

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

**Date of decision: 15.07.2025**

NAME OF THE BUILDER		M/s Reliable Realtech Private Limited and Double star Maintenance Services OPC Private Limited	
PROJECT NAME		"Antriksh Heights"	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/4501/2024	Neha Mnachanda and Ankur Manchanda V/S M/s Reliable Realtech Private Limited and Double star Maintenance Services OPC Private Limited.	Complainant in person and Shri Shankar Wig and Ms. Sanya Arora Advocates (respondent)
2.	CR/4504/2024	Ashok Kumar Manchanda and Poonam Manchanda V/S M/s Reliable Realtech Private Limited and Double star Maintenance Services OPC Private Limited..	Complainant in person and Shri Shankar Wig and Ms. Sanya Arora Advocates (respondent)

**CORAM:**

Shri Arun Kumar  
Shri Ashok Sangwan

**Chairman**  
**Member**

**ORDER**

- The above complaints have 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 there under or to the allottees as per the agreement for sale executed *inter se*.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Antriksh Heights" situated at Sector-84, Gurugram being developed by the respondent/promoter i.e., M/s Reliable Realtech Private Limited and Double star Maintenance Services OPC Private Limited. The issue involved in both these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question and the complainants are seeking possession and delay possession charges at prescribed rate of interest and other related reliefs.
3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Sr. No	Complain t No., Case Title, and Date of filing of complain t	Reply status	Unit No.	Date of execution of agreement for sale	Due date of possession, offer of possession	Total Consideration / Total Amount paid by the complainants (In Rs.)
1.	CR/4501/2024 Case titled as Neha Manchanda and Ankur Manchanda VS Reliable Realtech Private Limited and Double Star	Reply received on 08.04.2025 on behalf of R-2	AE-1201, 12 <sup>th</sup> floor, Tower/block- AE, Unit measuring 1725 sq. ft.	24.11.2011	24.11.2014	TSC: - Rs. Rs.59,62,125 [ page no. 45 of complaint ] AP: - not on record

	Mainten ance Services OPC Private Limited					
	<b>Date of Filing of complain t-</b> 04.10.202 4					
2.	CR/4504/ 2024 Case titled as Ashok Manchand a and Anr VS Reliable Realtech Private Limited and Double Star Maintena nce Services OPC Private Limited	Reply receive d on  08.04.2 025 on behalf of R-2	AE-1202, 12 <sup>th</sup> floor, Tower/bl ock- AE, Unit measuring 1725 sq. ft	24.11.2011	24.11.2014	TSC: - Rs.59,62,125/- (page 45 of complaint)  AP: - Not on record
<b>Reli efs Sou ght:</b>	1. Reverse all debit charges in the Maintenance Accounts of the complainants on account of common maintenance charges till the date of formation of the Association of Apartment Owners & handing over of Maintenance functions of all Common Areas, Facilities & Amenities to Association of Apartment Owners					

- in terms of Paras 1.2, 7.2 & 11 of Annexure to Haryana Real Estate (Regulation and Development) (Agreement for Sale) Rules, 2017, & the signing of Maintenance Agreements.
2. Direct the respondents to give due credit for Advance Maintenance Charges, IBMS & Other Payments & credits and interest accrued on the credit balance uptodate, at the same rate & in the same manner (i.e. 18% p.a. compounded monthly) as the respondent charges the complainants & refund the excess credit balance appearing in the Maintenance Accounts of the complainants as per ANNEXURE C-5 to the complainants along with due interest thereon.
  3. Not to start, resume etc. any activities or action of any kind as may cause direct or indirect inconvenience, harassment, loss or damage etc. of any kind to either the complainants or the persons occupying the subject flat under authority / license from them.
  4. Direct the respondents to refund all Service Tax of Rs.1,38,675 on the Flat Price recovered as the same was not chargeable as per RERA & Agreement, being included in the flat price, Rs.50,000 + Service Tax recovered as CLUB MEMBERSHIP CHARGES, by the respondents, under duress & coercion, and also to refund the excess amounts charged which are estimated to be around 2/3rd of the amount actually recovered for 'DG set generated Power back-up supply' illegally charged GST @ 18% on Common Area Electricity, over the years, right from FY 2018-19.
  5. To recompense the financial loss & damage of Rs.85,000, because of the loss of income sustained & additional expenses incurred by the complainants as a result of pre-mature exit of the tenant of AE-1202, caused by the illegal & mala fide conduct of respondents.
  6. To compensate the complainants by paying Rs. 5 lakhs for prolonged harassment, mental agony and loss of reputation caused to them for obstructing ingress and disrupted essential services and supplies; not responding to and not settling their accounts for 6 long years; despite multiple written communications of the complainants, and the respondents own written assurance dt 02.05.2021 that pending credits would be given soon after the lockdown conditions caused by COVID 19 subside

**Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:**

**Abbreviation Full form**

TSC- Total Sale consideration

AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed against the promoter on account of violation of the agreement to sell against allotment of units in the upcoming project of the respondent/builder and for not handing over the possession by the due date, seeking refund of maintenance charges, all services charges and other reliefs.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/ respondent in

terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.

6. Out of the above-mentioned cases, the particulars of case ***CR/4501/2024 Case titled as Neha Manchanda and Ankur Manchanda VS Reliable Realtech Private Limited and Double Star Maintenance Services OPC Private Limited.*** are being taken into consideration as lead case for determining the rights of the allottee(s) qua delayed possession charges along with interest and others.

**A. Project and unit related details**

7. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

***CR/4501/2024 Case titled as Neha Manchanda and Ankur Manchanda VS Reliable Realtech Private Limited and Double Star Maintenance Services OPC Private Limited.***

S.N.	Particulars	Details
1.	Project name and location	"Antriksh Heights", Sector 84, Gurugram
2.	Project area	23.10 acres
3.	Nature of project	Residential group housing colony
4.	RERA registered/not registered	Not registered
5.	DTPC License no.	123 of 2008 dated 14.06.2008
	Validity status	13.06.2018
	Name of licensee	Reliable Realtech Pvt. Ltd.



9.	Unit no.	AE-1201, 12 <sup>th</sup> floor, Tower/block- AE, Unit measuring 1725 sq. ft. (Page 28 of the complaint)
10.	Date of execution of agreement	24.11.2011 (Page 26 of the complaint)
12.	Possession clause	<p><b>12. <u>POSSESSION, RIGHTS AND INTERESTS</u></b></p> <p><i>The Owner shall construct the Apartments as early as possible and that the possession for the said Apartment is proposed to be delivered by the Owner to Allottee(s) <b>within 3 years from the date of sanctioning of the building plan for the said Apartment</b> simultaneous to the execution of Sale/Conveyance Deed subject however to Force Majeure and the Allottee(s) making all payments within the stipulated period and complying with the terms and conditions of this agreement. If the construction is completed earlier, the possession thereof can be delivered even earlier. The objections of the Allottee (s) in this regard are not tenable / entertain able. (Page 33 of the complaint).</i></p>
13.	Due date of possession	<p><b>24.11.2014</b></p> <p><b>Note:</b> Date of sanctioning of building plan is not given by either of the parties. Thus, the due date of handing over the possession is calculated from the date of execution of the said agreement i.e., 24.11.2011.</p>
14.	Total sale consideration	Rs.59,62,125/- (page 45 of complaint)

15.	Total amount paid by the complainant	Not on record
16	Occupation certificate	14.10.2016 (page 52 of complaint)
17.	Physical possession handing over to the complainant on	03.10.2017 (Page 2 of the reply)

## **B. Facts of the complaint**

8. The complainants have made the following submissions: -

- I. The complainants, neha manchanda & ankur manchanda, are both wife & husband of 40 & 41 years, and are "Allottees" as well as aggrieved persons as defined under section 2(d) RERA Act, 2016 (hereinafter referred to as complainants or "CC") file their complaint against the respondents, M/s Reliable Realtech (Pvt) Ltd & Anr.
- II. That an agreement to sell (as per annexure c - 1) was executed between the complainants and the respondent no. 1 on 24.11.2011 by depicting that the project would have various facilities and amenities including Club, Schools for the children of the residents, as promised and also mentioned in the brochure/Agreement issued by the respondent. It is pertinent to highlight that, at the time of signing the agreements, the respondent explicitly assured the complainants that development work having already started in early 2009, the construction of the flat would be completed in 3 years' time i.e. by the end of May, 2012.
- III. That though the project was originally scheduled to be completed within 3 years of the commencement of development work, the respondent

significantly exceeded this timeline. The respondent developer claims to have obtained the occupancy certificate (OC) on 15<sup>th</sup> October 2016 for the relevant Tower AE where the complainants' flat is situated. However, the Respondent failed to disclose this information of having obtained the OC on 15<sup>th</sup> October 2016, for several months, to the allottees, including the complainants, as the flat and the corresponding towers were, in reality, not ready for occupation or handover.

- IV. That in an apparent attempt to avoid inspection by the concerned allottees, the Respondent developer deliberately withheld the information regarding the receipt of the occupancy certificate. Further investigation by the complainants, including a review of the project's website, revealed that another occupancy certificate for the same project was obtained in October 2020.
- V. That the evidence coming on record clearly indicates that the project was not fully completed even by 2020, thereby qualifying it as an ongoing project as of 1<sup>st</sup> May 2017, the date on which the RERA Act, 2016, came into full force. Given this situation, the respondent was legally obligated under Section 3(1) of the RERA Act, 2016, to apply for the registration of the project. The respondent's failure to register the project under RERA, as confirmed by the absence of such registration on the project's website, constitutes a serious violation of a key provision of the RERA Act. Consequently, M/s Reliable Realtech Pvt. Ltd. is guilty of contravening Section 3(1) and is therefore liable to be penalized under Section 59 of the RERA Act.
- VI. That along with the much belated offer of possession dated 4<sup>th</sup> June 2016 the respondent raised demands through a final demand notice cum offer of possession of Rs. 9,34,353 for AE-1201 which included illegal and



undue demands of Rs.1,59,565 each on account of ECC/ESS Charges, Rs. 47,610 towards Advance Maintenance Charges (AMC) and Rs. 1,72,500 towards Interest Bearing Maintenance Securities (IBMS). These demands having never been specified in the agreements signed were disputed by the complainants as undue, along with the fact that the respondents having not obtained the valid OCs could not make a lawful offer of possession.

