

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

Complaint no.	:	1283 of 2024
Date of complaint	:	26.04.2024
Date of decision	:	02.09.2025

ATS Triumph Residents Welfare Association
R/o: 6052, ATS Triumph, Dwarka Expressway,
Sector 104, Gurugram

Complainant

Versus
M/s Anand Divine Developers Pvt. Ltd.
Registered office at: 711/92 Deepali Nehru Place,
New Delhi -110019

Respondent

Coram:
Sh. Arun Kumar
Sh. Ashok Sangwan

**Chairperson
Member**

APPEARANCE:
Ms. Seema (Advocate)
Ms. Shivani Dang (Advocate)

**Complainant
Respondent**

ORDER

1. The present complaint has been filed by the complainant association 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. **Facts of the complaint:**
2. The complainant has made the following submissions in the complaint:

- a. The Complainant being ATS Triumph Residents Welfare Association, Sector-104, Gurugram, Haryana-122006 (Hereinafter Called the Complainant) is a registered association registered with the District Registrar of Societies, Gurugram, Haryana bearing Registration number 02474 Dated 01.06.2022. The association is legally entitled to represent the allottees of the residential group housing colony namely ATS Triumph. The said association was formed with the primary objective of protecting the collective interests of the buyers of the group housing project namely "Triumph".
- b. The present complaint is being filed under Section 31 read with Section 11(4)(a), Section 11(a)(f) and Section 17 and Section 3(1) of the Real Estate (Regulation and Development) Act, 2016 (Act) as well as Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (Rules) seeking registration of conveyance deed of common area to the association of allottees i.e. hereinafter referred as complainant.
- c. The Respondent is a real estate company incorporated under the provisions of the Companies Act, 1956 and, as per the details mentioned on their official website www.ats.ind.in, is involved in construction of residential and commercial projects.
- d. The members of the complainant association being buyers through an buyer's agreement were assured of the delivery of their respective units within 36 months from the start of the construction being February 2013. The delivery of the flats was given to the members of the complainant association from 2019 onwards after securing occupation Certificate on 29.05.2019 from Town and Country Planning, Haryana.
- e. Section 11 of The Real Estate (Regulation and Development) Act 2016, outline:

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;

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

(d) be responsible for providing and maintaining the essential services, on

reasonable charges, till the taking over of the maintenance of the project by the association of the allottees;

(e) enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable;

(f) execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;

(g) pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions,

which are related to the project;

Provided that where any promoter fails to pay all or any of the outgoings collected by him from the allottees or any liability, mortgage loan and interest thereon before transferring the real estate project to such allottees, or the association of the allottees, as the case may be, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefor by such authority or person;

f. Section 17 of The Real Estate (Regulation and Development) Act 2016, outline:

17. (1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws:

Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the occupancy certificate.

g. Section 3 of The Real Estate (Regulation and Development) Act 2016, outline:

3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act.

- h. It is submitted that Section 61 of the Act spells out the consequences if the promoter contravenes any other provisions of this act, other than that provided under Section 3 or Section 4, or the rule or regulations made thereunder shall be liable to a penalty which may extend up to five percent of the estimated cost of the real estate project as determined by the authority.
- i. It is further submitted that Section 59 of the act spells out the punishment for non-registration under Section 3, which is as follows:
- (1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority.
- (2) If any promoter does not comply with the orders, decisions or directions issued under sub-section (1) or continues to violate the provisions of section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten per cent. of the estimated cost of the real estate project, or with both.
- j. Accordingly, the Complainant is filing the present Application seeking registration of conveyance deed of common area in favour of association of allottees. Also seeking the handover of the necessary documents and plans, including common area and IFMS to the association of allottees.
- k. The cause of action for the present complaint first arose on August 29, 2019, when the title of common area was not transferred to the association within three months even after getting the Occupancy Certificate. The Cause of action has continued till the date of filling this complaint. The cause of action is a continuous one and continue to subsist, and will subsist till the time relief as sought is granted.

