

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

Complaint no. : **1116 of 2024**
Date of Decision: **25.04.2025**

1. Neha Abhinav Bansal
2. Abhinav Bansal

Address: Flat No. 63, Tower – D, Spaze Privy,
Sector – 72, Fazilpur, Gurugram – 122001

Complainants

Versus

M/s Countrywide Promoters Pvt. Ltd.
Address: -14, 3rd Floor, Next Door, Parklands,
Sector – 76, Faridabad (HR)-121 004

Respondent

CORAM:

Shri Vijay Kumar Goyal

Member

APPEARANCE:

Complainants in person
Shri Harshit Batra

Advocate for the complainant
Advocate for the respondent

ORDER

1. The present complaint dated 27.03.2024 has been filed by the complainants 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 provision of the Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale executed inter se.



A. Project and unit related details

2. The particulars of the project, the details of 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.N.	Particulars	Details
1.	Name of the project	'Astaire Gardens', Sector 70A, Gurugram, Haryana
2.	Nature of project	Residential colony
3.	DTCP License no.	62 of 2021 dated 01.09.2021 valid till 31.08.2026
4.	RERA Registered	Registered as 55 of 2021 dated 18.09.2017 Validity till 31.08.2026
5.	Allotment letter	26.10.2022 (Page 47 of complaint)
6.	Plot no. and area admeasuring	D 15 243.11 sq. yds. (page 21 of complaint)
7.	Date of builder buyer agreement	15.11.2022 (page 17 of complaint)
8.	Possession clause	7.1 Schedule for possession of the Said Unit <i>The Promoter assures to hand over possession of the Plot for residential usage as per agreed terms and conditions on or before 31.08.2026 unless there is delay due to "force majeure", Court orders, Government policy/guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the plot for residential usage</i>

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		(Emphasis supplied)
9.	Due date of possession	31.08.2026 (Calculated as per possession clause of builder buyers agreement)
10.	Total sale consideration	Rs. 4,27,75,000/- (Page 22 of complaint)
11.	Paid up amount	Rs.4,27,75,000/- (as stated by the complainant at page 6 of the complaint)
12.	Completion certificate	Not on Record
13.	Offer of possession	17.07.2023 (Page 67 of reply)
14.	Conveyance Deed	04.12.2023 (Page no. 84 of reply)

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:
 - i. That it is humbly submitted that, based on the representations and advertisements issued by the Respondent, the Complainant was induced to invest in a residential plotted development project known as "Astaire Gardens", being developed by the Respondent on a parcel of land admeasuring 97.98125 acres, situated in the revenue estate of Village Palra, Sector 70 and 70A, District Gurugram, Haryana. The said project is being developed under and in accordance with License No. 15 of 2011 dated 07.03.2011 and

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License No. 62 of 2021 dated 09.01.2021, granted by the Department of Town and Country Planning, Haryana.

- ii. The Complainant, being the original allottee and intending purchaser, submitted an application for allotment of a residential plot bearing Application No. 73083 dated 21.10.2022. Pursuant to the said application, the Respondent issued an Allotment Letter dated 26.10.2022, whereby the Complainant was allotted Plot No. D-15, Block-D, admeasuring 243.11 Sq. Mtrs. (equivalent to 290.76 Sq. Yards) at a rate of ₹1,75,949.16 per Sq. Mtr. (i.e., ₹1,47,114.46 per Sq. Yard).
- iii. It is pertinent to mention that the price offered and accepted was based on express representations made by the Respondent, including that the plot was abutting or adjacent to a designated green area, the utility and availability of which materially influenced the Complainant's decision to purchase at such a premium rate. The existence of this green area was emphasized by the Respondent and formed part of the sales pitch as well as the consideration framework.
- iv. Subsequently, a Builder Buyer Agreement (Plot Buyer's Agreement) was executed between the Complainant and the Respondent on 15.11.2022, wherein the total sale consideration of ₹4,27,75,000/- (Rupees Four Crore Twenty-Seven Lakhs Seventy-Five Thousand Only) was acknowledged and agreed upon.
- v. After payment of the entire sale consideration, a Conveyance Deed was executed and registered on 04.12.2023 between the parties. It is noteworthy that the same facts and representations, including those relating to the location and amenities around the said plot,

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were reiterated in the Conveyance Deed executed at the time of registration.

C. The complainants are seeking the following relief:

4. The complainants have sought following relief(s):

- i. Direct the Respondent to remove the constricted wall immediately for peaceful living and enjoying the unutilized piece of land as promised.

D. Reply filed by the respondent.

5. The respondent had contested the complaint on the following grounds:

- i. That the Complainants are estopped by their own acts, conduct, acquiescence, laches, omissions etc. from filing the present Complaint. That the Complainants have not come before this Authority with clean hands and have suppressed vital and material facts from this Hon'ble Authority. The true factual matrix of the matter is set out in the succeeding paras of the present Reply.
- ii. That the relief sought in the Complaint does not come within the ambit of the RERA Act, 2016. That the RERA Act, 2016 is special statute, cannot be extended to incorporate the scope of a relief which the Hon'ble Authority is not empowered to judicate.
- iii. That the literal rule of interpretation has to be followed in such a circumstance which directs that a judge has to see what the statute says 'literally', i.e., plain simple meaning without any ambiguity. In the literal rule of interpretation, the law has to be considered as it is and the judges cannot go beyond '*litera legis*'.
- iv. That the entire Complaint does not specify any violation of the provisions of the Act by the Respondent and places no reliance



whatsoever, on the sections of the Act, rules, or regulations thereunder.

- v. The above-stated provision enunciates that the filing of a Complaint by any aggrieved person against grievances is limited. That none of the provisions of the RERA Act, 2016 or the HRERA Rules, 2017 have been violated by the Respondent and thus, no cause of action ever arose in the favour of the Complainants and against the Respondent herein. That the present Complaint cannot be allowed to be proceeded further or the Respondent shall suffer a grave jurisdictional error through the Authority.
- vi. That the present case is not tenable in the eyes of law or facts and thus should be outrightly dismissed due to jurisdictional error. That the Complainants, being interested in the residential project of the Answering Respondent, known under the name and style of "Astaire Gardens" situated at Sector 70 & 70A, Gurugram, Haryana ("Project") applied for allotment of a plot vide Application Form dated 21.10.2022. It is submitted that the Complainants, prior to approaching the Answering Respondent, had conducted extensive and independent enquiries regarding the Project and it was only after they were fully satisfied with regards to all aspects of the Project and the Unit, that the Complainants took an independent and informed decision to purchase the Unit, un-influenced in any manner by the Respondent.
- vii. In lieu of the assures given by the Complainants to abide by the terms of the Application Form, the Respondent herein allotted Plot bearing no. D-15, D-Block admeasuring 290.76 Sq. Yards in the Project vide Allotment Letter dated 26.10.2022.



- viii. That thereafter, the Parties duly mutually executed Agreement for Sale dated 15.11.2022 pertaining to Plot bearing no. D-15 in the Project for total price of Rs. 4,27,75,000/-. The Complainants further entered into a Tripartite Agreement with the Respondent and HDFC to secure loan of Rs. 3,30,00,000/-.
- ix. That all demands 12.12.2022, 31.10.2022, 10.02.2023, 21.04.2023 and 22.06.2023 were raised as per payment plan opted by the Complainants and the Complainants time and again defaulted in making timely payment of demands thus, the Respondent was constrained to issue reminder letters dated 12.12.2022, 23.05.2023, however, being a customer-oriented company, the Respondent Company duly sent Offer of Possession dated 17.07.2023 to the Complainants.
- x. That subsequently, Conveyance Deed was executed between the Parties on 04.12.2023. That the Conveyance Deed was duly mutually executed between the Parties after understanding the legal import and export of the terms of the Deed. It is pertinent to note herein that all obligations of the Respondent were fulfilled on the execution of the Conveyance Deed and thus, the present Complaint warrants outright dismissal.
- xi. Without prejudice, it is stated that the boundary wall has been constructed on land parcel belonging to the Respondent and the Complainants have no right/title on the land parcel on which the boundary wall has been constructed. That no hindrance is being caused to the Complainants in enjoyment of their property due to the construction of the boundary wall, in fact is the Complainants who are causing hindrance to the Respondent's right to enjoy its

property legally and thus the present Complaint warrants no merits.

- xii. That after the execution of the Conveyance deed, the contractual relationship between the Parties stands fully satisfied and comes to an end. That there remains no claim/ grievance of the Complainants with respect to the Agreement or any obligation of the parties, as was agreed under the following Clauses of the Conveyance Deed:

*L. The Vendee further confirms that after the execution of this Conveyance Deed, the **Vendee shall not raise any issue/dispute with respect to any aspect of the Plot** including but not limited to the area, location, size, boundaries, development of Plot and sale consideration paid (as mentioned herein) against the Plot at any time in future. The Vendee hereby further confirms that the execution of this Conveyance Deed discharges the Vendors of all their obligations, whether oral or written and express or implied, towards the Vendee.*

38. That the Vendee hereby agrees and undertakes that after execution of this Conveyance Deed the Vendee shall have no objections of any kind whatsoever to the Vendors carrying out the development activities of the vacant land parcels outside the Plot of the Vendee. The Vendee further undertakes not to seek any stay, injunction, etc. from any court/ authority that may impede/cause hindrance to the Vendors in carrying out said developmental work. That the Vendee has fully understood and agreed that he/she either individually or jointly or through anybody, will not institute and pursue any litigation or suit to seek injunction in any manner whatsoever against the Vendors and/or their agents from developing and constructing the Project in any manner whatsoever.

- xiii. That it is evident from the aforesaid clauses that the Complainants only have title/rights over the allotted Plot and have no right whatsoever to interfere in the usage of vacant land parcel whose rights/title solely vests with the Respondent.
- xiv. That Haryana RERA, Panchkula, in **Swati Jain v BPTP Pvt. Ltd. 744 of 2019, dated 27.07.2021**, i.e., even after Arifur Rehman's case



(which relied on the peculiar facts and circumstances), where the conveyance deed was executed and the payment of demands were negotiated and settled, the Hon'ble Authority noted:

"Now at this stage he cannot be allowed to open a concluded contract.... As of today, contractual obligations between the parties stands discharged..."

Hence, these complaints are dismissed."

- xv. That in the present case as well the Conveyance Deed has been duly executed and the Complainants cannot belatedly be allowed to raise non-issues to unjustly enrich themselves at the cost of the Respondent. That the present Complaint should be dismissed on this ground alone.
6. 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**
7. The authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below:
- E.I Territorial jurisdiction**
8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana 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

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9. Section 11(4)(a) of the Act 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.

10. So, in view of the provisions of the Act of 2016 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.

F. Findings on the relief sought by the complainants.

F.I Direct the Respondent to remove the constricted wall immediately for peaceful living and enjoying the unutilized piece of land as promised.

11. That the Complainants were allotted Plot No. D-15, admeasuring 243.11 square yards, in the residential plotted development project of the Respondent known as "Astaire Gardens", situated at Sector-70A, Gurugram, Haryana. The said allotment was made pursuant to a Provisional Allotment Letter dated 26.10.2022. Subsequently, an Apartment Buyer's Agreement was executed between the parties on 15.11.2022, thereby confirming the terms and conditions governing the said allotment.

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12. As per Clause 7.1 of the said agreement, the Respondent was obligated to hand over possession of the subject unit to the Complainants on or before 31.08.2026. The total sale consideration for the unit was fixed at ₹4,27,75,000/-, which has been fully paid by the Complainants.
13. It is an undisputed fact that possession of the subject plot was offered to the complainants vide offer of possession letter dated 17.07.2023, and the conveyance deed was subsequently executed on 04.12.2023.
14. Therefore, it is evident that the Respondent has offered and executed possession well before the due date of possession i.e., 31.08.2026. Accordingly, no delay in the delivery of possession can be attributed to the respondent, and it is found that the respondent has fulfilled its primary contractual obligation under the agreement in this regard.
15. During the course of proceedings held on 25.04.2025, the Respondent submitted that, since the conveyance deed was executed on 04.12.2023 and there is no violation of any provision under the real estate (Regulation and Development) Act, 2016, the present complaint is not maintainable and is liable to be dismissed.
16. Moreover, the clause L of the conveyance deed dated 04.12.2023 is also relevant and reproduced hereunder for ready reference:


*L. The Vendee further confirms that after the execution of this Conveyance Deed, the **Vendee shall not raise any issue/dispute with respect to any aspect of the Plot** including but not limited to the area, location, size, boundaries, development of Plot and sale consideration paid (as mentioned herein) against the Plot at any time in future. The Vendee hereby further confirms that the execution of this Conveyance Deed discharges the Vendors of all their obligations, whether oral or written and express or implied, towards the Vendee.*

38. That the Vendee hereby agrees and undertakes that after execution of this Conveyance Deed the Vendee shall have no objections of any kind whatsoever to the Vendors carrying out the development activities of the vacant land parcels outside the

Plot of the Vendee. The Vendee further undertakes not to seek any stay, injunction, etc. from any court/ authority that may impede/cause hindrance to the Vendors in carrying out said developmental work. That the Vendee has fully understood and agreed that he/she either individually or jointly or through anybody, will not institute and pursue any litigation or suit to seek injunction in any manner whatsoever against the Vendors and/or their agents from developing and constructing the Project in any manner whatsoever.

17. Upon consideration of the reliefs sought by the Complainants, the Authority observes that, the financial and contractual obligations between the Allottee and the Promoter ordinarily stand concluded upon execution of the Conveyance Deed, except for those statutory rights that survive under the Act of 2016. The Complainants had the opportunity to raise any grievance regarding the removal of the constructed wall at the time of execution of the Construction Deed (CD). Moreover, the issue concerning the wall is not a part of the Builder-Buyer Agreement (BBA). In the absence of any objection raised at the appropriate stage, the present complaint is not maintainable and is liable to be dismissed on this ground alone.
18. Complaint as well as applications, if any, stands disposed off accordingly.
19. File be consigned to registry.

HARERA
GURUGRAM

V.I 
(Vijay Kumar Goyal)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 25.04.2025