

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,
GURUGRAM**Order disposed of: **06.05.2025**

NAME OF THE BUILDER		M/s Savyasachi Infrastructure Private Limited
PROJECT NAME		"AMAYA GREENS"(DDJAY), Sector- 3, Farukhnagar Gurugram, Haryana
S. No.	Case No.	Case title
1.	CR/1206/2023	Saroj & Yogender Sharma V/S Savyasachi Infrastructure Private
2.	CR/5285/2023	Surender Sharma V/S Savyasachi Infrastructure Private Limited
3.	CR/6846/2022	Yogender Sharma V/S Savyasachi Infrastructure Private Limited
4.	CR/7498/2022	Ved Parkash V/S Savyasachi Infrastructure Private Limited

CORAM:

Shri Arun Kumar

Shri Vijay Kumar Goyal

Shri Ashok Sangwan

Chairman**Member****Member****Appearance**

Sh. Dhruv Dutt Sharma (Advocate)

None

Complainant**Respondent****ORDER**

1. This order shall dispose of 4 complaints titled above filed before this Authority 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 allottees as per the agreement for sale executed inter se parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Amaya Greens", Sector 03, Gurugram, Haryana being developed by the respondent/promoter i.e., M/s Savyasachi Infrastructure Pvt. Ltd. The terms and conditions of the allotment letter, buyer's agreements, fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question seeking award of refund of the entire paid up amount along with interest and other reliefs.
3. The details of the complaints, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project Name and Location	"Amaya Greens", Sector 03, Gurugram..
Project area	3.125 acres (Unlicensed)
Nature of the project	Deen Dayal Jan Awaas Yojna
DTCP license no. and other details :	Not obtained by DTCP
RERA Registered/ not registered	Not registered
Possession clause as per buyer's agreement	<i>"That the First Party assures the Second Party that the possession of the said SCO shall be handed over within a period of Twelve months from the date of signing of this MOU and if in any case First Party unable to handover the SCO within Twelve months then from the month of Thirteen, the First Party assures the Second Party that it shall pay interest of 2% of invested amount p.a. to the</i>

	<i>Second Party till the time of possession of the said SCO.*Grace period: In lieu of Covid-19</i>
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S. No.	Complaint no., Case title, Date of filing of complaint and reply status	Unit no. and size	MOU executed between respondent no. 1 and the complainant Or date of allotment	Due date of possession	Total sale consideration and Total amount paid by the complainant in Rs.
1.	CR/1206/2023 title Saroj and Yogender Sharma Vs. Savysachi Infrastructure Private Limited. Ltd DOF: 10.04.2023	A-06 54.36 sq. yds.	MoU 29.01.2021	29.07.2022	BSP: Rs. 19,00,000/- AP: Rs. 10,22,000/-
2.	CR/5285/2023 Case titled as Surender Sharma VS Savyasachi Infrastructure Private Limited. DOF: 06.12.2023	D-08 124.79 sq. yds	MoU 03.12.2021	03.12.2023	BSP: Rs. 44,91,691/- AP: Rs. 20,00,000/-
3.	CR/6846/2022 Case titled as Yoginder Sharma Vs Savyasachi Infrastructure Pvt. Ltd DOF: 02.11.2022	C-116 108 sq. yds	MoU; 29.03.2019	29.09.2020	BSP: Rs. 16,20,000/- AP: Rs. 13,00,000/-
4.	CR/7498/2022 Case titled as Ved Parkash Vs Savyasachi Infrastructure Pvt. Ltd DOF: 20.12.2022	C-73 117.13 sq. yds	MoU: 19.11.2019	19.05.2021	BSP: Rs. 17,56,950/- AP: Rs. 15,00,000/-

Relief sought by the complainant(s):-

Direct the respondent to execute BBA as per provisions of the Act.

Direct the respondent to hand over the legal possession of subject plot to the complainant with all basic amenities after getting necessary approvals from the concerned authorities.

Direct the respondent to pay assured return charges at rate of Rs. 15,000/- p.m. to the complainant w.e.f March 2020 till the time of possession of the plot.

In the alternative, the respondent may be directed to pay delay possession charges as per provisions of the Act.

To restrain the respondent from creating third party interest upon the plot booked by the complainant.

4. The facts of all the complaints filed by the complainant(s)/allottee(s) are similar. Out of the above-mentioned case, the particulars of lead case **CR/1206/2023** titled as **Saroj & Anr. Vs Savyasachi Infrastructure Pvt. Ltd.** are being taken into consideration for determining the rights of the allottee(s).

A. Project and unit related details

5. The particulars of the project, the details of unit, sale consideration, the amount paid by the complainant, date of proposed handing over the possession, have been detailed in the following tabular form:

CR/1206/2023 titled as Saroj & Anr. Vs Savyasachi Infrastructure Pvt. Ltd.

S.N.	Particulars	Details
1.	Name of the project	"Amaya Greens", Sector 03, Gurugram.
2.	Nature of the project	Deen Dayal Jan Awaas Yojna
3.	Total project area	12.1625 acres 9.0375 acres (licensed) 3.125 acres (Unlicensed) *Note: Complainant's SCO falls under unlicensed area.
5.	RERA registered or not	9.0375 acres (licensed) Registered 3.125 acres (Unlicensed) Not registered *Note: Complainant's SCO falls under unregistered area
6.	Completion certificate received on	Not obtained

7.	MOU executed between respondent no. 1 and the complainants on	29.01.2021 [page 17 of complaint]
8.	SCO no.	SCO No. A-06 admeasuring 54.36 Sq. Yrds.
9.	Basic sale consideration	Rs. 19,00,208/-
10.	Paid up amount	Rs. 10,22,000/-
11.	Possession clause	7 <i>"That the First Party assures the Second Party that the possession of the said SCO shall be handed over within a period of Twelve months from the date of signing of this MOU."</i>
12.	Due date of possession	29.07.2022 (Including 6 months grace period of COVID)

B. Facts of the complaint

6. The complainants have made the following submissions in the complaint: -

- I. That the respondent induced the complainants with tall claims and believing their representations to be true and correct, the complainant applied for booking the SCO admeasuring 54.36 sq.ft. yards to be launched in the said commercial colony.
- II. That a memorandum of understanding dated 29.01.2021 was executed between the complainants and respondent wherein the complainants were allotted SCO No.A-06.
- III. That the basic sale price of the plot was Rs. 19,00,208/- calculated at rate of Rs. 34,956/- per sq.yard as per clause (6) of the MoU.
- IV. That till date the complainants have paid a sum of Rs. 10,22,000/- which has been duly acknowledged by the respondent. Out of Rs.10,22,000/-, an amount of Rs. 2,64,000/- has been adjusted from the assured return



payable by the respondent for another unit bearing no. C-116 booked by the complainant no.2

- V. That as per clause (7) of the MoU, the respondent also assured to pay interest@2%p.m. on Rs. 10,22,000/- from February 2022 to the complainants till the time of possession of the plot.
- VI. That the respondent has not made the payment of assured return despite the fact that the possession has still not been offered to the complainants.
- VII. That the complainants are ready to pay the balance amount to the respondent after the adjustment of assured return charges which are to be paid by the respondent to the complainants.
- VIII. That despite paying such huge amount the respondent has till date not executed the agreement for sale with the complainants. The respondent has also violated Section 13 of the Act, 2016 without executing the agreement for sale. Further, the complainants were never apprised about the actual development status by the respondent despite repeated requests.
- IX. That the complainants have made numerous requests to the respondent asking them to give the possession of the SCO but the respondent has been avoiding the complainants on one pretext or the other. .
- X. That the act of the respondent are causing great hardship and mental agony to the complainants and the complainants has no other option but to approach the Authority through a complaint for a possession of the pot and payment of assured return as per MoU dated 29.01.2021

C. Relief sought by the complainants: -

- I. Direct the respondent to pay assured return @2% p.m. on Rs. 10,22,000/- from February 2022, till the time of possession of the plot.
- II. Direct the respondent to execute the builder buyer agreement

III. Direct the respondent to handover the legal possession of the SCO bearing no A-06 to the complainant.

7. The Authority issued a notice dated 12.04.2023 to the respondent by speed post and also sent it to the provided email addresses, dhruvduttsharma11@gmail.com, savyasachi@gmail.com. Delivery reports have been placed on record. Despite this, a public notice for the appearance of respondent and for filing a reply was published on 04.12.2023 in the newspapers, namely Dainik Bhaskar and Hindustan Times. The respondents failed to appear before the Authority on 20.07.2023, 06.09.2023, 05.10.2023, 12.12.2023, 06.02.2024, 20.03.2024, 07.05.2024, 20.08.2024, 05.11.2024, 11.02.2025 and 06.05.2025. None has appeared on behalf of the respondent despite being given sufficient & multiple opportunities, in view of the same, the defense of the respondent was struck off and matter was proceeded ex-parte vide order dated 06.02.2024 and is being decided on basis of facts and documents submitted with the complaint which are undisputed.

D. 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 complainant at a later stage.
12. Further, the Authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357*** and reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022***, wherein it has been laid down as under:

86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a

conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016.

13. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the Authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

E. Findings on the relief sought by the complainants.

E.I Direct the respondent to pay assured return @2% p.m. on Rs. 10,22,000/- from February 2022 till the time of possession of the SCO.

14. During proceeding dated 06.05.2025, the complainants have submitted that they are seeking handover the legal possession of the SCO with all basic amenities after getting necessary approvals, execute the conveyance deed and to pay the assured return. Moreover, the complainants clarifies that the unit is part of the project which is not yet registered and neither the developer has obtained any license from DTCP to develop the colony. Although the complainants wishes to take possession of the unit along with payment of DPC/assured return in terms of MoU as no allotment letter has been issued neither any agreement executed thereafter. Therefore, the complainants may be granted refund along with prescribed rate of interest.
15. The complainants booked a SCO plot no.A-06 admeasuring 54.36 sq.yds. A MoU with regard to the subject unit was executed on 29.01.2021 between the parties.

The complainant has paid Rs. 10,22,000/- against the basic sale consideration of Rs. 19,00,208/-. As per clause 7 of the MoU, it was agreed by the promoter-respondent that the SCO plot shall be handed over within a period of 12 months from the date of MoU.

16. As submitted by the complainants that the work at the site was not even started and see no hope of its completion. Some of the allottees of the project approached the Authority by way of ***Complaint bearing no. 5512-2022 & 17 others Sunil Kumar & Anr. Vs Savyasachi Infrastructure Pvt. Ltd. & Sharma Confectioners Pvt. Ltd.*** seeking a refund of the paid-up amount by taking a plea that the promoter of the project has not been neither registered with the Authority nor obtained the license from the DTCP. Therefore, to ascertain the situation, on 31.08.2023, the Authority appointed an Enquiry Officer, namely, Shri. Ramesh Kumar, retired DSP.
17. In pursuance to the directions passed by the Authority, the Enquiry Officer submitted the status report on 23.12.2023 and has concluded as under:-

"6. Conclusion:

The site of the project i.e., "Amaya Greens", located at Sector-3, Farukhnagar, Gurugram being developed by M/s Savyasachi Infrastructure Pvt. Ltd. has been inspected on 12.12.2023 and it is concluded that: -

- (A) *Collaboration agreement dated 28.06.2016 had been registered between the landowner i.e., Sharma Confectioners Pvt. Ltd. in collaboration with the developer i.e., Savyasachi Infrastructure Pvt. Ltd. for the land admeasuring 97 Karnal 6 marla i.e., 12.1625 acres.*
- (B) *The license had been granted by DTCP vide license no 37 of 2017 dated 24.06.2017 valid up to 27.06.2022 for land admeasuring 9.0375 acres only and after that the project had been registered with the interim RERA vide RC no 212 of 2017 dated 18.09.2017 valid up to 16.03.2023 (including 6 months Covid extension).*

- (C) *Completion certificate had been granted by DGTCP, Haryana vide memo no. LC-3257/JE(SJ)-2021/510 dated 11.01.2021 for license no 37 of 2017 for land admeasuring 9.0375 acres only.*
- (D) *The balance part i.e., 3.125 acres has not been granted any license by DTCP, Haryana and not registered with the Authority also.*
- (E) *As per the statement of landowner SPA was cancelled on 03.01.2022 by the landowner due to some disputes arise between them and complaints regarding SCO which is to be handed over by the promoter i.e., M/s Savyasachi Infrastructure Pvt. Ltd. falls outside the license no 37 of 2017 and the area on which SCO's are proposed to build has not granted any license from DTCP Haryana.*
- (F) *MOU's were signed on different dates as per mentioned in the table between the developer i.e., Savyasachi Infrastructure Pvt. Ltd and complainant i.e., Mr. Vinod Kumar S/o Sh. Ramchander and payment had been received from developer without registering the project with the Authority.*
- (G) *Landowner i.e., Sharma Confectioners Pvt. Ltd. stated that they have no objection for the allottees who has been offered possession by the developer i.e., Savyasachi Infrastructure Pvt. Ltd. in the land parcel of 9.0375 acres only and will not create any obstruction to the allottees for taking the physical possession and once the license and registration has been granted for the balance part i.e., 3.125 acres, then they will not have any objections for giving possession to the concerned allottees also.(Statement attached as Annex- C)."*

18. In pursuance of the above-mentioned conclusion, the Authority observes that the total area of the project is 12.1625 acres. The DCTP, Haryana, has granted the license to develop the colony only for an area of 9.0375 acres only. The remaining area, i.e., 3.125 acres, has not been granted any license by DTCP, Haryana, nor it is registered with the Authority. The unit booked by the complainants is part of unlicensed and unregistered area measuring 3.125 acres. Moreover, there is neither any allotment nor any agreement executed between the parties. Therefore, in view of the same, the complainants may be granted refund along with prescribed rate of interest. Section 18(1) of the Act is reproduced below for ready reference:-

Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building.-

- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or
(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or **for any other reason,**

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

(Emphasis supplied)

19. Clause 7 of the memorandum of understanding dated 29.01.2021 provides for the time period for handing over of possession and is reproduced below:

*"7) That the First Party assures the Second Party that the possession of the said SCO shall be handed over within a period of **Twelve months from the date of signing of this MOU** and if in any case First Party unable to handover the SCO within Twelve months then from the month of Thirteen, the First Party assures the Second Party that it shall pay interest of 2% of invested amount p.a. to the Second Party till the time of possession of the said SCO.*

20. **Due date of handing over possession:** As per clause 7 of the MOU, the possession of the allotted SCO plot was supposed to be offered within a stipulated timeframe of 12 months from the date of signing of the MOU. In the present matter, the MoU was executed on 29.01.2021 and hence the respondent was liable to handover possession by 29.01.2022 in terms of the MoU. Further the Authority in view of notification no. 9/3-2020 dated 26.05.2020, allows grace period of 6 months on account of force majeure conditions due to outbreak of Covid-19 pandemic. Therefore, the due date of handing over of possession comes out to be 29.07.2022.

21. **Admissibility of refund along with prescribed rate of interest:** The complainant is seeking refund the amount paid by him at the prescribed rate of interest and intends to withdraw from the project. The prescribed rate of interest as provided under Rule 15 of the Rules, *ibid.* Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

- (1) *For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.*

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

22. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
23. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 06.05.2025 is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.
24. The due date of possession as per MoU as mentioned in the table above is 29.07.2022. The Authority has observed that even after a passage of more than 3 years till date neither the construction is complete nor the offer of possession of the allotted unit has been made to the allottee by the respondent/promoter. The Authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to it and for which they have paid more than 80% of sale consideration. It is also pertinent to mention that

complainant has paid the more than 80% amount on the date of entering into the memorandum of understanding, i.e., on 29.01.2021. Further, the Authority observes that the total area of the project is 12.1625 acres. The DCTP, Haryana, has granted the Occupation Certificate only for an area of 9.0375 acres. The remaining area of 3.125 acres, which includes the complainant's SCO plot, has not been granted any license by the DTCP, Haryana, nor it is registered with the Authority and neither the promoter is making any efforts to complete the project or even application for grant of permission to develop the colony has been initiated.

25. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to refund of the entire amount paid by them at the prescribed rate of interest i.e., @ 11.10% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in Rule 16 of the Haryana Rules 2017 *ibid*.

F. Directions of the Authority

26. 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/promoter is directed to refund the entire paid-up amount received by it from the complainants along with interest at the rate of



- 11.10% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.
- ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
- iii. The planning branch of the Authority is directed to take necessary action under the provision of the Act of 2016 for violation of proviso to Section 3(1) of the Act by the respondent for sale of units without registration and license.
27. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order wherein details of paid up amount is mentioned in each of the complaints.
28. Complaint as well as applications, if any, stands disposed of accordingly.
29. Files be consigned to registry.

(Ashok Sangwan)
Member

V.I.
(Vijay Kumar Goyal)
Member

(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 06.05.2025