

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

Complaint no. :	4828 of 2023
Date of filing of complaint:	16.10.2023
Date of Order:	11.09.2025

**Kapil Kalra**R/o: A-4, First Floor, Shri Agrasen CGHS Ltd., Plot No. 10,  
Sector-7, Dwarka, South West Delhi, Delhi-110075**Complainant****Versus****M/s Corona Buildcon Private Limited**Regd. Office: 504, DLF City Court, MG Road, Sikanderpur  
Gurgaon-122002**Respondent****CORAM:**

Shri Vijay Kumar Goyal

**Member****APPEARANCE:**

Sh. Deepanshu Jain (Advocate)

Complainant

Sh. Parmanand Yadav (Advocate)

Respondent

**ORDER**

1. The present complaint dated 16.10.2023 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 to the allottees as per the agreement for sale executed inter se them.

**A. Project and unit related details**



2. The particulars of the project, the details of 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. No.	Particulars	Details
1.	Name of the project	"Corona Gracieux", Sector-76 Gurugram
2.	Total area of the project	16.82 acres
3.	Nature of the project	Group Housing Residential
4.	DTCP license no.	16 of 2010 dated 16.02.2010 valid upto 05.02.2025
5.	Registered/not registered	Not registered
6.	Unit no.	C-0501, Tower C, 5 <sup>th</sup> floor [Page 16 of complaint]
7.	Date of booking of application form	22.05.2012 [Copy of booking application not annexed by both the parties]
8.	Date of allotment	14.07.2012 (Page no. 14 of complaint) Note: Inadvertently mentioned as 14.07.2021 vide proceedings dated 22.05.2025
9.	Date of execution of BBA	Not executed
10.	Possession clause	N/A
11.	Due date of possession	N/A
12.	Sale consideration	Rs. 57,96,500/- (Basic sale price) (As mentioned in allotment letter at page 14 of complaint) Rs.65,26,094/- (inclusive of IFMS, Govt Taxes/ charges, possession charges) [Stated by respondent at page 01]



		of reply]
13.	Total amount paid by the complainant	Rs. 60,00,000/- [Confirmed by both the parties in the complaint and as well as in reply]
14.	Request for transfer of ownership rights made by complainant	31.07.2023 (As per page 24 of reply)
15.	Provisional allotment letter of new allottee sent by respondent	31.07.2023 (Page 19 of reply)
16.	Occupation certificate	Not obtained

### B. Facts of the complaint

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

- That the complainant booked a Unit on 22.05.2012 with the respondent in the project namely; 'Corona Gracieux' and paid Rs. 5,00,000/- towards registration amount.
- That thereafter, the allotment letter dated 14.07.2012 was issued by the respondent favouring the complainant and the same was allotted Flat No. C-0501 on 5th Floor at Tower-C, having its super area 1765 Sq. Ft. for a total sale consideration of Rs. 57,96,500/-.
- That the complainant had repeatedly requested telephonically and physically for providing the signed copy of the builder buyer agreement, but the respondent till date failed to accede the request of the complainant qua providing the signed copy of the builder-buyer agreement to the complainant, due to which the complainant presently is unable to rely and cite the relevant clauses of the agreement which would have revealed the fallacies

and actions of the respondent against the clauses of the agreement. Thus, the humble prayer before this Hon'ble Authority is to kindly direct the respondent to file the signed copy of the builder buyer's agreement before this Hon'ble Authority.

- d. That the complainant from the date of booking till 20.09.2018 paid the total amount of Rs. 60,00,000/- more than the agreed total sale consideration amount of Rs 57,96,500/- as and when the demand was raised and sought by the respondent.
- e. That the complainant paid the entire sale consideration to the respondent in respect of the flat booked by the complainant and the respondent issued no-dues certificate dated 20.09.2018 to the complainant.
- f. That despite being no-dues certificate issued by the respondent, the respondent failed to hand over the peaceful possession of the flat to the complainant till date.
- g. That the total amount paid to respondent is Rs. 60,00,000/- but till date no possession has been offered and/or no possession letter is executed in favour of the complainant. Thus, the respondent committed the fallacy by delaying the possession of the unit and thereby, the respondent became liable for delay penalty charges and interest per annum on the total paid amount i.e. 60,00,000/- from the date of deposit till the actual possession to the complainant.
- h. That moreover no reasons for delay were assigned by the respondent qua the non-delivery of the said unit which reveals the respondent by 'acquiescence by silence' is intentionally delaying the possession and (or) is not under the position for delivering the





possession of the said unit, which results into causing harassment, victimizing, mental agony and loss to the complainant.

- i. That the complainant due to financial constraints is under a dire need of funds and thereby is in the process of selling the said unit, but due to the unwarranted actions of respondent qua non-handing over timely physical possession of the said flat, the complainant is unable to get adequate sale price and compelled to make distress sale of the said flat.
- j. That the complainant showed utmost faith and patience towards the construction and delivery of the aforesaid unit, but was disappointed to realize that the possession of the unit till date has not been offered. Thus, it is humbly being prayed before this Hon'ble Authority, for directing the respondent to handover the possession of the said Unit along with the penalty charges and interest for the delayed possession from the date of deposit of the money till the actual possession.
- k. That the complainant is at the complete mercy of this Hon'ble Authority as the respondent has committed fraud in name of delivering a project and evading their liability.
- l. Hence, this present complaint.

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

4. The complainant is seeking the following relief:
  - a. Direct the respondent to handover the peaceful possession of the flat No. C-0501, 5th Floor, Tower - C to the complainant along with delayed possession charges in handing over the possession.
5. On the date of hearing, the authority explained to the respondent /promoter about the contraventions as alleged to have been

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committed in relation to section 11(4) of the Act to plead guilty or not to plead guilty.

**D. Reply by the respondent:**

6. The respondent contested the complaint on the following grounds: -

- a. The affidavit filed by the complainant in support of the complaint is not properly executed as the same is not on a prescribed format and not on Rs.10 Stamp Paper as prescribed by the Hon'ble Authority. Therefore, the Complaint needs to be dismissed on this ground alone.
- b. The complainant is a resident of London and rarely visits India. For this reason, the complainant failed to execute the apartment buyer's agreement. However, the respondent time and again requested the complainant to execute the apartment buyers agreement which was prepared and ready by the respondent way back in February 2013 but the complainant despite requests by the respondent for executing the same never came forward and is now fraudulently making allegations upon the respondent that the respondent failed to accede the request of providing signed copy of the builder buyer agreement, therefore the complainant is not an allottee under the said act and not entitled to any relief from this hon'ble authority.
- c. The complainant surrendered and transferred his ownership rights of the said flat to M/s NSS Enterprises for an agreed consideration amount of Rs. 81,00,000/- upon receipt of Rs. 81,00,000/- out of total payment. The said transfer/surrender of ownership rights was done/cleared post realization of payment cheques. The balance payment of Rs. 5,76,000/- was to be made on or before 15.08.2023.

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- d. The complainant in the complaint has himself admitted the fact that the complainant has surrendered/ transferred the said flat.
- e. That it has been stated by the complainant that he was in dire need of funds and thus sold the flat while making profits/ gain on the sale and is now wrongly stating that he made distress sale. That it can be clearly seen from the act of the complainant, his motive and fraudulent activity that post transferring the said flat/ rights towards the said flat and receipt of full consideration he has come to this authority to further extract unwarranted monies from the respondent. The complainant booked the said flat in the project Corona Gracieux of the respondent only to resell the said flat
- f. The act of surrender/transfer of the said flat does not entitle the complainant to pursue the present complaint before this hon'ble authority and also cannot claim any for the handover of possession along with penalty charges and interest for the delayed possession. The complainant attempted by means of present complaint is just to harass the respondent in order to grab unnecessary and unwarranted amounts as penalty charges. Hence, the present complaint of the complainant is not liable to be entertained by the Hon'ble Authority anymore and liable to be dismissed on this ground alone.
- g. The complainant cannot escape its liability due to his default for non-execution of the same. The complainant has neither made any attempt for signing the apartment buyer's agreement nor made any communication for the same to the respondent. Thus, no possession date is with the complainant. The respondent also gave a credit of Rs. 5,26,094/- against all the claims of the complainant and the complainant failed to acknowledge the same.



- h. The complainant has falsely alleged that the respondent is intentionally delaying the possession and/or is not under the position for delivering the possession of the said unit, which caused harassment, victimizing, mental agony and loss to the complainant. The complainant is not entitled for any sort of delay compensation with interest as the complainant booked the said flat for re-sale purpose and has already surrendered/transferred the said Flat to M/S NSS Enterprises. It is needless to state that the complainant suppressed the material fact from this Hon'ble Authority that before selling his flat, the complainant took a credit of Rs. 5, 26,094/- which was against all the claims of the complainant while he was allottee of the said flat and post which the conditional no dues certificate was issued. The complainant is liable for the non-execution of the apartment buyer's agreement. The respondent has already applied for the occupation certificate of the said project with the concerned authority as stated herein.
- i. That despite on receipt of NOC in 2018 and after settlement of all claims & till August 2023, no complaint etc at any Authority was filed by the complainant against the respondent. The present complaint has been filed by the complainant only after the complainant surrendered/transferred the ownership rights of the said Flat to M/S NSS Enterprises on 20.04.2023, and after receiving the full consideration amount of Rs. 81,00,000/- towards its sale, which clearly shows malafide intentions on part of the complainant.
- j. The construction of the said project is completed and the respondent has already applied for the grant of occupation certificate with the concerned authority and the site inspection



reports from various departments are in process for grant of occupation certificate and the occupation is likely to be granted shortly.

- k. That the respondent specifically mentioned that the certificate was conditional subject to realization of TDS amount which the complainant failed to acknowledge.
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 those undisputed documents and submissions made by the parties.

**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**

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 the entire Gurugram District for all purposes 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 the allottee as per the 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 with the obligations cast upon the promoters, the allottees, and the real estate agents under this Act and the rules and regulations made thereunder.*

11. Hence, given 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.

**F. Findings of the authority on relief sought by the complainant:**

**F.I Direct the respondent to handover the peaceful possession of the flat No. C-0501, 5th Floor, Tower - C to the complainant along with delayed possession charges in handing over the possession /-.**

12. The complainants booked a unit C-0501 in Tower C at 5<sup>th</sup> floor in the project of the respondent namely, "Corona Gracieux" for an agreed sale consideration of Rs. 65,26,094/- (inclusive of IFMS, Govt Taxes/charges, possession charges) against which complainant allegedly paid an amount of Rs. 60,00,000/-. The complainant intend to continue with the project and is seeking delayed possession charges against the paid-up amount as provided under the section 18(1) of the Act. Sec. 18(1) proviso reads as under:

**Section 18: - Return of amount and compensation**

*18(1).If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —*

*(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or*



*(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,*

*he shall be liable on demand of the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act;*

*Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."*

***(Emphasis supplied)***

13. The respondent has raised a preliminary objection regarding the maintainability of the complaint, contending that the complainant is no longer the allottee, having allegedly surrendered or transferred ownership rights in favour of a third party, M/s NSS Enterprises, on the basis of a receipt dated 20.04.2023. However, a plain reading of the said receipt makes it evident that the transfer was conditional and subject to the fulfilment of specific preconditions, namely: the issuance of legal possession, obtaining of the Occupation Certificate (O.C.), full payment to be made before 15.08.2023, and realization of cheques which is reproduced below for ready reference:

*"The said transfer/surrender of ownership rights is subject to legal possession and O.C. within a period of six months from final payment to be made before 15th August 2023 and realization of cheques in the bank account of the transferor."*

14. In addition, the respondent has issued a provisional allotment letter dated 31.07.2023 in favour of M/s NSS Enterprises. The complainant was only made aware of this development upon receipt of the respondent's reply in the current proceedings.
15. In the instant matter, as per documents available on record it is observed that even after the date of issuance of allotment till the filing

of complaint, no buyer's agreement has been executed inter- se parties.

16. The Hon'ble Supreme Court in the case of ***Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018*** 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 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.***
17. In view of the above-mentioned reasoning, the due date of possession is to be calculated from date of allotment letter (14.07.2012). Therefore, the due date of handing over of the possession of the unit comes out to be 14.07.2015. In the absence of buyer's agreement, the date of allotment is to be treated as date of agreement i.e., 14.07.2012 ought to be taken as date for calculating due date of possession. Therefore, due date of possession in terms of possession clause at the could be considered as 14.07.2015. However, the complainant has subsequently sold the unit to another entity i.e., M/s NSS Enterprises and requested the respondent to transfer transferred in the name of subsequent allottee only when full and final amount has been realizedd to the complainant-allottee and occupation certificate is obtained.
18. The Authority observed that no occupation has been received till date which is to be obtained by M/s Ninex Developers Ltd. being licensee and land owner. Further, M/s Ninex Developers Ltd. came under



insolvency vide proceedings dated 25.07.2019 of Hon'ble NCLT moratorium has been imposed. Subsequently, vide order dated 15.02.2024 of Hon'ble NCLT, moratorium has been lifted and project is restored to M/s Ninex Developers Ltd. who is liable to obtain occupation certificate and the same has not been obtained till date.

19. The counsel for the complainant stated during proceedings of the day dated 11.09.2025 that the complainant is seeking delayed possession charges at the prescribed rate of interest as no occupation certificate has been received till date. The counsel for the respondent stated during proceedings dated 11.09.2025 brought to the notice of the Authority that the complainant has surrendered the unit and transfer his ownership rights vide letter dated 20.04.2023 to M/s NSS Enterprises and the respondent has issued provisional allotment letter in the name of new allottee i.e., M/s NSS Enterprises on 31.07.2023, who has not been impleaded as a necessary party and hence complaint be dismissed on this ground alone.
20. The counsel for the complainant after taking telephonic instructions from the complainant during proceedings stated that full and final amount with respect to the unit has been received by the complainant from the subsequent allottee, although no occupation certificate of unit is obtained till date.
21. On consideration of the documents available on record and submissions made by both the parties, the authority is of the view that the complainant has entered into a full and final settlement with the subsequent allottee by accepting the amount transferred by the subsequent allottee i.e., M/s NSS Enterprises. Also, the complainant has surrendered the unit and transferred the ownership rights to subsequent allottee vide letter dated 20.04.2023 which is prior to the

filing of the complaint. Thus, the complainant is no longer remains allottee with respect to the unit in question. The provisions of the Section 18 of the Act of 2016 is applicable only on allottee in whose favour a unit, plot or apartment has been allotted by the promoter. In the present case, the complainant is not a allottee, thus the relief sought by the complainant is declined being non-maintainable.

22. Complaint stands disposed of.

25. File be consigned to registry.

V. I 

**(Vijay Kumar Goyal)**  
**Member**

**Haryana Real Estate Regulatory Authority, Gurugram**

**Dated: 11.09.2025**