

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

Complaint no. : 640 of 2023
Date of filing : 20.02.2023
Date of decision : 11.03.2025

Satbir Khatana and Madan Lal
R/o: - 31B/100, West Rajiv Nagar, Gurugram.

Complainants

Versus

M/s New Look Builders and Developers Pvt. Ltd
(formaly known as Ansal Phalak Infrastructure Pvt)

Office at: NThe Great Eastern Centre 70,
Nehru Place behind IFCI Tower, Nw Delhi-110019.

M/s Ansal Properties and Infrastructure Limited

Office At: 1202, antriksh Bhawan, 16 Kasturba
Gandhi Marg, New Delhi-110001.

Respondent**CORAM:**

Shri Arun Kumar
Shri Vijay Kumar Goyal

**Chairman
Member****APPEARANCE:**

Shri Ankur Bansal
Shri Nitish Harsh Gupta

Advocate for the complainants
Advocate for the respondents

ORDER

1. The present complaint dated **20.02.2023** has been filed by the complainant/allottees 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 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 unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.N.	Particulars	Details
1.	Name of the project	Ansal Versalia Sector67 A revenue estate Gurugram
2.	Nature of project	Residential Colony
5.	Name of licensee	Ansal Properties and Infrastructure Limited
6.	RERA Registered/ not registered	RERA/154/2017 DATED 28.08.2017
7.	Allotment letter between the complainant and Ansal Phalak Infrastructure Private	14.01.2019 (page 22 of complaint)
8.	Plot no.	3457 182 sq yds
9.	Date of builder buyer agreement between complainant and Ansal Properties and Infrastructure Limited	13.05.2019 page 25 of complaint)
12.	Possession clause	5.1. Possession The plots in the residential colony making timely payment, the company shall endeavor

		to complete the development of residential colony and plot as far as possible within 18 months with an extended period of 1 month from date of execution of plot buyer agreement
13.	Due date of possession	13.01.2022 (calculated from the date of BBA, plus 6 months covid)
14.	Total sale consideration	Rs.94,64,000/- (page 29 of complaint)
15.	Paid up amount	Rs. 94,64,000/- [As per conveyance deed]
16.	Occupation certificate	NA
17.	Offer of possession	NA
18.	Conveyance deed	03.10.2023

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint: -

- i. That on 14.01.2019, the complainants with an intent to book a plot in one of the project of the respondents being a residential colony named as 'VERSALIA', situated at the Urban Estate Sector-67A, situated in the Revenue Estate of Village Badshahpur, Tehsil and District Gurugram, Haryana (Hereinafter referred to as '**Project**') applied to respondent no.2 company for allotment of plot bearing no. 3457 having an approximate Area of 182 square yards (152 sq. mts) (hereinafter

referred to as "**The Plot**"), in the said project. It was further represented and assured by the respondents that the project including the unit of the complainants would be completed within a span of 1 year from the date of allotment and will be delivered by January, 2020.

- ii. That, relying upon the respondent's representations and being assured that the respondent would abide by their commitments, the complainants in good faith purchased a residential unit in the project 'VERSALIA' from the Respondents and paid a booking amount of Rs. 47,32,000/- i.e., approx. 50% of the total sale consideration which was duly acknowledged by the respondents.
- iii. That respondent no.2 issued an offer of allotment letter dated 14.01.2019 in favor of the complainants, offering them the allotment of the plot, in their project. The total cost of the Plot as per the Offer of Allotment Letter dated 14.01.2019 was to be **Rs. 94,64,000/-** and the complainants duly paid a booking amount of Rs. 47,32,000/- i.e., approx. 50% of the total sale consideration.
- iv. That it is relevant to state here that even before the execution of the plot buyer agreement, complainants were made to pay almost 50% of sale consideration which is against law and procedure as only 10% of the sale consideration could have been collected by the respondents before execution of the plot buyer agreement but has illegally demanded 50% of the sale consideration which the complainants had paid in good faith and trust.
- v. That the whole payment was made to the respondent no.2 in lieu of the plot and the respondent no.1 thereafter executed a plot buyer agreement dated 13.05.2019 in respect of the plot. It is pertinent to state here that as per the standard terms of contract in terms of clause 5 as per plot

buyer agreement dated 13.05.2019 respondents stated that the possession of the allotted plot shall be delivered within 18 months, however, since the said terms were a standard terms of contract and after mutual discussions and negotiations it was specifically agreed by the respondents to deliver the possession of the allotted unit by March, 2020 and in this regard issued a separate specific certificate of plot no. 3457 in VERSALIA, Gurugram vide letter dated 13.05.2019 attached with the plot buyer agreement which superseded the terms of the said agreement. However, till date the respondents have failed to offer the possession of the plot to the complainant.

- vi. That it is pertinent to mention here that respondents had assured in terms of the said agreement that all necessary legal formalities and permissions, approvals, certificates etc. necessary for completing construction and obtaining completion and occupation certificate given in clause B and D of the plot buyer agreement, so as to offer possession of the plot to the complainants, has been complied with. It is pertinent to mention here that till date no OC has been received and no offer of possession has been made by the respondents to the complainants.
- vii. That after getting zero response from the respondents, the complainants visited the project site but were shocked and appalled to see that construction had not been completed. Despite respondents promising the complainants to provide them with world class project with impeccable facilities the complainants is shocked to see the project site and the purpose of the complainants to book the unit is completely shattered.
- viii. Thereafter, several efforts from the complainants were made to seek timely updates about the status of the construction work at the site, but

due to the negligence of the respondents, there was no satisfactory response from their end. It is pertinent to mention here that almost 50% of the sale consideration has been taken by the respondents at the time of booking of the plot i.e. in the January, 2019 till allotment of the Plot i.e., by April, 2019 and the remaining consideration was to be paid at the time of construction of road in front of the plot and at the time of offer of possession in terms of the payment plan being mentioned in CERTIFICATE OF PLOT NO. 3457 IN VERSALIA LETTER dated 13.05.2019 attached with the plot buyer agreement, the complainant had assumed that the money collected by the respondents from the complainants would be utilized for construction purpose only. Unfortunately, the respondents did not properly utilize the complainant's hard-earned money and even after the lapse of around 4 years from the date of booking of the plot, the same is yet not handed over to the complainants.

ix. That respondents at various instances violated the terms and condition of the builder buyer's agreement by:

- (a) Not procuring the occupation and completion certificate in respect of the Unit/The Plot.
- (b) Not constructing the road in front of the Plot/Unit.
- (c) Not handing over the peaceful and vacant possession of the above said allotted Unit/The Plot to the Complainants.

x. That, the respondents are not only guilty of deficiency of services and for unfair trade policy along with the breach of contractual obligations, mental torture, harassment of the complainants by misguiding them, keeping them in dark and putting their future at risk by rendering them income less.

- xi. That the complainants even after getting no response from the respondents w.r.t the possession of plot, the complainants sent a letter dated 22.11.2022 for handling/non-delivery the possession of the plot no. 3457 which was duly delivered to the respondents, however, the Respondents failed to offer the possession of the plot and further failed to communicate the exact date of delivery and status of the plot.
- xii. That the Complainants do not want to withdraw from the project. The promoter has not fulfilled his obligation therefore as per obligations on the promoter under section 18(1) proviso, the promoter is obligated to pay the interest at the prescribed rate for every month of delay till the handing over of the possession

C. Relief sought by the complainants: -

4. The complainants have sought following relief(s)
- I. Direct the respondent to pay delay penalty charges at prescribed rate from march 2020 till the actual physical possession of the allotted plot is handed over to the complainants.
 - II. Direct the respondent to get OC and CC by the competent authority in respect of allotted plot.
 - III. To execute the conveyance deed in favor of the complainant.
 - IV. Direct respondent to pay litigation charges Rs 1,50,000/-
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 on behalf of the respondent no. 1 i.e. new look builders and developers pvt. ltd. (earlier known as "ansal phalak infrastructure

pvt. ltd.”) to the complaint filed by the complainant under Section 31 of the Real Estate (Regulation And Development) Act 2016.

6. The respondent has contested the complaint on the following grounds: -

- i. That the respondent no. 1 i.e. New Look Builders And Developers Pvt. Ltd. (Earlier Known as “Ansal Phalak Infrastructure Pvt. Ltd.”) denies each and every assertion, averment, statement, allegation made in the complaint filed by the complainant as false, frivolous, vexatious and misleading, except for those which are matter of record or are specifically admitted herein under. It is humbly submitted that the present complaint is nothing more than an afterthought and has been made with sole purpose to wrongfully gain at the cost of the answering respondent and to malign its reputation in the market.
- ii. That the name of the answering respondent was changed from Ansal Phalak Infrastructure Pvt. Ltd. to New Look Builders and Developers Pvt. Ltd. on 23.10.2020. The aforesaid change in name of the company was pursuant to change of management of the company. Earlier, the answering respondent was a sister concern of Ansal Properties & Infrastructure Limited and its management was acting on the directions of Managing Director of respondent no. 1.
- iii. That the complainant has attempted to mislead this hon'ble authority by presenting concocted facts and misrepresenting the facts & circumstance of the instant case. Therefore, the answering Respondent states the true and correct facts of the instant case are as follows:
 - a. That initially the plot was allotted to the complainants by letter dated 14.01.2019 by management of respondent no. 1.

