

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

Complaint no.	:	4114 of 2024
Date of complaint	:	28.08.2024
Date of order:		14.08.2025

Geeta Bhasin

R/o: 62-66, Second Floor, The Mall, Shimla, Himachal Pradesh - 171001.**Complainant**

Versus

M/s Vatika Limited

Registered office: Unit no.-A-002, INXT City Centre, Ground Floor, Block-A, Sector-83, Gurugram, Haryana - 122012.**Respondent****CORAM:**

Shri Vijay Kumar Goyal

Member**APPEARANCE:**

Shri Ishaan Dang, Advocate

Complainant

Shri Dhruv Dutt Sharma, Advocate

Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee 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 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 Business Park" at Sector-49, Gurugram.
2.	Project area	6.881 acres
3.	Nature of Project	Commercial Complex
4.	DTCP license no. and validity status	406 of 2006 dated 16.01.2006
5.	Rera registered/ not registered and validity status	Un-registered
6.	Unit No.	702, 7th Floor, Block -1 [As per page 52 of complaint]
7.	Unit area admeasuring	500 sq. ft. (Super Area) [As per page 52 of complaint]
8.	Allotment Letter	11.01.2011 [As per page 52 of complaint]
9.	Date of buyer's agreement	11.01.2011 [As per page 22 of complaint]
10.	Possession clause	Not available in BBA
11.	Possession	10 Possession "The developer has with the execution of this agreement handed over to the allottee notional and symbolic possession of the said space, and hereinafter the allottee shall be deemed to in possession of the said space for all purpose." [As per page 31 of complaint]
12.	Due date of possession	11.01.2014 <i>"Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018-SC); MANU/SC/0253/2018 Hon'ble Apex Court observed that "a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery</i>

		<p><i>period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract."</i></p> <p>In view of the above-mentioned reasoning, the date of the execution of buyer's agreement dated 11.01.2011 ought to be taken as the date for calculating the due date of possession. Therefore, the due date for handing over the possession of the unit comes out to be 11.01.2014.</p>
13.	Total sale consideration	Rs.22,50,000/- [As mentioned in clause 2 of BBA at page 24 of complaint]
14.	Amount paid by complainant	Rs.22,50,000/- [As mentioned in clause 2 of BBA at page 24 of complaint]
15.	Occupation certificate	30.12.2010 [As per copy of OC provided during proceedings dated 14.08.2025]
16.	Conveyance deed	Not executed till date

B. Facts of the complaint:

3. The complainant has made the following submissions: -

- I. That the respondent represented to the complainant that the respondent had completed construction of the project in accordance with the licences, permissions, approvals and sanctions issued by the competent authority. The respondent assured the complainant that the respondent was in receipt of the occupation certificate in respect of the project and that the same was complete in all respects. The respondent convinced the complainant to book a commercial space in the project bearing no.702, admeasuring 500 sq. ft. super area, located on the 7th Floor for a total consideration of Rs.22,50,000/-. The total consideration was paid by the complainant to the respondent by way of cheque's, all drawn on the

Standard Chartered Bank. The payment of total consideration by the complainant has been duly acknowledged by the respondent in the buyer's agreement dated 11.01.2011.

- II. That the respondent had induced the complainant to book the aforesaid unit claiming that the unit had already been leased out to a tenant. The respondent promised and assured the complainant that once the complainant paid the entire sale consideration in respect of the unit, the complainant would start receiving rent from the tenant in the form of assured returns. The Respondent further promised and assured the complainant that the conveyance deed would be executed and registered in favour of the complainant in a short span of time after payment of total sale consideration and that after registration of the conveyance deed in favour of the complainant, the lease would be attorned in favour of the complainant and that thereafter the lessee would directly pay rent to the complainant. However, the complainant could not disturb the possession of the lessee during the subsistence of the existing lease period.
- III. That the complainant verily believed that soon after payment of the entire sale consideration of Rs.22.50 lacs paid by the complainant in December 2010 the respondent would get the conveyance deed registered in favour of the complainant. However, the respondent kept delaying the matter on one pretext or the other.
- IV. That the complainant communicated her concerns to the respondent regarding the needless delay in registration of the conveyance deed in the complainant's favour despite payment of entire sale consideration as per the buyer's agreement. The complainant called upon the respondent to communicate to the complainant the applicable stamp duty, registration and other charges required to be paid by the complainant so as to get the conveyance deed registered in her favour. The complainant also

communicated her apprehension that due to needless delay on the part of the respondent, the complainant might be unnecessarily burdened by any increase in applicable stamp duty.