- VII. It was not until the end of June 2017 that the respondent cautioned the complainants that failure to deposit the balance consideration and take possession before 1st July 2017 would result in higher liability of taxes under the GST Regime, replacing the Service Tax system. Acting on this advice, all payments, including the disputed ones of Rs.1,72,500 on account of IBMS & Rs.47,610 on account of Advance Maintenance Charges, Club & Power Back-up charges etc. had been deposited by the complainants vide 2 Bank DDs dated 30.06.2017 of Rs. 3,97,977 & Rs. 3,76,811 (ANNEX. C-2 Colly), amounting in all to Rs.7,74,788. Even after full payments had been made on 30.06.2017, the OP took a long time of almost 9 months before it handed over physical possession of the flat on 24.03.2018, albeit still not without defects. It is thus very much evident that possession had been withheld by the OP/respondents (RR) not for any reasons attributable to the complainants, even after having received the full payment. Total amounts deposited towards COMMON MAINTENANCE CHARGES for the flat is of Rs. 6,05,110 as under:

S.No.	AE-1202	Date	AE-1202	Comments
1.	47,610	30.06.2017	47,610	All these amounts to the extent these are in excess of any demand (Credit
2.	1,72,500	30.06.2017	1,72,500	

3.	50,000	27.08.2020	50,000	Balance) are Interest Bearing. While the respondents have been charging Interest @ 18% p.a. <b>(1.5%p.m.)</b> on the perceived debit balance, but have been fraudulently avoiding not crediting any interest on the real Credit Balance for the last 7 Years.
4.	55,000	24.10.2021	55,000	
5.	1,00,000	19.10.2022	1,00,000	
6.	70,000	24.04.2024	70,000	
7.	15,000	14.05.2024	15,000	
8.	70,000	24.05.2024	70,000	
9.	25,000	08.08.2024	25,000	
10.	6,05,110	Total	6,05,110	

- VIII. That the respondent-developer forcibly collected these amounts though these amounts were not specified in the Agreement to Sell. As per the Agreement, any amount on the above counts were to be specified in the Maintenance Agreement to be signed between the Allottees on one hand and the Maintenance Agency (to be appointed by the Developer Builder) and the above 2 amounts with Interest, in turn, were to be transferred to the Maintenance Agency/RWA for adjustment against any future demands on account of Maintenance Charges/Expenses. As the flats at the relevant time of offer of possession were not ready for occupation and very few of the allottees had shifted to the allotted house, no Maintenance Agency was appointed and consequently no Maintenance Agreement was drafted by the respondent and sent to the complainants for signatures.
- IX. That it is more than 3 years now that the lockdowns have been over, and multiple E-Mails dt. 24.01.2022, 15.06.2023, 11.07.2022, 15.07.2023, 03.08.2023, 06.01.2024 etc. were written thereafter also, but there has

been no progress despite repeated reminders. The respondents are an arrogant type of person and do not respond to any issue or concern. On the contrary, it is known for its high-handed ways and believes in bullying its way through every situation. Not issuing Power Recharge Coupons, Disrupting Power supplies, not giving credits of the admittedly received amounts & are only a few of the examples. Further continuing to charge INTEREST at the illegal rate of 18% p.a., without signing any Maintenance Agreement, even till date, despite multiple reminders from the complainants, is just another example. It is only the mala fide intents of the respondents which prevents it from fulfilling its old commitments.

- X. That it is a matter of record that no maintenance agreement having been signed between the complainants or the respondent developer; or between the complainants and any Maintenance Agency, no demand on account of common maintenance charges or any interest thereon, much less at the highly penal and illegal rate of 18% per annum, could be raised either by the Maintenance Agency or the Developer Company M/s Reliable Realtech Pvt Ltd. But the so called Maintenance Agency has not only been raising illegal & highly excessive demands on account of Maintenance Charges, but levying totally illegal interest at the exorbitant rate of 18% p.a. on compound basis.
- XI. That during the last 4 years, the complainants have written umpteen communications asking how in the absence of Maintenance Agreement, the respondent could charge Common Maintenance Charges. The complainants further demanded the bases for the charges, but unfortunately, the respondent has not responded to any of the communications to date.

