

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM****Date of Filing: 04.10.2024****Date of Order: 09.09.2025**

NAME OF THE BUILDER		Prompt Engineering Private Limited & Roshni Builders Private Limited
PROJECT NAME		M3M CORNER WALK INCLUDING RETAIL, M3M SKYWALK & M3M LOFT74
S. No.	Case No.	Case title
1.	CR/4733/2024	Col. Vijay Singh Yadav and Anita Yadav VS Prompt Engineering Private Limited & Roshni Builders Private Limited
2.	CR/4744/2024	Anita Yadav and Col. Vijay Singh Yadav VS Prompt Engineering Private Limited & Roshni Builders Private Limited
3.	CR/4746/2024	Shweta Yadav and Aarika Yadav VS Prompt Engineering Private Limited & Roshni Builders Private Limited

CORAM:Arun Kumar
Ashok Sangwan**Chairman
Member****APPEARANCE:**Tapish Mangla (Advocate)
Shriya Takkar (Advocate)Complainants
Respondent

ORDER

1. This order shall dispose of the aforesaid 3 complaints titled above filed before this authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.
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 "M3M CORNER WALK INCLUDING RETAIL, M3M SKYWALK & **M3M LOFT74, Sector 74, Gurugram** being developed by the same respondent/promoter "**Prompt Engineering Private Limited & Roshni Builders Private Limited**". The fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking possession and delayed possession charges.
3. The details of the complaints, reply status, unit no., date of BBA, total sale consideration, total paid amount by the complainant, and reliefs sought by the complainant are given in the table below:

Particulars	Details
Name and location of the project	"M3M CORNER WALK INCLUDING RETAIL, M3M SKYWALK & M3M LOFT74.
Project area	7.44375 acres
Nature of the project	Mixed land use - Residential and Commercial



DTCP license no. and validity status	121 of 2008 dated 14.06.2008 valid up to 13.06.2025
Name of the Licensee	Prompt Engineering Pvt. Ltd.
RERA registered/ not registered and validity status	Registered 17 of 2018 dated 17.10.2022 valid up to 31.03.2025
Occupation Certificate	15.01.2024
Completion Certificate	28.10.2024

Sr. N o.	Complaint No., Case	Unit no. & size	Date of execution of BBA	Total Sale Consideration / Total Amount paid by the complainants	Offer of possession	Reliefs
1.	CR/4733/2024 Col. Vijay Singh Yadav and Anita Yadav VS Prompt Engineering Private Limited & Roshni Builders Private Limited DOF - 04.10.2024 Reply - 13.02.2025	SA 15 30, floor 15 [As per page no. 42 of complaint] 478 Sq. Ft. (Carpet Area) 956.47 sq. ft. (Super Area) [As per page no. 39 of complaint]	05.04.2024 (page 97 of reply)	Rs. 1,37,41,061/- [as per page no. 42 of complaint] Rs. 1,05,61,480/- (as per customer ledger on page 95 of complaint)	15.02.2024 (page 68 of complaint)	Possession of the Unit Conveyance deed
2.	CR/4744/2024 Case titled as Anita Yadav and Col. Vijay Singh Yadav	SA 17 04, floor 17 [As per page no. 42 of complaint]	N/A (BBA is executed for the said unit and attached with the	Rs. 1,43,40,182/- [as per page no. 42 of complaint]	02.03.2024 (page 66 of complaint)	Possession of the Unit Conveyance deed



