

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

Complaint no. :	3193 of 2024
Date of Filing of complaint:	05.07.2024
Date of Decision:	25.07.2025

Amit Kumar Gupta and Punit Kumar Gupta  
**Address at:** Gupta Farm No. 5, Church Road  
Mall Road Vasant Kunj, New Delhi.

**Complainants**

Versus

1. Prompt Engineering Private Limited  
**Regd. office:** GF-1, Vipul Plaza, village  
Haiderpur Viran, Sector 54, Gurugram-  
122002, Haryana.

2. M3M India Private Limited  
**Regd. office:** 41 floor, tower-1, M3M  
International Financial Centre, Sector 66  
Golf Course Road, Gurugram, Haryana.

**Respondents****CORAM:**

Shri Vijay Kumar Goyal

**Member****APPEARANCE:**

Sh. Lokesh Bhola  
Ms. Shriya Takkar

Advocate for the complainants  
Advocate for the respondents

**ORDER**

1. The present complaint has been filed by the complainant/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 provisions of the Act or the Rules and regulations made there under 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 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	M3M Corner Walk, Sector 74, Gurugram.
2.	Nature of project	Commercial Project
3.	DTCP License no.	Not available
4.	RERA Registered	17 of 2018 dated 24.01.2018 valid upto 31.03.2025
5.	Allotment letter	N/A
6.	Unit no.	R6/28 or R6/30 (page 23 of complaint)
7.	Date of builder buyer agreement	<b>NOT EXECUTED</b>
8.	Possession clause	N/A
9.	Due date of possession	N/A
10.	Total sale consideration	Rs.95,00,000/-  (as stated by the complainant)  Rs.1,40,00,000/-



		(complainant states that respondent increased the total sale consideration)
11.	Paid up amount	Rs.5,00,000/-  (as per SOA on page 18-20 of complaint)
12.	E-mail sent by complainants for refund	06.08.2021, 12.08.2021, 31.08.2021, 20.12.2021, 18.10.2023  (page 23-30 of complaint)
13.	Legal notice seeking refund	24.04.2024  (page 34 of complaint)
14.	Occupation certificate	N/A
15.	Offer of possession	Not offered

### B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:

- The complainant no.1 and 2 are law-abiding citizens of India and residents of Gupta Farm No.5, Church Road, Mall Road, Vasant Kunj, New Delhi – 110070 and Gupta Farm No.4, Church Road, Mall Road, Vasant Kunj, New Delhi – 110070, respectively.
- The respondent no.1 is a company duly registered under the Companies Act, 1956, having its corporate office at: GF-1, Vipul Plaza, Village Haiderpur Viran, Sector-54, Gurugram- 122002 engaged in the business of development and sale of real estate projects.
- The respondent no. 2 is a company duly registered under the companies act, 1956, with its corporate office at 41<sup>st</sup> floor, tower 1,



M3M International Financial Centre, Sector 66, Golf Course Road (Extn.), Gurugram, Haryana - 122101. Respondent no.2 is the sister concern of respondent no. 1, engaged in the business of developing and selling real estate projects and is involved in the sale of the said project.

- iv. The complainants state that the respondents failed to execute the builder buyer agreement despite receiving payment for the said unit. Additionally, the respondents unilaterally changed the sale price of the unit without obtaining the complainants' consent. Aggrieved by the actions of the respondents the complainants seek redress for their grievances and humbly pray for directions against the respondents, jointly or severally, to refund the amount paid by the complainant towards the said unit, along with interest @ 18% per annum.
- v. In the year 2020, the respondents approached the complainants, presenting itself as the developers and owners of the said project. The respondent emphasized its well-established reputation to lure the complainants and offered an attractive deal to deliver the said project with unmatched quality within the specified period, promising to execute a builder-buyer agreement with the complainants.
- vi. Believing the false representations of the respondents, the complainants were influenced to book the said unit in the said project and in view of the same the complainants made payment of Rs.5,00,000/- to respondent no.2 on 22.12.2020, against the booking of the said unit which was to be confirmed by the respondents in the builder buyer agreement.
- vii. That the said unit was booked for a total sale consideration of Rs.95,00,000/- inclusive of all other charges and taxes as per



discussions between the respondents and the complainants. It is pertinent to mention here that after receiving the booking amount of Rs.5,00,000/- from the complainants, the respondents, on the very next day of receiving the booking amount from the complainants, unilaterally changed their stance and intimated the complainants that the price of the said unit has been increased from Rs.95,00,000/- to Rs.1,40,00,000/- without prior consent of the complainants.

- viii. It is submitted that at it was intimated to the respondents, by the complainants that they do not have financial means to bear the cost of unit more than Rs.90,00,000/-. In view of the same, the respondent intentionally mentioned the total sale consideration of the said unit as Rs.95,00,000/- and after receiving the booking amount of Rs.5,00,000/- unilaterally increased the total sale consideration to Rs.1,40,00,000/- without prior consent of the complainants.
- ix. The unlawful conduct of the respondents has caused breach of trust and has adversely affected financial situation of the complainants and having left with no alternative, the complainants were constrained to withdraw from the said project.
- x. It is submitted that the respondents had failed to refund the booking amount of Rs.5,00,000/- to the complainants, despite sending various reminder e-mails, dated 06.08.2021, 12.08.2021, 31.08.2021, 20.12.2021 and 18.10.2023 respectively. It is stated that the complainants sent reminders emails, dated 20.12.2021 and 18.10.2023 on different e-mail id of the respondents, thereby making all possible efforts to get in touch with the respondents regarding the refund of the amount paid. It is pertinent to mention here that in response to the email, dated 20.12.2021, the complainants received an automated response from the respondent no.2 vide e-mail, dated



20.12.2021, which itself proves that the respondents have been receiving emails from the complainants with respect to the refund of the booking amount. the complainants lastly sent a reminder email to the respondents on 12.04.2024, to which the respondent has still not replied till date.

- xi. It is submitted that undeterred by the repeated requests sent by the complainants to refund the booking amount of Rs.5,00,000/-, the complainant sent a legal notice to the respondent on 24.04.2024, however the respondent has failed to refund the same. the respondent has even chosen not to respond to the legal notice despite its service.
- xii. It is pertinent to mention here that the respondents have been jointly enjoying the booking amount of Rs.5,00,000/- paid by the complainants against the said unit for considerable period of time and there is no communication from the respondents with respect to the status of refund of the amount despite repeated reminders of the complainants seeking refund of the amounts paid to the respondent.

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

- 4. In view of the facts mentioned above, the complainants pray for the following relief:
  - i. Direct the respondents to refund the amount of Rs.5,00,000/- along with interest from the date of payment till its realization.

**D. Reply by the respondent.**

- 5. The respondents have contested the complaint on the following grounds.
  - i. That the present complaint has been filed by the complainants with malafide intentions to unjustly enrich themselves as there is no cause of action for the relief sought has been made out in the present



complaint. It is submitted that the complainants after conducting their own due diligence and independent market research had expressed their interest to book a unit in the one of the projects of the respondent no.2 company after conducting requisite market research and tendered a sum of Rs. 5,00,000/- in two instalments of Rs. 2,50,000/- on 22.12.2020 from the account of complainant no.1 and Rs. 2,50,000/- on 22.12.2020 from the account of complainant no.2 towards their expression of interest, which was duly acknowledged by the respondent no.2 company.

- ii. The respondent post discussions with the complainants as per their request had given them an option of selecting a ready to move in unit or a unit in one of its projects or that of its associate company where occupation certificate was about to be applied and the project was at the stage of final completion.
- iii. The complainants were well aware about their duty to come forward to select the unit, confirm booking, complete all booking formalities including but to limited to depositing 10% of sales consideration and execute all requisite documents. The complainants despite being well aware of their obligations, failed to come forward to complete the booking formalities nor came forward to pay the complete booking amount being 10% of the sale consideration. It is submitted that the respondents cannot be held liable for the wilful default of the complainants.
- iv. That the complainants failed complete all booking formalities including but to limited to depositing 10% of sales consideration and execute all requisite documents as a result of which the said booking could not crystalize into allotment. Thus, no unit was ever allotted to the complainants.

12



- v. Further, the respondent no.2 company being a customer-oriented company had duly dispatched the refund cheques of the entire amount being deposited by the complainants vide 2 cheques bearing no. 006339 for an amount of Rs. 2,50,000/- in the name of complainant no.1 and cheque bearing no. 006338 for an amount of Rs. 2,50,000/- in the name of complainant no.2 in full and final settlement. The complainants with a mala fide intent and to extract unlawful benefits from the respondent no.2 did not accept the refund cheques.
- vi. It is submitted that the present complaint is infructuous. the complainants have no privity of contract with the answering respondents. Thus, the complainants are not entitled to any relief whatsoever.
6. Copies of all the relevant documents have been filed and placed on 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 has complete territorial and 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 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**



9. 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.*

10. 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.

**F. Findings on the relief sought by complainants:**

**F.I Direct the respondents to refund the amount of Rs.5,00,000/- along with interest from the date of payment till its realization.**

11. The complainants booked the unit number R6/28 or R6/30 in M3M Corner Walk, measuring 923.16 sq. ft. The complainants submits that they paid an amount of Rs.5,00,000/- through RTGS dated 22.12.2020 against the booking of said unit, for which no receipt was issued by the respondents in this regard. Further, the complainants state that the respondents failed to execute the BBA despite receiving payment for the said unit. Several emails dated 06.08.2021, 12.08.2021, 31.08.2021, 20.12.2021 and 18.10.2023 the complainants wrote to the respondents



to return back the above-mentioned amount as they are no longer willing to invest in the project. Hence, the complainants requested the respondents for refund of the paid-up amount of Rs.5,00,000/-.

12. The respondents submits that it had made many calls and requested to the complainants to clear their dues because they were facing many problems because of their conduct as many customers were in queue for purchasing the said unit/floor, but the respondents were helpless due to complainants' misconduct. That the complainants cheated the respondents by their act and therefore the respondents have suffered a huge loss because of default committed by the complainants by not making further payments towards the booking of the abovementioned floor. The respondents further submits that they had duly dispatched the refund cheques of the entire amount being deposited by the complainants for an amount of Rs. 5,00,000/- and which was not encashed by the complainants.
13. Upon perusal of the documents available on record and submissions made by both parties, the authority observes that the pleas raised by the respondents are not sustainable for the following reasons. **Firstly**, the complainants have made a payment of Rs.5,00,000/- to the respondents as a booking amount towards their Expression of Interest and the respondents have also admitted payment of the same in the reply filed by the respondents. However, the respondents have failed to issue any receipt w.r.t to the payment made by the complainants-allottee(s) and have not annexed the same with the reply filed by the respondents. **Secondly**, the respondents had not placed any documents on record supporting that the respondents raised any demand for further payments. No demand letter or reminder has been placed on record. **Thirdly**, it is pertinent to note that the respondents have even

12 13



failed to place on record any application form through which the complainants have approached the respondents for booking of a unit in the said project. Also, the respondents upon receipt of the booking amount have failed to issue any allotment letter in favour of the complainants allotting a unit in the said project. The respondents have failed to state any reason as to why an allotment letter was not issued by respondents despite receiving the said amount from the complainants. Moreover, the respondents have never shared any copy of agreement with the complainants and no BBA was executed inter se parties. It is beyond once imagination as to why the respondents have forfeited the booking amount paid by the complainants without even fulfilling the obligations cast upon it and in absence of any application form/allotment letter/BBA.

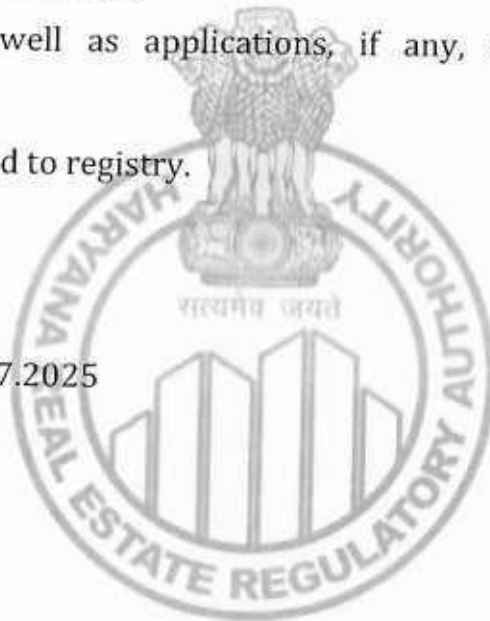
14. Also, the Maharashtra Real Estate Appellate Tribunal in the case titled as **Mr. Dinesh R. Humane and Anr. Versus Piramal Estate Pvt. Ltd. dated 17.03.2021**, the following has been observed:

*"..... Allottees merely booked the flat and paid some amount towards booking and executed letter for request of reservation of the flat in printed form. Thereafter there is no progress in the transaction and neither allotment letter nor confirmation letter are issued by Promoter. Agreement for sale is not executed between the parties. Parties never reached to the stage of executing agreement for sale. There was no attempt to execute agreement on the part of either party. In such circumstances, Allottees cannot claim refund on the basis of binding effect at clause (18) of "model agreement" for sale under rules of RERA. In fact, claim of Allottees for refund cannot be supported by clause 18 of model agreement for sale under RERA rules. Refund of amount paid to promoter can be demanded as per Section 18 of RERA on the ground that promoter fails to give possession on agreed date or fails to complete the project as per terms and conditions of agreement for sale. Transaction in the instant case is not governed by Section 18 of RERA. **In this peculiar matter, though the claim of refund is not governed by any specific provision of RERA, it cannot be ignored that object of RERA is to protect interest of consumer. So, whatever amount is paid by home-buyer to the promoter should be refunded to the Allottee on his withdrawal from the project.**"*



15. In view of the reasons stated above and judgement quoted above, the respondents were not within its right to retain amounts received from the complainants. Thus, the complainants are entitled to get refund of the entire amount paid by them. The authority observes that in view of above, the respondents are obligated to return the amount received by it i.e., Rs. 5,00,000/- within a period of 90 days from this order. Failing which that amount would be payable with interest @10.90% p.a. till the date of actual realization.
16. Complaint as well as applications, if any, stands disposed off accordingly.
17. File be consigned to registry.

Dated: 25.07.2025

**HARERA**  
**GURUGRAM**

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