

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

Complaint no.:

4496 of 2023

Date of decision:

09.04.2025

Tarsem Parmar

R/o: - 2, Irenemount Crescent, Markham,  
Ontario L3S3C7, Canada.**Complainant**

Versus

M/s Assotech Moonshine Urban Developers Pvt Ltd.

**Office address:-** 105, Pankaj Tower, First Floor,  
Opposite Supreme Enclave Society, Mayur Vihar,  
Phase-1, East Delhi, Delhi-110091.**Respondent****CORAM:**

Shri Ashok Sangwan

**Member****APPEARANCE:**

Medhya Ahluwalia (Advocate)

Complainant

Vaibhav Kataria (Advocate)

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 28 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 as provided 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. Project and unit related details**

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

Sr. No.	Particulars	Details
1.	Name of the project	"Assotech Blith", Sector-99, Gurgaon, Haryana.
2.	Nature of the project	Residential
3.	Area of project	12.062 acres
4.	DTCP license	95 of 2011 dated 28.10.2011 valid upto 27.10.2024
5.	RERA Registered	83 of 2017 dated 23.08.2017 valid upto 22.08.2023
6.	Allotment letter	17.01.2013 (As on page no. 42 of complaint)
7.	Unit no.	G-12-A03, 3bhk, Type-12Ath (As on page no. 43 of complaint)
8.	Unit area	1685 sq.ft. [Super-Area] (As on page no. 43 of complaint)
9.	Possession clause	As per <b>Clause 19(I)</b> , <i>The possession of the apartment shall be delivered to the allottee(s) by the</i>

		company within <b>42 months from the date of allotment</b> subject to the force majeure, circumstances, regular and timely payments by the intending allottee(s), availability of building material, change of laws by governmental/ local authorities, etc.
10.	Grace period	<p>As per <b>Clause 19(II)</b>,</p> <p><i>In case the Company is unable to construct the apartment within stipulated time for reasons other than as stated in sub-clause I, and <b>further within a grace period of six months</b>, the Company shall compensate the intending Allottee (s) for delayed period @Rs. 10/- per sq. ft. per month subject to regular and timely payments of all installments by the Allottee (s). No delayed charges shall be payable within the grace period. Such compensation shall be adjusted in the outstanding dues of the Allottee (s) at the time of handing over possession</i></p>
11.	Due date of possession	<p>17.01.2017</p> <p>[Calculated 42 months from date of allotment + 6 months]</p>
12.	Total sales consideration	<p>Rs.75,19,125/-</p> <p>(As on page no. 43 of complaint)</p>
13.	Total amount paid by the complainant	<p>Not payment made</p> <p>[Note: Vide proceedings dated 19.02.2025, the same was recorded inadvertently as per the acknowledgement receipt]</p>
14.	Occupation certificate	28.08.2023

15.	Offer of possession	Not offered
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**B. Facts of the complaint**

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

- I. That sometime in December, 2012, the representatives of the promoter approached the complainant for purchase of residential unit and thereby induced the complainant to book a flat in the project in question by showcasing a fancy brochure which depicted that the project will be developed and constructed as state of the art and one of its kind with all modern amenities and facilities.
- II. That the complainant was heavily influenced by the brochure issued and circulated by the respondent. It was represented by the respondent that all the necessary sanctions and approvals have been obtained to complete the project and the said project will be developed and possession will be handed over within the promised time frame.
- III. On 31.12.2012, after various negotiations and believing upon the false representations made by the representatives of the respondent, the complainant applied for a 3BHK unit admeasuring super area 1685 sq. ft. along with parking spaces. Further, the complainant applied for the unit and paid the booking charges.
- IV. That the complainant was regularly followed for the execution of the Allotment Letter/ Builder Buyer Agreement. It is pertinent to mention here that the respondent was well aware of the fact that he won't be able to obtain the necessary sanctions and approvals for the said project on time and with mala fide intentions delayed the execution of

Allotment Letter/Builder Buyer Agreement.