- b. Thereafter, on 13.05.2019, the complainants were informed by the representatives of respondent no. 1 that the project is being developed by respondent no. 1 and the letter dated 14.01.2019 was inadvertent issued on the letter head of respondent no. 2. Further, the plot buyer agreement dated 13.05.2019 was also executed between the complainants and the respondent no. 1 for recording the terms of allotment in writing.
- c. That from the bare perusal of PBA, it is evident that the answering respondent is not a part of the transaction. That said agreement to sell was executed by respondent no. 1 in favour of the complainant. However, by no stretch of imagination it can be said that answering respondent is privy to the terms of the said PBA or is liable to comply with the same.
- d. In view of above, it is submitted that captioned complaint is nothing more than a, afterthought, filed to unlawfully arm twist answering respondent when it has not privity to plot buyer agreement dated 13.05.2019. Therefore, the captioned complaint is liable to be dismissed in limine qua answering respondent.
- e. That after the captioned complain was served upon the answering respondent, the answering respondent had approached the respondent no. 1 seeking information with regard to the said plot. The respondent no. 1 apprised that the allotment of complainants has already been cancelled by the respondent no. 1 vide letter dated 14.09.2022.
- iv. In view of the above stated facts and circumstances, it is submitted that no cause of action has arisen for filling the captioned complaint case as the

complainants have no privity of contract with the answering respondent and the plot buyer agreement dated 13.05.2019 was executed with the respondent no. 1 only. Moreover, in terms of order dated 30.05.2022 and registration certificate of the project issued by the Authority, the Ansal Properties and Infrastructure Limited is responsible for the development of the project and have assumed the comprehensive responsibility for development of the project. Therefore, the captioned complaint is liable to be dismissed qua answering respondent.

7. All other averments made in the complaint were denied in toto.
8. 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

9. 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

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by The Town and Country Planning Department, Haryana 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

11. 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)(a)

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.

12. 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.

F. Findings on the relief sought by the complainants.

- F. I. Direct the respondent to pay delay penalty charges at prescribed rate from march 2020 till the actual physical possession of the allotted plot is handed over to the complainants.**
II. Direct the respondent to get OC and CC by the competent authority in respect of allotted plot.
III. Direct respondent to pay litigation charges Rs 1,50,000/-

13. The above mentioned reliefs no. F.I, F.II & F.III 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

14. During the course of proceedings dated 22.12.2023, respondent no. 1 submitted that it had only issued the allotment letter and received the application money. Thereafter, the project was handed over to Ansal Properties and Infrastructure Ltd. (Respondent No. 2), a sister concern of respondent no. 1. The builder-buyer agreement was executed by respondent no. 2, and the project was also developed by them. Therefore, respondent no. 1 claims that it has no further involvement with the complainant and its name should be deleted from the array of parties.
15. On the contrary, the complainant submitted that since the allotment was made by respondent no. 1, it was rightly impleaded as a party in the complaint. The complainant further agreed to execute the buyer agreement with respondent no. 2. It was also submitted that a payment of Rs. 47,32,000/- was made to respondent No. 1
16. During the course of proceedings dated 19.03.2024, respondent no. 2 placed on record a copy of the conveyance deed dated 03.10.2023, along with an undertaking from the complainant stating that all claims had been settled. However, the complainant's counsel argued that the occupation certificate (oc) for the unit has not yet been obtained, and no compensation for delay in possession was adjusted at the time of executing the conveyance deed. The respondent No. 1 reiterated that its only involvement was the issuance of the allotment letter by M/s Ansal

Phalak Infrastructure Pvt. Ltd., and that all further obligations, including the execution of the conveyance deed and the undertaking, were between the complainant and respondent no. 2. Hence, respondent no. 1 requested to be removed from the list of parties.

17. After considering all the facts and circumstances, the Authority is of the view that the conveyance deed was executed between the parties on 03.10.2023, and an undertaking was given by the complainant stating satisfaction with the progress of the project and the condition of the unit, both in terms of finishing and structural aspects. The complainant accepted the unit on an "as-is-where-is" basis and undertook that all disputes related to the unit had been fully resolved. Which reproduced below as:

1. *"That I/we am/are fully satisfied with the progress of the project and construction of the plot both in terms of finishing and structural aspect.*
2. *That I/we state that possession of the said plot is being taken by me on as is where is basis.*
3. *That I/we expressly, irrevocably and unconditionally confirmed that I/we do not have any grievances or complaints against the promoter.....*
4. *That I/we expressly, irrevocably and unconditionally confirmed that all the disputes in relation to the unit has been resolved fully and as such there is no dispute pending in relation to the said unit."*

Therefore, no relief of DPC is made out in view of the undertaking duly signed and notarized by the complainant allottee on 03.10.2023.


F.IV Direct the respondent to execute the conveyance deed in favour of the complainant.

18. The complainant is seeking relief for the execution of conveyance deed. During proceedings dated 19.03.2024 the counsel for the respondent submitted the conveyance deed dated 03.10.2023 executed between the parties during the pendency of the instant complaint. In view of the above said relief become redundant.

G. Directions of the authority

19. In view of the factual as well as legal positions detailed above, the complaint filed by the complainants seeking above reliefs against the respondents is not maintainable and hence, the same is dismissed.
20. Further, the respondent/builder is directed to obtain completion certificate from the competent authority.
21. Complaint stands disposed of.
22. File be consigned to registry.

V.1 - 3
Vijay Kumar Goyal
Member


Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 11.03.2025