

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

Complaint no. : 866 of 2024  
Date of filing: 06.03.2023  
Date of decision : 27.05.2025

1. Mr. Ashok Gupta

**Regd. Address:** House no. B-85, Ground Floor,  
Rosewood city, South City-II, Sector-49,  
Gurugram - 122018.

2. Mr. Sanjay Gupta

**Regd. Address:** House no. C-59A, Ground Floor,  
OLD DLF Colony, Industrial Estate, Sector-14,  
Gurugram - 122007

**Complainants**

**Versus**

M/s Munglam Multiplex Private Limited

**Regd. office:** Cabin-1, LGF, F-22, Sushant  
Shopping Arcade, Sushant Lok Phase-1,  
Gurugram, Haryana - 122032.

**Respondent**

**CORAM:**

Shri Arun Kumar  
Shri Vijay Kumar Goyal  
Shri Ashok Sangwan

**Chairperson**  
**Member**  
**Member**

**APPEARANCE:**

Sh. Vijender Parmar (Advocate)  
Ms. Shriya Takkar (Advocate)

**Counsel for Complainants**  
**Counsel for Respondent**

**ORDER**

1. The present complaint has been filed by the complainants/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 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 complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. No.	Particulars	Details
1.	Name and location of the project	"M3M 65 <sup>th</sup> Avenue", Sector 65, Gurugram
2.	Nature of the project	Commercial
3.	Project area	14.4125 acres
4.	DTCP license no.	15 of 2017 dated 02.05.2017 valid up to 01.05.2025
5.	Name of licensee	Manglam Multiplex Pvt. Ltd.
6.	RERA Registered/ not registered	01 of 2017 dated 14.06.2017 (Issued for part of the project by the Interim RERA) 32 of 2023 dated 02.02.2023 valid up to 01.05.2024 (for whole project)
7.	Unit no.	R4 LG 23, Lower Ground Floor & Block-4 (As per page no. 23 of the complaint)
8.	Unit area admeasuring	1883.50 sq. ft. (Super area) & 965.53 sq. ft. (Carpet Area) (As per page no. 23 of the complaint)



9.	Allotment letter	09.11.2021 (As per page no. 71 of the complaint)
10.	Date of agreement for sale	12.11.2021 (As per page no. 20 of the complaint)
11.	Possession clause	<p><b>7. POSSESSION OF THE UNIT</b></p> <p><b>7.1 Schedule for possession of the said Unit:</b>  <i>The promoter agrees and understands that timely delivery of possession of the unit along with the car parking space(s), if any, to the allottee and the common areas to the association of allottees or the competent authority, as the case may be, as provided under the act and Rule 2(1)(f) of Rules, 2017, is the essence of the agreement.</i></p> <p><b>7.2</b> <i>It is further agreed between the parties that the allottee shall not raise any objection, or refuse to take possession of the unit on any pretext whatsoever, if the possession of the same is being offered duly completed with all specifications, amenities, facilities as mentioned in 'Schedule E' hereto, any time prior to the commitment period.</i></p> <p>(As per page no. 40 of the complaint)</p>
12.	Due date of possession	<p>June, 2024</p> <p>("Commitment Period" shall mean June, 2024 notified by the promoter to the Authority, at the time of registration of the project....)</p> <p>(As per page no. 26 of the complaint)</p>
13.	Total sale consideration	<p>Rs.3,13,69,292/-</p> <p>(As per SOA on page no. 63 of the reply)</p>
14.	Amount paid by the complainant	<p>Rs.3,13,69,292/-</p> <p>(As per customer ledger dated 20.02.2024 on page no. 79 of the complaint)</p>
15.	Occupation Certificate	<p>16.10.2023</p> <p>(As per DTCP website)</p>
16.	Offer of possession	08.09.2022

		(As per page no. 67 of the reply)
17.	Demand letter	09.09.2022 (As per page no. 67 of the reply)
18.	Pre-cancellation notice	01.09.2022, 15. 11.2022 & 17.01.2023 (As per page no. 60 & 69-70 of the reply)
19.	Emails inviting to take possession of the unit	10.04.2023, 12.06.2023, 21.06.2023, 05.07.2023, 03.08.2023, 08.08.2023, 08.08.2023, 24.08.2023, 27.09.2023 & 29.11.2023, 16.01.2024 & 01.03.2024 (As per page no. 71-81 & 84-85 of the reply)
20.	Emails regarding lease agreement	09.07.2023 & 09.08.2023 (As per page no. 82-83 of the reply)

## B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:
  - a. That in year 2021, respondent through their marketing executives and advertisements via various mediums & means approached the complainant with an offer to buy a commercial unit in the proposed real estate project, namely "**M3M 65<sup>TH</sup> AVENUE**" situated in the Village Maidawas and Badshapur Sector-65, Gurugram (hereinafter referred to as "Said Project").
  - b. That the respondent had represented to the complainants that the respondent is a very ethical business house in the field of construction of residential and commercial project and in case, the complainants would buy any property in the said project, then, the respondent would deliver the possession of proposed unit on the promised delivery date as per the best quality assured by respondent. The respondent had further assured to the complainants that the respondent have already secured all the necessary sanctions and approvals from the appropriate and concerned authorities for



the development & completion of said project on time with the promised quality and specification.

- c. That the complainants, being induced by the promises and representation made by the respondent, shows their interest in the shop bearing Unit No. R4LG 23, Lower Ground Floor, Block-4 having carpet area of 89.70 Sq. Mtr. (965.53 Sq. Ft.) in the said project. That the complainant's interest in the said unit was duly acknowledged by the respondent vide his letter.
- d. That at the time of booking and even at the allotment of said unit, it was duly assured and represented by the respondent that once the said unit will be ready for occupation, the respondent shall handover the physical, and vacant possession of the said unit to the complainants without any hindrance or obstacle and the complainants had agreed to buy the said unit in the said project only upon such assurance given by the respondent.
- e. That the respondent had asked the complainants to sign the agreement for sale for the said shops. however, the said agreements were in a pre-printed format, having various terms and conditions against the complainants specifically and against the consumer at large in general. When, the complainants objected to such unfair and unilateral terms and asked respondent to amend & change the terms to make them mutually beneficial, the respondent had flatly refused the request made by the complainants and threatened the complainants to forfeit the entire book amount paid by complainants towards the said unit in case, the complainants refuse to sign the unilateral and one-sided agreement already printed by respondent.
- f. That the respondent accordingly issued allotment letter dated 09.11.2021 for retail shop to the complainants confirming the allotment of said unit jointly in favor of the complainants.

- g. That the Respondent started raising the demand of money /installments from the complainants, which were duly paid by the complainants as per agreed timelines. The complainant as on today has paid Rs.39,708,030/- towards the sale consideration of the said unit. The complainants therefore have paid the entire sale consideration towards the said unit to the respondent and nothing is due against the complaint as on today.
- h. That as per clause 7 of the said agreement, it was promised and represented by the respondent that the respondent shall handover the physical possession of said units to complainant upon the receipt of occupation certificate and payment of sale consideration. It was also assured by the respondent that upon such handing over of the possession, the complainant shall have all the rights to deal with the said units as per their choice and decision and the respondent shall not have any interference in the same in any manner.
- i. That it was further assured by the respondent that upon the payment of the sale consideration by the complainants, the respondent shall also execute the conveyance deed of the said unit in favor of the complainants as per law.
- j. That it is to be further noted that the said agreement was unilateral and was made one sided by the respondent in its own favour and the same is also clear from the fact that no timeline was mentioned within the said agreement for the delivery of the physical possession of the said unit to the complaints and despite specific requests and the protest made by the complainants at the time of signing of said agreement, the respondent refused to add the same in the said agreement and again threatened the complainants to cancel the booking and forfeit the amount paid by the complainants towards the said unit in case they will insist for any change within the preprinted format of the agreement.



- k. That thereafter the respondent offered the possession of the said unit to the complainants after inordinate delay vide possession letter dated 08.09.2022.
- l. That when the complainants approached the respondent to take the physical possession of the said unit, it was informed by the respondent to the complainants that in case the complainants wish to seek the assistance of the respondent for leasing out the said unit to a prospective tenant then, they are not required to take the physical possession of the said unit and only the paper possession shall act sufficient and along with the same, the respondent also asked the complainants to sign on various other documents in favor of the respondent which were not the part of the Agreement for Sale and were totally illegal and arbitrary in nature, which the complainants refused to sign and without which, the respondent declined to hand over the physical possession of the said unit to the complainants and having no other option, the complainants were forced to agree to the illegal and arbitrary demands of the respondent of leasing out the said unit on behalf of the complainants.
- m. That the complainants kept following up with the respondent regarding the status of leasing out the said unit and handing over the actual physical possession of the said unit to the complainants, however, the respondent never replied with any satisfactory answer with respect to the same and kept giving excuses just to delay the physical possession of the said unit to be handed over to the complainants. Further, the Respondent kept sending the illegal and arbitrary demands of the interest and holding charges to the complainants for the said unit and when confronted by the complainants that the respondent is not entitled to levy such illegal amount of interest or holding charges for the said unit as the respondent itself refused to provide the physical possession of the said unit and assured to lease out the same on behalf of the complainants then, the respondent asked the complainants to

ignore such letter, being the standard communication done by the respondent and assured that no such charges will be taken from the complainants and therefore, no action was taken by the complainants till today against such illegal demands. Copy of one of such email dated 16.01.2024 recently demanding the aforesaid illegal charges of delay payment interest amounting to Rs. 2,01,848/- and holding charges amounting to Rs. 22,95,052/-.

- n. That on 7<sup>th</sup> July 2023, the respondent through its official namely Ms. Suchita Dervani sent a proposal of leasing the said unit to tenant namely "HICCI" upon the monthly rent and tenure mentioned in the said email. The respondent also demanded an amount equal to the rent of 60 days as brokerage. However, the complainants responded to the said email on 09.08.2023 that they agree to the said proposal but disagree to the payment of brokerage by the complainants to the real estate agents for leasing out the said unit. It is to be noted that at the time of the sale of said property it was also promised by the respondent that the rental will be paid and maintenance will be charged on the super area basis, however the same was not reflected from emails.
- o. That It is to be highlighted here that after the aforesaid refusal of complainants to pay the brokerage amount to lease out the said unit, no revert was received from the respondent about leasing or not leasing out the said unit and no further documents or draft of the proposed lease agreement was ever shared or negotiated with the complainants by the respondent and neither the respondent asked the complainants to come and meet the proposed tenant nor the respondent paid any amount towards any such proposed lease.



- p. That. It is important to highlight here that now, when the complainants have visited the aforesaid project, they found that the branding of the business named HICCI is fixed on their unit and it is the same brand about which a proposal was sent by the respondent in July 2023 which was never actually materialized and no permission or consent was ever taken by the respondent for putting the said branding upon their unit and has been done illegally which definitely amounts to trespass in the property of the complainants.
- q. That the complainants, upon finding the said illegal and unlawful act of affixing the branding of aforesaid restaurant upon their unit without their consent inquired about the same with the respondent, however, the respondent again did not provide any answer about the factual position and the complainants actually did not know whether their unit has been already leased out to any business or not and upon what terms and conditions as the complainants neither signed any lease agreement with any third party nor received any rent towards the said unit till today.
- r. That thereafter, the complainants approached the respondent to again claim the physical possession of the said unit and also sent an email dated 12.02.2024 to the respondent upon the email id of its representative as well as directly to the company stating that they have not leased out the said unit to anyone, specially the business of which the branding was affixed on the said unit and asked the respondent to remove the branding of the aforesaid business immediately from the said unit and provide the physical possession of the said unit to the complainants. However, the respondent neither replied to the said email of the complainant nor removed the aforesaid branding nor handed over the actual physical possession of the said unit to the complainants.

- s. That it is to be noted here that the aforesaid acts on the part of the respondent of illegally putting the branding of some business on the said unit without the permission of the complainants is totally unlawful and illegal for which the respondent has no legal or contractual right and the complainants are legally entitled for the physical possession of the said unit being the allottees of the said unit having already paid the entire sale consideration and other charges and thus making them legally entitled to demand the same by the way of the present complaint.
- t. That the cause of action accrued in favor of the complainants and against the respondent when the complainants had booked the said units and on 12.11.2021, when the agreement for sale for the said unit was executed and on 07.07.2023, the cause of action further accrued when the email for leasing out the said property was sent by the respondent and on 12.02.2024 when the complainants found that the branding of a business is illegally affixed upon their unit without their permission. The cause of action further accrued when the respondent again refused to hand over the physical possession of the said unit and the cause of action is still subsisting on day-to-day basis as the respondent neither removed aforesaid illegal branding/hording from the said unit nor handed over the actual physical possession of the said unit till the filing of the present complaint and is still insisting for the signing of aforesaid arbitrary documents.

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

4. The complainants have sought following relief(s).
- a. Pass an order to direct the Respondent to handover the actual physical possession of the said unit to the complainants and execute the conveyance deed in favor of the complainants after removing the illegal and arbitrary holding charges and delay payment interest.



- b. Pass an order to direct the respondent to remove the branding/hording affixed on the said unit immediately being done without the permission of the complainants and also illegal & contrary to law.
- c. Pass an order to direct the respondent to place on record, the lease agreement of the said unit and in case, the same is already leased to any third party by the respondent, the Respondent shall be held liable to pay the rental and other charges for the said unit to the complainants accrued as on the date of filing of this complaint and/or to declare any such lease agreement null & void and not binding upon the complainants.

**D. Reply by the respondent.**

- 5. The respondent no. 1 has contested the complaint on the following grounds.
  - a. That the complainants have approached the hon'ble authority with unclean hands and have tried to mislead the hon'ble authority by making incorrect and false averments and stating untrue and/or incomplete facts and, as such, is guilty of *suppressio very suggestion falsi*. The complainants have suppressed and/or mis-stated the facts and, as such, the complaint apart from being wholly misconceived is rather the abuse of the process of law. On this short ground alone, the complaint is liable to be dismissed.
  - b. That the complainants have neither any cause of action nor any locus standi to maintain the present complaint against the respondent, especially when the complainants actually defaulted in making the payment and are now seeking the complete modification of the terms and conditions of the understanding between the parties.
  - c. That the occupation certificate for the present phase was granted by the competent authorities on 30.09.2021 after due verification and inspection. The complainants after conducting market research and after assessing the state of development showed interest in booking of a commercial unit in the

project "M3M 65<sup>th</sup> Avenue" which is a commercial component of mixed land use development being undertaken by respondent vide application form and paid an amount of Rs.1,00,000/- towards part booking amount. It is submitted that the complainants on their own free will and understanding and after having read and understood all the terms of the application form, duly signed the application form.

- d. That as per the payment plan opted by the complainants, the respondent raised a demand vide letter dated 10.11.2021 for an amount of Rs. 2,50,30,556/- which was to be paid on or before 08.12.2021.
- e. That after the issuance of the allotment letter, the three copies of the BBA were sent to the complainants for signing on 08.12.2021. It is humbly submitted that the Complainants, after going through the clauses of the BBA, had sent us the signed BBA and same was executed. The buyer's agreement was executed between the parties on 12.11.2021. The buyer's agreement contains the rights and liabilities of both the parties.
- f. That it is pertinent to mention here that the complainants had earlier expressed their interest to book ready to move in units in an oc received project of the associate Company M/s. M3M India Pvt. Ltd. On the request of the Complainants and post discussion with them, the amount paid towards booking of the units in the OC received projects of associate Company M/s. M3M India Pvt. Ltd. was adjusted towards the unit in question.
- g. That the complainants in violation of their legal obligations miserably failed to remit any amount towards the dues communicated vide demand letter, therefore the respondent company left with no other alternative, issued pre-cancellation notice dated 01.09.2022.



- h. That it is submitted that the unit was ready and the respondent company herein vide letter dated 08.09.2022 offered possession to the complainants and requested the complainants to remit the outstanding amount towards the remaining basic sale price, taxes, cess, stamp duty charges etc. before 15.10.2022. It is pertinent to mention herein that the construction of the project was completed prior to the prescribed commitment timeline i.e., June 2024 and there is no delay in offering possession of the unit to the Complainants. Thus, no case under Section 18 of RERA Act, 2016 is made out.
- i. That the complainants in violation of their legal obligations miserably failed to remit any amount towards the dues communicated vide the offer of possession, therefore the respondent company was constrained to again issue pre-cancellation notice dated 15.11.2022. In lieu of the same, the complainants made only a part payment of Rs. 20,00,000/- which was duly acknowledged by the respondent vide receipt.
- j. That the complainants even after the issuance of the above-mentioned pre-cancellation notice failed to take advantage of the opportunity to come forward to clear their total outstanding dues, as a consequence of which the respondent company again issued pre-cancellation notice dated 17.01.2023 calling upon the complainants to come forward and make the payments within 15 days of the issuance of this notice, failing which the allotment of the unit will be cancelled. In lieu of the same, the complainants made part payment of Rs. 42,16,864/- against the total outstanding dues which was duly acknowledged by the respondent.
- k. That the respondent on various occasions vide emails dated 10.04.2023, 12.06.2023, 21.06.2023, 05.07.2023, 03.08.2023, 08.08.2023, 24.08.2023, 27.09.2023 and 29.11.2023 requested the complainants to come forward

and clear their pending dues and complete the possession related formalities. It was also informed to the complainants vide the said emails that the delayed payment interest, holding charges and maintenance charges have been accumulated on the said unit but to no avail.

- l. That the respondent again sent reminder vide emails dated 16.01.2024 and 01.03.2024 requesting the complainants to come and clear their pending dues and complete the possession related formalities. It was also informed to the complainants vide the said emails that the delayed payment interest, holding charges and maintenance charges have been accumulated on the said unit but to no avail and the same are payable as per Clause 1.14, Clause 7.6.1. and Clause 11.3 of the buyers agreement respectively. Since the Complainants did not come forward to take the possession of the unit as per agreed terms, they are liable to pay holding charges and maintenance charges as per the terms of the Buyer's agreement.
- m. The present complaint has been filed by the complainants alleged seeking physical possession of the unit and execution of conveyance deed. Further, the complainants are also seeking the removal of hoardings/advertisements. The complainants allegedly have also sought lease rental of the unit and declaration of lease deed as null and void. It is submitted that ab initio, it was agreed between the parties herein that the unit in question has to be leased out.
- n. That it is submitted that based on the terms of the agreement, the respondent and its leasing team negotiated the terms of the lease and lease rentals with the prospective brand on behalf of all the allottees and got all the allottees the best possible deal in the market. The respondent had sent a proposal of leasing terms vide email dated 07.07.2023 to the complainants herein. It is pertinent to mention here that the complainants vide email



dated 09.08.2023 had given their consent to lease out the unit in question. In view thereof, the unit was leased to the Brand.

- o. Thereafter, the respondent had carried out the fit outs as required by the Brand. Since the complainants are objecting to the lease despite giving the leasing rights, the respondent, as a gesture of goodwill and to bring an end to the litigation and dispute, have asked the brand to vacate the premises and is willing to give the possession to the complainant, subject to no further amounts being claimed from the respondent.
- p. It is humbly submitted that due to cancellation of lease, the respondent has suffered huge monetary loss. Further, none of the allottees expect the complainant herein has raised any issue and the complainants are the only allottees, who with a malafide intention and to blackmail the respondent, is creating an impediment.
- q. It is most respectfully submitted that due to aforesaid circumstances, the respondent will have to suffer huge reputational damage as it is answerable to the other allottees.
- r. That the complainants approached the answering respondent and expressed their intent to lease out the unit in question and authorized them to lease out the unit to a suitable lessee either individually or combined along with other units. the understanding between the parties has been duly recorded in the buyers agreement executed between the parties on 12.11.2021. It is submitted that the as per the agreed terms the respondent company has the power to identify the tenant/lessee/licensee/third party and to discuss, negotiate, settle down and finalize the terms and conditions of such lease/license/similar arrangement, rentals/fee, security deposit, escalations, maintenance charges, maintenance security, administrative charges etc.

- s. That the occupation certificate was granted by the competent authorities on 30.09.2021 after due verification and inspection. The complainants had booked the unit in question with after assessing the state of development.
  - t. That the terms of agreement were entered into between the parties on 12.11.2021 and, as such, the parties are bound by the terms and conditions mentioned in the said agreement. The said agreement was duly acknowledged by the complainants after properly understanding each and every clause contained in the agreement. The complainants were neither forced nor influenced by the respondent to sign the said agreement. It was the complainants who after understanding the clauses signed the said buyer's agreement in complete senses and free will.
  - u. That the complainants have approached the hon'ble authority with unclean hands, has suppressed and concealed material and vital facts which have a direct bearing on the very maintainability of the purported complaint and if there had been disclosure of these material facts, the question of entertaining the purported complaint would not have arisen.
- 6. All other averments made in the complaints were denied in toto.
  - 7. 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 these undisputed documents and submission made by the parties.
- E. Jurisdiction of the authority**
- 8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.
- E.1 Territorial jurisdiction**
- 9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real



Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the 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**

10. 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;

#### **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.

11. 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. Pass an order to direct the Respondent to handover the actual physical possession of the said unit to the complainants and execute the conveyance**

deed in favor of the complainants after removing the illegal and arbitrary holding charges and delay payment interest.

F.II Pass an order to direct the respondent to remove the branding/hording affixed on the said unit immediately being done without the permission of the complainants and also illegal & contrary to law.

F.III Pass an order to direct the respondent to place on record, the lease agreement of the said unit and in case, the same is already leased to any third party by the respondent, the Respondent shall be held liable to pay the rental and other charges for the said unit to the complainants accrued as on the date of filing of this complaint and/or to declare any such lease agreement null & void and not binding upon the complainants.

12. The above mentioned reliefs no. F.I, F.II and 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
13. In the present matter the complainant was allotted unit no. R4LG23, Block 4, admeasuring 1883.50 sq. ft. in the project "M3M 65<sup>th</sup> Avenue" Sector 65 by the respondent-builder for a sale consideration of Rs 3,13,69,292/- against which complainant paid a sum of Rs.3,97,08,030/-. An allotment letter dated 09.11.2021 was issued by the respondent for retail shop confirming the allotment of the said unit jointly in favour of the complainant. A buyer agreement was executed between the parties on 12.11.2021. The respondent-promoter offered possession of the subject unit on 08.09.2022.
14. The complainant stated that, as per Clause 7 of the buyer agreement, the respondent shall hand over the physical possession of the subject unit upon receipt of the occupation certificate and payment of the sale consideration. Furthermore, the respondent-promoter assured the complainant that upon the payment of the sale consideration, the respondent would execute the



conveyance deed in favour of the complainant. However, this has not been done to date. The complainant further states that the respondent has been sending illegal and arbitrary demands and holding charges. On 07.07.2023, the respondent sent a proposal to lease the said unit to a tenant named "HICCI," specifying the monthly rent and tenure in the email. The respondent also demanded an amount equal to the rent for 60 days as brokerage. However, the complainant responded to the email on 09.08.2023, agreeing to the leasing proposal but disagreeing with the payment of brokerage fees to the real estate agents for leasing out the unit. It is also noted that, at the time of the sale of the property, the respondent had promised that the rent would be paid and that maintenance charges would be based on the super area. However, this was not reflected in the emails.

15. On the contrary, the respondent-promoter stated that it had sent a proposal of leasing terms to the complainants, and vide email dated 09.08.2023, the complainants had given their consent to lease out the unit in question. The unit was leased to the brand (HICCI), the respondent had carried out the fit outs as required by the brand. Since the complainants were objecting to the lease despite giving the leasing rights, the respondent as a good gesture of goodwill asked the Brand to vacate the premises and is willing to give physical possession to the complainants subject to no further amounts being claimed from the respondent.
16. After consideration of all the facts and circumstances, the Authority is of view that the respondent builder is willingly to give possession of the subject unit, therefore the respondent builder is directed to handover the physical possession of the unit within one months **and** as per section 11(4)(f) and section 17(1) of the act of 2016, the promoter is under an obligation to get the conveyance deed executed in Favor of the complainant. Whereas as per

section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. However, there is nothing on the record to show that the said respondent has applied for occupation certificate or what is the status of the completion of development of the above-mentioned project. In view of the above, the respondent is directed to handover possession of the flat/unit and execute conveyance deed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within two months after obtaining occupation certificate from the competent authority.

**G. Directions of the authority**

17. 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):
- a. The respondent builder is directed to handover the physical possession of the unit within one months after clearing all the outstanding dues to the respondent, if any.
  - b. The respondent is directed to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable
  - c. The respondent is not entitled to claim holding charges from the complainant(s)/allottee(s) at any point of time even after being part of the builder buyer's agreement as per law settled by Hon'ble Supreme Court in Civil appeal nos. 3864-3889/2020 decided on 14.12.2020






**HARERA**  
**GURUGRAM**

Complaint No. 866 of 2024

18. Complaint stands disposed of.
19. File be consigned to registry.

  
(Ashok Sangwan)  
Member

  
(Vijay Kumar Goyal)  
Member

  
(Arun Kumar)  
Chairperson

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 27.05.2025



**HARERA**  
**GURUGRAM**