- V. That the respondent agreed to execute the Allotment Letter/Builder Buyer's Agreement with the complainant. Based upon the representations of the respondent, the complainant was induced to sign a pre-printed Allotment Letter/ Builder Buyer Agreement dated 17.01.2013 by virtue of which the complainant was allotted flat bearing unit no. 12A03 on 12A<sup>th</sup> Floor in Tower no. G, admeasuring super area of 1685 sq. ft.
- VI. That the complainant had opted for construction linked plan as per Clause 11 of the Allotment Letter/ Builder Buyer Agreement. That the complainant paid an amount of Rs.75,19,125/- in accordance with the "Construction Linked Plan" for the unit in question and accordingly a confirmation receipt of full payment has been issued by the Managing Director of the promoter in favour of the complainant.
- VII. That the complainant made all the payments to the respondent, as and when demanded. The payments made by the complainant have been unequivocally acknowledged, accepted, used and utilized by the respondent.
- VIII. That the respondent made incorrect and false statement in its advertisement in respect of the project "Assotech Blith" at Sector-99, Gurgaon, Haryana. The information given in the advertisement and website was false and incorrect. The respondent did not have proper permissions and the information related to construction was also incorrect.
- IX. That the respondent undertook to complete the project within a period of 42 months from the date of execution of the Allotment Letter/



Builder Buyer Agreement. The Allotment Letter/ Builder Buyer Agreement was executed on 17.01.2013. The time period promised in the Allotment Letter/ Builder Buyer Agreement to handover the flat in question was 16.07.2016, but the respondent failed to complete the project in the said timeframe.

- X. That the complainant has paid a total sum of Rs.75,19,125/- against the total sale consideration of Rs.75,19,125/-. The intention of the respondent was dishonest right from the beginning and that is why, it drafted unilateral terms and conditions of the Allotment Letter/ Builder Buyer Agreement dated 17.01.2013.
- XI. That the complainant has approached the respondent several times and requested for timely possession of the unit, but the respondent has failed to give any concrete schedule for handing over the physical possession of the unit. There has been no status update on the website of the project.
- XII. That the complainant visited the construction site many a times and observed that there are serious quality issues with respect to the construction carried out by the respondent till now. The respondent has compromised with the levels of quality and are guilty of misspelling as there are various deviations from the initial representations. The respondent marketed luxury high end apartments, but they have compromised even with the basic features, designs and quality to save costs.
- XIII. That the respondent has sold the project stating that it will be next landmark in luxury housing and will redefine the meaning of luxury but the respondent has converted the project into a concrete jungle. There



are no visible signs of alleged luxuries.

- XIV. That the respondent has committed various acts of omission and commission by making incorrect and false statement in the advertisement material as well as by committing other serious acts. The project has been inordinately delayed for more than 7 years. The respondent has resorted to misrepresentation. The complainant therefore is entitled for interest @ 18% p.a. for every month of delay till the actual physical possession of the unit is offered to the complainant.

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

4. The complainant has sought following relief(s)
- (i) Direct the respondent to pay the delay interest @ 18% per annum for every month of delay till the actual physical possession of the unit is offered to the complainant.
  - (ii) Direct the respondent to provide the schedule of construction and time period likely to be taken by the respondent in completing the project in all aspects.
  - (iii) Direct the respondent to pay a sum of Rs.5,00,000/- to the complainant towards the cost of the litigation;

**D. Reply filed by the respondent**

5. The respondent had contested the complaint on the following grounds:
- I. That the complainant has not made any payment to the respondent and thus the present complaint is not maintainable.
  - II. That the complainant was keen on to booking a unit in the project of the respondent and thus, after making detailed and elaborate enquiries with regard to all aspects of the project and completely satisfying himself with



- every aspect of the project, the complainant proceeded to book the apartment in the project.
- III. That at the time of signing the application form, the complainant assured the respondent that the complainant shall be sending the cheque towards the booking amount in couple of days. It is pertinent to mention here that due to this very reason, no details of the application money was filled in the application form.
- IV. That on 17.01.2013, the complainant issued a cheque bearing no. 957986 amounting to Rs.12,00,000/- to the respondent towards the part consideration of the unit in terms of the payment plan chosen by the complainant and assured the respondent that the cheque shall be honoured upon present. It is pertinent to mention here that upon receiving the cheque from the complainant, the respondent issued the allotment letter.
- V. That when the respondent presented the cheque with its banker on 05.03.2013, the cheque got dishonoured and the same was returned by the banker of the complainant on 08.03.2013. The ledger of the complainant maintained by the respondent is annexed with the reply for the kind perusal of the Authority.
- VI. That upon receiving the information about the dishonoured cheque, the respondent sent various request letters and intimation to the complainant to make the payment towards the unit in terms of the allotment letter. However, even upon receipt of the request letter and intimation, the complainant did not make any payment to the respondent. It is pertinent to mention here that as the cheque issued by the complainant towards the part consideration got dishonoured and the





complainant failed to make any payment to the respondent, the respondent having no other option, cancelled the allotment made to the complainant and the complainant is not an allottee / customer anymore. Therefore, the complainant is not entitled to any relief and the present complaint is liable to be dismissed.

