



**HARERA**  
GURUGRAM

Complaint No. 4571 of 2023

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

Complaint no. :	4571 of 2023
Date of complaint :	26.10.2023
Order reserved on:	22.05.2025

1. Ajay Srivastava
2. Anita Srivastava

**Both R/o:** 1216, The Magnolia's, DLF Golf Link, DLF Phase-V, Gurugram, Haryana-122009.

**Complainants**

Versus

M/s Vatika Limited

**Registered office:** Unit no.-A-002, INXT City Centre, Ground Floor, Block-A, Sector-83, Gurugram, Haryana - 122012.

**Respondent no.1**

M/s Lincoln Developers Private Limited

**Corporate office:** Floor no.621-A, 6<sup>th</sup> floor, Devika Towers, 6, Nehru Place, New Delhi-110019.

**Respondent no.2**

**CORAM:**

Shri Vijay Kumar Goyal

**Member**

**APPEARANCE:**

Shri Parmanand Yadav, Advocate

Complainants

Shri Venket Rao, Advocate

Respondents

**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 under the provisions of the Act or the Rules and regulations made thereunder 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	"Vatika City Point" Mehrauli – Gurgaon Road, Gurgaon.
2.	Project area	2.143 acres
3.	Nature of project	Commercial Complex
4.	DTCP license	303 to 314 of 2005 dated 22.12.2005
5.	License	Sh. Brahm Prakash and others in collaboration with M/s Vatika Limited
6.	RERA Registration	<b>Un-registered</b>
7.	Unit no.	905, 9th Floor (page no. 21 of complaint)
8.	Unit admeasuring (super area)	2056.30sq. ft. (page no. 21 of complaint)
9.	Allotment Letter	05.09.2007 (page no. 21 of complaint)
10.	Date of execution of builder buyer agreement	Undated (not eligible) (page 27 of complaint)
11.	Total Sale Consideration	Rs.2,01,48,925/- (page no.29 of complaint)
12.	Amount Paid by allottee	<b>Rs.2,02,97,327/-</b> (as submitted in police complaint) <b>Sale consideration entirely paid</b> (As confirmed by the counsel for both parties during proceedings dated 22.05.202)
13.	Certificate of possession	<b>07.09.2009</b> (page no. 61 of complaint)
14.	Occupation certificate	<b>25.07.2011</b> (page no. 25 of reply by R1 & R2 both)
15.	Demand on account of VAT	Rs.3,87,287/- (page 65-66 of complaint)
16.	Demand on account of HT Cable replacement	Rs.15,355/- (page 64 of complaint)



**B. Facts of the complaint:**

3. The complainants have made the following submissions: -

- I. That the respondent no.1 and the respondent no.2 both are private limited company duly incorporated under the provisions of The Companies Act. That they both respondents are, inter-alia, engaged in the business of real estate development and thus, in its usual course of business, are engaged in purchase of the land, entering into joint ventures, collaboration agreement, marketing and development agreements etc. with various stakeholders including but not limited to land owners.
- II. That the complainant Ajay Srivastava had booked commercial space/unit with the respondent no.1 i.e., M/s Vatika Ltd. (Formerly known as M/s Vatika Land base Pvt. Ltd.).
- III. That the claimant was allotted unit no.905 by the respondent no.1 vide a letter of allotment dated 05.09.2007, whereby the unit admeasuring 2056.30 sq. feet located on the 9th floor of the said project with two parking spaces.
- IV. That the respondent no.1 vide the allotment letter 05.09.2007 agreed to sell the said unit for a basic sale price of Rs.9,750/- per sq. ft. amounting to a total sum of Rs.2,01,48,925/-. That the complainant no.1 entered into builder buyer agreement with the respondent no.1 company dated 05.09.2007 with respect to unit/commercial space no.905.
- V. That the sale consideration payment plan of the said unit was construction linked basis and was duly paid and thereafter the respondents handed over the physical possession of the said unit vide letter dated 07.09.2009.
- VI. That even after the handing over of the physical possession of the flat, the respondent kept dilly-dallying the issue of transfer of title to the





complainants for several years without any tenable and justifiable reason for several years and has turned deaf years to the repeated requests of the complainant.