- XII. That the complainants have deposited a cumulative amount of Rs. 3.85 lakhs on various dates, in addition to the prepaid sums of over Rs. 2.20 lakhs towards Annual Maintenance Charges (AMC) and Interest-Bearing Maintenance Security (IBMS). These payments were made under protest and without prejudice to the complainants' position that, in the absence of a duly executed Maintenance Agreement, no common maintenance charges could lawfully be claimed by the respondent. However, the complainants' expectations were entirely disregarded, as the respondent has failed to address any of the legitimate concerns raised by the complainants. It is pertinent to note that charging common maintenance fees for periods prior to the handover of common areas to the Association of Owners is a direct violation of Paragraphs 1.2, 7.2 and 11 of the Regulations framed for drafting the Agreement to Sell.
- XIII. That the complainants have also been contesting the exorbitant rate of over ₹25 per unit for diesel-generated electricity, especially considering that the capital cost of the Diesel Generator (DG) set has already been borne by the complainants from the outset. Additionally, the complainants have proportionately contributed to the overhead maintenance and staffing costs through the common maintenance charges. Specific reference is made to the agreement (at page 16) and the letter dated September 8, 2014, received from the respondent, wherein it is acknowledged that the respondent had already recovered charges for club facilities and power backup as part of the basic sale price. Since the capital expenditure has been recovered and other overhead costs are being covered by the common maintenance charges, there is no legal justification for imposing further charges for backup power supply at ₹25 or more per unit. The excess amounts charged are estimated to be around

2/3<sup>rd</sup> of the amount actually recovered for DG set generated power back-up supply.

- XIV. That the respondent has unlawfully recovered a sum of Rs 50,000/- as club membership charges along with service tax, despite this amount not being included in the total cost computation. No club membership has been granted to the complainants, even after seven years. Therefore, the demand and recovery of Rs.50,000/- as club membership charges, plus service tax, are unjustified and must be refunded with interest. It has also recently come to the complainants' attention that what has been projected as a "club" is merely a gym, which does not fulfill the description of a "club" as represented. This is further evidence of the respondent's fraudulent and illegal conduct in imposing charges for a non-existent or misrepresented facility. The complainants submit that recovery of these club membership charges is not only unlawful & no membership granted, but also constitutes fraud, and the amount collected should be refunded with penal interest.
- XV. That The respondent companies have been illegally charging and collected Service Tax of over Rs. 1,38,675 on flat price as the same is included in the price of the Flat as Per Para 1.2 of the RERA Regulations for ATS & against the Terms & conditions of the agreement. Almost same is the case with the GST at 18% on Common Area Electricity Expenses, as contrary to the legal position that electricity supply is not subject to GST.
- XVI. That further, the respondent companies have further been charging the complainants interest @ 18% p.a. (compounded monthly), on any balance outstanding in the Maintenance Account. Lately, monthly interest being charged by the respondent is more than the amount of monthly Common Maintenance Charges. In the absence of the Maintenance Agreement,



there is no basis for charging Common Maintenance Charges. Therefore, the question of charging interest, and that too at the illegal & exorbitant rate of 18% p.a. for Interest (compound), simply does not arise.

- XVII. That the complainants filed complaints before the Hon'ble Delhi State Consumer Dispute Resolution Commission in 2016 claiming Delayed Possession Compensation & other reliefs such as Parking Charges, IBMS, etc. However, the proceedings have been prolonged due to repeated adjournments sought by the respondent, who have deliberately delayed the conclusion of the proceedings on various pretexts.
- XVIII. That during one such hearing on 5th July 2023 before the State Consumer Commission (SCDRC), counsel for the opposite party, in an apparent attempt to further delay the final arguments, represented to the Bench that the opposite party intended to settle the disputes with the complainants and sought additional time to do so. However, rather than presenting a reasonable settlement proposal, the Respondent resorted to tactics aimed at pressuring and coercing the complainants for withdrawal of the complaint by accepting its terms that were neither fair nor reasonable. When the complainants refused to succumb to this pressure, the opposite party warned them that they would continue to seek adjournments on various pretexts, as had been its practice in the past, thereby preventing the case from being decided for an extended period. The opposite party also issued veiled threats of harassment and causing further difficulties if the complainants did not acquiesce to their demands.
- XIX. That as a direct consequence of these disruptions, the tenants/licensees of the complainants' flat, AE-1201, became frustrated with the ongoing issues and decided to vacate the rented premises, as intimated vide letter dt 18.03.2024, 23.03.2024 & 23.03.2024 without giving the required two

months' prior notice or settling current dues and other charges. Upon learning of their intentions, the complainants promptly made multiple telephonic & written requests to the respondents, requesting them not to cause illegal disruptions and that the tenants not be allowed to leave the premises with their belongings without obtaining a no-objection certificate (NOC) from the complainants.

XX. That despite these requests, the respondent company, along with the maintenance agency, allowed the tenants/licensees to leave the premises with their belongings, completely disregarding the complainants' instructions, which they were obligated to follow under the society's rules and regulations. At this point, it became evident that the respondent company had begun to act in collusion with the tenants/licensees to harm the interests of the complainants.

XXI. That the complainants were compelled to make multiple written & telephonic requests over the past years from 2019 to 2023 to obtain a simple statement of their ledger accounts in the books of the respondents, which was eventually provided in July 2023. The latest Statement of Account received from the respondent as on 19<sup>th</sup> March 2024 revealed an outstanding balance of Rs. 3.45 lakhs, of which over Rs. 2 lakhs constituted interest charged at a rate of 18% per annum (compounded monthly). Upon further perusal of the Statements of Account, it was discovered that the complainants' Accounts were not credited with 2 amounts of Rs. 47,610 paid towards Advance Maintenance Charges (AMC) and Rs. 1,72,500 towards Interest Bearing Maintenance Securities (IBMS), both deposited as early as 7 years ago on 30<sup>th</sup> June 2017. Despite the respondent company's legal obligation to credit the afore-mentioned amounts, along with interest due thereon at the same rate of interest & in

the same manner, as charged to the complainants' account, no such credit has been provided to date, despite repeated requests from the complainants. This assertion is made without prejudice to the complainants' contentions that, in the absence of a Maintenance Agreement and fully constituted Association of Owners/Allottees for the Project, no Common Maintenance Charges could be legitimately levied or claimed by the respondent.

- XXII. That the respondents' failure to constitute an Association of Owners/Allottees (AOA) or a Resident Welfare Association (RWA) for the project, even after seven years from the purported issuance of the occupancy certificate, is not only illegal and fraudulent but also constitutes a breach of trust. No part of the amounts collected under the head of advance maintenance services and Interest-Bearing Maintenance Security (IBMS) has been transferred to the AOA or RWA. The respondents' actions reflect a deliberate attempt to retain control over the highly profitable maintenance activities, in clear contravention of the provisions of the Haryana Apartment Ownership Act, 1983.
- XXIII. That by refusing to hand over the maintenance responsibilities to the association of owners or RWA, the respondents have acted illegally, deriving undue benefits at the expense of the allottees and residents of the flats. The excessive nature of the maintenance charges levied by the respondents is evident from the fact that these charges have not been increased in the past seven years. The complainants submit copies of the common maintenance bills for May 2018 and August 2024, which show that the same rate of ₹4,952 per month has been charged consistently for the last six to seven years, despite an approximate inflation rate of 50% during this period.

XXIV. That in February-March 2024, the respondent company unlawfully disrupted the supply of essential services such as electricity and water without any valid reason or prior notice. In the second week of March 2024, the occupants/tenants of Flat No. AE-1202 deposited Rs. 1,500 for electricity recharge. However, the Maintenance Office refused to credit this amount, citing allegedly outstanding Common Maintenance Charges. Despite assurances from Mr. Dhanjay, Accounts Officer, no credit was granted, leading to the disruption of the electric supply, drinking water, and internet services. This caused significant harassment and distress to the complainants and their tenants. The electric supply was only restored after police complaint dt.23.03.2024 & 27.03.2024 and intervention.

XXV. That the complainants were never informed why the Developer Company failed to credit the advance maintenance payments of Rs. 47,610 and Rs. 172,500 (paid as IBMS) deposited on 30th June 2017, along with the interest accrued thereon, or why these amounts were not transferred to the Maintenance Company. No prior notice or show cause notice was issued to the complainants at any time. The disruption of essential supplies such as electricity and water without proper notice caused significant harassment and distress. These issues have arisen due to the respondent company's deliberate & mala fide failure to credit the amounts paid on 30<sup>th</sup> June 2017, which have never been denied.

XXVI. That the respondent has not intimated, why even after 7 years of having obtained OC, any Association of Apartment Owners & RWA as provided & mandated under Haryana Apartments Owners Act, 1983 have not been constituted, and why Common Areas & Facilities & other amounts have not been transferred to the Association of Owners / RWA / the Maintenance Agency responsible for maintaining the project area. Under

the law, the respondents were legally obligated to handover Common Areas & Facilities & other amounts to the Association of Apartment Owners / RWA / the Maintenance Agency & the complainants are entitled to receive credit not only for the two amounts of Rs. 47,610 and Rs. 1,72,500, but also for the interest accrued thereon at the same rate of 18% per annum & in the same manner at which the Respondents have been charging the complainants.

XXVII. That by refusing to hand over the maintenance responsibilities to the association of owners or RWA, the respondents have acted illegally, deriving undue benefits at the expense of the allottees and residents of the flats. The excessive nature of the maintenance charges levied by the respondents is evident from the fact that these charges have not been increased in the past seven years. The complainants submit copies of the common maintenance bills for May 2018 and August 2024, which show that the same rate of Rs.4,952/- per month has been charged consistently for the last six to seven years, despite an approximate inflation rate of 50% during this period.

XXVIII. That regarding the demand of Rs. 1,72,500 on account of IBMS/IFMS, it is submitted that, as per page 16 of the agreement, Interest Bearing Maintenance Security (IBMS) was to be determined and charged only at the time of signing the Maintenance Agreement. As no maintenance agreement has been forwarded to the complainants for signatures, the demand for IBMS at the rate of Rs. 100 per square foot is illegal, & refundable unjustified. Furthermore, if for any reason IBMS is to be retained by the respondents, in that case, it should be credited to the Maintenance A/c & would be entitled to Interest at the same rate of 18% per annum, as is being charged by the respondents to the complainants.



However, at the time of making the final demand, the respondent fraudulently and surreptitiously changed the Interest Bearing Maintenance Security (IBMS) to Interest-Free Maintenance Security (IFMS). It amounts to cheating and fraud on the complainants.

XXIX. That the extent and severity of the harassment and mental agony caused to the complainants are evident from the fact that they were compelled to deposit additional cheques of Rs.1,40,000/- on April 24, 2024, despite having already deposited over Rs.4.25 lakhs towards the alleged maintenance charges, which were fully refundable along with interest. To date, the complainants have paid a total of Rs.6.05 lakhs towards maintenance charges through banking channels, even though the respondents owe them approximately Rs.30 lakhs as Delayed Possession Charges. It is pertinent to note that a consumer complaint filed by the complainants has been pending for almost 8 years before the Delhi State Consumer Commission, in which compensation exceeding Rs.30 lakhs has been claimed from the respondents for a delay of over five years. The respondents, however, are resorting to various tactics to delay the proceedings in that matter.

XXX. That instead of adopting a fair and reasonable approach toward the complainants, immediately following the hearing on August 1, 2024 before the SCDRC, the respondents embarked on a path of further harassment under the pretext of alleged outstanding dues. They began building a case by sending multiple written communications, and telephonic reminders to the complainants regarding the purported dues. This action is despite the respondents' own acknowledgment in their emails dated April 22, 2024, that no demands regarding these dues would

be raised until the matter is finally adjudicated by the competent authority.

- XXXI. That following the last hearing on August 1, 2024 before SCDRC, the respondent's advocate, Shri Shankar Vig, contacted Shri Ashok K. Manchanda, the complainants' authorized representative through Whatsapp call, in the evening of August 2, 2024, indirectly threatening further disruption of essential services under the guise of pending dues. That it was not sheer coincidence that around the time of this threatening call, the complainants again received notices and reminders for payment of dues which were no more payable. The complainants could very easily sense that the respondents were trying to prepare ground for further harassment to the complainants and their lessees/ licensees.
- XXXII. That in response, the complainants to prevent and to pre-empt any further mischief by the respondent, voluntarily deposited additional advance payments to cover maintenance charges up to October 2024. However, the respondents continue to evade settling the accounts of the complainants despite written assurances, issuing regular Bills, Statements of Account, & Receipts for the Amounts paid from time to time. Instead of providing all the above information & documents, the respondent continues to omit crucial credits, such as advance maintenance charges, IBMS Credit, and interest accrued on the credit balance in their Ledger Account.
- XXXIII. That the complainants' grievances are further substantiated by their letter Dated March 31, 2024, addressed to the respondents which provides clear evidence of the illegal threats and harassment issued & executed by the respondents and their legal representative. The complainants have suffered considerable hardship and undue harassment due to the respondents' actions, and they are seriously concerned about these illegal

threats and their subsequent execution. The complainants further seek clarification under which provisions of law the respondents acted in disrupting access to their premises and causing unwarranted interruptions in the supply of essential services without any prior notice. It is imperative that the Authority take immediate judicial notice of this harassment and direct the respondents to file their replies on an urgent basis

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

9. The complainants have sought following relief(s):

- i. Reverse all debit charges in the Maintenance Accounts of the complainants on account of common maintenance charges till the date of formation of the Association of Apartment Owners & handing over of Maintenance functions of all Common Areas, Facilities & Amenities to Association of Apartment Owners in terms of Paras 1.2, 7.2 & 11 of Annexure to Haryana Real Estate (Regulation and Development) (Agreement for Sale) Rules, 2017, & the signing of Maintenance Agreements.
- ii. Direct the respondents to give due credit for Advance Maintenance Charges, IBMS & Other Payments & credits and interest accrued on the credit balance uptodate, at the same rate & in the same manner (i.e. 18% p.a. compounded monthly) as the respondent charges the complainants & refund the excess credit balance appearing in the Maintenance Accounts of the complainants as per ANNEXURE C-5 to the complainants along with due interest thereon.
- iii. Not to start, resume etc. any activities or action of any kind as may cause direct or indirect inconvenience, harassment, loss or damage etc. of any kind to either the complainants or the persons occupying the subject flat under authority / license from them.

- iv. Direct the respondents to refund all Service Tax of Rs.1,38,675 on the Flat Price recovered as the same was not chargeable as per RERA & Agreement, being included in the flat price, Rs.50,000 + Service Tax recovered as CLUB MEMBERSHIP CHARGES, by the respondents, under duress & coercion, and also to refund the excess amounts charged which are estimated to be around 2/3rd of the amount actually recovered for 'DG set generated Power back-up supply' illegally charged GST @ 18% on Common Area Electricity, over the years, right from FY 2018-19.
  - v. To recompense the financial loss & damage of Rs.85,000/-, because of the loss of income sustained & additional expenses incurred by the complainants as a result of pre-mature exit of the tenant of AE-1202, caused by the illegal & mala fide conduct of respondents.
  - vi. To compensate the complainants by paying Rs. 5 lakhs for prolonged harassment, mental agony and loss of reputation caused to them for obstructing ingress and disrupted essential services and supplies; not responding to and not settling their accounts for 6 long years; despite multiple written communications of the complainants, and the respondents own written assurance dt 02.05.2021 that pending credits would be given soon after the lockdown conditions caused by COVID 19 subside.
10. 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. APPLICATION FOR DISMISSAL OF COMPLAINT ON BEHALF OF RESPONDENT NO.1**

11. That it is pertinent to mention here that the complaint filed by the complainant is only an arm twisting tactic of harassing the respondent with sole intention

gaining monetary benefits by blackmailing and putting pressure on the respondent by approaching various forums seeking identical reliefs.

12. That it is pertinent to mention here that the complaint filed by the complainant is only an arm twisting tactic of harassing the respondent with sole intention gaining monetary benefits by blackmailing and putting pressure on the respondent company by approaching various forums seeking identical reliefs.
13. That it is pertinent to mention here that the complainant has already approached the Hon'ble State Consumer Disputes Redressal Commission, New Delhi in the year 2017 filing a consumer complaint bearing Complaint No. CC/239/2017 against the Respondent seeking the similar reliefs alleging the same cause of action. The said complaint is still pending adjudication before the Hon'ble Consumer Forum.
14. That the cause of action and reliefs sought by the complainant before the consumer forum and in the present complaint before the Hon'ble authority are identical, as both complaints pertain to the same subject matter, i.e., despite regarding the maintenance of the flat as well as compensation.
15. That it is pertinent to mention here that the complainant has already approached the appropriate forum to seek the remedies available and the matter is pending adjudication before the Hon'ble Consumer Forum. That the complainant is precluded to file any other complaint in a different forum with respect to same cause of action.
16. That in light of the same, once the complainant has chosen to pursue a remedy before the consumer forum, it is impermissible for the complainant to simultaneously invoke the jurisdiction of the Hon'ble Authority for the same cause of action. Such dual proceedings are contrary to the principles of Double Jeopardy and amount to an abuse of the process of law.



17. That the Hon'ble Supreme Court, in a catena of judgments, has reiterated that a party cannot be permitted to litigate the same cause of action in multiple forums to seek the same relief. The principle of election mandates that once a party has chosen a remedy, it cannot pursue an alternative remedy for the same grievance.
18. That subjecting the respondent to defend the same allegations and claims in multiple forums simultaneously would lead to harassment and cause unnecessary prejudice to the respondent. It would amount to double jeopardy, compelling the respondent to undergo the rigors of defending itself in two parallel proceedings on the same cause of action, which is impermissible in law.
19. That allowing the present complaint to proceed would not only defeat the ends of justice but also encourage forum shopping, which has been consistently deprecated by the Hon'ble Courts.

**Reply by the respondent no.2.**

20. The respondent has contested the complaint on the following grounds.
  - i. That the proforma generated by the Complainant is incorrect. It reflects the name of a different complainant, namely Smt. Neha Manchanda, while the following page mentions a different name under the same complaint this inconsistency renders the proforma misleading, and on this ground alone, the present complaint deserves to be dismissed.
  - ii. That the project in question was completed in 2016, and the occupation certificate for Tower AE-1201 was duly obtained by respondent no. 1 on 14.06.2016. The possession of Unit No. AE-1201 was handed over to the complainant on 03.10.2017.
  - iii. That the Complainant had made an advance payment toward maintenance charges which was duly adjusted for the period 2017-2018. Maintenance charges from 2018 onwards were levied monthly.

- iv. That although the physical possession of the unit was handed over on 03.10.2017, the complainant, with mala fide intentions, deliberately delayed the execution of the conveyance deed and continues to avoid the same to date.
- v. That despite failing to make regular maintenance payments and giving various excuses, the complainant continued to receive uninterrupted services from respondent No. 2, who acted in good faith and in line with its responsibility as a maintenance agency.
- vi. That the complainant has, on several occasions, threatened the answering respondent, citing pendency of complaint case No. CC/239/2017 before the Hon'ble State Consumer Disputes Redressal Commission, New Delhi, and used this as a ground to withhold payments.
- vii. That the issues raised in the present complaint regarding maintenance are already sub judice before the Hon'ble State Commission. The present complaint, therefore, constitutes a clear abuse of process and forum shopping. Though there may be concurrent jurisdiction under the Consumer Protection Act and RERA, the doctrine of election bars the Complainant from instituting parallel proceedings on the same cause of action.
- viii. That the present complaint has been wrongly filed against Respondent No. 2, which is merely a facility management agency providing maintenance services to the residents of the project.
- ix. That the complainant cannot benefit from his own defaults. He has repeatedly failed to pay maintenance dues and, thus, cannot now approach the Authority seeking any equitable relief. A party seeking equity must come with clean hands.

- x. That there is no specific relief sought against Respondent No. 2 in the complaint. The answering respondent is neither the developer nor the allotting authority, but only a service provider.
  - xi. That the complainant has outstanding maintenance dues of Rs. 2,29,038 /- payable to respondent no. 2, which remain unpaid despite repeated follow-ups. Nevertheless, the answering Respondent has continued to provide services in good faith.
  - xii. That no cause of action is made out against respondent no. 2, and no relief can be granted in the absence of a specific claim against it.
  - xiii. That in view of the above, the present complaint is not maintainable against respondent no. 2 and deserves to be dismissed at the threshold.
21. All other averments made in the complaint were denied in toto.
22. 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 submission made by the parties.

**E. Jurisdiction of the authority**

23. 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**

24. 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**

25. 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) The promoter shall-*

*(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*

**Section 34-Functions of the Authority:**

*34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.*

26. 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 complainants.**

- F. I Reverse all debit charges in the Maintenance Accounts of the complainants on account of common maintenance charges till the date of formation of the Association of Apartment Owners & handing over of Maintenance functions of all Common Areas, Facilities & Amenities to Association of Apartment Owners in terms of Paras 1.2, 7.2 & 11 of Annexure to Haryana Real Estate (Regulation and Development) (Agreement for Sale) Rules, 2017, & the signing of Maintenance Agreements**
- F. II Direct the respondents to give due credit for Advance Maintenance Charges, IBMS & Other Payments & credits and interest accrued on the credit balance uptodate, at the same rate & in the same manner (i.e. 18% p.a. compounded monthly) as the respondent charges the complainants & refund the excess credit balance appearing in the Maintenance Accounts of the complainants as per ANNEXURE C-5 to the complainants along with due interest thereon.**
- F. III Not to start, resume etc. any activities or action of any kind as may cause direct or indirect inconvenience, harassment, loss or damage etc. of any kind to either the complainants or the persons occupying the subject flat under authority / license from them.**

- F.IV** Direct the respondents to refund all Service Tax of Rs.1,38,675 on the Flat Price recovered as the same was not chargeable as per RERA & Agreement, being included in the flat price, Rs.50,000 + Service Tax recovered as CLUB MEMBERSHIP CHARGES, by the respondents, under duress & coercion, and also to refund the excess amounts charged which are estimated to be around 2/3rd of the amount actually recovered for 'DG set generated Power back-up supply' illegally charged GST @ 18% on Common Area Electricity, over the years, right from FY 2018-19.
- F.V** To recompense the financial loss & damage of Rs.85,000/-, because of the loss of income sustained & additional expenses incurred by the complainants as a result of pre-mature exit of the tenant of AE-1202, caused by the illegal & mala fide conduct of respondents.
- F.VI** To compensate the complainants by paying Rs. 5 lakhs for prolonged harassment, mental agony and loss of reputation caused to them for obstructing ingress and disrupted essential services and supplies; not responding to and not settling their accounts for 6 long years; despite multiple written communications of the complainants, and the respondents own written assurance dt 02.05.2021 that pending credits would be given soon after the lockdown conditions caused by COVID 19 subside

27. The above mentioned reliefs no. F.I to F.VI as sought by the complainant is being taken together and these reliefs are interconnected.
28. The complainants have filed the present complaint against the respondents for delayed possession, non-registration of the project under RERA, illegal and excessive demands for maintenance charges, and non-refund of advance payments like IBMS and AMC. The complainant states that despite receiving full payment in June 2017, the developer delayed possession by nearly 9 months and failed to provide promised facilities like a proper club, while also levying unjustified interest at 18% per annum without any valid maintenance agreement. The respondents also disrupted essential services like electricity and water, failed to form a Residents' Welfare Association (RWA), and withheld rightful credits in the complainants' account.
29. On the contrary, the respondent no. 2 states that the proforma is defective and misleading due to name inconsistencies, and that the project was completed in 2016 with possession of the flat handed over on 03.10.2017. The respondent



claims that maintenance charges were properly levied and adjusted, and that the complainant, despite delaying the conveyance deed and failing to pay dues regularly, continued receiving uninterrupted services in good faith.

30. The respondent no.2 further states that the issues raised are already pending before the Hon'ble State Consumer Disputes Redressal Commission, New Delhi. Respondent No. 2, being merely a maintenance agency and not the developer, argues that no specific relief is sought against it. The respondent seeks dismissal of the complaint, especially against Respondent No. 2, for lack of cause of action and unpaid dues of Rs. 2,29,038/.
31. After consideration of all the facts and circumstances, the Authority is of view that in all abovementioned complaints, the complainants have already filed Complaint Case No. CC/239/2017 before the Hon'ble State Consumer Disputes Redressal Commission, New Delhi, seeking similar reliefs, including delayed possession, refund of charges such as IBMS, AMC, maintenance-related grievances, and compensation. Subsequent complaint on same cause of action between the same parties of the matter already sub-judice before the court of competent jurisdiction is clear abuse of the process of law and is barred by the principle of res sub-judice as provided under Section 10 of the Code of Civil Procedure, 1908 (CPC).
32. Moreover, where two remedies are available for the same relief, the party to whom such remedies are available has the option to elect either of them, but it cannot exercise both options simultaneously. Though the provisions of the Code of Civil Procedure, 1908 (CPC) is, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such

established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the act if such provision is based upon justice, equity and good conscience.

33. Thus, in view of the factual as well as legal provisions, the present complaint stands dismissed being not maintainable.
34. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
35. Complaint stands disposed of.
36. File be consigned to registry.



Ashok Sangwan  
**Member**



Arun Kumar  
**Chairman**

Haryana Real Estate Regulatory Authority, Gurugram

**Dated: 15.07.2025**