6. 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 submission made by the parties.

**E. Jurisdiction of the authority**

7. 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**

8. 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**



9. 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;*

10. 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 complainant at a later stage.

**F. Findings on the objections raised by the respondent:**

**F.I. Objection regarding complainant has not made any payment to the respondent and thus the present complaint is not maintainable**

11. The respondent has submitted that the present complaint is not maintainable on the ground that the complainant failed to make any payment towards the unit that was allotted to him. Consequently, the allotment was cancelled. It is therefore, contended that the complainant no longer holds the status of an allottee and as such is not entitled to any relief.
12. In the present complaint, the complainant intends to continue with the project and is seeking delayed possession charges on the amount paid by him in respect of subject unit along with interest. Sec. 18(1) of the Act is reproduced below for ready reference:



***"Section 18: - Return of amount and compensation***

***18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building. -***

***(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or***

***(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,***

***he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:***

***Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."***

*(Emphasis supplied)*

13. The complainant booked a unit in the project 'Assotech Blith' situated at Sector-99, Gurgaon, Haryana. By allotment letter dated 17th January 2013, the complainant was allotted unit number G-12A03, located on the 12th floor, with a super area of 1685 sq. ft., for a total sale consideration of Rs. 75,19,125/-.
14. The counsel for the complainant submitted that the complainant had initially opted for a construction-linked payment plan. In 2014, the complainant made full payment towards the total sale consideration of the unit, amounting to Rs. 75,19,125/-, in accordance with the agreed payment plan. Consequently, a confirmation receipt acknowledging the full payment for the unit was issued by the Managing Director of the respondent in favor of the complainant.



15. The counsel for the respondent submitted that on 17.01.2013, the complainant issued cheque no. 957986 for Rs. 12,00,000/- towards part consideration of the unit, in accordance with the payment plan. On 05.03.2013, the respondent presented the cheque to its banker, but the same was dishonoured and subsequently returned to the complainant on 08.03.2013. Thereafter, the respondent sent several reminders and request letters to the complainant, urging payment for the unit; however, the complainant failed to make any payment, resulting in the cancellation of the allotment.
16. The Authority is of the view that in the entire complaint, reliance is placed upon an acknowledgement receipt, which is alleged to have been issued by the Managing Director of the respondent company. The complainant has placed reliance on this receipt as evidence of payment of the full consideration for the subject unit. However, upon reviewing the said acknowledgement receipt, the Authority finds its contents to be vague and not sufficiently reliable. Furthermore, the receipt is disputed, as the respondent has challenged its authenticity, stating in paragraph 7 of its reply that the acknowledgement was issued by the Managing Director of M/s Assotech Limited on its letterhead, and not by the respondent. The respondent further asserts that M/s Assotech Limited and M/s Assotech Moonshine Urban Developers Pvt. Ltd. are distinct legal entities. The contents of the acknowledgement receipt are reproduced below:



" 21<sup>st</sup> June 2014

Mr. Tarsem parmar

**Sub: Confirming of receipt of full payment on account of your flat booked in our Gurgaon project**

Dear Mr. Parmar,

*This refers to the above subject. We hereby confirm that we have received full payment against flat booked in our Gurgaon project and there is no outstanding as per the cost agreed in the agreement executed between us.*

*Thanking you,*

*Yours truly, For Assotech Limited*

*Sanjeev Srivastva*

*Managing Director"*

*[Emphasis supplied]*

17. Firstly, the acknowledgement receipt fails to mention any unit number or the name of the project. Moreover, the receipt was issued by the Managing Director of M/s Assotech Limited, and not by the respondent, M/s Assotech Moonshine Urban Developers Pvt. Ltd. Consequently, this documentary evidence lacks substance and cannot be relied upon. The complainant, having acted in a manner that a prudent person would not be expected to under the circumstances, is not entitled to any undue gain.
18. Upon meticulous examination of the facts and the documentary evidence, the Authority observes that the complainant has failed to provide any payment receipt pertaining to the subject unit. In the absence of any payment made by the complainant, no cause of action arises in favor of the complainant against the respondent. Accordingly, the Authority finds






**HARERA**  
**GURUGRAM**

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that the complaint is devoid of merit and is liable to be dismissed. Thus, the complaint is hereby dismissed.

19. The complaint stands disposed of.
20. File be consigned to registry.

Dated: 09.04.2025

  
**(Ashok Sangwan)**  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram



**HARERA**  
**GURUGRAM**