

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

Complaint no. : 5092 of 2023
Date of filing: 06.11.2023
Date of decision : 13.05.2025

1. Vijay Kumar Grover

Regd. Address: D-2502, Tower-D, Ireo Grand
Arch, Sector 58, Gurugram Haryana-122011.

Complainant

Versus

1. M/S Ireo Private Limited

Regd. office: C-4, First floor, Malviya Nagar,
New Delhi-110017

2. Uptown Resident Welfare Association through
its President and Estate Manager

Regd. office: Ireo Uptown, Sector 66,
Gurugram, Haryana 122101

Respondents

CORAM:

Shri Arun Kumar

Shri Vijay Kumar Goyal

Shri Ashok Sangwan

Chairman

Member

Member

APPEARANCE:

Sh. Garvit Gupta (Advocate)

Sh. M.K. Dang (Advocate)

Sh. Taniksh Sharma (Advocate)

Counsel for Complainant

Counsel for Respondent no. 1

Counsel for Respondent no. 2

ORDER

1. That the present complaint has been filed by the complainant/association of allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real

Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottee as per the agreement for sale executed inter se parties.

A. Project and unit related details

2. The particulars of the project, the details of 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:

S. No.	Particulars	Details
1.	Name of the project	"Ireo Uptown" situated in, Gurugram
2.	Project area	11.86 acres
3.	Nature of project	Residential complex
4.	RERA registered/not registered	Not registered
5.	Unit details	OC-UT-C-25-01, tower C admeasuring 3524 sq.ft. (annexure C2, page 26 of complaint)
6.	Date of General power of attorney	05.06.2023 (annexure C1, page 21 of complaint)
7.	Date of allotment	23.03.2023(annexure C2, page 26 of complaint)
8.	Date of execution of BBA	29.03.2023 (page 33 of complaint)
9.	Notice of possession	17.08.2023 (page 74-77 of complaint)
10.	Total sale consideration	Rs.2,85,14,552/-
11.	Amount paid by the complainant	Rs. 50,00,000/-
12.	Occupation Certificate	21.10.2015

A. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -
- That the complaint has been filed by the complainant under section 31 of the Real Estate (Regulation & Development) Act, 2016 read with Rule 29 of



the Haryana Real Estate (Regulation & Development) Rules, 2017 seeking relief is respect of the grievances being faced by the complainant. That vide a registered General Power of Attorney dated 05.06.2023, the complainant has authorized her daughter Ms. Anjali Grover to file and contest the present complaint in his name and on his behalf.

- b. That the complainant has throughout acted as per the terms of the allotment, rules & regulations and the provisions laid down by law and no illegality whatsoever has been committed by him in adhering to her contractual obligations. The complainant has invested in the project of the respondent with all the efforts and hope to fulfil his dream of his own space for a peaceful and secured life.
- c. That the respondent no.1 is a company incorporated under the Companies Act, 1956 and existing under the Companies Act, 2013. As per Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016, respondent no.1 falls under the category of 'Promoter' and is bound by the duties and obligations mentioned in the Act and is under the territorial jurisdiction of this Authority. That the respondent no.2 is a resident welfare association running the day-to-day affairs and management of the project in question i.e. Ireo Uptown located at Sector 66, Gurugram.
- d. That as per Section 2(d) of the Real Estate (Regulation and Development) Act, 2016, the complainant falls under the category of 'allottee' and has rights under the Act.
- e. That respondent no. 1 offered for sale units in its upcoming project which claimed to comprise of several building/towers consisting of self-contained independent flats, plots along with common support



infrastructure, parking sites and community buildings on a piece and parcel of land.