1. The present complaint is being filed bona fide and in the interest of justice.

B. Relief sought by the complainant:

3. The complainant has sought following relief(s).
- a. Direct the Respondent for the mandatory registration of the project as per Section 3 of the RERA act and adhere to the various compliances as per the various rules and regulations under the RERA act.
 - b. Direct the respondent to apply and provide for the completion certificate with respect to the project and provide the same to the complainant association within the time frame as directed by Hon'ble Authority.
 - c. Direct the respondent to execute the registered conveyance deed in favor of the allottee along with the undivided proportionate title in the common areas to the association of the allottees.
 - d. Direct the respondent to hand over the physical possession of the apartments to the allottees and the common area areas to the association of the allottees and the other title documents pertaining thereto within specified period.
 - e. Direct the respondent to handover the necessary documents and plans, including common areas to the association of the allottees.
 - f. Direct the respondent to complete the project in accordance with the sanctioned plans, layout plans and specifications as approved by competent authority.
 - g. Direct the respondent to refrain from any alterations or additions in the sectioned plans, layout plans, and specifications of the buildings or the common areas within the project without the prior written consent of at least two-thirds of the allottees, other than the promoter.

- h. Direct the respondent to refrain from selling any portion of the undivided common area of the project.
 - i. Direct the respondent to handover duly audited financial details on the maintenance from the day the money towards the maintenance is being collected till the date of the handover of the maintenance.
 - j. Direct the respondent not to charge anything from the owners which is not a part of the buyer's agreement.
 - k. Direct the respondent to apply and provide the occupancy certificate with respect to club house.
 - l. Direct the respondent to transfer IFMS to the association of the allottees.
 - m. Direct the respondent to refund the excess money charged on account of additional car parking from owners as this is the part of the undivided common area.
4. 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.
- C. Reply by the respondent.**
5. The respondent has contested the complaint on the following grounds:
- a. That the respondent is a reputed real estate company duly incorporated under the Companies Act, 1956 and existing under the Companies Act, 2013, having immense goodwill, comprised of law abiding and peace-loving persons. The respondent has always believed in satisfaction of its customers.
 - b. That the respondent had entered into development agreements with the owners of the land and had obtained license regarding the land measuring 14.09 acres, village Dhanwapur, Sector 104, Gurugram. In pursuance of the development agreements, and in furtherance of

appropriate and requisite licenses acquired from the Director Town & Country Planning, Haryana, the respondent got building plans sanctioned and developed and constructed a top-class residential project namely the 'Triumph'. Occupation certificate was also granted by the authorities to the respondent.

- c. That the respondent has been acting fully as per the terms and conditions of license, norms, law and rules. The respondent had also appointed a maintenance agency namely 'ATS Maintenance Services Pvt. Ltd.' which has been providing good quality services in the said residential project namely ATS Triumph at very nominal rate. Moreover, as per the maintenance agreement signed amongst the Allottees and the respondent company the maintenance charges was agreed at 3.5/ sq. ft. However, we are still charging 2.5/ sq. ft. maintenance charges from the allottees/Residents and is providing subsidy from September, 2024.
- d. That however, some allottees of the project with mala fide motives started raising unnecessary disputes with the respondent as well as the maintenance agency. The complainant is a chronic litigant. The complainant has also filed a false and frivolous civil suit bearing no. CS/2356/2024 against M/s ATS Maintenance Services Pvt. Ltd. for permanent injunction for restraining it from increasing Monthly Maintenance Charges (MMC) from Rs. 1.5/- to Rs. 3.5/- per Sq. Ft. and the same is pending in the Court of Ms. Jyoti Grover, Civil Judge, Gurugram. The complainant has also filed another baseless and false civil suit against M/s ATS Maintenance Service Pvt. Ltd. bearing no. CS/833/2024 for permanent injunction for restraining it from continuing with allegedly arbitrary implementation of Pre-pay metering

- without the consent of customers which is also pending in the Court of Ms. Jyoti Grover, Civil Judge, Gurugram.
- e. That simultaneously the complainant has filed the present highly baseless and false complaint against the respondent. The complainant has concealed this material fact that the complainant has also filed an identical suit bearing no. CS/2417/2024 titled 'ATS Triumph Welfare Association through Navdeep Singh Vs. M/s Anand Divine Developers Pvt. Ltd.' for permanent injunction for restraining respondent from constructing physical stores under the stilt area or anywhere in the ATS Triumph Complex which is also pending in the Court of Ms. Jyoti Grover, Civil Judge, Gurugram and similar relief as claimed in the present complaint has been claimed in the said suit as well.
- f. That the alleged representative of the complainant Mr. Navdeep Singh is a real estate investor who had made the booking with the respondent with the sole intention of earning quick profit in a short span of time. However, on account of slump in the real estate market and outbreak of the Covid-19 Pandemic, his calculations went wrong. He has filed a baseless, false and frivolous complaint bearing no. 862 of 2024 titled 'Navdeep Singh Vs. Anand Divine Developers Pvt. Ltd.' in order to unnecessarily harass, pressurize and blackmail the respondent.
- g. That although the complainant claims to be the RWA of the ATS Triumph project but the complainant is not lawfully and validly constituted RWA which is clear from the sequence of dates and list of events mentioned below:-

DATES	LIST OF EVENTS
15 th July, 2022	ATS Triumph Resident Welfare Association was registered vide

	registration no.02474 with total 13 founder members.
25 th March, 2023	The president of the aforesaid association resigned from the RWA showing her inability to continue.
27 th April, 2023	The Treasurer, the General Secretary of the society proposed fresh election.
28 th June, 2023	Sh. Puneet Mehta became the returning member for election of RWA.
	Without approval of members list, voters list, defaulters list and sanctioned letter of District Registrar for appointment of returning officer, the returning officer declared the list of final candidates for election
20 th August, 2023	Election was held and the returning officer informed and submitted the list of elected members before the District Registrar, Gurugram
08 th November, 2023	Numerous residents and members of the society raised irregularities and illegalities and

	complaint was filed before the District Registrar, Gurugram raising dispute over the election
26 th November, 2023	Former president of the Society i.e. Ms. Shweta Saluja also filed response to the complaint, requesting to investigate the affairs of the society.
7 th December, 2023	Sh. Navdeep Singh (Alleged Current President) filed his response to the complaint stating that the record relating to the election is confidential and cannot be provided.

h. That thus, the association is not a duly constituted body. No complaint including the present complaint could have been filed by it. The complainant has filed the present baseless and false complaint just to overawe, pressurize and harass the respondent with completely mala fide motives. Seen from all angles, the present complaint is totally baseless, frivolous, untenable and the respondent has not committed any wrong. The present complaint being an abuse of the process of law is liable to be dismissed with heavy costs.

6. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions made by the complainants.

D. Jurisdiction of the authority

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

D.I. Territorial jurisdiction

8. 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.

D.II Subject-matter jurisdiction

9. 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.

10. 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.

E. Findings on the relief sought by the complainant.

E.I. Direct the Respondent for the mandatory registration of the project as per Section 3 of the RERA act and adhere to the various compliances as per the various rules and regulations under the RERA act.

11. The said project is an on-going project in terms of proviso to Section 3(1) which states as under:

3(1)

"Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act."

12. Admittedly, the completion certificate of the project has not been obtained by the respondent from the competent Authority. In view of the above, the respondent is directed to apply for registration of the said project after obtaining requisite approvals from the competent Authority.

E.II. Direct the respondent to apply and provide for the completion certificate with respect to the project and provide the same to the complainant association within the time frame as directed by Hon'ble Authority.

E.III. Direct the respondent to handover the necessary documents and plans, including common areas to the association of the allottees.

E.IV. Direct the respondent to complete the project in accordance with the sanctioned plans, layout plans and specifications as approved by competent authority.

E.XI. Direct the respondent to apply and provide the occupancy certificate with respect to club house.

13. In terms of Section 11(4)(a) of the Act, the respondent is responsible for all the obligations, responsibilities and functions under the provisions of the Act or 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 execution of conveyance of all the apartments, plots or building 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. Further, as per Section 11(4)(b), the respondent is responsible to complete the project and to obtain completion certificate or occupation certificate, or both as applicable, from the competent authority and make it available to the allottees individually or

to the association of allottees, as the case may be. The respondent shall handover possession and necessary documents, plans including common areas and facilities to the complainant-association subject to local laws as provided under Section 17 of the Act, 2016. Accordingly, the respondent is directed to comply with the above provisions.

E.VI. Direct the respondent to execute the registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees.

14. The respondent is obligated under Section 17(1) to get the conveyance deed executed in favour of allottees along with undivided proportionate title in common areas to the association of allottees within a period of three months.

E.VII. Direct the respondent to hand over the physical possession of the apartments to the allottees and the common area areas to the association of the allottees and the other title documents pertaining thereto within specified period.

15. The Authority has heard the parties and considered the facts on record and after due consideration is of the view that the respondent is under obligation as provided under Section 17(2) read with section 11(4)(b) & (f). The relevant provisions are reproduced hereunder for ready reference:

"Section 17

(1).....

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws:

Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the occupancy certificate.

Section 11(4) the promoter shall-

(a).....

(b) be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being

in force and to make it available to the allottees individually or to the association of allottees, as the case may be

*.....
(f) execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;*

(g) pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project)"

16. Now that the respondent has received the occupation certificate from the Competent Authority on 29.05.2019, it is obligated to comply with the statutory provisions as noted above and handover the possession of the common areas to the complainant association in terms of the Act, 2016 read with Rules, 2017.

E.VIII. Direct the respondent to refrain from any alterations or additions in the sanctioned plans, layout plans, and specifications of the buildings or the common areas within the project without the prior written consent of at least two-thirds of the allottees, other than the promoter.

17. No such violation has been brought to the notice of the Authority. However, the respondent is bound to follow the provisions as laid down under Section 14(2) of the Act, 2016 which are self-speaking in this regard.

E.IX. Direct the respondent to refrain from selling any portion of the undivided common area of the project.

18. It is important to note that the above said relief was not pressed by the complainant counsel during the arguments in the course of hearing. Also, the complainant failed to provide or describe any information related to the above-mentioned relief sought. The authority is of the view that the complainant counsel does not intend to peruse the relief sought by the

complainant. Hence, the authority has not returned any findings with regard to the above-mentioned relief.

E.X. Direct the respondent to handover duly audited financial details on the maintenance from the day the money towards the maintenance is being collected till the date of the handover of the maintenance.

19. In terms of Section 19(1) of the Act, the respondent is obligated to provide information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information as provided under the Act or Rules and Regulations to the allottees. Accordingly, the respondent is directed to comply with the above provision.

E.XI. Direct the respondent not to charge anything from the owners which is not a part of the buyer's agreement.

20. The respondent shall not charge anything which is not part of the agreement to sell.

E.XII. Direct the respondent to transfer IFMS to the association of the allottees.

21. In terms of the provisions under Section 17(2) of the Act, 2016, it is provided that:

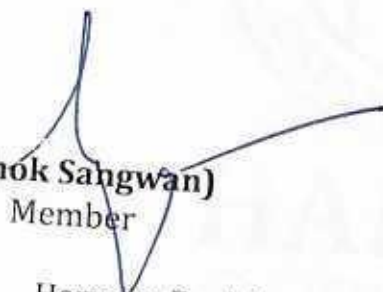
"After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws: Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the ¹[completion] certificate"

22. In view of the above, the respondent/promoter is directed to handover the maintenance of the project and transfer the unutilized IFMS deposit to the association of allottees within a period of thirty days from the date of uploading this order. The respondent is further directed to give justification of expenditure incurred out of the IFMS deposit to the association and if any

expenditure is found to be in conflict with the permissible deductions as per law, the same shall also be transferred to the association. The respondent shall handover necessary documents and plans including common areas, to the association of allottees or the competent authority, as the case may be, within 30 days after obtaining the completion certificate in terms of proviso to section 17(2) of the Act of 2016.

E.XIII. Direct the respondent to refund the excess money charged on account of additional car parking from owners as this is the part of the undivided common area.

23. No such relief can be granted to the complainant-association and the allottees may file individual complaints regarding the said relief in respect of their respective claims.
24. The complaint is accordingly decided in terms of the findings contained in para 11 to 23 above.
25. Complaint as well as applications, if any, stands disposed of accordingly.
26. File be consigned to registry.



(Ashok Sangwan)
Member



(Arun Kumar)
Chairperson

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 02.09.2025