

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

Complaint no.: 5951 of 2022  
Date of filing : 20.09.2022  
Date of order : 04.03.2025

1.Sarwan Kumar Mohan

2.Manju Mohan

**R/o:** - 1501, Sleuth CGHS Ltd. Plot No. 6, Seector 19 B,  
Dwarka, New Delhi.

**Complainants**

Versus

1.M/s Blackberry Realcon Pvt. Ltd.

2.M/sParas Buidtech Pvt. Ltd

**Both Regd. Office at:** 11<sup>th</sup> Floor, Paras Twin Towers  
(Tower B) Sector 54, Golf Course Road, Gurugram-  
122002.

**Respondents**

**CORAM:**

Shri Arun Kumar

Shri Vijay Kumar Goyal

Shri Ashok Sangwan

**Chairman**  
**Member**  
**Member**

**APPEARANCE:**

Sh. Sarwan Kumar Mohan

Sh. Venkat Rao (Advocate)

Complainant in person  
Respondent

**ORDER**

1. The present complaint dated 20.09.2022 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 under the provisions of the Act or the Rules and regulations made there under or to the allottees 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 complainant, 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	"Paras Square", Sector-63 A, Gurugram, Haryana.
2.	Project Area	2.20 acres
3.	Nature of project	Commercial complex
4.	DTCP license no.	License no. -23 of 2013 Dated-17.05.2013
5.	RERA registered	Registered 13 of 2018 Dated-06.09.2018
6.	Unit no.	Unit no-07, Floor-11 <sup>th</sup> , Floor No-A -(As per BBA on page no. 55 of complaint)
7.	Unit area	870 sq. ft. (As on page no. 46 of complaint)
9.	Allotment letter	05.08.2013 (As on page no. 46 of complaint)
10.	Welcome letter	09.08.2013 (As on page no. 48 of complaint)



11.	Date of execution of buyer's agreement [Between complainant and M/s Blackberry Realcon Pvt. Ltd.]	11.04.2017 (As on page no. 52 of complaint)
12.	Possession clause	<b>Clause 7 DATE OF COMPLETION</b> <b>(a) Time of Handing over the possession</b> <i>(i) The date of completion of the Project shall be <b>Thirty Six(36) months from the start of construction hereof</b>, subject to force majeure or/and any other reason beyond the control of Developer, subject to all Allottee(s) having strictly complied with all the terms and conditions of this Buyer's Agreement and not being in default under any provisions of the same and all amounts due and payable by the Allottee(s) under this Buyer's Agreement having been paid in time to the Developer. The developer immediately upon the receipt of OC/CC, shall give notice to the Allottee(s), in writing, to take possession of the unit for his/its fit-outs and occupation and use ("<b>Notice of Possession</b>"), on furnishing certain documents by the Allottee(s).</i> [Emphasis supplied] (As on page no. 61 of complaint)
11.	Due date of possession	11.04.2017 <b>(calculated from the date of buyer agreement)</b>



12.	Payment Plan	Construction linked
13.	Total consideration	Rs.89,86,942/- (As on page no. 03 of reply)
14.	Total amount paid by the complainant	Rs.95,22,236/- (As per payments receipts attached with the complaint)
15.	Legal notice sent by the complainants for refund of the paid up amount to the respondent	04.01.2020 (As on page no. 122 of complaint)
16.	Occupation certificate	23.07.2018 [Ground floor to 14 <sup>th</sup> floors]
17.	Completion certificate	24.01.2020
18.	Offer of possession	28.07.2018 (as per page no. 126 of reply)

### B. Facts of the complaint

3. The complainants have made the following submissions: -

- I. That during 2013 complainant no 1 was informed about of a new project to be launched in near future by Paras Buildtech by Shri Surender Kumar Prabhakar where he had also made a pre-launch booking of a flat. One Akansha Dorwal also contacted the complainant and arranged a meeting where requisite application forms and demands were explained. During July 2013, Ms Akansha Dorwal and Mr Vikram of Paras Buildtech visited complainant's residence and again explained about prelaunch booking of a Studio apartment in the project to be launched by Paras Buildtech in September 2013 and told the complainant that the project would be completed in a period of thirty six months with effect from issue of



confirmed allotment letter. The project was found to be attractive and from the plan shown to complainant, a unit ST-1107 was selected for purchase. The representative at that time told complainant that for units at 11<sup>th</sup> floor an additional cost will have to be paid to the company as all units have been already sold. Mr Vikram and Akansha Dorwal demanded Rupees three lakh fifty thousand (Rs. 3,50,000/-) in cash for meeting expenditures over and above the cost to arrange allotment of 11th floor flat.