- f. That the complainant received a marketing call from the office of respondent no.1 in the month of January, 2023 for booking in an already developed project i.e. Ireo Uptown located at Sector 66, Gurugram. The complainant visited the sales gallery and consulted with the marketing staff of respondent no.1. The marketing staff of respondent no. 1 painted a very rosy picture of the developed residential project and made several representations with respect to the innumerable world class facilities made available by respondent no.1 in its project. The marketing staff of respondent no. 1 also assured timely delivery of the unit. That the respondent no.1 boasted of its reputation as a customer friendly builder who in the past has throughout acted strictly as per the terms of the regulations, laws and directions issued by the concerned authorities. It was represented by respondent no.1 that it would be completely fair in its dealings with the complainant and would throughout adhere to its obligations.
- g. That the complainant, induced by the assurances and representations made by respondent no. 1, decided to book a residential unit in the project of respondent no. 1 and made part-payment of Rs. 50,00,000/- out of the total sale consideration. The complainant required the same in a time bound manner for his own use and occupation and of his family members. This fact was also specifically brought to the knowledge of the officials of respondent no.1 who confirmed that the possession of the residential unit to be allotted to the complainant would be positively handed over within the agreed time frame.

- h. That vide allotment offer letter dated 23.03.2023, respondent no.1 on the basis of the application made by the complainant allotted unit bearing no. OC-UT-C-25-01, Tower C, having tentative super area of 3524 sq. ft. It was informed by respondent no. 1 to the complainant vide the said letter that the terms and conditions of the agreement would be fine and would prevail over all previous communications.
- i. That since the project in question was already developed, respondent no.1 offered the possession of the unit to the complainant on 17.08.2023, vide the notice of possession dated 17.08.2023, respondent no. 1 demanded the balance sale consideration of Rs 2,89,85,515/-. That vide the said notice of possession, respondent no. 1 informed the complainant that the unit was ready for possession.
- j. That thereafter, Ms. Anjali Grover, the daughter of the complainant contacted the facility management representatives of respondent no. 1 and expressed her wish to inspect the unit before making the payment towards the remaining sale consideration. The facility management representatives of respondent no. 1 informed her that in lieu of the payment already made by the complainant, the respondent no.1 though the facility management would initiate the paint work of the unit in question. Accordingly, Ms. Anjali Grover along with Mr. Pradeep Kumar, representative of the facility management of respondent no.1 visited the project site in question in order to inspect the unit allotted to the complainant. However, to the complete shock and dismay of Ms. Anjali Grover, she was stopped by the security guard on the instructions of the Estate Manager of respondent no.2 association. The daughter of the complainant along with Mr. Pradeep Kumar thereafter met the Estate Manager and the President of respondent



- no.2 association. It was informed by the said officials that the ownership of the unit in question is under dispute and until a clear instruction is received from respondent no.1, neither the complainant nor her representative would be allowed to even enter the unit in question by respondent no.2.
- k. That when Ms. Anjali Grover, in order to clear the confusion, showed the documents, particularly the apartment buyer's agreement and the notice of possession issued in the name of the complainant, the said officials misbehaved with Ms. Anjali Grover and she was not allowed to visit the unit allotted to the complainant. Rather, the officials hurled abuses at her, without any fault on her part. On account of the same, Ms. Anjali Grover was constrained to approach police officials and filed a Police complaint on 05.09.2023 against the said officials of respondent no. 2.
- l. That the complainant through Ms. Anjali Grover approached the representatives of respondent no.1 who assured her that the paint work in the unit would be started soon and an official representation would be sent by respondent no. 1 to respondent no.2 seeking permission to commence the work and for allowing the complainant and his representatives to visit the unit allotted. Accordingly, the representatives of respondent no. 1 vide its email dated 10.09.2023 informed the officials of respondent no.2 that the unit is to be finished for handing over of the possession and that the officials of respondent no. 2 should allow the painting and related jobs at the unit in question.
- m. That officials of respondent no.2 failed to grant any permission and rather vide its email dated 11.09.2023, sought an official communication from the management of respondent no. 1 regarding the same. The management of respondent no.1 through Mr. Nitin Gupta vide his email dated 12.09.2023



yet again clarified to the officials of respondent no.2 that as per its own procedure and process, the finishing work of the unit had to be completed and it was the management of respondent no.1 that had asked the facility team of respondent no.1 to do the needful on priority so that the unit is made ready for handing over of the possession.

- n. Thus, post the email dated 12.09.2023, even the imaginary requirement concocted by the officials of respondent no.2 stood satisfied and hence, there was no legal impediment for the officials of respondent no.2 to restrain the officials of respondent no.1 to start the pending work or to restrain the complainant or her representative to visit the unit allotted to the complainant. The complainant again contacted the officials of respondent no.1 who informed him that the finishing work of the unit in question has not started due to continuous hindrances and lack of communication from the officials of the respondent no.2. That on account of the blatant violation of the provisions of the agreement and prevailing law, it is the complainant who is suffering mentally, physically and financially. The respondent no.2 has no locus standi whatsoever nor any ground to restrain the complainant from accessing the unit in question. The respondent no.2 is neither an allottee, nor the promoter nor any agent and has no right whatsoever pertaining to the unit in question. That the officials of respondent no.2 want to somehow harass and pressurize the complainant to somehow extract illegal benefits from the complainant which they are not entitled to. The officials of respondent no.2 cannot be allowed to achieve in their malafide motives.
- o. That the complainant is willing to duly comply with the contractual obligations of making the full payment as per the Clause 13.7 of the builder



- buyer agreement, provided the unit in question is made habitable by respondent no. 1. That the said clause of the builder buyer agreement, evidently provides that the complainant shall be liable to make the complete payment and thus directly casting a contractual obligation upon respondent no.1 to handover the possession of the unit to the complainant.
- p. That the complainant is well within his right to claim the possession from respondent no.1 as provided under Section 19 (3) of the RERA Act, 2016 while respondent no.2 deceptively tries to create hindrances and is not allowing the complainant to claim his right to claim the possession.
- q. That the complainant has been prone to stress, mental trauma and harassment on account of unnecessary hindrances and restrictions imposed on the complainant by the officials of respondent no. 2. The representatives of respondent no.1 to the complainant from time to time that although it is willing to complete the finishing work of the unit in question, it is the officials of respondent no.2 who are creating unnecessary obstacles in accessing the unit in question and on account of the same, the respondent no.1 has been unable to handover the possession to the complainant. That the complainant cannot be allowed to suffer for no wrong on its part and if the same is allowed, it would amount to complete travesty of justice and would be in violation of the provisions of Real Estate (Regulation and Development) Act, 2016 itself. The complainant cannot be made to wait indefinitely for accessing the unit in question and to be handed over the possession.
- r. That the complainant has a valuable right over the unit allotted to it by the respondent no.1 which has now been compromised by the continuous hinderances created by respondent no.2. the respondent no.1 is dutybound



to handover the possession to the complainant in lieu of the possession already offered by it to him, irrespective of any third-party hindrances. The respondent no.1 is legally and contractually bound to complete the finishing work of the unit and handover the possession of the same.

- s. That the complainant requested the respondent no. 1 to complete the finishing work and hand over the possession of the allotted unit to him but the respondent no. 1 has been dilly-dallying the matter. The complainant has been running from pillar to post and has been mentally and financially harassed by the conduct of the respondents. The complainant is willing to make the payment towards the remaining sale consideration subject to respondent no.1 showing its readiness and willingness to complete the finishing work to make the unit in question in a habitable condition and also subject to a confirmation from respondent no.2 that it or its officials would not hinder the complainant or his representative to access the unit in question.
- t. That the above-mentioned acts of the respondents are also in violation of Section 11(4)(a) of the Real Estate (Regulation and Development) Act, 2016.
- u. That about a week ago, when the complainant contacted respondent no.1, the representatives had no answers to the genuine concerns and queries of the complainant leaving him with no other option but to file the present complaint
- v. That the project is an ongoing project and hence falls under the proviso to Section 3(1) of the RERA Act, 2016. The complainant believes that no completion certificate has been issued for the project in question till date and hence this project falls clearly under the jurisdiction of this Authority.

The respondents in utter disregard of its responsibilities have left the complainant in the lurch and the complainant has been forced to chase the respondents for seeking relief. The complainant reserves his right to approach the appropriate forum to seek compensation.

B. Relief sought by the complainant: -

The complainant has sought following relief(s):

- I. Direct the respondent no. 1 to hand over the physical possession of the unit in question to the complainant in a habitable condition within 90 days from the date of filing of the present complaint.
 - II. No third party including the respondent no. 2 or its officials should restrain the complainant from accessing and using the unit allotted to the complainant.
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.
 5. The respondent no.1 has filed an application for dismissal on 23.02.2023 and stated that in the complaint Anjali Grover has not been authorized by her father Vijay Kumar Grover to institute the present complaint vide alleged General Power of Attorney dated 05.06.2023. A perusal of the alleged General Power of Attorney Annexure C1 reveals that Ms. Anjali Grover is not at all authorized to file the present complaint before this Hon'ble Authority. Thus complaint has not been filed by a duly authorized person and in these circumstances, the complaint cannot proceed further and is liable to be dismissed.

C. Reply by the respondent no.2

6. The respondent is contesting the complaint on the following grounds:-
 - a. That the present complaint is not maintainable in law or on facts. The present complaint is not maintainable before this Authority. The Complainant has filed the present complaint seeking certain baseless reliefs as averred in para no. 5

(a) to (c) of the complaint. The alleged relief sought by the complainant are false, frivolous, baseless and fictitious, the respondent no. 2 is not entitled for the relief mentioned in the complaint under reply. The present complaint is liable to be dismissed on this ground alone.

- b. That the complainant is a stranger and has no right, title or interest in the unit no. D-2502, Ireo Grand, Sector-58, Gurugram and has no grievances from the respondent no. 2. The respondent no. 2 has no role in grand arch complex and is the association of Uptown Complex, Sector 66, Gurugram. Even the complainant is not an owner of the above said property, therefore, the complaint filed by the complainant is not maintainable and the same is liable to be dismissed on this ground alone.
- c. That there are huge amount/ dues to be recovered by the respondent no. 2 from the respondent no. 1 and hence without clearing the above said dues which is due since long time. The respondent no. 2 cannot allow anyone in the residential complex until their identity as an owner is verified by the respondent no. 1 by way of proper ownership/ title documentation along with clearance of huge dues towards the unit and is submitted with the respondent no. 2 which has not been done either by the respondent no. 1 or by Ms. Anjali Grover.
- d. That the respondent no. 1 has already handed over the complex to the respondent no. 2 who are now the custodian of the complex and the respondent no. 2 being the legally authorised RWA is managing the complex from last many years.
- e. That the complainant has no concerned in any manner whatsoever with the above said unit in any manner whatsoever and the complainant is falsely claiming about the unit.

- f. That the relief sought in the complaint by the complainant is based on false and frivolous grounds and he is not entitled to any discretionary relief from this Authority as the complainant has not come with clean hands and may please be thrown out without going into the merits of the case. It is submitted that the complainant is stranger and has no right, title or interest in the unit.
- g. That the complaint is not maintainable or tenable under the eyes of law as the complainant have not approached to this Authority with clean hands and has not disclosed the true and material facts related to this case of complaint. The complainant thus have approached the Authority with unclean hands and has suppressed and concealed the material facts and proceedings which have direct bearing on the very maintainability of purported complaint and if there had been discloser of these material facts and proceedings the question of entertaining the present complaint would have not arising in view of the case law titled as ***S.P. Chengalvaraya Naidu Vs. Jagan Nath reported in 1994 (1) SCC Page 1*** in which the Hon'ble Apex Court of the land opined that non-discloser of material facts and documents amounts to a fraud on not only the opposite party, but also upon the Hon'ble Authority and subsequently the same view was taken by even Hon'ble National Commission in case titled as ***Tata Motors Vs. Baba Huzoor Maharaj bearing RP No.2562 of 2012 decided on 25.09.2013.***
- h. That Ms. Anjali Grover is also the authorised person of respondent no. 1 in certain litigations going on against the respondent no. 1 and this may be the case where the respondent no. 1 has made the complainant to file the present complaint through Ms. Anjali Grover for their own vested interest and to somehow safeguard themselves from the clearance of huge outstanding in their name against the apartment C-2501 and otherwise.

- i. That the respondent no. 2 reserves its right to file additional reply and documents, if required, assisting the Authority in deciding the present complaint at the later stage.

D. Jurisdiction of the Authority

7. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

D.I Territorial jurisdiction

8. 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.

D.II Subject matter jurisdiction

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."

9. 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.
- E. Findings on objections raised by the respondent no. 1**
E.I Objection regarding complaint being not filed by a duly authorized person.
10. The respondent-promoter filed an application dated 23.02.2023 for dismissal of complaint on the ground that Ms. Anjali Grover has not been authorized by her father Mr. Vijay Kumar Grover to institute the present complaint vide alleged General Power of Attorney dated 05.06.2023.
11. A perusal of General Power of Attorney dated 05.06.2023 being filed by complainant (annexure C1, page 21 of complaint) reveals that Ms Anjali Grover was duly authorized by the complainant to file the present case and same is evident from clause (i) of the said GPA. The relevant part of GPA dated 05.06.2023 is reproduced herein for ready reference:
- (i) *To represent me in the office of president of India., Ltd. Governor, State of Haryana, Urban Development Authority, Income Tax Department, Municipal Corporation of Gurgaon, H.S.E.B. or any other Government or Local body and make statement, execute documents and to do all acts, deeds and this as may be required under law..*
12. Therefore, the plea of the respondent seeking dismissal of complaint on the above-mentioned ground is declined.
- F. Findings on the relief sought by the complainants.**
- G.I Direct the respondent to handover the physical possession of the unit in question to the complainant in a habitable condition within 90 days from the date of filing of the present complaint;**
- G.II No third party including the respondent no. 2 or its officials should restrain the complainant from accessing and using the unit allotted to the complainant.**
13. The complainant has booked a unit bearing no. OC-UT-C-25-01, tower C admeasuring 3524 sq.ft. for a sale consideration of Rs. 2,85,14,552/- against

which the complainant has paid an amount of Rs.50,00,000/-. The project in question was already developed, respondent no.1 offered the possession of the unit to the complainant on 17.08.2023.

14. The complainant's grievance is that, despite an offer of possession being made by the respondent, the respondent has still failed to hand over the physical possession of the unit allotted to the complainant as per the allotment letter dated 23.03.2023, for which the Builder Buyer Agreement was executed on 29.03.2023. The Authority observes that respondent promoter has obtained Occupation Certificate on 21.10.2015 in respect of the said project from the competent authority. Section 17 of the Act obligates the promoter to handover the physical possession of the subject unit complete in all respect as per specifications mentioned in BBA and thereafter, the complainant-allottee is obligated to take the possession within 2 months as per provisions of Section 19(10) of the Act, 2016.
15. The complainant herein is seeking possession of the subject unit. As, the respondent has obtained the Occupation Certificate for the subject unit and is hereby obligated to handover the possession of the allotted unit to the complainant complete in all aspects as per specifications of buyer's agreement within 30 days from date of this order after payment of outstanding dues, if any. Further, respondent no.2 is directed not to interfere in the matter of handing over of the unit. If any, party causes hindrance in carrying out the directions of the Authority, it shall be liable for consequences and the promoter may proceed against the same before the competent court of jurisdiction.

G. Directions of the authority

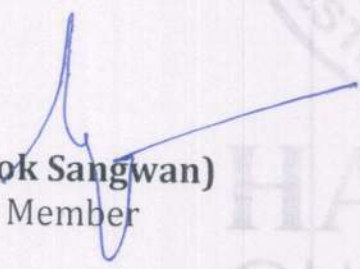
16. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the

promoter as per the functions entrusted to the authority under section 34(f) of the Act:

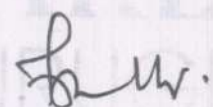
- i. The respondent no.1 i.e., "Ireo Pvt. Ltd." is directed to handover the possession of allotted unit to the complainant complete in all respect as per specifications of buyer's agreement within a period of 30 days from date of this order after payment of outstanding dues, if any, as the Occupation Certificate for the project has already been obtained by it from the competent authority.
- ii. The respondent no. 2 i.e., "Uptown Resident Welfare Associations" is directed not to interfere in the matter of handing over of the unit.
- iii. The promoter shall not charge anything which is not part of the buyer agreement.

17. Complaint stands disposed of.

18. Files be consigned to registry.


(Ashok Sangwan)
Member


(Vijay Kumar Goyal)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.05.2025