7 do not fall within the scope of Section 31, as they are not entities against whom a complaint can be filed under the provisions of the Act. Additionally, respondents No. 7 to 10 have already been impleaded as respondent No. 1.
13. It is further observed that the project has already been completed and handed over to the RWA in the year 2018 and is being managed by RWA since then. The last occupation certificate obtained on 15.05.2013.
14. It is further observed that the complainant filed a Civil Suit CS/665/2024 in the District Court of Gurugram seeking a permanent and mandatory injunction to stop the work on the lift in the basement until statutory approvals have been obtained. The Municipal Corporation of Gurugram (MCG) also Respondent 6 in the instant HARERA complaint has been made a party in the abovementioned Civil Suit CS/665/2024 in the District Court of Gurugram seeking a permanent and mandatory injunction to stop the work on the lift in the basement until statutory approvals have been obtained. The said application was dismissed by the Ld. Civil Judge (Junior Division) vide order dated 16.03.2024 by stating : *"the photographs placed on file by the defendants. It appears that the lifts are being installed in open area, i.e. in park. The open area cannot be included under the definition of 'building' given in the Building Code of 2017. The definition of building is given in the Building Code is that building would mean any shop, house, hut, outhouse, shed or stable whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever; and includes "wall" and "a well". Any open area like park does not find mention in the definition of building. The definition states that the structure, to be called a building, shall be used for human habitation of otherwise. The word 'otherwise' has to be read in*

extention of the words 'human habitation' and has to be interpreted to mean staying of human beings, whether actively or passively, in the same. In the present case, however, the lift is only being installed in parks, to facilitate the citizens of the society to use the same for going to ATTESTED the basement. It does not appear any that any violation of the building examines has been done in the present case. As per Lifts and Escalators Act 2008, the necessary approval may be taken after one month of the installation of the case. Also, the structural audit has also been done by the defendants. The plaintiff, prima facie does not appear to have a case of temporary injunction in her favour. The balance of convenience also does not lie in favour of the plaintiff, rather it appears to tilt in favour of the defendants no. 1 to 3, who are the Welfare Association of the Residents of the Society and have to deal with the concerns of all the residents of the society instead of a single person (plaintiff), who somehow is feeling aggrieved by their actions. Also, the plaintiff shall suffer no irreparable loss whatsoever as the lift is not being installed in any tower in which the plaintiff is staying and would create no danger to the alleged building, in which the plaintiff is staying. The temporary injunction application qua defendants' no. 1 to 3/respondents, stands dismissed."

15. After consideration of all the facts and circumstances, the Authority is of view that the present complaint does not refer to any of the obligations covered under section 11(4) or Section 14(3) of the Act, 2016. Nor has the complainant invoked any relevant provision of the Act, 2016, or Rules thereunder, which have been violated by the respondent.
16. It is further observed that the complainant has already approached the multiple forums including the District Town Planner as well as Civil Court, Gurugram for similar reliefs. Hence, the complaint filed by the complainant seeking above reliefs against the respondents is not maintainable and therefore, the same is liable to be dismissed

**F.VI Refrain respondents from harassing the complainant.**

**F.VII Grant litigation cost of Rs. 1,00,000 to the complainant**

17. The above-mentioned reliefs no. F.VI & F.VII as sought by the complainant is being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected

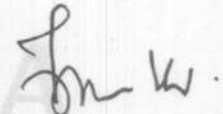
18. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors.* (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation.

**F. Directions of the authority**

19. In view of the factual as well as legal positions detailed above, the complaint filed by the complainant seeking above reliefs against the respondents is not maintainable and hence, the same is dismissed.
20. Complaint stands disposed of.
21. File be consigned to registry.

  
(Ashok Sangwan)  
Member

Haryana Real Estate Regulatory Authority, Gurugram

  
(Arun Kumar)  
Chairman

07.01.2025