- II. That On 13 Jul 2013, in another meeting complainant paid cash Rupees three lakhs fifty thousand to Akansha Dorwal and Mr Vikram of Paras Buildtech Pvt Ltd/Blackberry Realcon Pvt Ltd. complainant also paid cheques of rupees ten lakhs and booked the unit in the name of S K Mohan & Mrs Manju Mohan. A provisional receipt of amount paid in cheque was given on 05 Aug 2013 and it was informed that cashier is not available and the receipt of the cash will be given later or sent by post at complainant's address. Complainant was also issued a confirmed allotment letter of the same date confirming allotment of unit ST-1107.
- III. Thereafter on 01 September 2013 the Paras Buildtech Pvt Ltd gave an advertisement in the Hindustan Times City Delhi addition announcing the launch of the project called "Paras Square". A photocopy each of Brochure with the floor plan, outlay of apartment, allotment letter confirming allotment of unit ST-1107, payment plan of Rs 80,66,490/, demand letter, provisional receipt, welcome letter from Paras Buildtech Pvt Ltd.
- IV. That after a continuous follow up the Respondents sent an agreement called Builder Buyer agreement for signature and the same was signed on 1.04.2017 for unit ST-1107. It was also specifically stated in the agreement that the date of completion of the project shall be 36 months and this



period had already expired on 05.08.2016 as the confirmed allotment was made and confirmed on 05.8.2013 even though money was taken from July 2013 onwards.

- V. That this buyer builder agreement has arbitrary clauses, deliberately made to favour the respondents as respondent knew that allotted unit will not be constructed. For example in case of delay in payment on instalments respondents will charge 24% compound interest whereas on the failure of respondents to give possession on time only simple interest of 9% was to be paid. Such clauses were deliberately kept by the respondents as it was known to respondents that they will not be able to hand over the project on time even at the time of signing agreement as the proposed delivery date of possession had already expired.
- VI. That thereafter various demand letters for unit ST-1107 were received from Respondents from 2013 to 2018 and complainant paid the cheques for instalments amount within permissible time limit with no default ever. All cheques were collected from the residence of complainant at Dwarka New Delhi. The receipts of the instalment were issued but the receipt of the cash amount has not yet been issued despite personal requests. The complete cost of the booked apartment was paid by complainant from his retirement benefits and savings but never received any call for handing over of possession or registration of property with the Registrar Gurugram.
- VII. That On 28.04.2018, complainant made a visit to the office of respondents and he was informed that shortly the process of handing over the possession would start and a demand notice for the final instalment will be sent within a month. A notice thereafter was received and the payments were made by complainant within time.



- VIII. That complainant has paid all construction link instalments within the allotted time without any default ever and respondents used this money for construction and construction related activities. Whereas respondents made huge profits and also made profits by charging compound interest @ 24% from other allottees who defaulted in paying instalments on time and withdrew from the project.
- IX. That respondents advertised in the Hindustan Times Newspaper, Delhi edition on 08.10.2018 that Paras Square has been delivered.
- X. That the complainant waited for the letter of delivery of possession from the Respondents but nothing had moved. Complainant along with Shri Surender Prabhakar visited the site of Paras Square at sector 63 A Gurugram on 17 June 2019 where Mr Ashish, site Manager, briefed and showed the building where no unit was constructed at the eleventh floor as the allotted apartment and we were advised to contact the office.
- XI. That on a visit to the office of Blackberry Realcon/Paras Buildtech, Mr Vikas and Ms Ankita Thakur of the same company briefed us with shocking news that no apartment has been constructed at 11th floor as only one unit was sold at 11th floor and the company had never any plans right from beginning the construction to construct any unit at that floor. On complainant's insistence to return the money with interest, respondents refused to make any refund or give any interest but made an offer as giving alternative of another unit of oneBHK bearing Number 1014 measuring 975 Sq Ft in the same complex at an additional cost of about Rupees twelve lakhs fifty thousand and also promised and assured that the company already has tied up with a foreign firm and immediately on payment of Rs. 12.5 Lakhs, a rent of Rs.65000/-per month shall start forthwith from the date of payment and post-dated cheques for the rent amount for five years





will be issued and handed over to the complainant on the same day. A fresh blank application form was also given to complainant for making this change. Having found this proposal viable Mr Vikas and Ms Ankita were told to collect the payment from complainant's Delhi residence. Ms Ankita stated that she will do so after taking approval of directors and verify from the accounts department to ascertain the final figure and inform the correct amount to be paid as final payment of the project to avoid any misunderstanding on a later date on phone and get the full and final payment collected from complainant's Delhi residence as was done on every occasion earlier

