

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

Complaint no.:
Date of decision:

2192 of 2025
10.09.2025

Falcon Reality
Office At:- D-4, Ground Floor,
Omaxe Gurgaon Mall,
Sohna Road, Sector-49,
Gurugram-122018..

Complainant

Versus

M/s GLS Infratech Pvt. Ltd.
Office at: 707, 7th Floor, JMD Pacific Square,
Sector-15, Part-II, Gurugram-122001..

Respondent

CORAM:

Ashok Sangwan

Member

APPEARANCE:

Ashish Ranjan (Advocate)

Harshit Batra (Advocate)

Complainant

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 29 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 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 the project, the details of sale consideration, the amount paid by the complainants, date of proposed handing over the possession and delay period, if any, have been detailed in the following tabular form:

Sr. No.	Particulars	Details
1.	Name of the project	" GLS Arawali City"
2.	Location of the project	Village-Khaika, Sector-4, Sohna, Gurugram.
3.	Nature of the project	Residential plot under DDJAY
4.	DTCP license no.	License no. 72 of 2023 Dated-06,04.2023
5.	Registered/not registered	Registered Vide registration no. 63 of 2023 dated 23.05.2023.
6.	Allotment letter in favour of original allottee	16.10.2023 (As on page no. 12 of complaint)
7.	Plot no.	7 (As on page no. 24 of complaint)
8.	Plot Area	179.316sq.yards (As on page no. 24 of complaint)

9.	Agreement for sale executed between original allottee and respondent	21.11.2023 (As on page no. 22 of complaint)
10.	Possession clause	<p>Clause 7 Possession of the plot for Residential Usage: 7.1 Schedule for possession of the said plot for Residential Usage: The Promoter assures to handover possession of the Plot for residential usage on or before 01.04.2028, unless there is delay due to "force majeure", court 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 the extension of time for delivery of possession of the Plot for residential usage.</p> (As on page no. 28 of complaint)
11.	Due date of possession	01.04.2028
12.	Sale consideration	Rs.98,62,380/- (As on page no. 24 of complaint)
13.	Total amount paid by the complainant	Rs.39,44,952/- (As per Statement of Account dated 07.02.2025 on page no. 59 of complaint)
14.	Completion certificate	10.12.2024 (As on page no. 52 of reply)
15.	Offer of possession in favour	11.12.2024

	of original allottee	(As on page no. 49 of complaint)
16.	Assignment cum amendment agreement between original allottee , complainant and respondent	12.12.2024 (As on page no. 53 of complaint)
17.	Endorsement	10.01.2025 (As on page no. 58 of complaint)
18.	Reminders	22.01.2025 21.02.2025 24.03.2025
19.	Cancellation of unit	23.04.2025 (As on page no. 68 of reply)
20.	Conveyance Deed in favour of third party	05.05.2025 (As on page no.96 of reply)

B. Facts of the complaint:

3. The complainant made the following submissions in the complaint:

- I. That the complainant is a partnership firm currently having office at D-4, Ground Floor, Omaxe Gurgaon Mall, Sohna Road, Sector 49, Gurugram – 122018. The respondent allotted a plot no. 7 (admeasuring 179.316 sq yards @Rs 55,000/- per sq. yards) in GLS Aravali City, Sector 4, Sohna, Gurugram to the original allottee Mr. Vikram Singh for a total sale consideration of Rs.98,62,380.
- II. That the original allottee has paid a sum of Rs9,00,000/- as earnest money on 04.10.2023 through RTGS and also paid sum

of Rs.30,44,952/- as second instalment on 15.11.2023 through RTGS having UTR no. BKIDR52023111400564934.

- III. That the respondent allotted a plot bearing no. 7 admeasuring 179.316 sq yards in in the project vide Allotment Letter dated 16.10.2023. As per Annexure 1, "Payment Plan" of the Allotment Letter dated 16.10.2023, it is pertinent to mention that the remaining amount of Rs.59,17,428/- was to be paid by the original allottee Mr. Vikram Singh to the respondent at the time of offer of possession.
- IV. That the Agreement for Sale was executed on 21.11.2023. As per clause 9.2 of the Agreement for Sale, the respondent failed to fulfil the basic requirement of township amenity of 'Grand Entrance Plaza'. As per Schedule C - Payment Plan of Agreement for Sale, remaining 60% of the payment i.e. Rs.59,17,428/- was to be paid by the original allottee at the time of offer of possession. The Offer of Possession has not been issued to the complainant till date.
- V. That the respondent failed to deliver one of the basic and most important township amenity of 'Grand Entrance Plaza' as mentioned in their marketing brochure. The complainant purchased the above-said plot from the original allottee on 28.10.2024 and paid Rs.39,44,952/- through Cheque No. 000926 dated 28.10.2024.
- VI. That the complainant submitted the transfer documents and transfer fees of Rs.24,780/- to the respondent on 14.11.2024. The respondent issued an Offer of Possession to the original

allottee Mr. Vikram Singh on 11.12.2024. The Offer of Possession was never issued to the complainant.

- VII. That the complainant executed an Assignment Deed with the original allottee on 12.12.2024 before the Sub-Registrar, Sohna. The Offer of Possession was issued by the respondent to original allottee Mr. Vikram Singh on 11.12.2024 and on the other hand Assignment Deed was belatedly executed by the complainant with the original allottee Mr. Vikram Singh on 12.12.2024. This in itself shows the mala-fide intention of the respondent towards the complainant.
- VIII. That the complainant received a letter from the respondent on 10.01.2025 regarding transfer of subject plot. The complainant officially received the first demand notice from the respondent through email dated 07.02.2025 to make the balance payment of Rs.59,17,428/- along with interest.
- IX. That the complainant received an email from the respondent on 24.03.2025 for 'Intimation for Cancellation' with misrepresentation of facts. The offer of possession dated 11.12.2024 with due date of 09.01.2025 was issued to the original allottee and not to the complainant herein. The complainant did not receive the hard copy of 'Intimation for Cancellation' through speed post/India post.

C. Relief sought by the complainant:

4. The complainant has filed the present compliant for seeking following reliefs:
- (i) Direct the respondent to restore the above-said plot in the name of Complainant.

(ii) Direct the respondent to allow three months' time period to make the balance payment of Rs59,17,428/- along with the interest to the complainant.

(iii) In case, the plot cannot be restored in the name of complainant, then the respondent may be directed to refund the amount to the complainant as per current market value (Rs.1,00,000/- per sq yards) i.e. $\text{Rs.1,00,000} \times 179.316 = \text{Rs.1,79,31,600/-}$ after deducting the balance payment due on complainant of Rs.59,17,428/- which comes to Rs.1,20,14,172/-.

5. On the date of hearing, the Authority explained to the respondent /promoter about the contravention 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 respondent:

6. The respondent has contested the present complaint on the following grounds:

- I. That the erstwhile allottee i.e. one Mr. Vikram Singh post conducting his own due diligence applied seeking allotment of a plot in the project. In lieu of the said Application Form, plot bearing no. 7 admeasuring 179.316 sq. yards was allotted to the erstwhile allottee Mr. Vikram Singh (hereinafter referred to as the "erstwhile allottee") and the said plot was subsequently allotted to him vide Allotment Letter dated 16.10.2023.
- II. That thereafter, the Agreement to Sell was executed between the erstwhile allottee and the respondent on 21.11.2023. It is pertinent to mention that the erstwhile allottee had chosen to make the

payment as per the payment plan as set out in Schedule-C of the said Agreement for Sale.

- III. That as per the terms and conditions of the said Agreement signed between the parties, the erstwhile allottee was under an obligation to make timely payments against the allotted plot to the respondent, in default of which the respondent possessed the right to charge interest against the delayed payments and even had the right to cancel the said allotment made to the erstwhile allottee.
- IV. That the project was duly completed by the respondent much before due date 01.04.2028 as per clause 7.1 of the Agreement for Sale and the respondent applied for the grant of completion certificate. The project was granted Completion Certificate by the competent authority on 10.12.2024.
- V. That thereafter, the respondent issued an Offer of Possession to the erstwhile allottee on 11.12.2024 whereby the erstwhile allottee was requested by the respondent to make payment of the balance amount and to take the possession of the said plot. It is only after obtaining the Completion Certificate that the respondent had made the Offer of Possession to the complainant.
- VI. That on 12.12.2024, the complainant after conducting due diligence on its part, executed the Assignment deed whereby the said plot was transferred in the name of the complainant and the erstwhile allottee had been freed of all his rights and liabilities towards the said plot and the same was now bestowed upon the complainant. The same can be derived from Clause 2 of the said Assignment Deed which is reiterated herein as under for the perusal of the Authority:

"2. On and from the date of this Agreement, the Assignor shall be released of all obligations under the AFS and the Assignee alone shall be liable to

perform all obligations under the AFS and the Assignee shall be bound by the terms and conditions of the AFS and further shall assume all rights and obligations under the AFS in place of Assignor. A copy of the AFS is attached herewith as Annexure-I."

- VII. That it is only after the Offer of Possession was made to the erstwhile allottee that the complainant came into the transaction and there lied no contractual obligation on part of the respondent to offer possession of the said plot to the complainant.
- VIII. That as soon as the said Assignment Deed was executed between the parties and as the erstwhile allottee had been freed of all his rights and liabilities in reference to the allotted plot, the complainant stepped into the shoes of the erstwhile allottee and was possessed with all the rights, duties, responsibilities and liabilities which the erstwhile allottee had against the allotted plot.
- IX. That it is a settled position of law that a subsequent allottee, having acquired rights, title, and interest in the said plot, steps into the shoes of the erstwhile allottee. Upon such transfer of rights, all obligations, entitlements, and liabilities associated with the said plot stand transferred to the subsequent allottee. Consequently, the subsequent allottee assumes the position of the original allottee for all purposes, including claims, disputes, and contractual obligations arising under the builder-buyer agreement or related documents. That it is submitted that the Offer of Possession by the respondent had been made to the erstwhile allottee before the execution of Assignment Deed and thus, the complainant was well aware of the requirements on Offer of Possession.
- X. That the subsequent allottee derives their locus from the original allottee and is bound by the terms and conditions agreed upon by the erstwhile allottee. Judicial pronouncements have consistently

recognized that the transfer of rights in an immovable property carries with it the attendant obligations and liabilities unless expressly excluded. Therefore, any reliefs, benefits, or liabilities which were available or enforceable by the original allottee would similarly be available to or enforceable against the subsequent allottee.

- XI. That the said Assignment Deed had been executed between the parties out of their free will with no factor of undue influence or coercion being exercised upon any of them. The complainant herein had the absolute knowledge of the terms of the Agreement for sale and of the consequences it would be facing if there were to be any defaults on its part in regard to the payments against the allotted plot.
- XII. That timely payment of instalments was the obligation of the complainant as per the terms and condition of the Agreement to Sell executed between the parties and even as per the provisions of the prevailing laws. That the complainant cannot shift the burden of continuous defaults in payment on the respondent herein. It was the obligation of the complainant to ensure that timely payment of instalments against the allotted plot was done in the default of which the respondent had the right to cancel the allotment.
- XIII. That due to the continuous defaults on part of the complainant herein in making the timely payment against the allotted plot, the respondent was constrained to send reminders to the complainant on 22.01.2025 and 21.02.2025 respectively for making the payment of the outstanding deeds, the reminders intimated the complainant that in case of failure of the complainant to make the payment of the

amount due, the respondent would be forced to initiate the cancellation of the allotted plot which was in consonance with the terms and conditions of the Agreement for Sale as well as the Assignment Deed executed between the parties.

- XIV. That since the complainant failed to come forward to make the payment of the outstanding dues despite repeated reminders and follow-ups an intimation for cancellation of the allotment was also sent to the complainant and respondent, being a customer-oriented Company, offered an opportunity to the complainant to make the payment by the last date. That the last date mentioned by the respondent for making the payment was 22.04.2025 but the complainant paid no heed to the same and took no action for making the payment. That under the circumstance of default on part of the complainant in making the timely payments against the allotted plot, the respondent had the right to cancel the allotment in terms of the Agreement for Sale executed between the parties. That as per the provisions of the Act, the complainant is a chronic defaulter and has continuously and repeatedly failed to fulfil its financial obligation.
- XV. That on 23.04.2025, the allotment was cancelled due to the continuous defaults in payment of instalment by the complainant
- XV. vide Cancellation Letter. The complainant was sent an email dated
- XV. 24.04.2025 intimating about the cancellation of allotment of the
- XV. plot.
- XX. That post cancellation of allotment, the complainant had no
- XV. right/title/interest left on the plot and thus, on 25.04.2025, the
- XV. respondent refunded an amount of Rs.26,08,483/- post forfeiture of
- XV.
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- XV.

earnest money and delayed payment interest and charges as per the Agreement for Sale vide Transaction ID SBINR52025042583393498 which was credited into the bank account of the complainant. It is pertinent to note that the complainant has retained the refunded amount with themselves till date.

- XVII. That now the complainant has filed the present complaint claiming that the respondent had cancelled the allotment with malafide intentions even though the same has been done only due to the fault in making payments on part of the complainant. In fact, the decision for cancellation of allotment had been taken by the respondent after sending multiple reminders and intimations to the complainant for making the payment of the balance amount and the interest due but the same was not done by the complainant within the stipulated time as thus, the allotment had been rightfully cancelled by the respondent.
- XVIII. That after the cancellation of the said allotted plot, no rights/title/interest of the complainant remained in the said plot and the respondent was free to deal with the said plot as deemed fit. That post the cancellation of the said plot, the respondent herein entered into an Agreement for Sale on 30.04.2025 with Roosters Landbase Private Limited in pursuant of which a Conveyance Deed was executed on 05.05.2025 between the respondent and the said third party whereby the respondent transferred the title of the plot as such, the relief claimed by the complainant cannot be granted in its favor as the said relief has become infructuous due to the execution of the Conveyance Deed with the said third party.

7. 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:

8. 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

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

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)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

9. 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.

10. 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. 2021-2022 (1) RCR (Civil), 357*** 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."

11. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases 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 reliefs sought by the complainant:

F.I. Direct the respondent to restore the above-said plot in the name of Complainant.

F.II Direct the respondent to allow three months' time period to make the balance payment of Rs59,17,428/- along with the interest to the complainant.

F.III In case, the plot cannot be restored in the name of complainant, then the respondent may be directed to refund the amount to the complainant as per current market value (Rs.1,00,000/- per sq yards) i.e. $\text{Rs.1,00,000} \times 179.316 = \text{Rs.1,79,31,600/-}$ after deducting the balance payment due on complainant of Rs.59,17,428/- which comes to Rs.1,20,14,172/-.

12. In the present complaint, the complainant intends to continue with the project and is seeking restoration of the unit cancelled by the respondent and in case, the same cannot be done then refund the amount paid by the complainant at the current market value.
13. In the present complaint, the original allottee Mr. Vikram Singh applied for booking a unit in the project of the respondent namely, "GLS Arawali City", situated at Village Khaika, Sector-4, Sohna, Gurugram. Vide allotment letter dated 16.10.2023, plot bearing no. 7 admeasuring 179.306 sq.yards was allotted to him. Thereafter, the Agreement To Sell was executed between the original allottee and the respondent on 21.11.2023. As per clause 7 of the agreement dated 21.11.2023, the respondent was obligated to handover possession of the unit to the complainant on or before 01.04.2028. Thus, the due date of possession of the plot comes out to be 01.04.2028. The respondent has obtained the Completion certificate from the concerned authorities on 10.12.2024 and thereafter, offered possession of the unit to the original allottee on 11.12.2024.

14. That on 12.12.2024, the complainant executed an "Assignment Deed" whereby the subject plot was transferred in the name of the complainant. As per clause 2 of the said Assignment Deed, the erstwhile allottee had been freed of all his rights and liabilities towards the said plot and the same was bestowed upon the complainant. The complainant has stepped into the shoes of the erstwhile allottee and became possessed of all the rights, duties, responsibilities and liabilities which the erstwhile allottee had against the allotted plot. Due to continuous default on the part of the complainant, the respondent issued reminders to the complainant on 22.01.2025 and 21.02.2025 for making payment of the outstanding dues. The complainant failed to come forward to make the payment of the outstanding dues despite the repeated reminders and follow-ups. Thereafter, on 23.04.2025, the allotment of the said plot was cancelled due to the continuous defaults in payment of instalment by the complainant. Post cancellation of allotment, the complainant herein had no right/title/interest left on the plot and thus, on 25.04.2025, the respondent refunded an amount of Rs.26,08,483 post forfeiture of the earnest money and the same was credited in the account of the complainant. The complainant has retained the refunded amount with it till date.
15. The Authority observes that the respondent offered possession of the subject plot to the original allottee on 11.12.2024, subsequent to obtaining the Occupation Certificate from the competent authority on 10.12.2024. The Assignment Deed between the complainant and the original allottee was executed on 12.12.2024. Accordingly, the complainant acquired rights in respect of the subject plot only from

12.12.2024, and an endorsement to this effect was made in favour of the complainant by the respondent on 10.01.2025.

16. It is, therefore, evident that the complainant stepped into the shoes of the original allottee and became subject to the rights, obligations, responsibilities, and liabilities pertaining to the said allotment. Owing to persistent defaults in payment by the complainant, the respondent issued reminders on 22.01.2025 and 21.02.2025, calling upon the complainant to clear the outstanding dues. However, despite repeated notices and follow-ups, the complainant failed to comply with the payment obligations.
17. Consequently, the respondent proceeded to cancel the allotment of the said plot on 23.04.2025 due to continuous defaults on the part of the complainant. Subsequent to the cancellation, the complainant ceased to have any right, title, or interest in the subject plot. Thereafter, on 25.04.2025, the respondent refunded an amount of Rs.26,08,483 to the complainant after forfeiting the earnest money, and the said amount was duly credited to the complainant's account. It is noted that the complainant has retained the refunded amount till date.
18. The complainant's contention that the respondent erred by issuing the offer of possession to the original allottee instead of the complainant is without merit. The Authority is of the view that the offer of possession was made prior to the execution of the Assignment Deed, at a time when the complainant held no legal title or interest in the subject plot. As such, the respondent cannot be faulted for not issuing the offer of possession to the complainant when the complainant had not yet acquired any rights in the project.

19. The cancellation of the complainant's allotment was done by the respondent in accordance with due process, and the Authority finds no evidence of mala fide intent or procedural irregularity on the part of the respondent. Accordingly, the cancellation of the allotment is upheld.
20. In this case, refund can only be granted after certain deductions as prescribed under the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, which provides as under: -

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment/plot/building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer"

21. Thus, keeping in view the aforesaid factual and legal provisions, the respondent is liable to refund the paid-up amount of Rs.39,44,952/- after deducting 10% of the sale consideration of Rs.98,62,380/- being earnest money along with an interest @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 on the refundable amount, from the date of cancellation i.e., 23.04.2025 till actual refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid, after adjusting the amount already refunded by the respondent.

H. Directions of the Authority:

22. 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) of the Act.
- i. The respondent/promoter is directed to refund the paid-up amount of Rs.39,44,952/-, after deducting 10% of the sale consideration being earnest money along with interest on such balance amount at the rate of 10.85% as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, from the date of cancellation i.e., 23.04.2025 till its actual realization, after adjusting the amount already refunded to the complainant.
 - ii. 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.
23. Complaint stands disposed of.
24. File be consigned to the registry.

Dated: 10.09.2025



(Ashok Sangwan)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram