

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

**Complaint no.:** 3307 of 2023  
**Date of filing:** 08.08.2023  
**Order pronounced on:** 02.09.2025

**Vidhya Sagar Garg**

**R/o:** - C-904, Parsavnath Green Ville, Sohna Road, Gurugram

**Complainant**

**Versus**

M/s Vatika Pvt. Limited

**Regd. Office at:** - Unit-A-002, INXT City Centre, Ground  
Floor, Block-A, Sector 83, Vatika India Next, Gurugram-  
122012

**Respondent**

**CORAM:**

Shri Vijay Kumar Goyal  
Shri Ashok Sangwan

**Member**  
**Member**

**APPEARANCE:**

Shri Rajesh Kumar (Advocate)  
Shri Venket Rao (Advocate)

Complainant  
Respondent

**ORDER**

1. This 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 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 complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.No.	Particulars	Details
1.	Name and location of the project	"Vatika India Next", Sector-81, 82, 82A, 83, 84 & 85, Gurgaon.
2.	Nature of the project	Residential township
3.	Project area	182.8 acres
4.	DTCP license no.	113 of 2008 dated 01.06.2008 Valid upto 31.05.2018
5.	Name of licensee	C/o M/s Vatika Limited
6.	RERA Registered/ not registered	<b>Un-Registered</b>
7.	Unit no.	8/A-1.1/240 (as per Addendum to the buyer agreement)
8.	Unit area admeasuring	240 sq. yds.
9.	Buyer's agreement (With original allottee i.e., Datta Traya Kinge & Ajay Garg)	20.07.2010 (As per page no.22 of complaint)
10.	Endorsement (in Favor of complainant)	Undated (As per page no.45 of complaint)
11.	Possession clause	<b>10 Handing over possession of the said plot to the allottee.</b> That the promoter based on its present plans and estimates and subject to all just exception, contemplates to complete the development of the said township or the sector/ part thereof where <b>the said plot is proposed to be located, within a period of three years from the date of execution of this agreement</b> unless there is a delay or there is a failure due to reasons beyond... <b>(Emphasis Supplied)</b>
12.	Due date of possession	20.07.2013 (Note: The due date of possession is calculated from the date of execution of buyer's agreement.)
13.	Addendum to buyer agreement (for change of unit no.)	15.11.2013 (As per page no.48 of complaint)
14.	Total sale consideration	Rs.9,96,000/-

		(As mentioned in BBA at page no. 27 of complaint)
15.	Amount paid by complainant	Rs.9,60,000/- (As mentioned in BBA at page no. 27 of complaint)
16.	Completion certificate	Not obtained
17.	Offer of possession	10.10.2016 (as per page no. 24 of reply)
18.	Possession certificate and Inspection letter	14.10.2016 (as per page no. 50 - 51 of complaint)

### B. Facts of the complaint.

3. The complainant has made the following submissions in the complaint:
  - a. That the complainant is a Senior Citizen aged 70 years and he has purchased a Plot No. C/240/37 in Vatika India Next, Gurgaon, by way of transfer from original allottee, as per Builder Buyer Agreement dated 20.7.2010 executed between the complainant and respondent. That as per Clause 10 of the said BBA, the possession of the said plot was to be handed over to the allottee within a period of three years from the date of execution of the agreement. However, vide Addendum dated 15.11.2013, respondent re-allotted a new Plot No.8/A-1.1, Vatika India Next, Gurugram in lieu of the old plot No. C/240/37. That on receipt of Occupancy Certificate, possession of plot was handed over to the complainant on dated 14.10.2016, i.e. after a delay of 6 years. That as per section 17(1) of the Act, conveyance deed in favour of the allottee was to be carried out by the promoter, within a period of three months from the date of issuance of Occupancy Certificate, but despite repeated requests and visits, respondent has not got registered the conveyance deed in favour of the complainant till date.
  - b. That from 2016 to 2023, the rates of stamp duty had been revised many times and the complainant had to pay additional stamp duty of on account of delay in registration of conveyance deed on the part of the respondent. This inordinate delay in registration of conveyance deed on

the part of the respondent, would cause immense financial loss and had caused mental agony to the complainant. Had the conveyance deed been registered well in time, the complainant could have some savings on account of additional burden due to increase of stamp duty.

- c. That vide demand letter dated 01.07.2019 the respondent company has demanded the maintenance charges @ Rs.1166.40 per month calculated @ 4.86 per sq. yards of area 240 sq. yards, towards the vacant plot without giving any ownership rights to the complainant, which is quite illegal.
- d. That the respondent had failed to fulfil their contractual obligations & commitments. Further, despite being legally bound, the respondent has failed to take any step for registration of conveyance deed in favour of the complainant despite inordinate delay of 7 years. The complainant has been harassed mentally and financially at the hands of the respondent, for which he is liable to be compensated by the respondent.
- e. That vide correspondence dated 25.7.2019 through e-mail, letter dated 12.1.2023 through speed post, the complainant requested the respondent for waiver of maintenance charges of the vacant plot and for execution and registration of the conveyance deed. However, vide e-mail dt.14.2.2023 the respondent replied that registry will be tentatively scheduled for mid-June - July, 2023, which time had now expired. Hence, the present complaint being filed before this Authority.

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

- 4. The complainant has sought following relief(s):
  - a. To get the conveyance deed registered in favour of complainant, without any delay, as per rules, in a time bound manner.
  - b. To waive-off and not to demand any maintenance charges from the complainant till the registration of conveyance deed in his favour.



- c. To allow compensation of Rs.5 lacs towards payment of additional stamp duty on account of delay in registration of conveyance deed on the part of respondent, towards increase of stamp duty from 2016 to 2023.
  - d. To allow compensation of Rs.2 lacs towards mental agony and harassment.
  - e. To allow compensation of Rs.50,000/- as litigation charges.
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 on the following grounds:
- a. It is submitted that the respondent herein was committed to complete the construction of the project and the respondent herein in compliance with the terms of the agreement has completed the construction and given possession to the complainant. The complainant herein voluntarily with free will and consent has taken over the possession of the unit on 14.10.2016 after satisfying with all the measurements, specification and fittings/fixtures of the subject unit.
  - b. The respondent humbly submits that the complainant executed the possession letter dated 14.10.2016, whereby the complainant took over peaceful and vacant physical possession of the unit in question after fully satisfying themselves with regard to its measurements, specifications, fittings and fixtures etc. It was further explicitly stated by the complainant in the aforesaid letter agreed that upon acceptance of possession they would not be entitled to raise any claim of any nature whatsoever regarding delay in possession of the unit in question.
  - c. It is pertinent to bring into the attention of the Ld. Authority that the complainant has waived off his rights to claim the delay interest charges

vide possession letter dated 14.10.2016 and therefore, the present complaint is nothing but just an afterthought of the complainant to harass the respondent.

- d. It is not out of the place to mention here that as per Doctrine of Waiver "a party for whom certain statutory rights are granted, such party can waive those rights if no public interest is involved.". The Complainant has waived off his right to claim interest for delay in handing over of possession. Hence, the present complaint is infructuous as the Complainant has already waived off his rights and concealed the same in the present complaint.
- e. That around 2010, the Original Allottee came to know about the project titled 'Vatika India Next' (hereinafter referred to as 'Project'), situated at Sector 82, Vatika India Next, Gurugram. After being aware of the Project, the Complainant approached the Respondent, to know about the specifications and veracities of the project.
- f. That on 20.07.2010, a Plot Buyer Agreement (hereinafter referred to as 'Agreement'), was executed between the Original Allottee and the Respondent with the respect to the allotted unit, for basic sale consideration of Rs. 9,96,000/- for the Plot bearing no. C/240/37, in Block C, comprising in the said Project.
- g. That in meanwhile the Original Allottee herein requested for transfer of the Plot in the name of Ms. Vidya Sagar Garg (hereinafter referred to as 'Complainant') for the reason best known. However, the Respondent herein is unaware of the assurances/representations provided by the Original Allottee to the Complainant at the time of endorsement and hence mat not be liable for any such representation in the interest of justice.

- h. It is not out of place to mention that the Complainant herein was well aware of the terms of the Agreement and the Allotment and had agreed to book the plot upon own judgement and investigation post being satisfied with each and every term of the Agreement.
- i. It is pertinent to bring into knowledge of this Ld. Authority that as per Clause 10 of the Agreement, so signed and acknowledged the Respondents herein provided and estimated 3 Years for completing the construction of the Project and the same was subject to various hindrances in midway of constructions of the Project which are purely beyond the control of the Respondent which is written clearly in Clause 12 of the Agreement. That as per the provision of the Agreement, in normal conditions the possession was proposed to be handed over by 19.07.2013.
- j. The Respondent vide Re-Allotment Letter dated 26.04.2013, intimated the Complainant that due to certain revision in the layout plans due to fine tunings and amendment and called upon the Complainant to visit the office of the Respondent with requisite documents to initiate the process of re-allotment. It may be noted that the Complainant herein was aware of the terms of re-allotment without any protest or demur.
- k. Thereafter, an Addendum dated 15.11.2013, was executed between the Complainant and the Respondent with respect to the re-allotted a new Plot No. 8/A-1.1, Vatika India Next in lieu of old Plot No. C/240/37, wherein, the Complainant agreed and understood the reason for re-allotment of new Plot No. 8/A-1.1/250 Sq. Yds/Sector 82A (hereinafter referred to as 'New Plot') and accepted the same without any protest or demur.
- l. Further, the Respondent vide Re-Allotment Letter dated 17.05.2016, intimated the Complainant regarding the re-allotment of the plot in

question due to change in the layout plan a letter for Re-Allotment was sent to the Complainant to reallocate the unit to a new plot.

- m. It is submitted that in the Agreement, the Respondent had inter alia represented that the performance by the Company of its obligations under the Agreement was contingent upon approval of the unit plans of the said complex by the Director, Town & Country Planning, Haryana, Chandigarh and any subsequent amendments/modifications in the unit plans as may be made from time to time by the Company & approved by the Director, Town & Country Planning, Haryana, Chandigarh from time to time.
- n. Subsequent to the booking and the signing of the Agreement, the Company was facing umpteen roadblocks in construction and development works in projects in its licensed lands comprised of the Township owing to the initiation of the GAIL Corridor which passes through the same. The concomitant cascading effects of such a colossal change necessitated realignment of the entire layout of the various projects, including plotted /Group Housing/Commercial/Institutional in the entire Township. This was further compounded with the non-removal or shifting of the defunct High-Tension lines passing through these lands, which also contributed to the inevitable change in the layout plans.
- o. Unfortunately, owing to significant subsequent events and due to a host of extraneous reasons beyond the control of the Company, Company was unable to execute and carry out all the necessary work for the completion of the said Project. These subsequent developments have repeatedly marred and adversely impacted the progress of the Company's projects. To further add to the woes of the Company, in addition to the reasons stated above, non-acquisition of sector roads by HUDA to enable



accessibility to the various corners of the project, forceful unauthorised occupation of certain parcels by some farmers coupled with other regular obstructions and impediments beyond the control of the Company have resulted in the Company being unable to deliver.

- p. Apart from the above, the progress of the construction of the project was also affected due to various other unforeseen circumstances such as:
- Unexpected introduction of a new National Highway being NH 352 W (herein "NH 352 W") proposed to run through the project of the Respondent. Under this new development NH 352 W was initially supposed to be developed as sector roads by Haryana Urban Development Authority (HUDA) which took around 3 years in completing the land acquisition process.
  - The Haryana Government in alliance with the Town and Country Planning Department in exercise of power vested under Section 45 (1) of Gurugram Metropolitan Development Authority Act, 2017 (GMDA Act) vide its Notification dated 11.04.2018 makes the transfer scheme for transferring the properties falling within the ambit of NH 352 W acquired by the HUDA to GMDA for development and construction of NH 352 W.
  - The GMDA vide its letter dated 08.09.2020 had handed over the possession of said properties for construction and development of NH 352 W to the National Highway Authority of India (NHAI). This is showing that still the construction of NH 352 W is under process resulting in unwanted delay in completion of project.
  - Further, initially, when HUDA had acquired the sector road and started its construction, an area by 4 to 5 metres was uplifted. Before start of the acquisition and construction process, the Respondent had already laid down the services according to the earlier sector road levels,

however due to upliftment caused by the HUDA in NH 352 W the company has been constrained to raise and uplift the same within the project, which not only result in deferment of construction of project but also attract costing to the Respondent.

- Re-routing of High-Tension lines passing through the lands resulting in inevitable change in the layout plans.
- q. It is a matter of fact, that the Complainant herein already happen to be in possession of the Plot in question. It is to note, that the Complainant herein was well aware of the terms of the Agreement and had agreed to take the possession of the Plot upon own judgement and investigation, without any protest or demur.
- r. That the Respondent herein vide Offer of Possession Letter dated 10.09.2016, calling upon the Complainant to take the possession of the Plot as the Respondent was about to commence with the process of handing over the possession. However, the Complainant herein had already taken the physical possession of the Plot in question on 14.10.2016; after being satisfied with every and has waived off its rights for raising any claims/dispute hereafter.
- s. It is pertinent to mention that the Complainant herein was well aware of the terms and conditions of the Agreement and has agreed to sign upon the same upon own judgment and investigation. That as per the provision of Clause 17 of the Agreement the Complainant itself has agreed to pay the maintenance charges as may be prescribed under the maintenance charges. It may be noted, that the Complainant herein has already taken over the possession of the Plot in question and has executed the Maintenance Agreement on 14.10.2016, wherein the Complainant was liable to pay maintenance charges.

- t. It is evident that the Complainant initially had agreed to pay and comply with the terms of the maintenance agreement so executed but at a subsequent stage now has decided to dispute the same on one pretext or the other which is nothing but merely an afterthought of the Complainant.
  - u. It may be noted, that the Respondent herein is willing and ready to get the conveyance deed executed and has no difficulty but the only issue which refrain the Respondent from executing the conveyance deed happens to be the change in the name of the license, building plans which were earlier under the name of M/s. Trishul Industries Ltd., and the Respondent is already in process of obtaining license and in process of applying for Occupation Certificate and will execute the conveyance deed as soon as the same is issued by the Competent Authority.
  - v. It is evident that the Complainant herein has prayed for the relief of execution of conveyance deed and has decided to refrain from seeking any other relief whatsoever and in the interest of justice the Complainant herein may not be allow to raise any other claim whatsoever as the same happens to be dropped by the complainant in the Complainant under reply.
  - w. That the Complainants herein, have suppressed the above stated facts and has raised this complaint under reply upon baseless, vague, wrong grounds and has misled this Ld. Authority, for the reasons stated above. It is further submitted that none of the reliefs as prayed for by the Complainants are sustainable before this Ld. Authority and in the Interest of Justice.
7. 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:**

8. 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:**

9. 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:**

10. 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.*

11. 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 the complainant.**



**F.I. To get the conveyance deed registered in favour of complainant, without any delay, as per rules, in a time bound manner.**

12. With respect to the conveyance deed, clause 16 of the BBA provides that the respondent shall Prepare and execute along with the allottee a deed in the manner as may be prescribed by the government of Haryana to convey title in the said plot in favour of allottee but only after receiving full payment of the total price of the said plot and all securities including maintenance security deposits interest penal interest etc on delayed instalments stamp duty registration charges incidental expenses for registration legal expense for registration and all other dues as set forth in this agreement or as demanded by the promoter from time to time prior to the execution of the set deed.
13. Section 17 (1) of the Act deals with duties of promoter to get the conveyance deed executed and the same is reproduced below:

**"17. Transfer of title: -**

*(1). The promoter shall execute a registered conveyance deed in favor 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"*

14. The authority observes that CC in respect of the project where the subject unit is situated has not been obtained by the respondent promoter till date. However, as per letter dated 20.05.2022 the Directorate of Town & Country Planning, Haryana clarified to the chairman HARERA, Gurugram wherein it was specifically stated that the colonizer/respondent can execute the conveyance deed in respect of any plot in residential plotted colonies after

obtaining licence and approval of layout plan by Director Town and Planning, Haryana. In view of above, the respondent shall execute the conveyance deed of the allotted unit within 3 months from the date of this order and upon payment of requisite stamp duty by the complainants as per norms of the state government.

**F.II. To waive-off and not to demand any maintenance charges from the complainant till the registration of conveyance deed in his favour**

15. In the present case the respondent company has not yet obtained the completion certificate from the competent Authority. Furthermore, as per Section 3(3)(a)(iii) of the Haryana Development & Regulation of Urban Areas Act, 1975 the licensee is responsible for maintenance of services for a period of 5 years from the date of issue of completion certificate. Also, Section 11(4)(d) of the Real Estate (Regulation and Development) Act, 2016 also provides that the respondent shall be responsible for maintaining essential services till the taking over of the maintenance of the project by the association of the allottees. The relevant sections are reproduced hereunder for ready reference:

*"Section 3.....(Haryana Development & Regulation of Urban Areas Act, 1975)*

*(3).....*

*(a).....*

*(iii) the responsibility for the maintenance and upkeep of all roads, open spaces, public parks and public health services for a period of five years from the date of issue of the completion certificate unless earlier relieved of this responsibility and thereupon to transfer all such roads, open spaces, public parks and public health services free of cost to the Government or the local authority, as the case may be.....*

*Section 11.....(Real Estate (Regulation and Development) Act, 2016)*

*(4).....*

*(d) be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees....."*

16. Furthermore, it was brought to the notice of the Authority that the respondent has not yet obtained the zoning plan for the project in question and the allottee

cannot effectively utilise the plot by carrying out any construction on it. Therefore, handing over of possession in the absence of CC/Part CC and even zoning plan can only be called notional in nature.

17. Given this situation, the respondent is not entitled to charge any maintenance charges from the complainant until the zoning approval is obtained from the competent authority.

**F.III. To allow compensation of Rs.5 lacs towards payment of additional stamp duty on account of delay in registration of conveyance deed on the part of respondent, towards increase of stamp duty from 2016 to 2023.**

**F.IV. To allow compensation of Rs.2 lacs towards mental agony and harassment.**

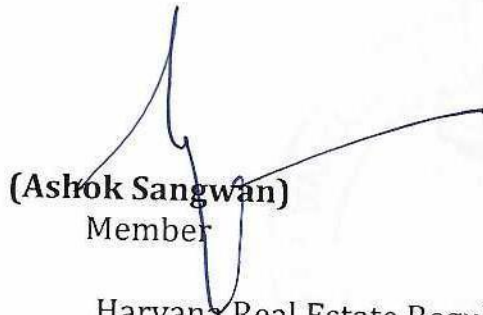
**F.V. To allow compensation of Rs.50,000/- as litigation charges.**

18. The complainant is also seeking relief w.r.t. litigation cost & compensation. It is observed that 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. V/s State of Up & Ors.* 2021-2022(1) RCR(c),357 has held that an allottee is entitled to claim compensation under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation.

**G. Directions of the authority**

19. 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):
- a. The respondent shall execute the conveyance deed of the allotted unit within the 3 months from the date of this order and upon payment of requisite stamp duty as per norms of the state government.

- b. The respondent is not entitled to charge any maintenance charges from the complainant until the zoning approval is obtained from the competent authority.
  - c. The respondent shall not charge anything from the complainants which is not the part of the builder buyer agreement.
  - d. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
20. Complaint stands disposed of.
21. File be consigned to registry.

  
**(Ashrok Sangwan)**  
Member

  
**(Vijay Kumar Goyal)**  
Member

Haryana Real Estate Regulatory Authority, Gurugram

**Date: 02.09.2025**