- XII. After a few days Ms Ankita called complainant and informed that after due approvals and verification addition cost of Rs 12,61,501/- (Rupees twelve lakhs sixty one thousand five hundred and one) is required as a full and final payment and on receipt of payment of this amount and a rent of Rs.65,000/-per month shall commence forthwith from the date of payment and post-dated cheques for the rent amount will be sent. Complainant made the payment of Rs. 12,61,501/- along with the application duly filled for allotment of unit 1014 in lieu of ST/1107 and the cheques and tax challan was collected from his house on 05.07 2019. After taking this amount representatives of the company did not send the receipt of money nor responded to the calls made by complainant.
- XIII. That it became apparent that the inducement was made this time also like the earlier one to trap and fleece money from complainant, as after receiving the payment company did not send the receipt of money received and both representative Mr Vikas and Ms Ankita stopped receiving phone calls of complainant. Even the SMS and WhatsApp messages were not replied.





- XIV. That having fed up with the conduct the company, complainant along with Shri Surender Prabhakar again made a visit to company office on 11.11.2019 and met Ms Ankita who though felt apologetic for not responding the calls made by complainant but at the same time informed that the Directors of the companies are bent upon to cheat and do not stand by their commitments. She assured that she will again take up the matter with Mr Rajesh Kaul and the directors of the company, who refused to meet the complainant on that day as was also done on many earlier occasions also, and confirm the actions taken on the commitments earlier made in a matter of another two days. It was also assured by her that an email of confirmation will also be sent within two days.
- XV. That till now no reply has been received and even the telephone calls are not picked up by Mr Rajesh Kaul, Mr Vikas or Ms Ankita. From the above conduct of the Managers, it became ample clear that Managing Director and directors of the company with dishonest intentions had laid a trap through their employees to induce the complainant to part with his money as they knew right from beginning that no flats were to be prepared at 11th floor and knowing this demands of money for construction of unit 1107 were sent from 2013 to 2018 and a forged Builder Buyer agreement was executed to cheat and misappropriate the money paid by complainants.
- XVI. That all the actions of respondents make it crystal clear that sellers were aware from very beginning that unit 1107 was not to be constructed but still they confirmed the allotment took additional money and gave a false and forged allotment letter and agreement. Complainant was thus induced to pay the money and sellers have cheated the complainant by making false documents of unit ST-1107 which they were aware that they will not



construct and had also no intention to construct the same from the very inception. The sale made to complainant was nothing but cheating with forged documents.

- XVII. That thereafter complainant also issued a legal notice on 04.01.2020 to respondents to return the complete money paid by complainant as principal amount of Rs. 95,22,236/- to the company w.e.f 13 Jul 2013 with interest from the date of receipt of the same. Respondents received the notice but did not reply to the notice nor returned the money with interest.
- XVIII. It is pertinent to state that respondents have not only violated the terms License No 23 of 2013 granted to them but have also violated the approved drawings for which respondents are liable to penalty as per the provisions of law in addition to cancellation of license granted and renewed to them.

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

4. The complainant has sought following relief(s).
- To direct the respondent-builder to refund the entire amount paid by the complainant along with prescribed rate of interest.
  - Criminal proceedings be initiated against the respondent for violating the terms and conditions of license granted to them and for violating the provisions sections 11,12,13,14,18 and 19 of the Real Estate Regulations and Development Act and Rules laid down by law.
  - Penal action be taken against the respondents for violating the terms of registration with the authority, sanctioned drawings, site plan, sanctioned plan, lay out plans and specifications thereby misrepresenting and cheating the complainant by making a forged allotment thereby violating the provision of section 10 of the Act.
  - Direct the adjudicating authority to compensate the complainant adopting principles of natural justice and in terms of sections 12, 14,

18, 19 and 38 of the Act for the losses, harassment and damages caused due to cheating and violation of provisions of Act and rules carried out by respondents.

v. Direct the respondents to pay the cost of filing the complaint and litigation expenses to the complainants.

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.**

6. The respondent has raised certain preliminary objections and has contested the present complaint on the following grounds: -

i. That the Allottees, Mr. Sarvan Kumar Mohan and Mrs Manju Mohan approached the respondent for the booking of the unit in the respondent's project named PARAS SQUARE at Sector-63-A, Gurugram in the year 2013. The request of the Original Allottee was accepted and vide allotment letter dated 05/08/2013 was allotted a studio apartment ST/1107 in the project developed by the respondent namely 'Paras Square' situated at Sector-63-A, Gurugram (tentatively admeasuring about 870 sq.ft.). On account of fulfilment of the requisite eligibility for the allotment. After being fully acquainted about the project, the builder buyer agreement was executed between the respondent and the complainant on dated 11/4/2017. The respondent received the occupancy certificate on dated 23/07/2018 of complete building as approved by the DTCP (1<sup>st</sup> to 14<sup>th</sup> Floor) and offered the possession of unit ST 1107, which was allotted to the complainant on dated 28/07/2018. That the respondent made the application for completion certificate and received the completion certificate on dated



24/01/2020. project was completed in all aspect and received the completion certificate in 24.01.2020.

- ii. That the respondent submits that the complainant to the present case got F.I.R. bearing no. 0393 dated 23.09.2022 registered against the respondent company and its directors for the same cause of action.
  - iii. That thereafter, the respondent paid an amount of Rs. 4.5 Crores in favour of the complainant vide three cheques bearing Nos.006403 amounting Rs. 1,15,32,051/-, 006404 amounting Rs. 1,38,38,461/- & 006405 amounting to Rs. 1,84,51,281/- all dated 11.11.2023 Drawn on HDFC bank, Gurugram.
  - iv. That the complainant is trying to take undue advantage of the due process of law by frivolously filing multiple cases against the respondent.
  - v. That against the aforementioned false and frivolous FIR, the respondent has filed a Quashing Petition which is pending before the Hon'ble High Court of New Delhi.
  - vi. That the complainant has already accepted the monetary compensation, i.e., refund of the entire paid amount along with interest, for the present cause of action, rendering in infructuous.
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 those 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 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**

11. 11(5) of the Act provides that the promoter may cancel the allotment only in terms of the agreement for sale. Section 11(5) of the Act is reproduced as hereunder:

#### **Section 11(5)**

*The Promoter may cancel the allotment only in terms of the agreement for sale:*

*Provided that the allottee may approach the authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause.*

#### **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 the compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.


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


- F. I To direct the respondent-builder to refund the entire amount paid by the complainant along with prescribed rate of interest.**
- ii. Criminal proceedings be initiated against the respondent for violating the terms and conditions of license granted to them and for violating the provisions sections 11,12,13,14,18 and 19 of the Real Estate Regulations and Development Act and Rules laid down by law.**

- iii. **Penal action be taken against the respondents for violating the terms of registration with the authority, sanctioned drawings, site plan, sanctioned plan, lay out plans and specifications thereby misrepresenting and cheating the complainant by making a forged allotment thereby violating the provision of section 10 of the Act.**
  - iv. **Direct the adjudicating authority to compensate the complainant adopting principles of natural justice and in terms of sections 12, 14, 18, 19 and 38 of the Act for the losses, harassment and damages caused due to cheating and violation of provisions of Act and rules carried out by respondents.**
  - v. **Direct the respondents to pay the cost of filing the complaint and litigation expenses to the complainants.**
13. The above mentioned reliefs no. F.I, II, III, 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.
14. In the year 2013, Sharven Kumar Mohan and Manju Mohan booked a unit in the project *Paras Square* at Sector 63-A, Gurugram, developed by the respondent. They were allotted Studio Apartment No. ST/1107, with a tentative area of 870 sq. ft., as per the allotment letter dated 05.08.2013. The occupation certificate for the project was received on 23.07.2018, and the completion certificate was issued on 24.01.2020.
15. In the present complaint, the complainant in person is seeking various reliefs against the respondent for violations committed by the respondent in respect of the Haryana Development and Regulation of Urban Areas Act, 1975 by violating the terms of license, various sections of the RERA Act, 2016 by sale of apartments without registration, making misrepresentation of facts, charging exorbitantly high interest on dues, cheating and forgery etc. The complainant also registered FIR against the promoter in respect of the criminal Acts allegedly committed in this regard. The complainant is seeking refund of the money paid to the respondent with interest @ 2% per month in respect of unit no. ST-1107.

16. On the contrary, the respondent states that the matter has already been settled before the criminal courts. They refer to the order in *State vs. Harendra Nagar*, Bail Application No. 2463/2023, where it was recorded that several cheques amounting to Rs.4,50,00,000/- were handed over to the complainants on 11.10.2023 as part of a compromise between the parties. Therefore, the present complainant is not maintainable.
17. After consideration of the facts and circumstances, the Authority is of view that the present matter has already been resolved through a settlement duly recorded before the Hon'ble Dwarka District Court. It has been brought to the attention of the Authority that the respondent has refunded a total sum of Rs.4,50,00,000/- to the complainants in accordance with the terms of the said settlement and acknowledgment of cheques handed over on 11.10.2023, as recorded in Bail Application No. 2463/2023 titled *State vs. Harendra Nagar*. In view of the aforesaid settlement, since the matter has already been settled, no more action is required. Therefore, the complaint is rendered infructuous and is hereby dismissed as not maintainable.
17. Complaint stands disposed of.
18. File be consigned to registry.

  
Ashok Sangwan  
Member

  
Arun Kumar  
Chairman

  
Vijay Kumar Goyal  
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 04.03.2025