- V. That the respondent conveyed to the complainant that it would be advisable for the complainant to wait till the existing lease came to an end and thereafter the conveyance deed could be registered in favour of the complainant. The complainant was not agreeable to waiting for such a long period of time, which was moreover contrary to the promises and assurances made by the respondent to the complainant at the time of booking.
- VI. That the complainant was receiving assured returns in the form of monthly rent in a timely manner from the respondent, as committed by the respondent in the allotment letter dated 11.01.2011. However, in the year 2020 the respondent became irregular with regard to payment of rent. The complainant got a legal notice issued to the respondent and after persistent follow up, the respondent started paying the rental to the complainant. However, from the month of May 2022, the respondent again started delaying payment of rent. The respondent also did not pay the GST amount which was being charged by the respondent from the lessee. Moreover, the respondent started making arbitrary and exorbitant deductions from the monthly rental payable to the complainant without providing any explanation to the complainant. The complainant addressed a letter dated 21.04.2022 to the accounts manager of the respondent regarding non-payment of GST amount as well as non-receipt of TSDS certificates.
- VII. That however, there was no response from the respondent. consequently, a reminder dated 30.05.2022 was sent by the complainant whereby the attention of the respondent was drawn to the following issues:

- (i) Delay in receipt of rent for the month of May 2022.
- (ii) Rent for the month of December 2021 had been received @Rs.20.53/- per sq. ft. whereas the rent ought to have been paid @Rs.59/- per sq ft.
- (iii) Rent for the month of January 2022 had been received @ Rs.11.61/- per sq. ft. instead of @ Rs.59/- per sq ft
- (iv) Non-payment GST for 10 months from December 2020 till March 2022 amounting to Rs.2,90,040/-

VIII. That there was no response from the respondent to the aforesaid communications sent by the complainant. Hence, the complainant was constrained to get a legal notice dated 13.08.2022 issued to the respondent calling upon the respondent to make payment of outstanding rent as well as GST amount with interest. however, despite receipt of the said legal notice by the respondent, there was no response from the respondent.

IX. That the complainant then came to realise that the respondent never had any intention of registering the conveyance deed in favour of the complainant in respect of the unit. As long as the conveyance deed is not registered, it is the respondent who leases out the complainant's unit to third parties and obtains rent from them.

X. That in accordance with the provisions of the Lease Deed dated 10.12.2018 executed between the Respondent and the Lessee, Oppo Mobiles, it is the Lessee which is responsible for bearing all the expenses relating to stamping and registration of the lease deed (clause 5), property tax (clause 7), maintenance charges (clause 9), maintenance of the premises including minor repairs, painting, distempering (clause 13), internal electrical cabling and fixtures (clause 23) and cost of internal partitions, alterations and additions (clause 26). Moreover, in terms of clause 9A (at page 8) of the buyer's agreement the respondent is entitled to deduct a sum of Rs.7/- per sq. ft. per annum of the super area of the

12

unit towards expenses incurred by the respondent by deducting the said amount in one lump sum from the first rent payable to the complainant in the financial year. Under the circumstances, it is inexplicable that out of the agreed rent of Rs.59/- per sq. ft., the respondent is only making payment @ Rs.20.53/- per sq. ft. for the month of December 2022 and Rs.11.61/- per sq. ft. instead of @ Rs.59/- per sq. ft., for the month of January 2022.

- XI. That moreover, in accordance with clause 11 of the lease deed, the lessee is liable to pay applicable taxes on the lease rent and other charges payable by the lessee. Thus, the lessee is liable to pay GST on the rent. However, although the lessee has been paying the applicable GST, the said payment has not been made to the complainant.
- XII. That the respondent has violated the buyer's agreement by failing to register the lease deed in favour of the complainant, failing to hand over actual physical possession of the unit as well as to pay lease rent and GST paid by the lessee, to the complainant.
- XIII. That it is pertinent to mention herein that the respondent has also violated Section 17 of RERA in terms of which the respondent is bound to execute and register the conveyance deed in favour of the complainant within 3 months from the date of issuance of the occupation certificate by the competent authority. Despite repeated requests by the complainant to be provided with a copy of the occupation certificate in respect of the project, the respondent has failed to provide the same.
- XIV. That the facts and circumstances set out in the present complaint, it is evident that the respondent obtained the booking of the complainant by making false representations, assurances and pro mises. The complainant has been cheated and defrauded by the respondent. The hard-earned money of the complainant has been embezzled/diverted by

the respondents for their own use. Even after more than 13 years from the date of the buyer's agreement, possession of the unit has not been handed over to the complainant and conveyance deed has not been registered in favour of the complainant.

- XV. That respondent has acted in a high handed and arbitrary manner. There is gross deficiency in service on the part of the respondent by inordinately delaying possession and failing to register the buyer's agreement in favour of the complainant despite the admitted fact that the entire sale consideration has been paid by the complainant prior to execution of the buyer's agreement dated 11.01.2011.
- XVI. That the complainant is aggrieved by the inordinate delay in delivering possession of the unit and registration of the conveyance deed, in blatant violation of the Buyer's Agreement dated 11.01.2011 and the provisions of RERA. The due date of handing over of possession of the said unit as per the buyer's agreement was on or before 11.04.2011. There is gross, inordinate and unexplained delay in offering of possession of the said unit for which interest is payable to the complainant under Section 18 of RERA. Thus, prima facie, respondent has violated Section 17 of RERA in terms of which conveyance deed ought to have been registered in favour of the complainant within three months from the date of issuance of the occupation certificate and is liable to be penalised for its violations and transgressions.
- XVII. That the complainant has duly complied with the terms and conditions of the buyer's agreement dated 11.01.2011. The entire sale consideration has been paid to respondent even before execution of the buyer's agreement dated 11.01.2011. There is no default or lapse in so far as the complainant is concerned. The complainant has always been ready and willing and is still ready and willing to make payment of stamp duty,

registration charges and any other amount legally payable by the complainant under the buyer's agreement. However, the respondent has miserably failed to fulfil its contractual obligations under the buyer's agreement and under RERA.

- XVIII. That the present complaint is limited to seeking possession and interest on delayed possession as well as directions to the respondent to forthwith register the conveyance deed in favour of the complainant. The complainant has suffered immense mental agony, financial hardship and harassment on account of the respondent and the complainant reserves her right to seek compensation by instituting appropriate proceedings before the Hon'ble Adjudicating Officer.
- XIX. That the cause of action in favour of the complainant is a continuing cause of action as the respondent has failed to offer possession of the unit to the complainant and to register the conveyance deed in her favour even after the due date of possession as per the buyer's agreement dated 11.01.2011. The cause of action is still subsisting.
- XX. That the subject matter of the claim falls within the jurisdiction of this Authority. Furthermore, the said project is situated and cause of action has arisen within the ordinary territorial jurisdiction of this Authority. Hence, this Authority has got the jurisdiction to try and decide the present complaint.
- XXI. That the present complaint has been filed within the prescribed period of limitation. The cause of action for filing the present complaint is still subsisting in favour of the complainant. Hence, the present complaint has been filed against the respondent before the Authority.

C. Reliefs sought by the complainant:

4. The complainant has sought following relief:



- i. Direct the respondent to deliver possession of commercial unit no.702, admeasuring 500 sq. ft., located in Block 1, on the Seventh Floor of Commercial Complex known as Vatika Business Park, Sector 49, Gurugram, and to register the conveyance deed in favour of the complainant.
 - ii. Direct the respondent to pay interest at the prescribed rate on the amount paid to the respondent amounting to Rs.22,50,000/- from the due date of possession, i.e. 11.04.2011 till handing over of actual physical possession of the said unit.
 - iii. Direct the respondents to adjust applicable stamp duty, registration charges and any other amount legally payable by the complainant to the respondent in terms of the buyer's agreement dated 11.01.2011 against the interest due and payable by the respondent for inordinate and unjustified delay in delivering possession and registering the conveyance deed.
 - iv. Direct the respondent to pay unpaid assured returns to the complainant in accordance with the allotment letter dated 11.01.2011 (Annexure C2), along with the prescribed rate of interest as per RERA guidelines
 - v. Direct the respondent not to charge any amount from the complainant not payable under the buyer's agreement such as HVAT, GST, electrification charges and connection charges etc.
 - vi. Direct the respondent to provide copy of the occupation certificate, completion certificate and architect's confirmation of carpet area and super area of the unit.
 - vii. Costs of litigation amounting to Rs.2,00,000/- may kindly be granted to the complainant.
 - viii. Such other and further orders as this Hon'ble Authority deems fit in the facts and circumstances of the case any kindly be passed.
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 respondent.

6. The respondent has contested the complaint by filing reply on the following grounds: -
- I. That the complaint filed by the complainant before the Authority, besides being misconceived and erroneous, is untenable in the eyes of law. That further, without prejudice to the aforementioned, even if it was to be,

assumed though not admitting, that the filing of the complaint is not without jurisdiction, even then the claim as raised cannot be said to be maintainable and is liable to be rejected for the reasons as ensuing.

- II. That at this stage, it would be just and proper to refer to certain provisions of the Haryana Real Estate Regulatory Authority Rules, 2017, which may be relevant for the adjudication of the present *lis* and which, It is a matter of record and rather a conceded position that no such agreement as referred to under the provisions of 2016 Act and 2017 Haryana Rules, has been executed between respondent and the complainant. Rather, the agreement that has been referred to, for the purpose of getting the adjudication of the complaint, though without jurisdiction, is the builder buyer's agreement, executed much prior to coming into force of 2016 Act and 2017 Haryana Rules.
- III. The adjudication of the complaint for possession and interest, as provided under Sections 12, 14, 18 and 19 of 2016 Act, if any, has to be in reference to the agreement for Sale executed in terms of 2016 Act and 2017 Haryana Rules and no other agreement. This submission of the Respondent *inter alia*, finds support from reading of the provisions of 2016 Act as well as 2017 Haryana Rules, including the aforementioned submissions. Thus, in view of the submissions made above, no relief much less as claimed can be granted to the complainant. It is reiterated at the risk of repetition that this is without prejudice to the submission that in any event, the complaint, as filed, is not maintainable before this Authority.
- IV. That apparently, the complaint filed by the complainant is abuse and misuse of process of law and the reliefs claimed as sought for, are liable to be dismissed. No relief much less any interim relief, as sought for, is liable to be granted to the complainant.

- V. That the complainant by way of present complaint is also seeking the relief of recovery of alleged pending assured return amount. However, the Authority does not have jurisdiction to decide upon the amount of committed/assured return.
- VI. That the unit in question was put on lease and the respondent has paid lease rentals.
- VII. That status of the construction of the building in which the unit allotted to the complainant is located is complete and the respondent has already received the occupation certificate vide memo no. ZP-140/JD(BS)/2010/18178 dated 30.12.2010 (as per copy of OC provided by counsel for the respondent during the proceedings dated 14.08.2025). It is submitted that since the respondent has received the occupation certificate much before the coming of the RERA Act, 2016, therefore this Authority does not have the jurisdiction to try and entertain the present complaint.
- VIII. That as per clause 9(A) of the builder buyer agreement, it was made clear to the complainant that the unit of the complainant is already given out on lease and the rent collected from the lessee shall be remitted to the complainant on pro rata basis after deducting the expenses/costs. That it was also agreed by the complainant that the possession of the lessee shall not be disturbed till the lease is in force. Further, as per clause 9(B) of the builder buyer agreement, it has been agreed between the parties that the developer shall be authorized to negotiate and finalize leasing arrangement with any suitable tenants after the expiry of the ongoing lease.
- IX. That the complainant is a real estate investor who has made the booking with the respondent only with an intention to earn lease rentals /assured return from the respondent. As per clause 9 of the builder buyer

agreement, complainant has agreed for leasing arrangement wherein complainant has booked the said commercial unit for earning profit and is meant for leasing only and not for personal physical occupation or use and as such the relief of possession and interest sought by the complainant cannot be granted by this Authority. Therefore, the present complaint does not fall within the purview of the Authority.

- X. That as per clause 9 and 10 of the builder buyer agreement, the complainant is already deemed to be in the possession of the unit and as such the complainant cannot seek physical possession of the unit.
 - XI. That the certain information and documents are need to be apprised to the Authority and in this regard the respondent reserve the rights to file the documents in the form of additional reply.
 - XII. Therefore, all the reliefs as claimed by the Complainants are false and misleading and hence denied, as the Complainants are not entitled for any of such reliefs.
7. All other averments made in the complaint were denied in toto.
8. 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 those undisputed documents and oral as well as written submissions made by the parties.

E. Jurisdiction of the authority

9. 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

10. 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 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

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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.

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

F. Findings on the objections raised by the respondent.

F.I Objection regarding maintainability of complaint on account of complainant being investor.

13. The respondent took a stand that the complainant is investor and not consumer and therefore, she is not entitled to the protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. However, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the allotment letter, it is revealed that the complainant is buyer,

and have paid a total price of Rs.22,50,000/- to the promoter towards purchase of a unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"2(d) 'allottee' in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"

14. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the buyer's agreement executed between promoter and complainant, it is crystal clear that the complainant are allottee(s) as the subject unit was allotted to them by the promoter. The concept of investor is not defined or referred to in the Act. As per the definition given under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". Thus, the contention of the promoter that the allottee being investor are not entitled to protection of this Act also stands rejected.

F.II Objection regarding jurisdiction of authority w.r.t. buyer's agreement executed prior to coming into force of the Act

15. One of the contentions of the respondent is that the Authority is deprived of the jurisdiction to go into the interpretation of, or rights of the parties inter-se in accordance with the buyer's agreement executed between the parties. The respondent further submitted that the provisions of the Act are not retrospective in nature and the provisions of the Act cannot undo or modify the terms of buyer's agreement duly executed prior to coming into effect of the Act.

16. The Authority is of the view that the Act nowhere provides, nor can be so construed, that all previous agreements will be re-written after coming into

force of the Act. Therefore, the provisions of the Act, rules and agreement have to be read and interpreted harmoniously. However, if the Act has provided for dealing with certain specific provisions/situation in a specific/particular manner, then that situation will be dealt with in accordance with the Act and the rules after the date of coming into force of the Act and the rules. Numerous provisions of the Act save the provisions of the agreements made between the buyers and sellers. The said contention has been upheld in the landmark judgment of Hon'ble Bombay High Court in **Neelkamal Realtors Suburban Pvt. Ltd. Vs. UOI and others. (W.P 2737 of 2017)** which provides as under:

"119. Under the provisions of Section 18, the delay in handing over the possession would be counted from the date mentioned in the agreement for sale entered into by the promoter and the allottee prior to its registration under RERA. Under the provisions of RERA, the promoter is given a facility to revise the date of completion of project and declare the same under Section 4. The RERA does not contemplate rewriting of contract between the flat purchaser and the promoter..."

122. We have already discussed that above stated provisions of the RERA are not retrospective in nature. They may to some extent be having a retroactive or quasi retroactive effect but then on that ground the validity of the provisions of RERA cannot be challenged. The Parliament is competent enough to legislate law having retrospective or retroactive effect. A law can be even framed to affect subsisting / existing contractual rights between the parties in the larger public interest. We do not have any doubt in our mind that the RERA has been framed in the larger public interest after a thorough study and discussion made at the highest level by the Standing Committee and Select Committee, which submitted its detailed reports."

17. Also, in appeal no. 173 of 2019 titled as **Magic Eye Developer Pvt. Ltd. Vs. Ishwer Singh Dahiya** dated 17.12.2019, the Haryana Real Estate Appellate Tribunal has observed-

"34. Thus, keeping in view our aforesaid discussion, we are of the considered opinion that the provisions of the Act are quasi retroactive to some extent in operation and will be applicable to the agreements for sale entered into even prior to coming into operation of the Act where the transaction are still in the process of completion. Hence in case of delay in the offer/delivery of possession as per the terms and conditions of the agreement for sale the allottee shall be entitled to the interest/delayed possession charges on the reasonable rate of interest as provided in Rule

15 of the rules and one sided, unfair and unreasonable rate of compensation mentioned in the agreement for sale is liable to be ignored."

18. The agreements are sacrosanct save and except for the provisions which have been abrogated by the Act itself. Further, it is noted that the buyer's agreements have been executed in the manner that there is no scope left to the allottee to negotiate any of the clauses contained therein. Therefore, the Authority is of the view that the charges payable under various heads shall be payable as per the agreed terms and conditions of the buyer's agreement subject to the condition that the same are in accordance with the plans/permissions approved by the respective departments/competent authorities and are not in contravention of the Act and are not unreasonable or exorbitant in nature.

G. Findings on the relief sought by the complainant.

- G.I Direct the respondent to deliver possession of commercial unit no.702, admeasuring 500 sq. ft., located in Block 1, on the Seventh Floor of Commercial Complex known as Vatika Business Park, Sector 49, Gurugram, and to register the conveyance deed in favour of the complainant.**
- G.II Direct the respondent to pay interest at the prescribed rate on the amount paid to the respondent amounting to Rs.22,50,000/- from the due date of possession, i.e. 11.04.2011 till handing over of actual physical possession of the said unit;**
- G.III Direct the respondents to adjust applicable stamp duty, registration charges and any other amount legally payable by the complainant to the respondent in terms of the buyer's agreement dated 11.01.2011 against the interest due and payable by the respondent for inordinate and unjustified delay in delivering possession and registering the conveyance deed;**
- G.IV Direct the respondent to pay unpaid assured returns to the complainant in accordance with the allotment letter dated 11.01.2011 (Annexure C2), along with the prescribed rate of interest as per RERA guidelines;**
- G.V Direct the respondent not to charge any amount from the complainant not payable under the buyer's agreement such as HVAT, GST, electrification charges and connection charges etc;**
- G.VI Direct the respondent to provide copy of the occupation certificate, completion certificate and architect's confirmation of carpet area and super area of the unit;**
- G.VII Such other and further orders as this Authority deems fit in the facts and circumstances of the case any kindly be passed.**



19. During proceedings dated 14.08.2025, the counsel for the complainant has submitted that he is only pressing for the relief w.r.t execution of conveyance deed as virtual possession already handed over and is not pressing for other reliefs. Therefore, the Authority is deliberating the findings upon relief w.r.t execution of conveyance deed and not upon other reliefs.
20. On consideration of documents available on record and submissions made by both parties. The Authority observes that in the year 2010, the complainant applied for a booking of commercial unit/ space in the project "Vatika Business Park" of the respondent. Thereafter, on 11.01.2011, the complainant was allotted a unit/ space bearing no.702 at 7th floor in block-1, having super area 500 sq. ft. in the project namely "Vatika Business Park". Further, the complainant and the respondent entered into a buyer's agreement on 11.01.2011 for the allotted unit for a total sale consideration of Rs.22,50,000/- out of which Rs.22,50,000/- were paid by the complainant way back in 2010. As per clause 10 of buyer's agreement, the allottee shall be deemed in possession of the unit/ space and the possession was given to the allottee is of notional and symbolic in nature. The relevant clause is reproduced for reference:
- "10. Possession**
The Developer has with the execution of this agreement handed over the allottee notional and symbolic possession of the said space, and hereinafter the allottee shall be deemed to in possession of the said space for all purposes."
21. Therefore, the symbolic possession of unit/ space was deemed handed over to the complainant at the time of execution of buyer's agreement dated 11.01.2011. However, the occupation certificate w.r.t to the project was granted by the competent authority on 30.12.2010.
22. The complainant is seeking the relief for the registration of conveyance deed in accordance with section 17 of the Act of 2016. As per clause 12 of the buyer's

agreement, the respondent shall prepare and execute along with allottee(s) a conveyance deed to convey the title of the said apartment in favour of the allottee but only after receiving full payment of total price of the apartment and the relevant clause of the agreement is reproduced for ready reference: -

12. Conveyance of the said commercial space

"The Developer shall prepare and execute along with the Allottees a conveyance deed to convey the title of the said Commercial Space in favour of Allottee but only after receiving full payment of the total price of the said Commercial Space and payment of all securities including interest free maintenance security deposits and charges for bulk supply of electrical energy, stamp duty, registration charges, incidental expenses and legal expenses for registration interest, penal interest etc. on delayed instalments, and all other dues as set forth in this Agreement or as demanded by the Developer from time to time prior to the execution of the Conveyance Deed and upon receipt of No objection from the banks/ financial institutions from whom the developer has availed project loan at the corporate level, which is more particular described in Clause 32 hereunder. Further the conveyance deed shall be in the form and content as may be approved by the legal advisor of the developer. The developer may permit the allottee to get the conveyance deed executed and registered in its own name or in the name of its nominee. If the Allottee is in default of any of the payments as set forth in this Agreement, then the Allottee authorizes the developer to withhold registration of the Conveyance Deed in its favour till full and final settlement of all dues to the developer is made by the Allottee. The Allottee undertakes to execute Conveyance Deed within the time stipulated by the developer in its written notice failing which the Allottee authorizes the developer to cancel the allotment and terminate this Agreement in terms of Clause (13) of this Agreement and to forfeit out of the amounts paid by it, the earnest money, delayed payment of interest, any interest paid, due or payable. The Allottee shall be solely responsible and liable for compliance of the provisions of Indian Stamp Act 1899 including any actions taken or deficiencies / penalties imposed by the competent authority (ies) before and after execution of the conveyance deed. Until a conveyance deed is executed and registered the developer shall continue to be the owner of the said property and this agreement shall no give to the allottee(s) any right or title or interest therein whatsoever. The company shall have the first lien and charge on the said property for all its dues that may become due and payable by the allottee(s) to the company."

23. It is to be further noted that section 11(4)(f) provides for the obligation of respondent/promoter to execute a registered conveyance deed of the apartment along with the undivided proportionate share in common areas to the association of the allottees or competent authority as the case may be as

provided under section 17 of the Act of 2016 and shall get the conveyance deed done after obtaining of OC.

24. As far as the relief of transfer of title is concerned the same can be clearly said to be the statutory right of the allottee as section 17 (1) of the Act provide for transfer of title and the same is reproduced below:

"Section 17: Transfer of title.

17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

25. As OC of the project in which unit of the complainant is situated has been obtained from the competent authority on 30.12.2010, and entire sale consideration was paid way back in 2010, therefore, there is no reason to withheld the execution of conveyance deed which can be executed with respect to the unit. Accordingly, the Authority hereby directs the respondent/promoter to execute the conveyance deed in favour of the complainant after payment of stamp duty charges and administrative charges up to Rs.15,000/- as fixed by the local administration, if any, within 90 days from the date of this order.

G.VIII Direct the respondent to pay litigation cost amounting to Rs.2,00,000/- to the complainant.

26. The complainant is also seeking relief w.r.t. compensation. The Hon'ble Supreme Court of India in civil appeal no.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 complainants in respect of compensation.

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/promoter is directed to execute the registered conveyance deed in favour of the complainant/ allottee within 3 months as per section 17 of the Act, upon payment of requisite stamp duty charges and administrative charges as per norms of the state government.
- ii. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.

28. Complaint as well as applications, if any, stands disposed of accordingly.

29. File be consigned to the registry.

Dated: 14.08.2025


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