

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

Complaint no. :	6001 of 2024
Date of Filing of complaint:	01.01.2025
Date of Decision:	08.08.2025

Shiv Charan

**Address at:** C-2, Shashi Garden, Gali no. 12,  
Patpar Ganj, East Delhi-110091.

**Complainant**

Versus

**1. Adhikaansh Realtors Private Limited**

Address: Unit no. SB/C/2L/office/017A,  
M3M Urbana sector-67, Gurugram-122102

**2. M3M India Infrastructures Private  
Limited**

Address: 41<sup>st</sup> Floor, Tower-1, M3M  
International Financial Center, Sector-66,  
Golf Course Road (Extn.) Gurugram- 122101

**3. Aawam Residency Pvt. Ltd.**

Address: Unit no. SB/C/2L/office/017A,  
M3M Urbana sector-67, Gurugram-122102

**Respondents**

**CORAM:**

Shri Arun Kumar

**Chairman**

**APPEARANCE:**

Ms. Sakshi Vats  
Ms. Shriya Takkar

Advocate for the complainant  
Advocate for the respondents

**ORDER**

1. The present complaint has been filed by the complainant/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate



(Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

**A. Unit and project related details**

2. The particulars of unit details, 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.	Heads	Information
1.	Name and location of the project	"M3M Soulitude", Sector 89, Gurugram
2.	Application form	Annexed but undated
3.	Date of execution of flat buyer's agreement	Not executed
4.	Unit no.	Plot no. 18, Block A-7 (page no. 34 of the reply as per application form )
5.	Area admeasuring	Not mentioned
6.	Possession clause	Not mentioned
7.	Due date of delivery of possession	Cannot be ascertained
8.	Total consideration	Cannot be ascertained
9.	Total amount paid by the complainant	Rs. 10,45,000/- (as confirmed by both the parties)





10.	Refund made by respondents	Rs. 3,00,000/- on 17.10.2024 Rs. 6,95,000/- on 10.06.2025 Rs. 50,000/- on 10.06.2025
11.	Cancellation letter	10.10.2024 (page 110 of reply)
12.	Occupation Certificate	NA
13.	Offer of possession	NA

**B. Facts of the complaint**

3. The complainant has made the following submissions in the complaint:
- That the respondent no. 1 came up with a project namely M3M Soulitude luxury boutique floors at Sec 89 Gurugram and boasted of host of amenities such as state of the art club house, work from home enabled houses, swimming pool, fitness zone and many more amenities. The brochure was well crafted and bears the well-known M3M Logo. The brochure mentioned payment plans as Master Stroke 1, 2 and 3 with payment plan of 10:90 i.e., 10% at the time of booking and 90% at the time of application of OC by the respondents, master stroke 2 mentioned booking amount of Rs. 5 lacs with 20% additional advantage and master stroke 3 mentioned zero maintenance charges for 12 months post possession.
  - That the respondent no. 2 and 3 being the subsidiary of respondent no. 1 applied for license from the Haryana Government Town and Country Planning department.
  - That based on the brochure and the documents shown to complainant, they decided to book a unit in the aforementioned project under 10:90 payment plan and subsequently paid a sum of Rs. 10,45,000/- via





account transfers and cheque dated 23.06.2021, 29.10.2021 and 01.11.2021.

- IV. That the total agreed consideration of the unit was Rs 1,03,18,000/- and out of the total sale consideration complainant has paid more than 10% of the money as per the scheme opted and agreed by both the parties and complainant was allotted unit no. A-07/34.
- V. That thereafter complainant was diligently following up the respondents for the status of project after making the payment of amount as agreed during the booking. The respondents were under an obligation to inform the complainant regarding the status of OC application and raise a demand letter for remaining amount however to complainant's disappointment no such demand was ever raised nor status on the OC application was ever shared with them.
- VI. That the respondents abruptly cancelled the allotment of the unit to the complainant and opened it for sale in market at a higher price.
- VII. That there exists a delay and failure on respondent's end in providing actual and physical possession along with builder buyer agreement of unit no. A-7-18 having a carpet area of 1540 sq. ft. in project M3M soulitude to the complainant.
- VIII. That the actual & physical possession will be given in time but the respondents failed to comply with the same by terminating the allotment.
- IX. That as per the provisions of the RERA Act, 2016 on the default by the respondents to deliver timely possession, the complainant is entitled for the interest for the delayed period, till handing over of the legal actual & physical possession of the said unit in question. The respondents have to pay the interest to complainant within 90 days of its becoming due.





- X. That the respondents have adopted unfair trade practice by cancelling the allotment and by offering the cancelled flat at a higher price to gain wrongful profit. There was no fault on the part of complainant and respondents, without any notice or demand for the remaining payment, cancelled the allotment at its whims. The cancellation came as a jolt and shock to the complainant as his dream of owning a house looked like a vanished dream and on the other hand respondents are attempting to make a windfall from the cancellation by selling the same flats at a much higher price.

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

4. In view of the facts mentioned above, the complainant prays for the following relief:
- i. Direct the respondents to give valid and lawful possession of flat no. A-7-18 (1st floor) in all respects and to pay the interest for all those years and months, i.e., specifically from the date 14.06.2021 when the complainant started making payment but the respondents failed to fulfill the commitment.
  - ii. Direct a thorough inspection of the project by appointing a Local Commissioner/Expert for the same, to verify the status and quality of the construction/development of project work.
  - iii. Direct the respondents to place on record the copies of all licenses. Approvals, NOCs, Clearances, applications with which their statuses, etc. pertaining to the said project in question.
  - iv. Direct the respondents to execute the builder buyer agreement.
  - v. Respondents must be penalized for the violation of the provisions of sections 4, 5, 7, 11, 12, 14, 16, 17, 18, 19 & further to penalize the Promoter/Respondent under Chapter 8 of the RERA Act (Real Estate Regulatory Act), 2016.
  - vi. Direct the respondents to not create any third party interest and maintain the status quo of the said unit.



**D. Reply by the respondents.**

5. The respondents have contested the complaint on the following grounds.
- I. That the complainant had earlier submitted an expression of interest (EOI) for priority allotment of a residential apartment/ commercial unit/ commercial plots/ office space in one of the projects of respondent no.1 M3M India Pvt. Ltd. wherein occupation certificate has been granted. The complainant herein along with the expression of Interest (EOI) has also tendered a sum of Rs. 3,00,000/- towards the confirmation of their EOI. The complainant was very well aware about his obligation to come forward, select the unit and complete all the booking formalities.
  - II. Since, the complainant failed to fulfil his duty to come forward to select a unit, confirm the booking, complete all booking formalities including selection of unit and finalizing the payment plan, the respondent cancelled the EOI and duly refunded the amount deposited by the complainant on 17.10.2024 without any deductions vide bank transfer.
  - III. That the complainant has failed to implead M/s. M3M India Pvt. Ltd. as a party in the present complaint, whereas the notice was served to M/s. M3M India Pvt. Ltd. through email by the registry of this Hon'ble Authority. Thus, the complaint is liable to be dismissed for misjoinder of party as well as non-joinder of necessary party.
  - IV. That the complainant alongwith one Ms. Neeta Pokhriyal after conducting their due diligence and independent inquiries and only after being fully satisfied about the all the crucial factors of the project, filled an application form for the provisional allotment of an independent





floor residence/unit in the project and paid an amount of Rs.7,45,000/- towards the booking.

- V. That in due consideration of the commitments by the complainant to comply with the terms of the booking/application, the respondents invited the complainant and his wife i.e., both the applicants to visit the office of the respondents for completing the booking formalities and making the further payments to fructify the transaction, but to no avail.
- VI. The complainant was well aware of his duty to come forward to select the unit, confirm the booking and complete all booking formalities, including but not limited to depositing 10% of sales consideration, selecting the unit, and finalizing the payment plan. The complainant despite being well aware of his obligations, failed to come forward to complete the booking formalities, as a consequence of which no unit was ever allotted to the complainant especially in a purely commercial transaction like the present one.
- VII. Since the complainant failed to complete the booking formalities and make further payments to complete 10% of the sales consideration despite the repeated follow-ups and reminders by the respondents, the respondents were constrained to cancel/terminate the application form filled out by the complainant along with his wife.
- VIII. That thereafter the respondents, being a customer-oriented company, again, vide email dated 13.12.2024 gave another opportunity to the complainant to come forward and complete the booking formalities; however, the complainant failed to complete the same, as a consequence of which the cancellation letter dated 10.10.2024 stood in its operation.





- IX. To bring closure to the matter, the respondents refunded the entire amount deposited of Rs. 6,95,000 and Rs. 50,000/- deposited by the complainant vide RTGS on 10.06.2025.
- X. The complainant does not fall under the definition of allottee as defined under Sec 2(d) of RERA Act, 2016. No allotment has been issued in favour of the complainant on account of its own default, and the complainant is not an Allottee as per the RERA Act, 2016, thus the complainant is not entitled to file the present complaint before this Hon'ble Authority, and the present complaint is liable to be dismissed in limine.
- XI. That the present complaint is liable to be dismissed solely on the ground of non-joinder of necessary party. A bare perusal of the application form makes it manifestly clear that two applicants had applied for the provisional allotment in the said project. The present complaint has been filed in the name of the complainant who has deliberately chosen not to make the other co-applicant namely Mrs. Neeta Pokhriyal, a party to the present complaint.
- XII. That the application submitted by the complainant was merely an offer, and the acceptance of the offer by the company was contingent on the complainant completing the booking formalities. As per the law of contracts, the acceptance must be absolute and unconditional. Thus, the company was not even under a contractual obligation towards the complainant to allot any unit in his favour until the obligations of the complainant including but not limited to the completion of booking formalities were duly adhered to.



- XIII. The present complaint filed by the complainant is a glaring case of the pot calling the kettle black, wherein the complainant had just put all the burden of their defaults upon the shoulders of the respondents.

#### **E. Jurisdiction of the authority**

6. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

##### **E. I Territorial jurisdiction**

7. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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**

8. 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.*





9. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

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

- i. Direct the respondents to give valid and lawful possession of flat no. A-7-18 (1st floor) in all respects and to pay the interest for all those years and months, i.e., specifically from the date 14.06.2021 when the complainant started making payment but the respondents failed to fulfill the commitment.
  - ii. Direct a thorough inspection of the project by appointing a Local Commissioner/Expert for the same, to verify the status and quality of the construction/development of project work.
  - iii. Direct the respondents to place on record the copies of all licenses. Approvals, NOCs, Clearances, applications with which their statuses, etc. pertaining to the said project in question.
  - iv. Direct the respondents to execute the builder buyer agreement.
  - v. Respondents must be penalized for the violation of the provisions of sections 4, 5, 7, 11, 12, 14, 16, 17, 18, 19 & further to penalize the respondents under Chapter 8 of the RERA Act (Real Estate Regulatory Act), 2016.
  - vi. Direct the respondents to not create any third party interest and maintain the status quo of the said unit.
10. The above mentioned reliefs are interrelated to each other. Accordingly, the same are being taken up together for adjudication.
11. The complainant in the present complaint is seeking relief w.r.t the execution of builder buyer agreement and for handing over of physical possession of the unit for the alleged non allotted unit bearing no. A-07/34, stated to be measuring 1540 sq. ft. in the project 'M3M Soulitude', sector-89, Gurugram. The complainant further states that it has made a payment of Rs. 10,45,000/- towards the said unit.





12. The respondents have categorically denies all the allegations. The respondent's states that the complainant was never allotted any unit, including the unit in question. The complainant has only submitted expression of interest which was an offer to further formalities not an allotment. The complainant failed to complete the required booking formalities including selection of unit and has never came forward to execute builder buyer agreement between the parties. Therefore on 10.10.2024 the respondents cancelled the booking of the unit of complainant.
13. On consideration of the documents available on record and submissions made by the parties, the Authority observes that the complainant alleges that he had booked a unit in the respondent's project and made certain payments towards the same. However, he has failed to produce any document that would legally establish an allotment in his favour. Moreover, the complainant has stated that he made several calls to the respondents to execute the builder buyer agreement but there are no documents on record to substantiate the said fact. There is no allotment letter and no builder-buyer agreement was ever executed between the parties. Section 2(d) of the RERA Act, 2016 defines an "allottee" as under:
- "...the person to whom a plot, apartment or building...has been allotted, sold...or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment... but does not include a person to whom such plot...is given on rent."*
14. In the absence of any documentary proof of allotment or contractual relationship between the complainant and the promoter, the complainant does not fall within the definition of an 'allottee' under Section 2(d) of the Act. Therefore, the question of granting possession





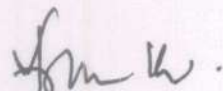
**HARERA**  
**GURUGRAM**

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and awarding interest does not arise and the present relief sought by the complainant is not maintainable under section 31 of the Real Estate (Regulation and Development) Act, 2016.

15. Moreover, the unit was already cancelled on 10.10.2024. The complainant has stated that he has made a payment of Rs. 10,45,000/- on booking of the unit to the respondents. The respondents have already refunded the paid up amount to the complainant on 17.10.2024 and 10.06.2025 respectively.
16. Complaint as well as applications, if any, stands disposed off accordingly.
17. File be consigned to registry.



  
(Arun Kumar)  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 08.08.2025

**HARERA**  
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