

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

Date of order : 27.08.2025

NAME OF THE BUILDER			M/s Desi Construction Pvt Ltd.
PROJECT NAME: Tathastu II			APPEARANCE
1.	CR/4163/2024	Rajeshwari Srivastava Vs. Desi Cosntruction Pvt. Ltd.	Advocate Maninder Singh (Complainant) Advocate Rahul Mangla (Respondent)
2.	CR/4164/2024	Prateek Srivastava Vs. Desi Cosntruction Pvt. Ltd.	Advocate Maninder Singh (Complainant) Advocate Rahul Mangla (Respondent)

**CORAM:**  
Ashok Sangwan**Member****ORDER**

1. This order shall dispose of both the complaints titled as above filed before this authority in Form CRA 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 between 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 projects, namely, "Tathastu II" being developed by the same respondent-promoter i.e., M/s Desi Construction Pvt. Ltd.. The terms and conditions of the builder buyer's agreements that had been executed between the parties

inter se are also almost similar. The fulcrum of the issue involved in all these cases pertains to failure on the part of the respondent/promoter to deliver timely possession of the units in question, seeking award for delayed possession charges and other reliefs.

3. The details of the complaints, reply status, unit no., date of agreement, plans, due date of possession, offer of possession and relief sought are given in the table below:

Sr. No	Comp laint No./T itle/ Date of filling	Reply Status	Plot no. & Area admeasu ring	Date of allotme nt letter	Date of executio n of buyer's agreeme nt	Due of possessi on	Offer of possession	Relief Sought
1.	CR/416 3/2024 Rajesh wari Srivasta va V/s M/s. Desi Constru ction Pvt Ltd <b>09.09.2 024</b>	09.04.20 25	T1-2108, Tower-1 admeasu ring carpet area of 645.818 sq.ft and balcony area of 72.259 sq.ft.	<b>24.04.2 023</b>	Not Executed	23.01.20 27	OC-not obtained  <b>SC-Rs.not known /- Paid- Rs.9,56,861. 75/-</b>	1. Direct the respondent to withdraw the demand letter dated 14.03.2024 and the consequential cancellation letter dated 05.08.2024 issued to the complainant holding the same illegal and arbitrary. 2. Direct the respondent to execute the Flat Buyer Agreement in respect of its aforementioned unit. 3. Direct the respondent to provide





								the vacant and peaceful possession of the aforementioned unit of the complainant.
2.	CR/4164/2024 Prateek Srivastava V/s M/s. Desi Constructions Pvt Ltd <b>09.09.2024</b>	09.04.2025	T6-708, Tower-6, Floor-7 Admeasuring carpet area of 645.818 sq.ft. and balcony area of 72.259 sq.ft.	24.04.2023	Not executed	<b>23.01.2027</b>	OC - Not obtained  SC - not known  AP - Rs.9,56,861.78/-	1. Direct the respondent to withdraw the demand letter dated 14.03.2024 and the consequential cancellation letter dated 05.08.2024 issued to the complainant holding the same illegal and arbitrary. 2. Direct the respondent to execute the Flat Buyer Agreement in respect of its aforementioned unit. 3. Direct the respondent to provide the vacant and peaceful possession of the aforementioned unit of the complainant.

4. The aforesaid complaints were filed by the complainant against the promoter on account of non-execution of the Buyer's Agreement and illegal cancellation of the unit.

5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Act which mandates the Authority to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant/ allottee are also similar. Out of the above-mentioned cases, the particular's of lead case **CR/4163/2024** at serial no. 1 titled as ***Rajeshwari Srivastava Vs. M/s Desi Constructions Pvt. Ltd.*** are being taken into consideration for determining the rights of the allottees qua delay possession charges, and other reliefs sought by the complainants.

**A. Unit and project related details**

7. The particulars of unit details, 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 project	"Tathastu I"
2.	Nature of project	Affordable group housing
3.	Location of project	Sector-5, Village-Sohna, Gurugram.
4.	DTCP Licence	188 of 2022. Dated-16.11.2022 Valid upto-15.11.2027
5.	RERA registered	Registered



		Vide registration no. 20 of 2023 Dated:-30.01.2023
6.	Allotment letter	24.04.2023 (As on page no. 17 of complaint)
7.	Unit no.	T1-2108, T1-2BHK-2A (As on page no. 10 of reply)
8.	Unit area	645.818sq.ft [Carpet Area] 72.259sq.ft [Balcony area] (As on page no. 17 of complaint)
9.	BBA	Not executed
10.	Possession clause	<b>Clause 1</b> <i>iv. All such projects shall be required to be necessarily completed <b>within 4 years from the approval of building plans or grant of environmental clearance, whichever is later.</b> This date shall be referred to as the „date of commencement of project“ for the purpose of this policy. The licences shall not be renewed beyond the said 4 years period from the date of commencement of project</i> [Emphasis supplied]
11.	Date of building plan approvals	23.01.2023



12.	Date of grant of Environmental Clearance	Not available
13.	Due date of possession	23.01.2027 [Calculated 4 years from the date of sanction of building plans, as the date for grant of Environmental Clearance is not known]
14.	Payment plan	Not available
15.	Total sale consideration	Not known
16.	Amount paid	Rs.9,56,861.78/-
17.	Occupation certificate	Not obtained
18.	Offer of possession	Not offered
19.	Cancellation of unit	13.08.2024 (As on page no. 12 of reply)
20.	Publication of cancellation	Not on record

### B. Facts of the complaint

8. The complainant has made the following submissions: -

- I. That the real estate project named "Tathastu-I" is situated at Sector-5, Sohna, Gurugram. The project is an affordable housing project wherein the allotment was done via TCP draw under Affordable Housing Scheme of Government of Haryana.
- II. That the respondent had always advertised itself as a very ethical business group that lives onto its commitments in delivering its housing projects as per promised quality standards and agreed timelines. The

- respondent, while launching and advertising any new housing project always commits and promises to the targeted consumer that their dream home will be completed and delivered to them within the time agreed initially in the agreement while selling the dwelling unit to them.
- III. That in the year 2023, the respondent through its agents approached the complainants with an offer to buy its above mentioned project claiming possession within 4 years for a basic sale price of Rs.24,54,108.4/-. The respondent assured the complainant that they already have secured all the sanctions and permissions from the concerned authorities and departments for the sale of said project and it would hand over the flat' within 4 years.
- IV. Relying upon those assurances and believing them to be true, the complainant booked a residential flat bearing no. 2108 in block/tower no. T1 of 2-BHK on 21st Floor having carpet area of 645.818 sq. ft. and 72.259 sq.ft. for balcony area. It was assured and represented to the complainant by the respondent that they had already taken the required necessary approvals and sanctions from the concerned authorities and departments to develop and complete the proposed project on time as assured by the respondent.
- V. That the complainant had paid Rs.1,22,705.42/- on 29.03.2023 on TCP Haryana draw portal. The receipt of which was admitted and acknowledged by the respondent as mentioned in the said agreement. Thereafter, upon winning the draw, the respondent issued an allotment letter dated 24.04.2023 confirming the allotment in favour of the complainant. Thereafter, the respondent was under obligation to execute the "Flat Buyer Agreement" in favour of the complainant. However, despite regular follow-ups and requests on part of the complainant, the respondent did not execute the Flat Buyer Agreement



as agreed and in-turn started raising the demand of money /installments from the complainant, which was duly paid by the complainant as per agreed timelines. The complainant as on today has paid Rs.9.56.861.78.

- VI. That as per the payment schedule of the aforementioned project proposed to be developed by the respondent, the respondent could only issue another demand letter after the completion of 1/3rd superstructure of the project however, the respondent raised an arbitrary demand vide demand letter dated 14.03.2024 to the respondent, asking for a sum of Rs.3,20,410.49/- under total contravention of the payment schedule of the project.
- VII. Thereafter, the complainant in an attempt to seek clarifications in respect of the demand letter dated 14.03.2024 issued by the respondent, started inquiring with the status of the project and discovered that the construction has not even been and the work is far from 1/3rd completion making the aforementioned demand letter of the respondent arbitrary and illegal for which the complainant in its email dated 03.04.2024 replied to the respondent calling upon the respondent to justify the demand letter dated 14.03.2024 as the project has not reached the stage of 1/3rd completion.
- VIII. However, the respondent did not revert back or replied to the bona-fide requests of the complainant and begin raising reminders forcing the respondent to clear off the demand letter dated 14.03.2024 while totally disregarding and avoiding the bona-fide questions of the respondent. The complainant requested engineer certificate from builder on 26.04.2024 but they didn't revert back with this information. Upon approaching third party civil engineers it was found that 1/3rd superstructure was indeed incomplete and builder was misguiding to





justify their fake demand. It is important to highlight here that the complainant also requested the respondent to produce the certificate from the concerned engineer to show its bona-fide that the project had reached 1/3rd superstructure completion. However, the respondent deliberately chose to stay silent in order to conceal the true picture of the status of the project which was ultimately revealed when the complainant himself reached and hired an independent engineer to inspect the concerned project where it was found that the project is nowhere near 1/3rd superstructure completion and the subsequent demand of the respondent is absolutely arbitrary at that stage.

- IX. Later, the respondent, using its dominant status, illegally and unlawfully issued a cancellation letter dated 05.08.2024, cancelling the unit of the complainant despite its own failure and default to comply with the payment plan.
- X. That the complainant also issued a detailed reply in response to the cancellation email wherein the complainant clearly elucidated the reasons for non-payment of the Demand dated 14.03.2024 on account of the same being illegal and arbitrary while specifically informing the respondent that its act of cancelling the unit of the complainant is absolutely illegal and unwarranted. However, the respondent deliberately and mischievously did not provide any reply to the email dated 13.08.2024 issued by the respondent.
- XI. That the conduct of the respondent regarding delay in delivery of possession of the said flat has clearly manifested that the respondent never ever had any intention to deliver the said flat on time as agreed.
- XII. That the cause of action accrued in favor of the complainant and against the respondent in 2023, when the complainant had booked the said flat and it further arose when respondent failed /neglected to

deliver the said flat on the agreed date. The cause of action is continuing and is still subsisting on day-to-day basis as the respondent has still not handed over the possession of the flat as agreed.

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

9. The complainant has sought following relief(s).
  - i. Direct the respondent to withdraw the demand letter dated 14.03.2024 and the consequential cancellation letter dated 05.08.2024 issued to the complainant holding the same illegal and arbitrary.
  - ii. Direct the respondent to execute the Flat Buyer Agreement in respect of its aforementioned unit.
  - iii. Direct the respondent to provide the vacant and peaceful possession of the aforementioned unit of the complainant.
10. 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.**

11. The respondent contested the complaint on the following grounds: -
  - i. That the complainant is guilty of not making the payments of due instalments on time and therefore, the complainant is not entitled to seek the relief to set aside the cancellation letter sent by email dated 13.08.2024 and restoration of the subject unit to its original number. The complainant is liable to pay the interest and damages to the respondent. That the complainant had failed to make timely payments and there were substantial delays in making the payments of the due



instalment against the Intimation cum Demand Letter dated 14.03.2024.

- II. Moreover, the respondent had issued multiple reminders on 01.07.2024, 03.07.2024 and 05.07.2024 against the outstanding due instalments to the complainant but the complainant had failed to make timely payments of the due installments. Subsequently, the respondent had issued a "Final Reminder cum Cancellation Notice" on 13.08.2024 after the publication of a public notice in the newspaper 'Punjab Kesari' on 05.08.2024 by the respondent seeking the payment of the due instalments from the complainant.
- III. Consequently, the respondent had issued a Cancellation Letter against the subject unit to the complainant vide email dated 13.08.2024 as per the mutually agreed terms and conditions of the application form, allotment letter and the Affordable Housing Policy, 2013. That it is worthwhile to mention here that time is essence and the complainant not only made the timely payments of demand issued by the respondent but also failed to executed the builder buyer agreement. It is further worthwhile to mention here that as per the application form, allotment letter and guidelines issued by DTCP, Haryana in Affordable Housing Policy 2018, the complainant has not paid timely payment of demand made by respondent and further failed to execute builder buyer agreement.
- IV. As a result, the respondent was compelled to cancel the allotment of the complainant's flat under the Affordable Housing Policy, 2013, due to the complainant's consistent default and amount of complainant was refunded, the same has been acknowledged by complainant.
- V. That the complainant is unfair and misleading the Authority by differentiating the project in tower wise basis.

As per the Affordable Housing Policy, 2013 and the regulations of this Authority as well as per the terms of the application filed by the complainant, the respondent is entitled to demand for the sale consideration as per agreed payment plan and raise the demand upon construction of 1/3<sup>rd</sup> of the superstructure of the entire project. Hence, the plea / averments of the complainant is barred, baseless and unfounded.

VI. Further, the said unit of the complainant was cancelled vide E-mail dated 13.08.2024 in accordance of the Affordable Housing Policy, 2013 due to the default of the complainant. No cause of action arises in favour of the complainants as alleged herein in the present complaint and therefore, the present complaint is liable to be dismissed for the lack of cause of action as alleged herein.

12. 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 submissions made by the parties.

**E. Jurisdiction of the authority**

13. 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**

14. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district.



Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

## **E.II Subject-matter jurisdiction**

15. 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.*

16. 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.

## **E. Findings on the reliefs sought by the complainant.**

**E.I. Direct the respondent to withdraw the demand letter dated 14.03.2024 and the consequential cancellation letter dated 05.08.2024 issued to the complainant holding the same illegal and arbitrary.**

**E.II Direct the respondent to execute the Flat Buyer Agreement in respect of its aforementioned unit.**

**E.III Direct the respondent to provide the vacant and peaceful possession of the aforementioned unit of the complainant.**

17. In the present complaint, the complainant booked a unit in the project of the respondent namely "Tathastu-I" situated at Sector-05, Sohna, Gurugram, Haryana. Vide allotment letter dated 24.04.2023, the complainant was allotted a unit bearing noT1-2108 on Floor-21<sup>st</sup> in

Tower-1 having Carpet Area of 645.818 sq.ft and balcony area of 72.259 sq.ft. in "Tathastu-I". No Builder Buyer Agreement has been executed between the complainant and the respondent till date, neither there is anything on record wherefrom it can be construed that the respondent took any initiative to execute the Buyer's Agreement. The sale consideration of the unit is not known as the same has not been mentioned anywhere in the Allotment letter. The complainant has till date paid an amount of Rs.9,56,861.78/- to the respondent. As per clause 1(iv) of the Affordable Housing Policy, 2013, the respondent is required to complete the project within a period of four years from the date of sanction of Building plans or grant of Environmental Clearance, whichever is later. The same is reproduced below:

**Clause 1 (iv)**

*All such projects shall be required to be necessarily **completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later.** This date shall be referred to as the „date of commencement of project“ for the purpose of this policy.*

*[Emphasis supplied]*

18. **Due date of handing over possession:** As per clause 1(iv) of the Affordable Housing Policy, 2013, the possession of the allotted unit was supposed to be offered to the complainant within a period of four years from the approval of building plans or grant of Environmental Clearance, whichever is later. In the present case, the date of approval of building plans was 23.01.2023, however, the date of obtaining the Environmental Clearance is not known. The due date of possession is calculated four years from the date of approvals of building plans. Thus, the due date of possession comes out to be 23.01.2027.

19. The respondent issued an "Intimation Cum Demand Letter" dated 14.03.2024, raising a demand of ₹3,20,410.49/- purportedly on account of the project reaching the stage of "Completion of 1/3rd of Super



Structure." The complainant, however, objected to the said demand, contending that the construction of the super structure had not commenced, let alone reached one-third completion. Vide email dated 03.04.2024, the complainant called upon the respondent to substantiate the demand raised in the said letter, asserting that the construction had not progressed to the stage claimed. The respondent did not furnish any reply to the said communication and, instead, proceeded to issue reminders, thereby compelling the complainant to consider payment of the disputed demand.

20. On 26.04.2024, the complainant requested the respondent to provide a certificate from the project engineer indicating the actual stage of construction. No response was received to this request. Consequently, the complainant engaged an independent civil engineer to assess the status of construction. As per the third-party assessment, the project had not achieved one-third completion of the super structure, and the demand raised was found to be misleading and unjustified.
21. Subsequently, the respondent issued a letter dated 05.08.2024 cancelling the allotment of the complainant's unit. In response, the complainant submitted a detailed reply, setting out the reasons for non-payment of the demand raised in the letter dated 14.03.2024, stating that the demand was arbitrary and without basis, and contending that the resultant cancellation was therefore illegal and unsustainable.
22. The respondent has contended that the complainant failed to make timely payments of the due instalments, thereby breaching the agreed payment schedule. It is the respondent's case that, owing to such persistent default, the allotment of the unit was cancelled. The respondent submitted that a *Final Reminder cum Cancellation Notice* was issued on 13.08.2024, subsequent to the publication of a public notice in the newspaper *Punjab*

*Kesari* dated 05.08.2024, calling upon the complainant to clear the outstanding dues. Upon failure of the complainant to comply, the respondent proceeded to issue a *Cancellation Letter* dated 13.08.2024 via email, in accordance with the terms and conditions set forth in the application form, allotment letter, and the Affordable Housing Policy, 2013.

23. The respondent's justification for issuance of the demand letter and subsequent cancellation of the complainant's allotment, on the ground of non-payment of instalments, is found to be untenable, particularly in the absence of proof of completion of the requisite stage of construction corresponding to the claimed milestone in respect of the tower where the complainant's unit is situated. The core issue that arises for consideration before this Authority is whether the said cancellation of allotment is valid and legally sustainable?
24. Upon examination of the case file, the Authority observes that no payment plan is available on record. As such, it cannot be established that any mutually agreed payment schedule existed between the parties. Furthermore, the total sale consideration for the subject unit is not discernible, as it is not mentioned in the Allotment Letter. This lack of clarity raises concerns regarding the transparency and enforceability of the alleged financial obligations attributed to the complainant. In the present case, the subject unit was allotted to the complainant vide Allotment Letter dated 24.04.2023, pursuant to which the complainant has paid a sum of Rs.9,56,861.78/- to the respondent. It is an admitted fact that the respondent has, to date, failed to execute the Builder Buyer Agreement with the complainant. Despite this, the respondent issued a demand dated 14.03.2024 under the milestone of "Completion of 1/3rd of Super Structure." Upon non-payment of the said disputed demand, the



respondent proceeded to issue a Cancellation Letter dated 13.08.2024, and further published the complainant's name in a list of defaulters in the daily newspaper *Punjab Kesari* on 05.08.2024. It is also evident from the record that the respondent has received substantial payment from the complainant without executing the Builder Buyer Agreement and in the absence of any agreed payment plan. Such actions are in violation of the principles of fair practice and legal obligations under the applicable housing regulations.

25. In view of the above, the cancellation of the subject unit vide letter dated 13.08.2024, being in continuation of the disputed demand dated 14.03.2024, is held to be arbitrary and without legal justification. Accordingly, the said cancellation is hereby set aside.

#### **H. Directions of the Authority**

26. Hence, the Authority hereby passes this order and issues 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 cancellation of the allotment of the complainant's unit dated 13.02.2024 is hereby set aside. Consequently, the respondent/promoter is directed to reinstate the allotment of the complainant's unit and take necessary steps to execute the Builder Buyer Agreement forthwith, in accordance with law within a period of 60 days.
  - ii. The respondent is directed to offer valid offer of possession to the complainant after receiving the Occupation certificate.
  - iii. The respondent is directed to execute Conveyance Deed in favour of the complainant on payment of the requisite stamp duty, within 3 months from the date of valid offer of possession, after obtaining the Occupation certificate.

27. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
28. Complaints stands disposed of. True certified copy of this order shall be placed in the case file of each matter.
29. File be consigned to the registry.

  
**(Ashok Sangwan)**  
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 27.08.2025

**HARERA**  
**GURUGRAM**