

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

Complaint no. : 164 of 2024  
Date of filing : 19.01.2024  
Date of decision: 27.05.2025

ILD Engracia R.W.A  
R/o: - Nouse no. 949, Gali Number 4, Ashok Vihar, Near  
Sneh Hospital, Railway Road, Gurugram

**Complainant**

Versus

M/s Jubilant Malls Private Limited.  
**Regd. Office at:** B-418, New Friends Colony, New Delhi-  
110065.  
**Also At:** ILD Trade Centre 9<sup>th</sup> floor, Sector-47, Sohna Road,  
Gurugram-122018.

**Respondent**

**CORAM:**

Shri Arun Kumar  
Shri Vijay Kumar Goyal  
Shri Ashok Sangwan

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

**APPEARANCE:**

Sh. Virender Chabra representative of RWA  
Sh. Shubham Mishra (Advocate)

Complainant  
Respondent

**ORDER**

1. The present complaint dated 19.01.2024 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 allottee as per the agreement for sale executed *inter se*.

**A. Facts of the complaint**

2. The complainant has made the following submissions: -

- I. The complainant is an association constituted by the residents, all of whom have booked their plots with the opposite party in the project named and styled as **"ILD Engracia"** situated at Village- Basai, Sector-37-D, Gurugram, Haryana and have similar interests and concerns having suffered identical deficiency of service and unfair treatment in the hands of the Opposite Party. The affidavit accompanying the complaint is signed by the authorized representative of the association who has been duly empowered by the individual plot owners/ members of complainant association to move this application before the Authority on their behalf.
- II. The grievances of the members of the complainant association relate to breach of contract, false promises, gross unfair trade practices and deficiencies in the services committed by the respondent in regard to the project **"ILD Engracia"** wherein the members of complainant Association bought their plots by paying their hard-earned money. The said project **"ILD Engracia"** is spread over the land measuring 3.93 acres situated at Village- Basai, Sector- 37D, Gurugram, Haryana.
- III. That the plot-buyer agreements (pba) were executed between the members of complainant association and respondent on different dates towards purchase of their respective plots in the said project. The PBA provided that



the respondent shall endeavor to complete the development of infrastructural facilities for the plot within 30 months, with an additional grace period of 6 months from the date of the execution of their respective PBA. However, the respondent failed to complete the development infrastructural facilities and did not handover possession of the plots to all the members of complainant association within the time stipulated in the plot-buyer agreement. Moreover, there are three members of the association who have not got the possession till date. As per the clause 3.2.i of the PBA, the respondent has charged INR 75,000/- approx. as the charges for club membership. Apart from this, in clause 2.5 of PBA, it is also mentioned that the community building/club, parks, shops, lawns, roads, gardens etc. shall always remain the property of the respondent. In clause 5.10 of PBA, it is mentioned that the respondent shall developed the community/club building and other facilities in the project in a phased manner and which shall be fully operational on the final completion of the project.

- IV. That the zoning plan/lay-out plan duly approved by the competent authority vide approval letter dated. 06.07.2022. As per the zoning plan, the respondent was under obligation to provide community centre/club in the said project known as '**ILD Engracia**' which is a basic part of the project.
- V. That it is also relevant to mention here that a conditional completion certificate dated. 22.07.2022 has been granted by the competent authority in favour of the respondent with certain terms and conditions. in the said completion certificate, it has been clearly mentioned that the respondent



shall complete the construction of community as per provisions of zoning plan and as per the approved Town Planning Scheme.

- VI. That being aggrieved by non-handing over of possession of the plots by the respondent, the individual members of the complainant association approached the Authority to get the relief, filed various complainants and prayed this Hon'ble Authority, *inter alia*, to direct the respondent to complete the development of the plots along with all facilities and amenities like water, electricity, green belt, etc. and to handover the legal and rightful possession of the respective plots to the members of the complainant association after receiving the completion certificate (CC) and other required approvals from the competent authorities. During the pendency of the cases filed by the members of the association, the respondent has sent the offer of possession in August, 2022 to some of the members of the association, wherein the respondent has claimed to have adjusted the charges for club membership, which was done without the approval the Authority, as at that time the cases for members were pending and no approval or intimation to this effect was ever been taken or given to any of the members of the complainant association before issuing such offer of possession.
- VII. That that the respondent has entered into a 'Memorandum of Settlement' (hereinafter to be referred to as MOS) with five members of the complainant association, with a promise that if they sign the present MOS, the Respondent will get the conveyance Deed registered for them. The said MOS which was signed was totally one sided and arbitrary and to the further shock of the members of the complainant association, the terms and conditions of the



memorandum of settlement were unfair and one-sided and not acceptable to the members of the complainant association. However, there was no other option left with the members of the complainant association, who have invested their hard-earned money and were waiting for possession of their plots for years, except to sign the said unfair and one-sided memorandum of settlement to get possession of their respective plots.