- VII. That meanwhile it came to the notice of the complainant that said respondent no.1 had transferred/sold his rights in favor of respondent no.2 having the same address but the said fact was kept concealed all throughout and the complainant continued to believe that Vatika Ltd. i.e., respondent no.1 is the true and continuing owner of the said project.
- VIII. While the request for the registration of the property was pending, much to the shock of the complainant, the respondent no.2 on 21.02.2019, raised fictitious and fraudulent bills/tax invoice dated 08.10.2015 and 29.12.2016 amounting to Rs.7,37,165/-.
- IX. The fraud in the said invoice is clearly evidenced from the following.
- Invoice no. 11789 dated 21.2.2019 amounting to Rs.42,239/- was raised under the head of Insurance charges. Till date despite repeated requests no explanation for the same has been provided. Further as per the tripartite maintenance agreement executed between Vatika Limited, complainant and Vatika Space Management Private Limited as per clause 3 (iv) the cost of insurance of the complex shall form part of the maintenance charges. This clearly proves the blatant illegality of these bills.
  - Invoice no. 11412 dated 29.12.2016 amounting to Rs.2,11,564/- was raised under the head of VAT registration. These bills are fraudulent and illegal since they have categorically mentioned GST No, whereas GST came into force only in 2017. Also, despite the Complainant having taken possession of the property in 2009, was never informed that they need to pay the said amount. Also, in none of the subsequent bills till date none of these outstanding's have been raised/mentioned of any such charge as outstanding.
  - Invoice no.11788 dated 21.2.2019 amounting to Rs.1,30,472/- was raised under the head of signage charges, waterproofing charges and stone fixing charges. That these charges are false because no such





work had taken place in the premises of the disputed property. Since 2009, the said property has been under the sole and exclusive control and supervision of the complainant and at no point were any workers deputed by the respondent on the said property to carry out any such work, nor any such permission sought or given by the complainant for such work. That the complainant had taken over the possession of the said unit no.905 after the same were fully constructed and thereafter no such civil work or any other work has ever been carried out in the said units by the respondent till today.

d. Invoice no.11125 dated 08.10.2015 for Rs.18506/- has been charged under the head of some HT Cable replacement. That this invoice is also fraudulent because it has a GST no. mentioned in it (Whereas, GST was not in existence in the year 2015). Also, neither was any permission sought for any HT cable replacement nor was any permission given.

e. That ever since having taken over of the possession of the said units by the complainant as far back as on 07.09.2009, the complainant had been repeatedly following up with the respondents requesting for execution and registration of sale deed in their favour but the same has been continued to be delayed even till date.

X. That the said fraudulent acts of the respondents were vehemently refuted vide various emails, but as the respondents continued to maintain their intransigent posture and hostile attitude, the complainant was forced to lodge a police complaint before SHO Sector 29 Gurugram, dated 19.03.2019 and the complainant also wrote letters to the commissioner Gurugram bearing no.596/CC dated 19.03.2019 to DCP Headquarters, Office of Commissioner of Police Gurugram dated 18th may 2020 to SHO Kherki Daula, Sector 84, Gurugram on 28.09.2021, submitted written statement on 21.09.2022 before Mr. Omkar, S.I., Kherki Daula, Gurugram and also vide letter dated 10.11.2022 to police station DLF Phase-4, Gurugram. The complainant

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also made various complaints to the GST department and also through CM window.

- XI. That in the above manner the respondents have been delaying execution and registration of the sale deeds of the said properties/two units, by fraudulently trying to extort money to which they are otherwise not entitled.
- XII. That earlier the complainant had inadvertently made a single complaint with respect to 2 of his units and had sent advance copy of the same to the respondents vide complaint bearing no.CR/2694/2023 but the same was never filed with the Authority but since the Authority prescribes one complaint per unit booked, therefore the present complaint is being filed separately for the unit no.905 in the above-stated project. The complainant herein reserves his right to file a separate complaint qua unit no.906.

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

4. The complainants have sought following relief:
- To pass necessary orders directing the respondents to get the sale/conveyance deeds of the said unit bearing 905 at Vatika City point near MG Road Metro Station, Gurugram, registered in favor of the complainants immediately without any further delay under the provisions of Section 17 of RERA Act, 2016.
  - To direct the respondents to execute the above-mentioned sale/conveyance deed in favour of both the complainants.
  - To pass orders directing the respondents to withdraw the false and frivolous invoices amounting to Rs.7,37,165/-.
  - To pass the necessary orders directing the respondents that in case of any increase in the registration charges, after the date of raising the request for registration by the complainant, any such increase to be borne by the respondent.
  - To compensate the complainant suitably to the tune of Rs.10,00,000/ for the agony and suffering suffered at the hands of the respondents for

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deliberately delaying the execution and registration of the sale deeds without justifiable cause ever since the date of handing over of the possession i.e. 07.09.2009.

vi. Any other relief which the Authority deems proper may also be granted in favor of the complainant and against the respondents.

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 respondents.**

6. The respondents have contested the complaint by filing reply on the following grounds: -

- I. That the complainants have not approached the Authority, with clean hands and has suppressed the relevant material facts. That the complaint under reply is devoid of merits and the same should be dismissed with cost.
- II. That the respondent no.1 i.e. Vatika Ltd. had transferred/sold their rights in favour of respondent no.2 on 01.10.2007. Thus, respondent no.1 has no rights or liens over the project as per the collaboration agreement, as the developer of the project is respondent no.2.
- III. A perusal of the Real Estate (Regulation & Development) Act, 2016 enumerates in Section 3 that the provisions of the RERA Act, 2016 or the Rules and Regulations made thereunder shall apply to such projects that are registered under the provisions of the RERA Act, 2016 only. Further in pursuance of the powers under the RERA Act, 2016 the State of Haryana notified the Haryana Real Estate (Regulation and Development) Rules 2017, said rules provide the definition of ongoing projects. It also specifies the exclusions therefrom. Any project excluded from the purview of ongoing projects as per the said rules is not required to be registered under RERA in Haryana. The project of the respondent falls



within the excluded category since it was complete prior to enforcement of the said Rules in Haryana as per Rule 2(1)(o) of the said Rules. Hence, on the basis of conjoint reading of the interpretation giving by the Hon'ble Supreme court with regard to applicability of the Act and the definition of ongoing projects provided under the Haryana Real Estate (Regulation and Development) Rules 2017, it can be fairly held that once the projects are already complete in terms of the Act/Rules, they cannot be brought under the purview of RERA by extending the jurisdiction on account of liberal construction of words. The scope of the Act is restricted to the projects that are registered under RERA or the projects that fall within the ambit of the ongoing projects.

- IV. That the Rule 4(5) clearly states that any project for which an application for occupation certificate, part thereof or completion certificate or part-completion certificate is made to the competent authority on or before the publication of the said Rules i.e. 28.07.2017, is outside the purview of this Authority, unless the application for OC is refused by the competent authority. That even the actual occupation certificate of the project has also been granted on 25.07.2011 without any defects in the application for the same being notified by the competent authority. The promoter is required to submit himself to the provisions of the RERA Act in case the application submitted in terms of the provisions is rejected. However, such a situation did not arise in the instant case.
- V. That the present complaint is barred by law of limitation as the respondent had given possession of the unit to the complainant on 07.09.2009 itself due to the persistent defaults by the complainant in making due payments as per the BBA. That now the complainant after expiry of almost 14 years from the date of possession of the unit, has filed the present complaint on 26.09.2023 allegedly claiming refund of their



amount which is in itself an abuse of the process of law and highly delayed.

- VI. That, the legislative intention on the aspect of "Limitation" is abundantly clear. It is pertinent to mention that the Legislators have explicitly kept out any compensation sought under the provisions of Section 18(2) of the RERA Act, 2016 from the ambit of Limitation however, claim(s)/compensation or interest arising by the virtue of Section 18 (1) & (3) of the RERA Act, 2016 are not immunised from the bar of Limitation. That accordingly, since it has been established that the Limitation Act is applicable, the period of limitation shall be computed as per article 55 and 113 of the Schedule. Therefore, it is clear that the period of Limitation shall be deemed to be 3 years.
- VII. That since more than 3 years has elapsed, the present complaint is not maintainable before the Authority to dismiss such complaint initiated beyond the limitation period as laid down in the catena of judgements by various courts including the Hon'ble Apex Court.
- VIII. That without prejudice to any other submission made herein, it is respectfully submitted that in the instant case the possession letter was issued on 05.09.2009 and certificate of possession on 07.09.2009 which was prior to the Section 11 of RERA Act coming into force. The cancellation letter clearly provides various heads under which forfeiture amount has been calculated in accordance with the agreed provisions of the PBA. Hence, once the action against which the complaint is being filed had been initiated prior to the coming into force of the RERA Act, such action cannot be challenged on the parameters prescribed in an Act which were not enforceable as on the date when the cancellation was undertaken. Hence, the cause of action being much prior to the





enforceability of the provisions of the RERA Act, the same cannot be applied to ascertaining the legality and validity of such an action.

- IX. That in around the year 2007, the complainants learned about the group housing colony launched by the respondent titled as "Vatika City Point" near MG Road Metro Station, Gurugram and visited the office of the respondent to know the details of the said project. The complainants further inquired about the specifications and veracity of the project and were satisfied with every proposal demanded necessary for the development.
- X. That after having keen interest in the project being developed by the respondent and post being satisfied with the specifications of the project, the complainants decided to book a unit vide allotment form dated 05.09.2007 and paid an amount of Rs.26,73,190/- as booking amount for further registration in the project and also allotted a bearing No. COMM/VCP/905/09/07 and unit bearing no.905, Vatika City Point, admeasuring super area of 2056.30 sq. ft., in the aforesaid project.
- XI. That on 31.05.2013, builder buyer agreement, was executed between the both the parties, for the subject unit having basic sale consideration of Rs.2,01,48,925/- on the basis of super area.
- XII. That as per clause 10 of the agreement, the possession was proposed to be handed over within on or before 01.10.2008 unless there shall be delay or there shall be failure due to reasons beyond the control of developer or due to government rules, orders etc or due to failure of allottee(s) to pay in time the price of the unit along with all other charges and dues in accordance with the schedule of the payment.
- XIII. The complainants herein voluntarily with free will and consent has taken over the possession of the unit on 07.09.2009 after satisfying with all the measurements, specification and fittings/fixtures of the subject unit.

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- XIV. That as per the provision of clause 25 of the agreement the complainants have agreed and understood that in addition to the basic sale price The developer shall prepare and execute along with the allottee a conveyance deed to convey the title of the said commercial space in favour of allottee but only after receiving full payment of the total price of the said commercial space and payment of all securities including interest free maintenance security deposits and charges for bulk supply of electrical energy, stamp duty, registration charges, incidental expenses and legal expenses for registration interest, penal interest etc. on delayed instalments, and all other dues as set forth in this agreement or as demanded by the developer from time to time prior to the execution of the conveyance deed.
- XV. Also, as per the provision of clause 34 of the agreement the complainants upon own free will and consent had agreed to pay the insurance for the block, the cost thereof shall be payable by the allottee separately or part of maintenance charges.
- XVI. Further, as per the provision of clause 29 of the agreement, the respondent decided to apply to receive and distribute bulk supply of electrical energy for the commercial complex for any other body or commission, then the allottee undertakes to pay on demand by the promoter.
- XVII. Also, as per the clause 31 of the agreement states that as and when any plant and equipment within the said complex as the case may be any other plant/ equipment of capital nature, the cost thereof shall be contributed by the allottees.
- XVIII. That the complainants have understood and agreed to the charges which were due and payable as per the terms of the agreement but at a belated stage have refused to pay the same on one pretext or the other.

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- XIX. The developer shall prepare and execute along with the allottee a conveyance deed to convey the title of the said commercial space in favour of allottee but only after receiving full payment of the total price of the said commercial space and payment of all securities including interest free maintenance security deposits and charges for bulk supply of electrical energy, stamp duty, registration charges, incidental expenses and legal expenses for registration interest, penal interest etc. on delayed instalments, and all other dues as set forth in this agreement or as demanded by the developer from time to time prior to the execution of the conveyance deed.
- XX. As per the provision of clause 25 of the agreement, the conveyance deed will only be executed when the builder receive full payment of the total price of the said commercial space and payment of other charges/deposits including interest free maintenance security deposits and charges for bulk supply of electrical energy, stamp duty, registration charges, incidental expenses and legal expenses for registration interest, penal interest etc.
- XXI. The Authority does not have any power to adjudicate the matter of compensation, only the Adjudicating Officer has the power to adjudicate the matter of compensation. The Adjudicating Officer has been given power to adjudicate under the Section 71 of the Act, 2016 and the quantum for determining the compensation is defined under Section 72 of the Act, 2016. A bare reading of the provision of the Act of 2016, categorically specifies that the compensation can only be awarded for the losses incurred by the allottee under Section 12, 14, 18 and 19 of the Act, 2016.
- XXII. That the present complaint is liable to be dismissed and the complainants has filed a criminal complaint under Section 200 of CRPC vide complaint



no. COMI/508/2022 and the same is listed for evidence on 25.04.2024. It is an established law that the principle of *Res Sub-Judice* discourages a court from proceeding with the trial of any suit in which the concern in matter is directly or substantially the same as a previously instituted suit between the same parties, and the court in which the issue was previously instituted has the power to grant the relief sought.

XXIII. That as per the provision of Section 10 of the Civil Procedure Code, the complainant cannot proceed with the present complaint as the same is pending before the Hon'ble Chief Judicial Magistrate, Gurugram and is yet to be adjudicated by the Hon'ble Chief Judicial Magistrate, Gurugram on the merits of the present case. Hence, the object of the rule contained in Section 10 is to prevent courts of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two parallel litigations in respect of the same cause of action, the same subject-matter and the same relief.

XXIV. That the complainants herein, have suppressed the above stated facts and has raised this complaint under reply upon baseless, vague, wrong grounds and has misled this Authority, for the reasons stated above. That none of the reliefs as prayed for by the complainants are sustainable before this Authority and in the interest of justice.

XXV. Hence, the present complaint under reply is an utter abuse of the process of law, and hence deserves to be dismissed.

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 record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and oral as well as written 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 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 allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

**Section 11.... (4) The promoter shall-**

*(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*

**Section 34-Functions of the Authority:**

*34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.*

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 complainant at a later stage.

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**F. Findings on the objections raised by the respondent.****F. I Objection regarding maintainability of the present complaint:**

13. The respondents have raised the contention that the present complaint is not maintainable before this Authority, as a similar criminal complaint is pending before the Hon'ble Chief Judicial Magistrate, Gurugram.
14. The Authority observes that the criminal complaint pending before the Hon'ble Chief Judicial Magistrate, Gurugram, bearing no. COMI/508/2022, has been filed under Section 200 of The Code of Criminal Procedure, 1973 (*Section 223 of Bharatiya Nagarik Suraksha Sanhita, 2023*) wherein the complainants have sought cognizance of certain alleged offences committed by the respondents, including dishonest misappropriation of property, criminal breach of trust, cheating, and other related offences under the Indian Penal Code, 1860 (*The Bharatiya Nyaya Sanhita, 2023*). However, the instant complaint has been filed by the complainants, for seeking direction to the respondents to execute the registered conveyance deed in their favour, as the OC was received on 25.07.2011 by respondent and the respondents are under obligation in terms of Section 17 of the Act of 2016. These allegations pertain to fraudulent conduct purportedly committed by the respondents.
15. Therefore, the issue to be decided by the Authority is totally different from the issue pending in complaint no. COMI/508/2022 before the Hon'ble Chief Judicial Magistrate, Gurugram. Consequently, the plea taken by the respondents regarding maintainability is devoid of merits and is hereby dismissed and it is well settled principle that a person cannot take benefit of his own wrongs.

**G. Findings on the relief sought by the complainants.**

- G.I Direct the respondents to get the sale/conveyance deeds of the said unit bearing 905 at Vatika City point near MG Road Metro Station, Gurugram,**



**registered in favor of the complainants immediately without any further delay under the provisions of Section 17 of RERA Act, 2016.**

**G.II Direct the respondents to execute the conveyance deed in favour of both the complainants.**

16. On consideration of documents available on record and submissions made by both parties. The Authority observes that in the year 2007, the complainant no.1 applied for a booking of commercial unit/ space in the project "Vatika City Point" of the respondents. Thereafter, on 05.09.2007, the complainant no.1 was allotted a unit/ space bearing no.905 at 9<sup>th</sup> floor, having super area 2056.39 sq. ft. in the project namely "Vatika City Point". Further, the complainant no.1 and the respondent no.1 entered into a buyer's agreement for the allotted unit for a total sale consideration of Rs.2,01,48,925/- out of which Rs.2,02,97,327/- were paid by the complainant no.1 way back in 2009. The possession of unit was offered to the complainant no.1 on 05.09.2009 and after due inspection, the possession was handed over and certificate of possession was signed by the complainant no.1 on 07.09.2009 only. The occupation certificate w.r.t to the project was granted by the competent authority on 25.07.2011.

17. Further, on 23.01.2019, the complainant no.1 submitted a letter along with certain documents (which contains original copy of allotment letter, BBA executed and payment receipts of both the unit of the complainant no.1), to the respondent no.2, requesting for addition of the name of complainant no.2 (i.e., Anita Srivastava, wife of the complainant no.1) as co-allottee in unit no.905 & 906 at "Vatika City Point". However, no document is placed on record either of the party which can prove that the allotted got endorsed in the name of both the complainants. Therefore, the Authority is of the view that as per Section (2d) of the Act of 2016, i.e., definition of "Allottee", the

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complainant no.2 cannot be considered as an allottee until the allotted unit got endorsed in her favour as well.

18. The complainants are seeking the relief for the registration of conveyance deed in accordance with section 17 of the Act of 2016. The complainant had taken the possession of the unit on 07.09.2009 on offer of the possession of the unit in question. Whereas the possession was offered by the respondent/promoter without obtaining the occupancy certificate as per clause 25 of the buyer's agreement, the respondent shall prepare and execute along with allottee(s) a conveyance deed to convey the title of the said apartment in favour of the allottee but only after receiving full payment of total price of the apartment and the relevant clause of the agreement is reproduced for ready reference: -

**25. Conveyance of the said commercial space**

*"1. The Developer shall prepare and execute along with the Allottees a conveyance deed to convey the title of the said Commercial Space in favour of Allottee but only after receiving full payment of the total price of the said Commercial Space and payment of all securities including interest free maintenance security deposits and charges for bulk supply of electrical energy, stamp duty, registration charges, incidental expenses and legal expenses for registration interest, penal interest etc. on delayed instalments, and all other dues as set forth in this Agreement or as demanded by the Developer from time to time prior to the execution of the Conveyance Deed. Further the conveyance deed shall be in the form and content as may be approved by the legal advisor of the developer. The developer may permit the allottee to get the conveyance deed executed and registered in its own name or in the name of its nominee. If the Allottee is in default of any of the payments as set forth in this Agreement then the Allottee authorizes the developer to withhold registration of the Conveyance Deed in its favour till full and final settlement of all dues to the developer is made by the Allottee. The Allottee undertakes to execute Conveyance Deed within the time stipulated by the developer in its written notice failing which the Allottee authorizes the developer to cancel the allotment and terminate this Agreement in terms of Clause (12) of this Agreement and to forfeit out of the amounts paid by him/her the earnest money, delayed payment of interest any interest paid, due or payable, any other amount of a non-refundable nature and to refund the balance amount without any interest in the manner prescribed in Clause (12) Supra. The Allottee shall be solely responsible and liable for compliance of the provisions of Indian Stamp Act 1899 including any actions taken or deficiencies / penalties imposed by the competent authority (ies). Any increase / decrease in the Stamp Duty charges during the period when the case for execution of the*





*Conveyance Deed of the allotted flat is being processed by the Developer shall be borne by / refunded to the Allottee."*

19. It is to be further noted that section 11(4)(f) provides for the obligation of respondent/promoter to execute a registered conveyance deed of the apartment along with the undivided proportionate share in common areas to the association of the allottees or competent authority as the case may be as provided under section 17 of the Act of 2016 and shall get the conveyance deed done after obtaining of OC.

20. As far as the relief of transfer of title is concerned the same can be clearly said to be the statutory right of the allottee as section 17 (1) of the Act provide for transfer of title and the same is reproduced below:

**"Section 17: Transfer of title.**

*17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:*

*Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."*

21. As OC of the project in which unit of the complainant is situated has been obtained from the competent authority on 25.07.2011, and entire sale consideration was paid way back in 2009, therefore, there is no reason to withheld the execution of conveyance deed which can be executed with respect to the unit. Accordingly, the Authority hereby directs the respondents to execute the conveyance deed in favour of the complainant no.1 (i.e., Allottee) after payment of stamp duty charges and administrative charges up to Rs.15,000/- as fixed by the local administration, if any, within 90 days from the date of this order.



**G.III To pass orders directing the respondents to withdraw the false and frivolous invoices amounting to Rs.7,37,165/-.**

22. The complainants contended that the respondent no.2 has raised some false and fabricated bills to the complainant, as a Tax invoice dated 08.10.2015 is bearing GST No.06AABCL4551D1ZW of the respondent company. However, the GST Bill was enacted as Act on 12.04.2017 and came into force from 01.07.2017. Further, the complainants have already filed a complaint bearing no. COMI/508/2022, before Hon'ble Chief Judicial Magistrate, Gurugram, under Section 200 of The Code of Criminal Procedure, 1973 (*Section 223 of Bharatiya Nagarik Suraksha Sanhita, 2023*) to take cognizance of the offence based on complaint, which is still pending for consideration. Thus, no directions for the same at this stage.

**G.IV To compensate the complainant suitably to the tune of Rs.10,00,000/ for the agony and suffering suffered at the hands of the respondents for deliberately delaying the execution and registration of the sale deeds without justifiable cause ever since the date of handing over of the possession i.e. 07.09.2009.**

**G.V To pass the necessary orders directing the respondents that in case of any increase in the registration charges, after the date of raising the request for registration by the complainant, any such increase to be borne by the respondent.**

**G.VI Any other relief which the Authority deems proper may also be granted in favor of the complainant and against the respondents.**

23. The complainants are also seeking relief w.r.t. compensation. The Hon'ble Supreme Court of India in civil appeal no.6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP & Ors.* (supra) has held that the adjudicating officer has exclusive jurisdiction to deal with the complainants in respect of compensation.



**H. Directions of the authority**


24. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondents/promoter are directed to execute the registered conveyance deed in favour of the complainant/ allottee within 3 months as per section 17 of the Act, upon payment of requisite stamp duty charges and administrative charges as per norms of the state government.
- ii. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.

25. Complaint as well as applications, if any, stands disposed of accordingly.

26. File be consigned to the registry.

**Dated: 22.05.2025**

  
**(Vijay Kumar Goyal)**  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram