

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

**Complaint no.** 3500 of 2024  
**Date of filing** 24.07.2024  
**Order pronounced on** 21.08.2025

1. Abhas Sood

2. Ritu Sood

**Both R/o:** - House no.201, A-15, City Homes, Vatika  
India Next, Sector-83, Gurugram-122012

**Complainants**

Versus

M/s Vatika Limited

**Regd. Office at:** - Vatika Triangle, 4<sup>th</sup> floor,  
Sushant Lok- 1, Block-A, Mehrauli- Gurgaon  
Road, Gurugram, Haryana - 122002.

**Respondent no.1**

M/s Sammaan Capital Limited

*(Earlier known as Indiabulls Housing Finance Ltd.)*

**Regd. Office at:** - 422, Udhog Vihar, Phase 4,  
Gurugram, Haryana - 122016.

**Respondent no.2****CORAM:**

Shri Vijay Kumar Goyal

**Member****APPEARANCE:**

Shri Arun Kumar (Advocate)

S/Shri Venket Rao and Pankaj Chandola (Advocates)

Shri Gaurav Dua (Advocate)

Complainants

Respondent no.1

Respondent no.2

**ORDER**

1. This complaint has been filed by the complainants/allottees 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 allottees as per the agreement for sale executed *inter se*.

#### A. Unit and project related details.

2. 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. N.	Particulars	Details
1.	Name and location of the project	"Vatika Turning Point" by Vatika Express City at Village Harsaru, Sector-88B, Gurugram.
2.	Project area	18.80 Acres
3.	Nature of Project	Residential (Group Housing)
4.	DTCP license no. and validity status	91 of 2013 dated 26.10.2013 Valid upto 25.10.2017
5.	Name of Licensee	M/s Vaibhav Warehousing Private Limited & 9 others
6.	Rera registered/ not registered and validity status	<b>Registered</b> Vide no. 213 of 2017 dated 15.09.2017 Valid upto 15.03.2025 (Promoter has made an application for deregistration of project)
7.	Unit No.	HSG-026-West End-8, 1201 (as per receipt at page 47 of reply by respondent no.2)
8.	Unit area admeasuring	1125 sq. ft. (as submitted in para 9 of reply by respondent no.1) 685.23 sq. ft. (carpet area) (as submitted in para 9 of reply by respondent no.1)
9.	Booking application form	06.09.2016 (As per page no. 14-24 of complaint)
10.	Date of Allotment letter	29.11.2016 (As alleged at page 10 of complaint)



11.	Date of buyer's agreement	14.12.2018 (As alleged at page 10 of complaint)
12.	Possession Clause	<p><b>7.1 A) Schedule for possession of the said apartment subject to timely payment of amounts due by the Allottee to the Promoter as per agreed payment plan/schedule, as given in Schedule D of the Agreement.</b></p> <p><i>..... The Promoter assures to hand over possession of the apartment along with parking as per agreed terms and conditions unless there is delay due to "force majeure", Court/Tribunal/NGT 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 extension of time for delivery of possession of the Apartment....."</i></p> <p><b>(Emphasis supplied)</b></p> <p>(Taken from BBA of similar complaint of same project)</p>
13.	Due date of Possession	<p><b>15.03.2025</b></p> <p>(Taken from previous cases decided by the Authority w.r.t same project also as mentioned in RERA registration certificate)</p>
14.	Loan Sanction letter [for Rs.55,00,000/-]	<p>31.03.2019</p> <p>(page 15-19 of reply by respondent no.2)</p>
15.	Home Loan Agreement	<p>31.03.2019</p> <p>(page 20-37 of reply by respondent no.2)</p>
16.	Tripartite Agreement (between allottee, promoter and IHFL)	<p>31.03.2019</p> <p>(page 38-45 of reply by respondent no.2)</p>
17.	Total Sale Consideration	<p>Rs.68,21,187/-</p> <p>(as per SOA dated 05.04.2019 at page no.36 of complaint)</p>
18.	Amount paid	<p><b>Rs.56,55,720/-</b></p> <p>(as per SOA dated 05.04.2019 at page no.36 of complaint)</p>



19.	Occupation Certificate	Not obtained
20.	Offer for Possession	Not offered

**B. Facts of the complaint.**

3. The complainants have made the following submissions: -

- a) That the complainants had booked one 2 BHK apartment, bearing number HSG-026, West End-8, 1201, under the subvention scheme in the project Vatika Turning Point, situated at Sector-88B, Dwarka Expressway, Gurugram, Haryana of the Respondent Vatika Limited, having its registered office at A-002, Ground Floor, INXT City Centre, Sector-83, Gurugram, Haryana on 08.09.2016 for a total sales consideration of Rs.68,21,187/- and paid an booking amount of Rs.50,000/- through vide RTGS/NEFT to the respondent no.1.
- b) That the builder has tied up with the respondent no.2, Indian bulls Housing Finance Limited (now known as Sammaan Capital Ltd), under the subvention scheme of the project "Vatika Turning Point" and the first complainant Sh. Abhas Sood applied for the housing loan as proposed by the builder and the respondent no.2 was sanctioned a home loan for an amount of Rs.75,00,000/-.
- c) That the complainants made further payments of Rs.6,55,719/- as per the demand raised by the builder on regular intervals till 09.10.2018. Further, as per the payment plan under the said subvention scheme executed by the builder, the builder will raise demand for further instalments as per the milestone achieve of the project and shall receive the said demands from the respondent no.2 as per the subvention scheme.
- d) That the complainants were shocked to know that the respondent no.2 illegally disbursed an amount of Rs.49,50,000/- to the builder on dated 03.04.2019 from the housing loan account of the complainants. A proof of the



disbursal amount of Rs.49,50,000/- is already mentioned in the statement of account issued by the builder on 05.04.2019.

- e) That the respondent no.2 was bound to comply with the terms and conditions of the agreement and payment plan as executed between the complainants. As per the executed payment plan, the respondent no. 2 shall be liable to pay demands to the builder strictly according to the payment plan after the completion of each mile stone in each demand of Rs.2,86,453/- and final demand after receive the occupation certificate. However, the respondent no.2 collusion with the builder, illegally disbursed more than 75% of the total sales consideration to the builder in one instalment.
- f) That the respondent no.1 promised to be given possession of said apartment within 3 years from the date of application. However, the respondent had executed a builder buyer agreement on 14.12.2018. The complainants have visited to the said project site at Sector-88B, Gurugram but were in shocked to found that, there was no construction or development at the site of the project except excavation in the land.
- g) That the complainants were promised by the respondent no.1 that, they will be given possession of the said property to the complainants within 3 years of date 14.12.2018 of builder buyer agreement, but the respondent is miserably failed to give possession of said property in meantime.
- h) Further, the complainants have approached to the respondent no.1 several times at their office to get refund of paid amount of Rs.56,55,719/- but the respondent no.1 had never given satisfactory answers to the complainants regarding when they will receive refund of their said paid amount.
- i) It is well settled law and as per the Real Estate Regulation Act, 2016 and various order passed by this Ld. Authority if the builder has failed to give possession of an apartment in meantime as promised in the builder buyer agreement, the allottee has an option to get his refund of the paid amount.

- j) That the complainants approached the respondent no.1 several times for refund the paid amount but till date no amount has been refunded.
- k) That the vide order in case no. CR/4655/2022, dated 28.10.2022, case titled "Ashish Kumar Dhiman and Anr. V. Vatika Limited" of this Authority observed that the respondent has filed a proposal for de-registration of project Vatika Turning Point on 30.09.2022 and it is evident that the project is abandoned. In the said case this Authority has passed an order in favour of multiples allottees in a single order.
- l) That the complainants are law abiding citizens of India and suffering huge monetary losses, mental agony, trauma, and harassment due to irresponsible, unethical business practices towards its customers by the respondent. That after several requests, repeated reminders and correspondences from the complainants, the respondent no.1 did not adhere to respond so therefore the complainants have left with no other option except to approach this Authority.
- m) That the cause of action arose on 13.12.2021 when the complainants have not received possession of the said apartment from the respondent. The cause of action is still continuing as the respondent is failed to refund the paid amount to the complainants.

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

4. The present complaint was filed by the complainants on 13.06.2024 seeking the following relief(s):
- I. Direct the respondent no.1 to refund the paid amount of Rs.56,55,719/- with interest as per the RERA Act;
  - II. Direct the respondent no.2 to pay a sum of Rs.10,00,000/- towards the compensation for illegally transferred fund to the respondent no.1.
  - III. Direct the respondent no.1 to pay a sum of Rs.10,00,000/- towards the compensation for mental torture and agony to the complainant.
  - IV. Direct the respondent no.1 & 2 to pay a sum of Rs.2,00,000/- towards the litigation cost.



- V. Any other relief, against the respondents favoring the complainant, as may be deemed fit by this Hon'ble Authority.
5. 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 respondents:**

**D1 Reply by the respondent no. 1 (i.e., M/s Vatika Limited)**

6. The respondent no. 1 has contested the complaint on the following grounds:
- a) That in the year 2016, the complainants learned about the project 'Vatika Turning Point' situated at Sector 88B, Gurgaon, Haryana. The complainant further inquired about the specification and veracity of the project and was satisfied with every proposal deemed necessary for the development of the project.
  - b) That after having keen interest in the project launched by the respondent, the complainants upon its own examination and investigation desired to purchase a flat and on 06.09.2016, booked a flat in the said project through booking applicable form.
  - c) That the respondent on 09.06.2017, vide application for, allotted unit no.901, HSG-026-West End-7, admeasuring 685.23 sq. ft., with a condition that the allotment is tentative and may be altered due to alteration of unit numbering scheme.
  - d) That the builder buyer agreement dated 14.12.2018 was executed between the complainants and the respondent no.1 for the unit bearing no.1201, having carpet area 685.23 sq. ft. in HSG-026, West End-8, having super area of 1125 sq. ft., for a total sale consideration of Rs.68,21,187/-. That the complainants herein have paid an amount of Rs.56,55,720/- (during proceedings dated 21.08.2025, the counsel for the respondent no.1 states that in reply amount paid by the complainants is inadvertently recorded as

Rs.62,67,012/- instead of Rs.56,55,720/-) against the sale consideration of the unit. Furthermore, there remains an outstanding amount to the tune of Rs.5,54,175/-.

- e) That the complainants had approached Sammaan Capital Limited for availing a loan to the tune of Rs.55,00,000/-.
- f) That as per clause 5 of the agreement, the respondent was under obligation to handover the possession to the complainants as per the timelines as disclosed at the time of registration of the project. As per the project registration no. 213 of 2017, the respondent was to complete the project within 90 months from the date of grant of RERA registration i.e., 15.09.2017 as per which the due date of possession comes out to be 15.03.2025. The respondent was constrained stop the development work in the mid-way due to various hindrances in construction of the project, which were unavoidable and purely beyond the control of the respondent.
- g) That following were the reasons that halted the construction and development of the project as under:

S.No.	Particulars
1.	Notification No. L.A.C. (G)-N.T.L.A./2014/3050 dated 24.12.2014 to acquire land in sectors 88A,88B,89A,89B,95A,95B & 99A for purpose of construct and develop sector roads published in newspaper Dainik Jagran on 30.12.2014.
2.	Award No.56 on dated 23.12.2016 passed by the Land Acquisition Collector Sh. Kulbir Singh Dhaka, Urban Estates, Gurugram, Haryana for purpose of development and utilization of land for sector roads in sectors 88A,88B,89A,89B,95A,95B & 99A. (Important Note: We have got license no.91 on 26.10.2013 but till 23.12.2016 land was not acquired by the authority/Govt for purposes of development & utilization of sector roads. Delay for the acquiring process was 3 years two months)



3.	The Road construction and development works in Gurugram are maintained by the HUDA/GMDA but the NHAI has plan the development of Gurugram Pataudi-Rewari Road, NH-352 W under Bharatmala Pariyojana on 11.07.2018.
4.	The notification was published by the Ministry of Road Transport & Highways in Gazette of India on 25.07.2018 that the main 60 Mtr. Road (NH-352 W) near Harsaru Village shall develop &construct by the NHAI.
5.	The GMDA has approached the Administrator, HSVP, Gurugram and request to direct HSVP/LAO to hand over encumbrance free possession of land from Dwarka Expressway i.e. junction of 88A/88B to Wazirpur Chowk to GMDA so that possession of land may be handover to NHAI on 08.09.2020.
6.	The DTCP published a notification no.CCP/TOD/2016/343 on 09.02.2016 for erecting transit-oriented development (TOD) policy. Vatika Limited has filed an application for approval of revised building plan under (TOD) policy 05.09.2017 and paid amount of Rs. 28,21,000/- in favor of DTCP.
7.	Vatika Limited has filed another application on 16.08.2021 for migration of 18.80 Acres of existing group housing colony bearing license no.91 of 2013 to setting up mix use under (TOD) policy situated in village-Harsaru, Sector-88B, Gurugram, Haryana.
8.	Vatika Limited has made a request for withdrawal of application for grant of license for mix land use under (TOD) policy on 03.03.2022 due to change in planning.
9.	The DTCP has accepted a request for withdrawal of application under (TOD) Policy on 17.08.2021 & forfeited the scrutiny fee of Rs. 19,03,000/-
10.	Vatika Limited has filed an application to Chief Administrator, HUDA, Sector-6, Panchkula, Haryana to grant award in favor of Vatika Limited to construct sector roads in sector 88A, 88B, 89A & 89B.
11.	No motorable access to site as the 26acre land parcel adjoining the project was taken on lease by L&T, the appointed contractor for Dwarka Expressway & NH 352W.

<b>12.</b>	Re-routing of high-tension wires lines passing through the lands resulting in inevitable change in layout plans.
<b>13.</b>	Various Orders passed by the Hon'ble Supreme Court, NGT, Environment Pollution Control Authority regarding ban on construction activities every year for a period of 50-75days in the best months for construction.
<b>14.</b>	Due to outbreak of Covid 19 pandemic, there was a complete lockdown on two instances, 1. In 2020 GOI nearly for 6 months which was extended for another 3 months. 2. In 2021, for two months at the outbreak of Delta Virus.

- h) That the project could not be completed and developed on time due to various hindrance such as government notifications from time to time and force majeure conditions, breakdown of Covid-19 pandemic and other such reasons, which miserably affected the construction and development of the project as per the proposed plans and layout plans, which were unavoidable and beyond the control of the respondent.
- i) That Haryana RERA, Gurugram granted registration certificate bearing no.213 of 2017 dated 15.09.2017 for a period of 90 days, i.e., till 15.03.2025. The respondent no.1 upon failure to continue the development work of the project as per the proposed plan and layout plan due to reasons stated above, filed a proposal bearing "In Re: Regd. No. 213 of 2017 dated 15.09.2017, for de-registration of the project Turning Point" and settlement mechanism with existing allottees before the registry of this Authority on 30.09.2022. Same was in the interest of the allottees of the project.
- j) The complainants have made false and frivolous allegations against the respondent, suppressing facts and raising baseless, vague, and incorrect grounds. None of the reliefs prayed for by the complainants are sustainable before this Authority in the interest of justice.



**D2 Reply on behalf of respondent no.2 (i.e., M/s Sammaan Capital Ltd.).**

7. The respondent no.2 has contested the complaint on the following grounds:
- a) That the present complaint is not maintainable qua the respondent no.2 as it is neither the promoter nor developer nor real estate agent. The respondent no.2 is a financial institution registered under the provisions of National Housing Bank Act 1987 and presently governed by the Reserve Bank of India. That this Authority has no jurisdiction to deal with the financial institutions. Hence, the present complaint qua the respondent no.2 is bad in law and is liable to be dismissed on this ground alone.
  - b) That the present complaint is not maintainable as the same is totally false, frivolous and devoid of any merits against the respondent no.2. The complaint under reply is based on assumption, presumption, conjuncture and surmises. The present case is blatant misuse of the process of law. Thus, the present complaint is liable to be dismissed on this ground alone.
  - c) That the complainant is attempting to mislead this Authority to seek unjust relief by presenting false and fabricated facts/documents pertinent to the sanction of loan amount by falsely stating the loan was sanctioned of Rs.75,00,000/- instead of the actual sanction amount is of Rs.55,00,000/- and by concealing the loan disbursement request duly signed and executed by the complainant whereby requested the respondent no. 2 for disbursement of loan amount in favor of respondent no. 1. Hence, the complaint under reply is filed with malafide intentions which is blatant misuse of law and the same qua the respondent no. 2 is bad in law and is liable to be dismissed on this ground alone.
  - d) That the present complaint is not maintainable as it is a case of clever drafting that reflects the complainants' mala fide intentions, who have erroneously and without any basis implicated respondent no.2. The main

alleged dispute in the complaint pertains the complainant and respondent no.1 as to delay in construction and possession of the unit. The relief sought against respondent no.2 is not only misconceived but also impermissible before this Authority. Furthermore, granting such relief would effectively alter the terms and conditions of the loan and tripartite agreements, contravening fundamental principles of contractual agreement. Therefore, the complaint is liable to be dismissed on this ground alone.

- e) That the respondent no.2 has an independent contact regarding loan taken by the complainants for purchasing the unit in question and the same has nothing to do with the promoter. The complainants approached the respondent no.2 for availing loan facility against the mortgage of property in question. Consequently, based upon the representations and loan documents as furnished by the complainants, the respondent no.2 sanctioned the loan in the name of the complainants for an amount of Rs.55,00,000/- vide loan sanction letter dated 31.03.2019 against the mortgage of the property being residential flat having no.1201, 12th Floor, Tower Westend 8, Vatika Turning Point, Sector 88B, Gurugram, as security for the aforesaid loan facility and respondent no.2 and tripartite agreement dated 31.03.2019 executed amongst parties respectively. The sanction letter dated 31.03.2019 and the loan agreement dated 31.03.2019 were duly signed by the complainants as tokens of acceptance of the terms and conditions clearly stated therein which duly bind the parties. That the disbursal of the loan amount is done in strict adherence to the request of the complainants and terms and conditions of the loan agreement.
- f) That thereafter the tripartite agreement as executed between the parties, wherein recording the understanding of the complainants and respondent no.1 regarding subvention scheme agreed between them. That there would be no default in repayment of loan amount for any reason whatsoever



including but not limited to any concern/issues by and between the complainants and respondent no.1. The complainants have also expressly declared and confirmed in the tripartite agreement dated 31.03.2019 that the respondent no.1 is of their choice and they are confident of the builder capability for quality construction and timely completion of the said project.

- g) That the complainants vide request for disbursal form submitted with the respondent no.2 requested for disbursal of the loan amount to the respondent no.1. That the terms and conditions of the loan agreement having been agreed and accepted by the complainants that the loan was processed by the respondent no.2 pursuant to the request of the complainants only. Therefore, the respondent no. 2 acceded to granting the loan facility of Rs.33,31,529/- to the respondent no.1 and the amount of Rs.16,18,471/- requested to pay to respondent no.2 on account of interest totaling to sum of Rs.49,50,000/-. Thereafter, the respondent no.2 on perusal of the request for disbursal, disbursed the loan account to the respondent no. 1 and in turn, the respondent no. 1 issued the payment receipt dated 03.04.2019 in favor of the complainants. That the aforesaid disbursement of the loan amount was done by the respondent no. 2 in strict adherence to the terms and conditions of the loan agreement and as per the request of the complainants only.
- h) That the dispute is only between the complainants and respondent no.1 with which the respondent no.2 has no concern. That the respondent no.2 has granted loan to the complainants and at present total outstanding is of Rs.44,58,468/- as on 05.11.2024 with future interest and other charges, etc. against the complainants which they are jointly and/or severally liable to pay to the respondent no. 2.
- i) that the present complaint is not maintainable as there is no cause of action against the answering respondent no.2. The complaint is bad in law due to

misjoinder of parties as well as misjoinder of cause of action. Hence the present complaint is liable to be dismissed on this ground alone.

8. All other averments made in the complaint were denied in toto.
9. 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:**

10. The authority observes that it has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial Jurisdiction:**

11. 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:**

12. 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)(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.*

13. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

14. 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. (Supra)*** 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."*

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



**F. Findings on the objection raised by the respondent.****F.I Objection regarding force majeure conditions:**

16. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as lockdown due to outbreak of Covid-19 pandemic which further led to shortage of labour and orders passed by National Green Tribunal (hereinafter, referred as NGT). But all the pleas advanced in this regard are devoid of merit. The passing of various orders passed by NGT during the month of November is an annual feature and the respondent should have taken the same into consideration before fixing the due date. Similarly, the various orders passed by other authorities cannot be taken as an excuse for delay.
17. It is contended on behalf of respondent/builder that due to various circumstances beyond the control of respondent. It could not speed up the construction or the project, resulting in its delay such as various orders passed by NGT hon'ble Supreme court, introduction of new highway being NH-352W, transferring the land acquired for it by HUDA to GMDA, then handing over to NHAI, re-routing of high-tension lines passing through the land of the project, impact on the project due to policy of NIPL and TOD issued on 09.02.2016 and outbreak of covid-19 etc. But all the pleas advanced in this regard are devoid of merit. The passing of various orders to control pollution in the NCR region during the month of November is an annual feature and the respondent should have taken the same into consideration before fixing the due date. Secondly, the various orders passed by other authorities were not all of a sudden. Thirdly, due to Covid-19 there may be delay but the same has been set off by the govt. as well as authority while granting extension in registration of project, the validity of which expired from March 2020 for a period 6 months.
18. The due date of possession in the present case as per clause 7.1 is 15.03.2025, So, any situation or circumstances which could have an effect on the due date



should have before fixing a due date. Moreover, the circumstances detailed earlier did not arise at all and could have been taken into account while completing the project and benefit of indefinite period in this regard cannot be given to the respondent/builder.

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

**G.1 Direct the respondent no.1 to refund the paid amount of Rs.56,55,719/- with interest as per the RERA Act;**

19. On the basis of license no. 91 of 2013 dated 26.10.2013 issued by DTCP, Haryana, a residential group housing colony by the name of "Turning Point" was to be developed by the respondent/builder over land admeasuring 18.80 acres situated in Sector 88-B, Gurugram. This project was later on registered vide registration certificate No. 213 of 2017 with the authority. After its launch by the respondent/builder, units in the same were allotted to different persons on vide dates and that too for various sale considerations. Though, the due date for completion of the project and offer of possession of the allotted unit comes out to be 15.03.2025, there is no physical work progress at the site except for some digging work. Even the promoter failed to file quarterly progress reports giving the status of project required under Section 11 of Act, 2016. So, keeping in view all these facts, some of the allottees of that project approached the authority by way of **complaint bearing no. 173 of 2021 and 27 others titled as "Ashish Kumar Aggarwal vs Vatika Ltd."** seeking refund of the paid-up amount besides compensation by taking a plea that the project has been abandoned and there is no progress of the project at the site. The version of respondent/builder in those complaints was otherwise and who took a plea that the complaints being pre-mature were not maintainable. Secondly, the project had not been abandoned and there was delay in completion of the same due to the reasons beyond its control. Thirdly, the allotment was made under subvention scheme and the respondent/builder had been paying Pre-EMI interest as committed.

20. During the proceedings held on 12.08.2022, the authority observed & directed as under:

- a. Interim RERA Panchkula issued a registration certificate for the above project being developed by M/s Vatika Limited in the form REP-III prescribed in the Haryana Real Estate (Regulation and Development) Rules, 2017 vide registration no. 213 of 2017 on 15.09.2017 valid up to 15.09.2025 under section 5 of the Act ibid. But in spite of lapse of more than 4 years since grant of registration, It was alleged by the counsel of complainant that there is no physical work progress at site except for some digging work and appears to be abandoned project. No quarterly progress report is being filed by the promoter giving the status of work progress required under section 11 of the Act, 2016.
- b. The license no. 91 of 2013 granted by DTCP has expired on 26.10.2017 and the same is not yet renewed/revived, while BBA has been signed declaring the validity of license. It becomes amply clear that the promoter is not only defaulting/omitting in discharge of its obligations under the Real Estate (Regulation and Development) Act, 2016 but at the same time, violating the provisions of the Haryana Development and Regulation of Urban Area, Act 1975 also.
- c. The authority directed the respondent to furnish the details of bank account along with the statements of all the accounts associated with these promoters.
- d. In order to safeguard the interest of the allottees and keeping in view the above facts, the authority exercising its power under section 36 of the Act, directs the promoter's M/S Vatika limited to stop operations from bank accounts of the above project namely "Turning Point".
- e. Therefore, the banks are directed to freeze the accounts associated with the above-mentioned promoters in order to restrict the promoter from further withdrawal from the accounts till further order.

21. It was also observed that work at the site is standstill for many years. So, the authority decided to appoint Shri. Ramesh Kumar DSP (Retd.) as an enquiry officer to enquire into the affairs of the promoter regarding the project. It was also directed that the enquiry officer shall report about the compliance of the obligations by the promoter with regard the project and more specifically having regard to 70% of the total amount collected from the allottee(s) of the project minus the proportionate land cost and construction cost whether deposited in the separate RERA account as per the requirements of the Act of 2016 and Rules 2017. He was further directed to submit a report on the above-



mentioned issues besides giving a direction to the promoter to make available books of accounts and other relevant documents required for enquiry to the enquiry officer in the office of the authority. The company secretary and the chief financial officer as well as the officer responsible for day-to-day affairs of the project were also directed to appear before the enquiry officer. They were further directed to bring along with them the record of allotment and status of the project.

22. In pursuance to above-mentioned directions passed by the authority and conveyed to the promoter, the enquiry officer submitted a report on 18.10.2022. It is evident from a perusal of the report that there is no construction of the project except some excavation work and pucca labour quarters built at the site. Some raw material such as steel, dust, other material and a diesel set were lying there. It was also submitted that despite issuance of a number of notices w.e.f. 17.08.2022 to 18.10.2022 to Mr. Surender Singh director of the project, none turned up to join the enquiry and file the requisite information as directed by the authority. Thus, it shows that despite specific directions of the authority as well as of the enquiry officer, the promoter failed to place on record the requisite information as directed vide its order dated 12.08.2022. So, it shows that the project has been abandoned by the promoter. Even a letter dated 30.09.2022, filed by the promoter containing a proposal for de-registration of the project "Turning Point" and settlement with the existing allottee(s) therein has been received by the authority and wherein following prayer has been made by it:

- i. Allow the present proposal/application
- ii. Pass an order to de-register the project "turning Point" registered vide registration certificate bearing no. 213 of 2017 dated 15.09.2017.
- iii. Allow the proposal for settlement of allottees proposed in the present application.
- iv. To pass an order to club all the pending complaints/claims with respect to the project "turning Point" before the Id. Authority in the present

matter and to decide the same in the manner as the Id. Authority will approve under the present proposal.

- v. To pass any other relief in the favour of the applicant company in the interest of justice.

23. Thus, in view of the proposal given by the promoter to the Authority on 30.09.2022 and corroborated by the report of enquiry officer dated 18.10.2022, it was observed that the project namely "Turning Point" was not being developed and had been abandoned by the promoter. Even he applied for de-registration of the project registered vide certificate no. 213 of 2017 dated 15.09.2017 and was filing a proposal for settlement with the allottees in the project by way of re-allotment or by refund of monies paid by them. So, in view of the stand taken by the developer while submitting proposal with authority on 30.09.2022 and the report of the Enquiry Officer, it was observed that the project has been abandoned. Thus, the allottees in ***complaint bearing no. 173 of 2021 and 27 others titled as "Ashish Kumar Aggarwal vs Vatika Ltd."*** were held entitled to refund of the amount paid by them to the promoter against the allotment of the unit as prescribed under Section 18(1)(b) of the Act, 2016 providing for refund of the paid-up amount with interest at the prescribed rate from the date of each payment till the date of actual realization within the timeline as prescribed under Rule 16 of the Rules, 2017, *ibid.* A reference to Section 18(1)(b) of the Act is necessary providing as under:

*"18. If the promoter fails to complete or is unable to give possession of an apartment, plot or building,*

*(a) .....*

*(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."*



24. It is proved from the facts detailed above, that the project is abandoned as there is no progress at the spot. The developer used the monies of the allottees for a number of years without initiating any work at the project site and continued to receive payments against the allotted unit. So, in such situation complainants are entitled for refund of the paid-up amount i.e., Rs.56,55,720/- from the developer with interest at the rate of 10.85% 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 deposit till its realization within the timelines provided in Rule 16 of the Haryana Rules, 2017, *ibid*.
25. Out of total amount so assessed, the amount paid by the financial institution i.e., respondent no.2 be refunded first to the financial institution and the balance amount along with interest will be refunded to the complainants. Further, the respondent no. 1 is directed to get the NOC from respondent no.2 and give it to the complainants within a period of 30 days of this order.
- G.II Direct the respondent no.2 to pay a sum of Rs.10,00,000/- towards the compensation for illegally transferred fund to the respondent no.1.**
- G.III Direct the respondent no.1 to pay a sum of Rs.10,00,000/- towards the compensation for mental torture and agony to the complainant.**
- G.IV Direct the respondent no.1 & 2 to pay a sum of Rs.2,00,000/- towards the litigation cost.**
- G.V Any other relief, against the respondents favoring the complainant, as may be deemed fit by this Hon'ble Authority**
26. The complainants are also seeking relief w.r.t compensation and litigation costs. The Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP & Ors.* (supra) has held that the adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation and litigation cost.

**H. Directions of the authority**

27. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under Section 34(f):

- I. The respondent no.1 is directed to refund the paid-up amount i.e., Rs.56,55,720/- received by it against the allotted unit along with interest at the prescribed rate of 10.85% per annum from the date of each deposit till its actual realization.
  - II. Out of the total amount so assessed, the outstanding amount of the financial institution i.e., respondent no.2 be refunded first to the financial institution and the balance amount along with interest shall be refunded to the complainants.
  - III. The respondent no.1 is directed to get the NOC from respondent no.2 and give it to the complainants within a period of 30 days of this order.
  - IV. A period of 90 days is given to the respondent no.1 to comply with the directions given in this order and failing which legal consequences would follow.
28. Complaints as well as applications, if any, stand disposed off accordingly.
29. File be consigned to registry.

**Dated: 21.08.2025**

  
**(Vijay Kumar Goyal)**  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram