



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

<b>Complaint no.:</b>	<b>1937 of 2023</b>
<b>Date of filing:</b>	<b>04.09.2023</b>
<b>First date of hearing:</b>	<b>17.10.2023</b>
<b>Date of decision:</b>	<b>15.09.2025</b>

**Rekha Chaudhary**  
W/o Sh. Pradeep Kumar  
R/o K-6, DDA Flats, Gali Ravi Das,  
Sita Ram Bazar,  
North Delhi-110006

.....COMPLAINANT

Versus

**M/s Jotindra Steel & Tubes Ltd.**  
*Registered Office:* 14/3, Mathura Road  
Faridabad, Haryana-121003  
(Through its Managing Director and other Directors)

.....RESPONDENT

**Present:** - Adv. Mohit Dua, Counsel for the complainant through VC.

Adv. Amrit Singh, Counsel for the respondent through VC.

**ORDER (NADIM AKHTAR –MEMBER)**

**A. FACTS OF THE COMPLAINT**

1. Case of the complainant is that the complainant is an “allottee” within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the “Act”). The Respondent Company is a company incorporated under the Companies Act, 1956 and is engaged in the business of real estate development and allied services.
2. That around the year 2013, the Respondent launched and widely advertised its Affordable Group Housing Project namely “*Shree Homes*” (hereinafter referred to as “the Project”), situated in the revenue estate of Village Mewla Maharajpur, Sector-45, Faridabad. In its advertisements, the Respondent made tall claims of timely possession, quality construction, and world-class amenities, thereby luring the general public including the Complainant.
3. That believing the representations and assurances of the Respondent, Complainant on 15.01.2020 booked one apartment in the said Project of the respondent by paying a sum of ₹1,33,000/- towards booking charges. A copy of the receipt dated 15.01.2020 is annexed as Annexure P-1.
4. That subsequently, the Complainant was issued an Allotment-cum-Demand Letter dated 11.07.2020, whereby Unit No. 1402 in Tower-10 admeasuring



645.80 sq. ft. was allotted for a total sale consideration of ₹28,12,360/-. The Respondent also raised a demand of ₹5,31,883/- in the said letter. A copy of the allotment-cum-demand letter dated 11.07.2020 is annexed as Annexure P-2.

5. That the aforesaid demand raised by the Respondent was illegal and contrary to the provisions of the Act as it exceeded the prescribed limit of 10% of the cost of the apartment prior to the execution of the Builder Buyer Agreement.
6. That relying upon the repeated assurances of the Respondent regarding execution of the Buyer's Agreement, the Complainant continued with the booking and from time to time, deposited a cumulative sum of ₹3,99,000/- with the Respondent. Copies of receipts evidencing such payments are annexed herewith as Annexure P-3 (Colly).
7. That despite repeated oral and written requests, Respondent failed to execute the Builder Buyer's Agreement. Left with no option, Complainant addressed an email dated 10.06.2023 requesting execution of the said agreement. However, the said request went unanswered. A copy of the said email is annexed as Annexure P-4 (Colly).
8. That to the Complainant's utter shock, instead of executing the Agreement, the Respondent vide email dated 08.07.2023 arbitrarily cancelled the allotment of the Complainant's unit on the alleged ground of non-compliance





with the terms of the Allotment Letter. This cancellation is illegal, arbitrary, and in violation of the Act as well as the rights of the Complainant. A copy of the said cancellation email dated 08.07.2023 is annexed as Annexure P-5.

9. That even after the said arbitrary cancellation, the Complainant kept approaching the Respondent through phone calls and personal meetings, seeking restoration of the unit and execution of the Agreement, but the Respondent remained evasive and failed to provide any satisfactory reply.
10. That the Respondent has neither executed the Buyer's Agreement nor provided any stage-wise construction schedule of the Project. The Respondent has caused undue delay in the Project and has unreasonably withheld the hard-earned money of the Complainant, thereby causing wrongful loss to the Complainant and unjust enrichment to itself.
11. That the arbitrary actions of the Respondent in failing to execute the Agreement, in raising unlawful demands and in cancelling the allotted unit have caused grave financial hardship, mental distress and agony to the Complainant.
12. That in these circumstances, the Complainant is left with no alternative remedy but to approach this Hon'ble Authority seeking for restoration of her unit, execution of the Builder Buyer Agreement against the deposited sum of



₹3,99,000/- and further reliefs as may be deemed just and proper under the RERA Act, 2016.

**B. RELIEFS SOUGHT**

13. Complainant has sought following reliefs:

- i. Direct the respondent to restore the said unit in the name of complainant and to execute the buyer's agreement in accordance with RERA Act, 2016 and HARERA Rules.
- ii. Direct the respondent to demand the charges in accordance with RERA Act, 2016 and HARERA Rules.
- iii. Direct the respondent to pay the litigation charges to the tune of ₹55,000/-;
- iv. Pass such order or further order as this Hon'ble Authority may deem fit and proper in the facts and circumstances of the present case..

**C. REPLY ON BEHALF OF RESPONDENT**

Respondent submitted a detailed reply on 08.02.2024 in the registry of the Authority pleading therein as under:

14. The Town & Country Planning Department, Government of Haryana, issued the *Affordable Housing Policy, 2013* which lays down the governing framework for all affordable housing projects.

Relevant clauses:



- **Clause 1(iv):** Completion of the project must be achieved within 4 years from approval of building plans or grant of environmental clearance, whichever is later and such date shall be treated as the date of commencement.
- **Clause 5(iii)(b):** Allottee is required to deposit 5% of the flat cost at the time of application, 20% at the time of allotment and the balance 75% in six equated half-yearly instalments. In case of delay in payment, interest @15% per annum is chargeable. Vide notification dated 09.07.2018, this was amended to align with Rule 15 of HRERA Rules, 2017.
- **Clause 5(iii)(h):** If an allottee fails to make payment or opts to surrender, the allotment can be cancelled after due notice/publication, with refund subject to permissible deductions.

Thus, the Complainant's allotment was squarely governed by this Policy. A copy of the Haryana Affordable Housing Policy, 2013 notified on 19.08.2013, a copy of instructions dated 09.07.2018 and a copy of amendment to Affordable Housing Policy, 2013 notified on 05.07.2019 are annexed as Annexures 1-3.

15. The Complainant voluntarily applied for allotment of a 2BHK unit in Respondent's project "*Shree Homes by Sarvome*," situated at Sector 45, Faridabad, an Affordable Housing Project governed under the aforesaid





Policy. The Complainant executed an Application Form dated 10.01.2020 and accepted the terms and conditions therein, including the binding payment schedule. Along with the application, the Complainant deposited ₹1,33,000/- (equivalent to 5% of the flat cost) vide cheque dated 10.01.2020. Copy of the application form is annexed as Annexure 4.

16. The Respondent conducted the draw of flats in the presence of the Deputy Commissioner, Faridabad, and officials of the Town & Country Planning Department. The draw was duly monitored and transparent. Through the said draw, the Complainant was allotted Flat No. 1402 in Tower-10. Pursuant thereto, the Respondent issued an *Allotment-cum-Demand Letter* dated 11.07.2020, demanding ₹5,31,883/- towards the balance 25% of the flat cost, payable within 15 days. The letter categorically provided that the allotment would stand confirmed only upon timely deposit of the said amount. Copy of demand letter dated 11.07.2020 is annexed as Annexure 5. However, the Complainant deposited only ₹2,66,000/- and failed to pay the remaining balance of the 25% within the stipulated time. Thus, the condition precedent for confirmation of allotment was never fulfilled. As a result, the Builder Buyer Agreement could not be executed.
17. That on 23.12.2020 the respondent raised a demand of ₹5,98,324/- (including arrears) towards the instalment due on 10.01.2021. Despite issuance of the



demand, the Complainant did not honour the payment schedule. Copy of demand letter dated 23.12.2020 is annexed as Annexure 6. The Respondent again on 10.06.2021 raised a demand of ₹9,30,854/- towards the instalment due on 10.07.2021. The Complainant failed to clear even this instalment, thereby compounding his default. . Copy of demand letter dated 10.06.2021 is annexed as Annexure 7. The Respondent raised a demand of ₹13,53,807/- on 11.12.2021 towards the instalment due on 10.01.2022. A reminder email was also sent to the Complainant on the same day, informing him that unless at least 20% of the total flat cost was deposited, even processing of his home loan could not be initiated. Copies of demand letter and reminder email dated 11.12.2021 are annexed as Annexures 8 & 9. Despite repeated reminders, the Complainant did not comply.

18. That, since the Complainant had continuously failed to make payments, the Respondent, in compliance with Clause 5(iii)(h) of the Affordable Housing Policy, issued a *Public Notice* in *The Pioneer* newspaper on 02.02.2022. The notice categorically directed the Complainant to deposit outstanding dues within 15 days, failing which the allotment would stand cancelled. Copy of public notice is annexed as Annexure 10. The Complainant failed to deposit the dues within the period prescribed in the public notice. Consequently, his





allotment stood cancelled automatically as per the Policy and terms of allotment.

19. The Respondent issued a cancellation email dated 04.03.2022, formally informing the Complainant that his allotment had been cancelled due to persistent default. The Complainant was also advised to complete formalities for refund, subject to permissible deductions in accordance with the Affordable Housing Policy. Copy of cancellation email dated 04.03.2022 is annexed as Annexure 11.
20. The present complaint has been filed only in the year 2023, i.e., after an inordinate delay of 1 year, 6 months and 11 days from the date of cancellation. Hence, it is clearly barred by limitation under Section 71 of the HRERA Act, 2016, read with settled principles of law.

**D. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT**

21. During hearings, learned counsel for the complainant submitted that the complainant booked the subject unit on 15.01.2020 for a total sale consideration of ₹28,12,360/-, out of which ₹3,99,000/- has already been paid pursuant to the respondent's demands. It was contended that no Builder Buyer Agreement has yet been executed between the parties and that the respondent unilaterally cancelled the unit on 08.06.2023, while the project itself remains



incomplete. The complainant, therefore, seeks restoration of the allotment, execution of the BBA and possession of the unit, expressing readiness to pay the remaining sale consideration as per policy.

22. On the other hand, ld. counsel for the respondent submitted that the complainant has paid only ₹3,99,000/-. The respondent submitted that the complainant had applied for allotment under the Haryana Affordable Housing Policy, 2013. Reliance was placed on the Allotment-cum-Demand Letter (Annexure 5, page 45), which specifically required the complainant to remit an amount of ₹5,31,883/- towards confirmation of allotment. However, the complainant neither confirmed acceptance nor complied with the terms of allotment. Since the entire consideration was payable in six installments, corresponding demand notices and reminders (including Annexure at page 49) were issued, but no payments were made. A public notice dated 02.02.2022 was also published, yet the complainant failed to act. Due to continuous non-compliance, the unit was cancelled on 04.03.2022. Despite cancellation, the complainant remained silent for over a year and filed the present complaint only on 10.06.2023 seeking restoration and execution of the BBA. Accordingly, the respondent prayed for dismissal of the complaint. he additionally added that as per last order dated He submitted that in the previous order, it was inadvertently recorded that an Appeal No. 228 of 2025



is pending before the Hon'ble Appellate Tribunal with regard to the cost imposed on respondent in previous orders. However, the appeal has been filed by the respondent on the ground that an extension of the project was requested by the respondent from the Authority on account of ban imposed by NGT on the construction activities in the NCR Delhi, which was not considered and rejected by the Authority.

**E. ISSUE FOR ADJUDICATION**

23. Whether the complainant is entitled for reliefs sought by her or not?

**F. OBSERVATIONS AND DECISION OF AUTHORITY**

The Authority has gone through rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both the parties, Authority observes as follows:

24. It is an admitted fact that complainant applied for a 2BHK Apartment in the respondent's project namely "*Shree Homes by Sarvome*", Sector-45, Faridabad, Haryana by paying an amount of ₹1,33,000/-. Thereafter, draw of lots were held on 10.07.2020 in accordance with the Affordable Housing Policy, 2013. Accordingly, Allotment cum demand letter was issued to the complainant on 11.07.2020, wherein Flat no. 1402, Tower -10, admeasuring carpet area- 645.80 sq. ft. was allotted to the complainant.





25. The issue to be adjudicated by the Authority is whether the complainant is entitled to (i) restoration of Unit No. 1402, Tower-10 in the project "Shree Homes by Sarvome", (ii) execution of the Buyer's Agreement, and (iii) directions to the respondent to levy/demand charges strictly in accordance with the RERA Act, 2016 and the HRERA Rules, 2017.
26. The Authority has carefully perused the pleadings, documents and correspondences placed on record by both parties. It is an admitted position that an Allotment-cum-Demand Letter dated 11.07.2020 was issued to the complainant allotting Flat No. 1402, Tower-10, subject to the condition that the complainant to deposit ₹5,31,883/- "to confirm acceptance of the allotment." Relevant condition is reproduced as under:
- "You are requested to remit an amount of Rs. 5,31,883 in favour of "M/s JSTL a/c Shree Homes" at the earliest, in line with Haryana Affordable Housing Policy 2013 to confirm your acceptance of the above allotment"*
27. The complainant has placed on record payment of an amount ₹2,66,000 vide cheque dated 26.09.2020 which is also acknowledged by the respondent. Read with the booking amount of ₹1,33,000, the aggregate paid comes to ₹3,99,000/-. However, the specific condition-precedent of depositing ₹5,31,883/- within time to confirm the allotment remained unfulfilled.

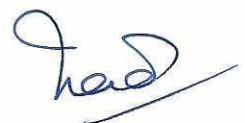


28. Further, Clause 5(iii)(b) of the Affordable Housing Policy, 2013 (as amended on 09.07.2018 to align penal interest with Rule 15 of the HRERA Rules, 2017) requires deposit of 5% at application, 20% at allotment and the balance 75% in six equated half-yearly instalments. Applying the clause to the present case, the complainant was obligated to deposit the 20% at allotment, which after adjusting the 5% booking, translated into the respondent's demand of ₹5,31,883/-. The complainant admittedly did not deposit the demanded sum within the stipulated period and thereby failed to satisfy the condition for confirmation of allotment.
29. The Allotment-cum-Demand Letter dated 11.07.2020 expressly records that *"allotment does not entitle any rights in the property till receipt of ₹5,31,883/- within the due date."* Consequently, in the absence of the requisite payment, no vested or perfected right accrued to the complainant in respect of Unit No. 1402 and the Builder Buyer Agreement (BBA) could not be executed.
30. It is pertinent to note that the reply filed by the respondent is duly supported with contemporaneous records of successive demands raised upon the complainant. Specifically, demand notices dated 23.12.2020, 10.06.2021 and 11.12.2021, as well as the reminder email dated 11.12.2021 were issued, clearly informing the complainant of his liability and also apprising her that loan processing would only be possible subject to a minimum 20% margin



money being maintained. Despite these repeated communications and ample opportunities, the complainant has failed to demonstrate or substantiate any payment made by him after 26.09.2020. Thus, the complainant has remained in continuous and unrectified default for an extended period of time. The default is not a mere technical lapse but a material breach of the payment obligations under the Affordable Housing Policy, 2013, and the Builder Buyer Agreement executed between the parties. As per the said policy, continuation of allotment is contingent upon timely and regular payments. In view of the admitted and proved default, the respondent was fully justified in proceeding with cancellation of the allotment.

31. Further, under Section 19(6) of the RERA Act, 2016, an allottee is duty-bound to make payments as per the agreement/payment schedule and is liable to pay interest for delay. The complainant's failure to adhere to the payment schedule violates this statutory obligation, in addition to breaching the Affordable Housing Policy, 2013.
32. Authority observes that upon persistent default, the respondent issued a public notice in newspaper of "*The Pioneer*" on 02.02.2022 calling upon defaulters, including the complainant, to clear dues within 15 days in terms of Clause 5(iii)(h)/(i) of the Policy, failing which the allotments would be cancelled. The 15-day period expired on 17.02.2022 without payment. The respondent





thereafter issued a cancellation email dated 04.03.2022 informing the complainant of cancellation and inviting initiation of refund formalities subject to permissible deductions under the Policy. The Authority finds the cancellation to be in conformity with the Affordable Housing Policy, 2013.

33. Section 18(1) of the RERA Act presupposes an agreement for sale and relates to delay/non-delivery “in accordance with the terms of the agreement for sale.” In the present case, owing to non-payment of the allotment demand, no BBA was executed; therefore, Section 18 relief cannot be invoked to seek possession, restoration, or compensation on that footing.
34. The complainant seeks restoration/execution despite own continuing breach of payment obligations. The Authority is of the view that the doctrine of estoppel operates against a party who is itself in default: a defaulter cannot claim specific performance-like reliefs (restoration/execution) contrary to the very terms it failed to honour. The cancellation crystallized at the latest by 04.03.2022 (cancellation email). The complaint was filed on 04.09.2023, i.e., after 549 days from cancellation and 564 days from expiry of the 15-day public-notice period on 17.02.2022). No cogent explanation for this delay has been furnished. The Authority therefore holds the claim to be hit by delay and laches, apart from being devoid of merits.



35. Authority with regard to the above aid issue concludes that in view of non-fulfilment of the condition-precedent to confirm allotment, admitted and persistent non-payment post 26.09.2020, compliance by the respondent with the Affordable Housing Policy, 2013 in issuing notice/publication and effecting cancellation, absence of BBA rendering Section 18 inapplicable, and delay and laches in approaching this Authority, complainant is not entitled to restoration of unit, execution of the Builder Buyer's Agreement, or any other consequential directions.
36. Lastly, the complainant is also seeking Rs. 55,000/- as litigation cost. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. &ors.*" (supra,), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned 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 & legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.



37. Thus, consequent upon the considerable consideration, this Authority is constrained to conclude that the present complaint is nothing but an ill-advised luxurious litigation and a classic example of litigation to enrich oneself at the cost of another and to waste the precious time of this Authority. The Real Estate (Regulation and Development) Act 2016 is a beneficial/ social legislation enacted by the Parliament to put a check on the malpractices prevailing in the real estate sectors and to address the grievances of the allottees who have suffered due to the dominant position of the promoter.
38. Hence, the complaint is accordingly **disposed of** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.



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**NADIM AKHTAR**  
**[MEMBER]**