- VIII. That out of 10 members of the complainant association, 9 members have preferred a complaint before the authority with a prayer to pass an appropriate direction /order to respondent to complete the development of the plots along with all facilities and amenities as per PBA and to handover the legal and rightful possession of the plots. Only, Mr. Lalit Kumar and Ors have not preferred any complaint for seeking early possession of the Plot from the respondent, however Shri Lalit Kumar is a member of the complainant Association in the present case.
- IX. That after getting executed the said memorandum of settlement, the respondent executed conveyance deeds in favour of only five members of complainant association on different dates, but did not complete his obligations made under PBA and till date did not provide community / club house, Electricity connection/water supply and STP within and outside the project/township, for which the respondent have already collected the payment, which is adversely affecting value of the plots of the buyers/members of the complainant association who have invested huge amounts.



X. That the respondent/seller/builder/promoter/company is habitual of making false promises and has deceptive behavior. The respondent has earned enough monies by duping the innocent plot buyers/members of complainant association and other such buyers through unfair trade practices and deficiencies in services and has caused the members of complainant association enough pain, mental torture, agony, harassment, stress, anxiety, financial loss and injury. The respondent obtained consent of the members of association under 'undue influence' and entered an unfair and one-sided memorandum of settlement with them.

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

3. The complainant has sought following relief(s):

- I. To pass an appropriate order / direction to the Respondent to provide Community Centre / Club in the said Project named '**ILD Engracia**' as per Plot-Buyer Agreement.
- II. To pass an appropriate Order / direction to the Respondent to complete the development of the plots along with all facilities and amenities and to provide Electricity / Power Backup / Water / STP, Green Belt etc. within and outside the township immediately, for which payments have already been collected from the members of the complainant Association.
- III. To pass an appropriate Order / direction to the Respondent to complete all the development of the plots / township within a definite and fixed time, as the members of Association cannot be made to wait



till eternity for enjoying their rights over their respective plots with complete development of basic amenities.

- IV. To pass an appropriate Order / direction to the Respondent to accept the amount of Community Centre / Club as agreed in PBA which the respondent claims that it has been refunded to the members of complainant association.
- V. To direct the Respondent to charge the maintenance amount from the member of the Complainant Association only when the basic and mandatory facilities like water, electricity, STP, roads and basic infrastructure is available on the site and before that the members of the complainant association should not be forced to pay any amount in the name of maintenance.
- VI. To direct the Respondent to pay legal expenses of Rs. 2,00,000/- incurred by the Complainant Association.
- VII. To pass an Order to the Respondent to pay damages/ compensation of Rs. 1,00,000/- each for not providing the above facilities on time.

4. 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.**

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

- i. The complainants have malafidely and with ill motive to harass the respondent, has filed the present complaint. The complainants have suppressed the true and material facts from the Authority for which the



complainants are liable to be penalised for such illegal Acts. The complainants have not placed the actual and true facts before the Authority. The true facts are as under:

- a. That after the issuance of license from the DTCP, the present project has been contracted and developed under the name and style "ILD Engracia" a residential plotted colony situated at sector- 37 D, Gurugram.
- b. That after due verification and inspection of record and at the site visit, the complainants agreed and acknowledged to invest in the said project and agreed by executing a registered plot buyer agreement with the respondent company. It is imperative to mention here that the documents signed by the parties is well presumed that it has been signed after reading its contents.
- c. That the main issue/ objection raised by the complainant I the captioned complaint is only w.r.t. to "Community center/Club". It is submitted that such area of Community center/ club is absolutely under the ownership of respondent. The said representation has also been confirmed by the buyer of the plotted colony under clause 2.5 of the registered buyer agreement.
- d. That it was confirmedly and unambiguously represented to the plot buyers that the said area of community builder/clubs, park, laws and the same shall be always remain the property to the company and be dealt in a manner the company me deem fit.



- e. That the respondent company has clearly informed about the club area will be of respondent company and cannot be transferred to the ILD association in any manner.
- f. That the completion certified has been issued to the respondent company after due vary inspection of the spot/ at site by the officials of TCP, STP, DTCP and after considering, satisfaction, the said concerned government department has granted the completion certificate.
- g. That the respondent has already constructed the STP House along with electricity connections as associated with the project and in terms of sewerage treatment the plant has already been constructed in compliance of the competent authority whereas in terms of water supply it is submitted that MCG is not giving bulk supply to the plotted colonies hence it would only be applied by the individual buyers itself.
- h. That even, majority of the plot owners, have got done sale/conveyance deed in their favour as has also been mentioned in the complaint by the complainant but because of these few members, the respondent cannot change the terms and condition as has been agreed with the majority of members of the said project. The conveyance deed has been executed and physical possession has also been handed over the majority of plot owners.
- i. That it should not be out to mention here that in the completion certificate, it has been categorically mentioned the municipal water



supply line, underground water storage tank, sewerage treatment plant, internal lower line, and storm water line, has been laid down by the respondent.

- ii. That the complainants are estopped from filing the present complaint by their own acts, conduct, admissions, commissions, omissions, acquiescence and latches. The complainants have moved the instant vexatious complaint to harass the respondent to succumb to their illegal demands and to achieve speculative bargains.
6. All other averments made in the complaint were denied in toto.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority**

8. 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**

9. 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**



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.

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

- G.I To pass an appropriate order / direction to the respondent to provide community centre / club in the said project named 'ILD Engracia' as per plot-buyer agreement.
- G.II To pass an appropriate order / direction to the respondent to complete the development of the plots along with all facilities and amenities and to provide electricity / power backup / water / STP, green belt etc. within and outside the township immediately, for which payments have already been collected from the members of the complainant association.
- G.III To pass an appropriate order / direction to the respondent to complete all the development of the plots / township within a definite and fixed time, as the members of association cannot be made to wait till eternity for enjoying their rights over their respective plots with complete development of basic amenities.
- G.III To pass an appropriate order / direction to the respondent to accept the amount of community centre / club as agreed in buyer agreement which the



**respondent claims that it has been refunded to the members of complainant association.**

**G.IV To direct the respondent to charge the maintenance amount from the member of the complainant association only when the basic and mandatory facilities like water, electricity, STP, roads and basic infrastructure is available on the site and before that the members of the complainant association should not be forced to pay any amount in the name of maintenance.**

12. The above mentioned reliefs no. G.I, G.II, G.III, and G.IV 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. The complainant association stated that despite having received the full sale consideration from its members, the respondent has failed to execute conveyance deeds in favor of all plot owners and has also not provided the basic amenities within the project "ILD Engracia." However, the respondent states that it has duly executed and registered conveyance deeds with several members of the complainant association. It is further submitted that the completion certificate for the project has been duly issued by the competent authority on 22.07.2022, after thorough inspection and satisfaction of all requirements including installation of essential infrastructure such as municipal water supply lines, underground water storage tanks, sewerage treatment plant (STP), internal sewer lines, and stormwater drainage. The completion certificate was granted after due verification by officials of the Town and Country Planning Department (TCP), State Transport Planning (STP), and Department of Town and Country Planning (DTCP), clearly indicating that the essential facilities, as per the approved layout and sanctioned plans, stand completed.



14. With respect to the claim regarding the community centre/club, the respondent categorically submits that the said facility is not a part of transferable property under the plot-buyer agreements. Clause 2.5 of the registered buyer agreement executed with each allottees unambiguously provides that the area earmarked for community centre/club, parks, lawns, etc., shall remain the exclusive property of the company and the same may be dealt with by the company as it may deem fit. The buyers were made fully aware at the time of purchase that their rights with respect to the community centre/club would be limited only to usage upon payment of usage charges and that no ownership or title was to be conferred. This contractual understanding has been further fortified by the judgment of the Hon'ble Supreme Court of India in ***DLF Ltd. vs. Manmohan Lowe & Ors. [SLP No. 34275 of 2009 & CA No. 10930 of 2013]***, wherein it was categorically held that apartment or plot buyers have no ownership rights over the community centre/club and may only use such facilities on payment of applicable charges.
15. The Authority is of the view that the complainant's demand seeking direction to the respondent for either the construction or transfer of the community centre/club, or to accept payments towards the same, shall be governed by the Deed of Declaration in terms of the law settled by the Apex Court in the case of ***DLF Ltd. vs. Manmohan Lowe & Ors.*** both the parties shall abide by the Deed of Declaration as provided under The Haryana Apartment Ownership Act, 1983.
16. Further, so far as the completion of facilities in the project by the respondent is concerned, the issuance of the Completion Certificate by the statutory



authorities is indicative of compliance with the development obligations by the respondent. The complaint about not having basic infrastructure is no longer valid as the necessary facilities have been provided or the issue has been clarified. Therefore, asking to stop or withhold maintenance payments is not justified. Hence, the reliefs sought by the complainant in relation to the development of the community centre/club, provision of basic amenities, and restriction on maintenance charges are liable to be declined.

**H. Directions of the Authority:**

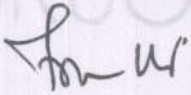
17. Hence, in view of the factual as well as legal positions detailed above, the complaint filed by the complainant seeking above reliefs against the respondents is decided in terms of paras 12 to 16 above. Ordered accordingly
18. Complaint stands disposed of.
19. File be consigned to registry.



(Ashok Sangwan)  
Member



(Vijay Kumar Goyal)  
Member



(Arun Kumar)  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

27.05.2025