	VS Prompt Engineering Private Limited & Roshni Builders Private Limited	478 sq. ft. (Carpet Area) [As per page no. 42 of complaint]	reply but not Executed by both the parties)	Rs. 96,52,333/- (as per customer ledger on page 73 of complaint)		Execute BBA
	DOF – 04.10.2024 Reply – 13.02.2025					
3.	CR/4746/2024 Case titled as Shweta Yadav and Aarika Yadav VS Prompt Engineering Private Limited & Roshni Builders Private Limited	SA 12a 14, floor 13 [As per page no. 39 of complaint] 956.47 sq. ft. [As per page no. 39 of complaint]	N/A	Rs. 1,44,02,890/- [as per page no. 39 of complaint] Rs. 1,10,34,605/- (as per customer ledger on page 75 of complaint)	15.02.2024 (page 66 of complaint)	Possession of the Unit Conveyance deed Execute BBA
	DOF – 04.10.2024 Reply – 13.02.2025					

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the allotment letter signed between the parties in respect of subject unit for not handing over the actual physical possession, executing the builder buyer

agreement and conveyance/sale deed, setting aside the cancellation of the unit.

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. The facts of all the complaints filed by the complainant-allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case **CR/4733/2024 Case titled as Col. Vijay Singh Yadav and Anita Yadav VS Prompt Engineering Private Limited & Roshni Builders Private Limited** are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

A. Unit and project related details

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

CR/4733/2024 Case titled as Col. Vijay Singh Yadav and Anita Yadav VS Prompt Engineering Private Limited & Roshni Builders Private Limited.

SN.	Particulars	Details
1.	Name of the project and Location	"M3M CORNER WALK INCLUDING RETAIL, M3M SKYWALK & M3M LOFT74" Sector- 74, Gurugram
2.	Nature of project	Mixed land use – Residential and Commercial

3.	RERA registered/not registered	Registered
4.	RERA Registration number	17 of 2018 dated 17.10.2022 valid up to 31.03.2025
5.	DTCP license	121 of 2008 dated 14.06.2008 valid up to 13.06.2025
6.	Allotment Letter	05.02.2024 (as per page no. 39 of complaint)
7.	Unit no.	SA 15 30, floor 15 [As per page no. 42 of complaint]
8.	Unit measuring	478 Sq. Ft. (Carpet Area) 956.47 sq. ft. (Super Area) [As per page no. 39 of complaint]
9.	Date of execution of Flat buyer's agreement	05.04.2024 (page 97 of reply)
10.	Possession clause	7.1 <i>The developer shall handover the possession of the said unit upon receipt of the total consideration value and other charges/ amounts as per the payment plan opted by the allottee and execution of the requisite documents as required by the developer.</i> (page 70 of reply)
11.	Total Sale consideration	Rs. 1,37,41,061/-

		[as per page no. 42 of complaint]
12.	Total amount paid by the complainant	Rs. 1,05,61,480/- (as per customer ledger on page 95 of complaint)
13.	Demand notice	05.02.2024 (page 82 of reply)
14.	Pre cancellation notices	03.04.2024, 27.06.2024, 29.07.2024 (page 82-83 of complaint)
15.	Cancellation notice	15.07.2024, 07.09.2024 (page 84 and 98 of reply)
16.	Occupation certificate	15.01.2024 (page 66 of reply)
17.	Completion Certificate	28.10.2024 (As per DTCP Site)
18.	Offer of possession	15.02.2024 (page 68 of complaint)

B. Facts of the complaint

8. The complainants have made the following submissions in the complaint:
 - I. That this is with reference to the M3M LOFT74, an integral part of M3M Corner Walk, Sector 74, Gurugram was launched by respondent, under the license no. 121 of 2008 dated 14.06.2008, issued by DTCP, Haryana, Chandigarh.
 - II. That the respondents are a company engaged in the business of developing residential and commercial projects. The Complainants



- were looking for some commercial property for their survival, as the complainant no. 1 has been retired from the Army Services, in the area of Gurugram. The respondent no. 2 is developing mixed land use- Residential and Commercial project namely M3M Broadway, Sector 71, Gurugram.
- III. That due to the assurance given by the respondent no. 2, complainant has booked a Unit in the Food Court at the best location. During that time, pre-launch inaugural discount is also given by the respondent no. 2 to the complainants.
- IV. That in December, 2018, the respondent no. 2 developer had allotted Unit No. R4-K219, in its project named "M3M Broadway", Sector 71, Gurugram. The Unit was allotted at the rate of Rs. 9,600/- per Sq. Ft. basis sale price. Complainants had paid a hefty amount of Rs. 29,50,590/- towards the booking of their unit to the Respondent No. 2, but the respondent no. 2 deliberately cheated with the complainants, without taking their consent or information, respondent no. 2 disposed of the unit of the complainants in June, 2021 at the rate of Rs. 14,500/- per sq. ft. Basic Sale Price. This information is given by the respondent no. 2 to the complainants, when they were called for the meeting in July, 2021. On raising the alarm upon these facts, the respondent no. 2 has insisted the complainants to take unit of service apartment in M3M LOFT74, an integral part of M3M Corner Walk, Sector 74, Gurugram at much higher price i.e. Rs. 12,500/- per sq. ft. Basic sale price.
- V. That on such alarm, respondent no. 2 had assured that one time rebate of Rs. 2,000/- per sq. ft. has been given to the complainants, additionally, one time rebate of Rs. 12,67,966/- has been given to the complainants, if the complainants had continued with this project and

handed over all the documents related to M3M Broadway to the respondents. The respondents further assured that they will give interest as well as assured returns on the payments of the complainants and would be adjusted against their final payment towards the unit. This fact is evident from the Copy of Expression of Interest as well as a letter dated 09.07.2024 issued by the developer.

- VI. That upon such assurance of the respondents and believing upon to be true, the complainants had booked a unit in M3M LOFT74, an integral part of M3M Corner Walk, Sector 74, Gurugram and paid an amount of Rs. 21,00,000/- as per Payment Plan for their new project. Upon which, after a lapse of more than one year, the respondent no. 2 has issued EOI of unit No. SA 15 30 having tentative Carpet Area of 332 sq. ft. (30.84 sq. mtrs.) and tentative Super Area of 869 sq. ft. (80.73 sq. mtrs.) along-with exclusive rights to usage of 0 No. of car parking space for Total Consideration Value of Rs.1,28,83,043/- plus applicable allied charges and taxes, in one of the projects of the Company wherein construction has been completed and Occupation Certificate has already been granted by the competent authorities.
- VII. That respondent sent aforesaid EOI letter after a delay of more than One Year which against the spirit of the RERA Act, 2016. Furthermore, as per EOI letter respondent builder raised demand of Rs. 21,00,000/- and undertook to issue allotment letter and execution of the agreement. Complainant in time bound manner duly made the said demand but till date the agreement has not been executed.
- VIII. That at the time of booking, the complainants have assured that project of the respondent company will be completed by March, 2023 and agreement will be executed after issuance of the allotment letter but same has not been executed till date.



- IX. That at the time of booking of the present unit, the respondent no. 1 assured the complainants that the present unit will be handed over to the complainants by the month of March, 2023 and a hefty or remaining amount will be paid by the complainant at that time to the respondent no. 1.
- X. That in the office of the respondents, one of the executives namely CRM Aman has attended the complainant no. 2 and stated that Directors of the company were arrested by ED in Money Laundering Case and gave an assurance that if the complainant paid an amount which is calculated by the CRM Aman in which Power Back-up charges were included, the company will start giving assured returns as well as interest over the payments made by the complainants.
- XI. That upon the assurance of the CRM Aman, the complainants had paid an amount of Rs.38,86,049/- by cheque no. 000731 dated 20.07.2023 and the complainants were relaxed that once the issue with the company has been resolved the complainants will get their allotment letter.
- XII. That on 25.01.2024, the respondents were called again for the meeting on the pretext of giving an allotment letter, but, the respondents on the pretext of ED, taken all the original documents along-with receipts from the complainants for reconciling their accounts and compelled the complainants to sign lot of certificates blank with the above patents made and taken a cheque of Rs.1,00,000/- from the complainants as a booking amount.
- XIII. That after receiving all the documents and receipts thereof from the hands of the complainants, the respondents have issued an allotment letter to the complainants by stating that Occupation Certificate has been obtained from the competent authorities. It is also provided in

the clause 6(a) of the Allotment Letter that the parties will sign the Agreement to Sale within 30 days of allotment of this unit. But, along-with Allotment Letter, the respondents raise their illegal demands by not reconciling the account of the complainants.

- XIV. That the respondent has also issued the notice for offer of possession to the complainant without entering into an agreement to Sale with the complainants and raised his illegal demands from the complainants with settling their accounts, whereas, they have received all the original documents from the complainants and the complainants are under the constant threat and pressure of the respondents as the respondents had deliberately sent demand notices and pre-cancellation notices to the complainants.
- XV. That after much persuasion, the respondents were somehow ready to reconcile the accounts of the complainants to some extent and on 13.06.2024, the complainants were attended by the one of the executives namely CRM Prateek who prepared a calculation sheet of the complainants and assured that if the complainants have paid the sum of Rs. 7,63,136.92/-, then no demand letter or cancellation notice will be sent by the respondents as the full and final payment with regard to the unit will be received by the respondent and respondents will execute the conveyance deed in favour of the complainants. Upon the assurance, the complainants have paid the said amount to the respondents and waiting with solemnly hope for notice for execution of conveyance deed in their favour.
- XVI. That as the complainants had again received the pre-cancellation notice from the office of the respondent on the pretext that an amount has to be paid by the complainants, upon which complainants again visited the office of the respondents, they were again reassured by the



team of CRM that they have nothing to worry as the accounts of the company were reconciled. The complainants were shocked, when they received cancellation notice of the said unit by stating that unit of the complainants had been cancelled due to non-payment.

- XVII. That the complainants have again approached the respondent developer, but the respondent again issued a pre-cancellation notice dated 29.07.2024 and again, CRM team of the respondent assured the complainants that as these notices were generated by another team and they do many times to abide by the allotment letter, and demand the payments as per schedule. But the complainants were again shocked, when they received cancellation notice dated 07.09.2024 of the said unit by stating that unit of the complainants had been cancelled due to non-payment.
- XVIII. That per the demands raised by the respondent, based on the payment plan, the complainant to buy the captioned unit already paid total sale consideration of Rs.1,42,80,711/- including power back-up charges.
- XIX. That the Hon'ble Authority has jurisdiction to entertain the present Complaint since the project is situated in Gurugram which is well within the jurisdiction of this Hon'ble Authority.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s).
1. Allow the Complaint, directing the Respondent to hand over the actual, physical, vacant possession of the Service Apartment bearing no. in SA 15 30 in a M3M LOFT74, an integral part of M3M Corner Walk together with the amenities and specifications as promised in all completeness without delay and not to hold delivery of the possession for certain unwanted reasons and not to force to deliver an incomplete unit.

- II. It is most respectfully prayed that this Hon'ble Authority be pleased to order the Respondent to execute the builder buyer agreement on the terms and condition as per the allotment letter.
- III. Direct to restrain the respondent from raising any kind illegal, unlawful and fresh demand for payment under any head and to issue the customer statement depicting the wavier/ rebates provided by the developer at the of EOI.
- IV. It is most respectfully prayed that this Hon'ble Authority be pleased to direct the Respondent not charge any penalty/ interest from the complainant & to corporate by providing the required documents.
- V. It is most respectfully prayed that this Hon'ble Authority be pleased to quash the illegal demand letters and pre-cancellation letters; and
- VI. It is most respectfully prayed that this Hon'ble Authority be pleased to order the Respondent to set aside the cancellation letters and the Respondents may be directed to restore the allotment and restraining the respondents from charging any penalty from complainant.
- VII. It is most respectfully prayed that this Hon'ble Authority be pleased to direct the Respondent to execute the conveyance/sale deed of the abovesaid Flat in favour of the Complainants immediately.
- VIII. It is most respectfully prayed that this Hon'ble Authority be pleased to restrain the Respondent from creating third party rights/charge upon the same in any manner till decision of the complaint in the interest of justice, equity and fair play.
5. 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. Reply by the respondent

6. The respondent has contested the complaint vide its reply dated 03.12.2025 on the following grounds: -

- i. That the complainants have not approached this Hon'ble Regulatory Authority with unclean hands and is guilty of suppression of material facts absolutely relevant for just and proper adjudication of this application. The occupation certificate for M3M Loft 74, an integral block/constituent/segment of the project M3M Corner Walk being developed by the respondent No.1 in Sector 74, Gurugram was granted by the competent authorities on 15.01.2024.
- ii. That complainants after conducting their own due diligence and market research and after being satisfied with the construction of the present phase applied for booking of a serviced apartment in the Block "M3M LOFT74", in a planned and phased manner vide application form and paid an amount of Rs.1,00,000/- towards part booking amount in January, 2024.
- iii. That in due consideration of the part booking amount paid by the complainants and their commitment to make timely payments, the respondent allotted the serviced apartment bearing No. SA 15 30 on 15th Floor vide allotment letter dated 05.02.2024. The cost of the service apartment for carpet area admeasuring 478 sq. ft. was Rs. 1,37,41,061/- plus other charges. It is submitted that the complainants had opted for time linked payment plan on their own free will and volition and the same is reproduced hereinunder for ready reference:

S. No.	Name of instalment	Percentage of Total consideration value	Revenue Head	Charge Amount ((in Rs.)	Tax Amount (in Rs.)	Installment Due (in Rs.)
1	Within 15 days of Booking	10%	TCV	13,74,106.00	0.00	13,74,106.00
2	Within 30 days of Booking	70.45%	TCV	96,80,724.00	0.00	96,80,724.00
3	On Notice of Offer of Possession	19.55%	TCV	26,86,231.00	0.00	26,86,231.00
TOTAL PAYABLE				1,37,41,061.00	0.00	1,37,41,061.00

- iv. That respondent company as per the payment plan opted by the complainants raised the first demand due within 15 days of booking vide demand letter dated 05.02.2024 and requested the complainants to come forward and deposit an amount of Rs.12,74,106/- on or before 20.02.2024. Respondent handed over a copy of the Buyers Agreement to the Complainant No.1 when he visited the office of the Respondent Company.
- v. In accordance with the payment plan opted by the complainants the respondent raised the second demand due within 30 days of booking vide demand letter dated 14.02.2024 and requested the Complainants to come forward and deposit an amount of Rs.1,09,54,830/- including previous dues of Rs. 12,74,106/-. The amount was payable on or before 06.03.2024.
- vi. That the respondent vides demand letter dated 04.05.2024 raised the third demand that was due on or before 11th June, 2024 for an amount of Rs.45,18,105/-. Vide the aforesaid demand letter the respondent company requested the complainants to pay their previous outstanding dues of Rs.43,91,285/-.
- vii. That Respondent Company offered the possession of the serviced apartment to the complainants vide offer of possession dated

- 15.02.2204. Vide the said offer of possession the complainants were requested to clear their dues to the tune of Rs.1,44,65,661/- (including stamp duty charges) payable on or before 15.03.2024.
- viii. That complainants had earlier applied for booking of a ready to move in unit in OC received project/project nearing completion being developed by Associate Company M/s. M3M India Pvt. Ltd. The said fact is evident from a bare perusal of the acknowledgment letter appended by the Complainants along with their complaint at page no. 30. On enquiry from the Associate Company, it transpired that as per the terms of the acknowledgment letter an amount of Rs.5,39,909/- has already been refunded to the Complainants and other benefits has been lapsed due to non-payment of dues within timeline. Thereafter the Complainants requested that the amount paid towards the booking in Associate Company be transferred towards the unit in question without any deductions. The Answering Respondent being a customer-oriented Company acceded to the request of the Complainants and accordingly transferred the entire amount paid i.e. Rs. 67,46,140/- towards the unit in question.
- ix. That complainant being well aware that timely payment was the essence of the transaction, the complainants failed to make payment against the demands raised therefore the respondent company issued reminder I/ demand II letter dated 27.03.2024 requesting the complainants to make good their pending dues. Despite issuance of reminder letter, the Complainants failed to make payment of pending dues, therefore the Respondent issued 1st pre-cancellation notice dated 03.04.2024.

- x. That from a bare perusal of the Buyers Agreement, it is absolutely clear that the serviced apartment was to be leased out and the Complainants are only entitled to constructive possession of the same.
- xi. That from a bare perusal of the terms of the Buyers Agreement it is absolutely clear that the Complainants had given an irrevocable consent to the respondent to lease out the unit in question and to discuss, negotiate, settle and finalise the terms and conditions of such lease and do all other ancillary acts as stated in Clause 1.15 of the Buyers Agreement.
- xii. That Complainants thereafter made part payment of Rs.5,46,194/- and Rs. 2,18,556/- towards their outstanding dues vide cheques dated 07.06.2024 and 16.06.2024. Accordingly, the respondent company issued receipts for the above-mentioned amounts.
- xiii. Since, the complainants failed to make payment of their outstanding dues, the respondent company issued a 2nd pre-cancellation letter dated 27.06.2024 requesting the complainants to come forward and remit the outstanding dues within a period of 15 days from the date of the receipt of the notice, failing which the allotment of the complainants shall be cancelled.
- xiv. That complainants despite the issuance of the aforesaid pre-cancellation letter continued to breach the terms of the Buyers Agreement and failed to remit any payment against the outstanding dues. As a consequence of the same, the respondent company was constrained to cancel the allotment of the service apartment vide 1st cancellation notice dated 15.07.2024.
- xv. That complainant No.1 had earlier booked unit no. R4 K219 in the project M3M Broadway, a commercial project being developed by Associate Company M/s. Roshni Builders Pvt. Ltd. in a planned and

phased manner over a period of time in Sector 71, Gurugram. On the request of Complainant No.1 vide email the Respondent as a goodwill gesture agreed to facilitate the transfer of funds from the unit in M3M Broadway to service apartment in M3M Loft without any deductions. From the averments made herein, it is absolutely clear that the Complainants never had the financial capacity to make good the pending dues. It is relevant to mention here that unit in M3M Broadway was cancelled as the Complainant No.1 failed to make payments. Accordingly, an amount of Rs. 29,50,590/- was transferred towards the serviced apartment on 19.07.2024.

- xvi. That complainants failed to deposit the balance dues, therefore the respondent issued 3rd pre-cancellation notice dated 29.07.2024.
 - xvii. Despite issuing repeated requests and issuance of reminders the complainants failed to clear their dues and continued to default in making payments, as a consequence of the same the Respondent was constrained to terminate the allotment of the complainants vide 2nd and Final cancellation notice dated 07.09.2024.
 - xviii. That post cancellation of allotment the complainants have no privity of contract with respondent and has no right, claim, interest, claim or concern of any nature whatsoever over the serviced apartment in question. Thus, the present application is infructuous. As such, the instant complaint as well the application deserves an outright dismissal.
7. Despite due service of notice through speed post and specific direction for filing reply in the matter, no reply has been received from respondent no. 2 with regard to the present complaint and also none has put in appearance on its behalf before the Authority. Therefore, the respondent no. 2 was proceeded ex-parte. Hence, in view of the same,

the Authority is deciding the complaint on the basis of these undisputed documents available on record and submissions made by the complainants and respondent no. 1.

5. 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 submissions made by the parties.

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 allottees 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.
10. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022(1) R.C.R. (Civil) 357*** and reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:
- "86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."*
11. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the

jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount

F. Findings on the relief sought by the complainants.

- I. Allow the Complaint, directing the Respondent to hand over the actual, physical, vacant possession of the Service Apartment bearing no. in SA 15 30 in a M3M LOFT74, an integral part of M3M Corner Walk together with the amenities and specifications as promised in all completeness without delay and not to hold delivery of the possession for certain unwanted reasons and not to force to deliver an incomplete unit.
- II. It is most respectfully prayed that this Hon'ble Authority be pleased to order the Respondent to execute the builder buyer agreement on the terms and condition as per the allotment letter.
- III. Direct to restrain the respondent from raising any kind illegal, unlawful and fresh demand for payment under any head and to issue the customer statement depicting the wavier/ rebates provided by the developer at the of EOI.
- IV. It is most respectfully prayed that this Hon'ble Authority be pleased to direct the Respondent not charge any penalty/ interest from the complainant & to corporate by providing the required documents.
- V. It is most respectfully prayed that this Hon'ble Authority be pleased to quash the illegal demand letters and pre-cancellation letters; and
- VI. It is most respectfully prayed that this Hon'ble Authority be pleased to order the Respondent to set aside the cancellation letters and the Respondents may be directed to restore the allotment and restraining the respondents from charging any penalty from complainant.
- VII. It is most respectfully prayed that this Hon'ble Authority be pleased to direct the Respondent to execute the conveyance/sale deed of the abovesaid Flat in favour of the Complainants immediately.
- VIII. It is most respectfully prayed that this Hon'ble Authority be pleased to restrain the Respondent from creating third party rights/charge upon the

same in any manner till decision of the complaint in the interest of justice, equity and fair play.

12. The above-mentioned reliefs sought by the complainants are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected
13. The complainants have submitted that they booked a residential unit having tentative super area of 956.47 Sq. Ft. in the project of respondent named 'M3M Corner Walk Including Retail, M3M Skywalk & M3M Loft74' at Sector-74, Gurugram by signing an allotment letter for the apartment/unit on 05.02.2024 and paid booking amount of Rs.12,74,106/- which was acknowledged and received by the respondent. Further, as per Clause 1.10 of the Builder Buyer Agreement dated 05.04.2024, the Allottees have paid a sum of Rs.13,741,06/- as part payment towards the total consideration value of the said unit, along with parking charges (if applicable), prior to the execution of the said Agreement for Sale. As per the customer ledger dated 21.08.2024, the Complainants had paid a total sum of Rs.1,05,61,480/- towards the unit. Consequently, the respondent issued a termination letter dated 07.09.2024, thereby cancelling the allotment of the said unit.
14. However, the respondent submitted that the complainants had shown interest in booking a unit in the project "M3M Loft 74," being developed by M/s Prompt Engineering Pvt. Ltd. Accordingly, an acknowledgment letter was issued, informing the complainants that the allotment would be subject to confirmation of booking, completion of all formalities, and execution of requisite documents, failing which the respondent reserved the right to cancel the Expression of Interest (EOI). The complainants were also required to pay 80.45% of the total consideration within 45 days from booking and the balance at the time

of possession. Despite repeated reminders and pre-cancellation notices dated 27.03.2024, 03.04.2024, 27.06.2024, and 29.07.2024, the complainants failed to clear the dues. Consequently, the respondent, after giving ample opportunity, issued a final cancellation notice on 07.09.2024, terminating the allotment as per the terms of the Buyer's Agreement.

15. The Authority observes that the project "M3M Loft 74" had already been completed in all respects, and the Occupation Certificate (OC) was issued by the competent authorities on 15.01.2024, prior to the execution of the Allotment Letter and the Buyer's Agreement between the parties. This clearly establishes that the unit in question was a ready-to-move-in property at the time of its allotment. The complainants, thereafter, proceeded with the execution of the Buyer's Agreement and made payments amounting to Rs.1,05,61,480/- out of the sale consideration of Rs.1,37,41,061/-.
16. The authority also observes that the respondent company raised subsequent demands in accordance with the agreed payment plan. However, the complainants failed to make the requisite payments within the stipulated time, despite several reminders and pre-cancellation notices dated 03.04.2024, 27.06.2024, and 29.07.2024. The Authority also finds that the rebate benefit was conditional upon timely payment of all dues as per the demand letters. Since the complainants defaulted in adhering to the payment schedule, they are not entitled to claim any rebate. Hence, the delay or any consequential financial implication cannot be attributed to the respondent.
17. The issue with regard to deduction of earnest money on cancellation of a contract arose in cases of ***Maula Bux VS. Union of India, (1970) 1 SCR 928*** and ***Sirdar K.B. Ram Chandra Raj Urs. VS. Sarah C. Urs., (2015)***



4 SCC 136, and wherein it was held that forfeiture of the amount in case of breach of contract must be reasonable and if forfeiture is in the nature of penalty, then provisions of section 74 of Contract Act, 1872 are attached and the party so forfeiting must prove actual damages. After cancellation of allotment, the flat remains with the builder as such there is hardly any actual damage. National Consumer Disputes Redressal Commissions in CC/435/2019 **Ramesh Malhotra VS. Emaar MGF Land Limited** (decided on 29.06.2020) and **Mr. Saurav Sanyal VS. M/s IREO Private Limited** (decided on 12.04.2022) **and followed in CC/2766/2017 in case titled as Jayant Singhal and Anr. VS. M3M India Limited decided on 26.07.2022**, held that 10% of basic sale price is reasonable amount to be forfeited in the name of "earnest money". Keeping in view the principles laid down in the first two cases, a regulation known as the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, was framed providing as under-

“5. AMOUNT OF EARNEST MONEY

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

18. So, keeping in view the law laid down by the Hon'ble Apex court and provisions of regulation 11 of 2018 framed by the Haryana Real Estate Regulatory Authority, Gurugram, and the respondent/builder cannot retain more than 10% of sale consideration as earnest money on



cancellation but that was not done. So, the respondent/builder is directed to refund the amount received from the complainant after deducting 10% of the sale consideration and return the remaining amount along with interest at the rate of 10.85% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date i.e. 8.85%)+2% as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, from the date of cancellation till its realization within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

19. In **CR/4746/2024**, it is noted that the respondent, vide cover letter dated 12.02.2024, forwarded the copy of the buyer's agreement to the complainants for due execution, specifically requesting that the said agreement be signed by the legal guardian, i.e., the father of complainant No. 2, who is a minor, in compliance with Section 6 of the Hindu Minority and Guardianship Act, 1956. However, the complainants failed to adhere to the said requirement, and the agreement was signed only by complainant No. 2 herself. Hence, the buyer's agreement was never validly executed in accordance with law.
20. After considering the documents available on record as well as submissions made by the parties, the Authority is of considered view that the complainants are at default and the respondent has rightly terminated the booking on failure of the complainants to come forward to complete the payment and the booking formalities. In view of the above facts and circumstances, the Authority is of the considered opinion that the respondents have acted strictly in accordance with the terms and conditions of the builder buyer agreement and that the cancellation letter dated 07.09.2024 was lawful, valid, and in



consonance with the provisions of the Real Estate (Regulation and Development) Act, 2016.

G. Directions of the authority

21. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the authority under section 34(f):
- I. The respondent is directed to refund the paid-up amount i.e. Rs.1,05,61,480/- to the complainants after deducting 10% of the sale consideration as earnest money along with interest at the prescribed rate i.e., 10.85%, from the date of final cancellation of the unit i.e.07.09.2024 till the date of realization of payment.
 - II. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
22. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
23. The complaint stands disposed of.
24. Files be consigned to registry.


(Ashok Sangwan)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 09.09.2025