

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

Date of filing: 05.06.2024
Date of decision: 16.10.2025

Kaushik Kumar Gupta

R/O: - E-36A, Gali No.8, Vishwash Park, Uttam Nagar,
West Delhi - 110059

Complainant

Versus

1. Mahira Homes

2. M/s Czar Buildwell Pvt. Ltd.

3. Director / CEO Mahira Homes

Regd. Office at: - 301 & 302-A, Global Foyer, Sector-
43, Golf Course Road, Gurgaon-122009

Respondents

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Dinesh Kumar (Advocate)

None

Complainant
Respondents

ORDER

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions 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.

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. N.	Particulars	Details
1.	Name of the project	"Mahira Homes-95"
2.	Project location	Village Dhorka, Sector-95, Gurugram.
3.	Nature of project	Affordable Group Housing
4.	Area of project	10.44375 acres
5.	HRERA registered/ not registered	Registration revoked
6.	DTCP License	License no. 24 of 2020 valid up to 09.09.2025
7.	Application Fee Paid as acknowledgement	26.10.2020 (Page 12 of complaint)
8.	Allotment Letter	08.12.2020 (Page 13 of complaint)
9.	Unit no.	T5-906, 12 th Floor, Tower 5 (Page 13 of complaint)
10.	Flat Buyer's Agreement	Not executed
11.	Possession clause	N/A
12.	Date of Building plan approval	25.10.2021 (As per the information provided by the respondent on website at the time of registration of project)
13.	Date of environmental clearance	27.04.2022 (As per the website of SEIAA, Haryana)
14.	Due date of possession	N/A
15.	Amount paid by the complainant	Rs. 6,62,336/- (As per SOA on page no. 15 of complaint and receipt at page 12 of complaint) Note: inadvertently mentioned as Rs. 5,31,336/- vide proceedings dated 16.10.2025

16.	Amount refunded buy the respondent	Rs. 3,00,000/- Stated by the complainant at page 7 of complaint.
17.	Occupation certificate	Not obtained
18.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions: -

- a) The complaint is preferred under sections 3, 12, 13, 18, 19, 31, 34 (f), 71 and any other applicable provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "Act") and Rules 15, 16, 28 and any other applicable Rules of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as "Rules"). That respondents no. 1 and 2 are engaged in the business of construction and development of residential as well as commercial projects across the country.
- b) The respondent no. 1 is the developer/promoter of a mutli-story group housing colony known as "Residential Affordable Housing" situated in Sector-95, Village Dhorka, Tehsil and District- Gurugram, Haryana. (herein after referred to as "said project"). The complainant's flat was being constructed on the said project measuring approx. 643.28 sq. ft. That the respondent no.2 is the agent / promotor / sales associate of respondent no. 1.
- c) The said project which was the subject matter of the present complaint, is situated at Sector-95 Gurugram and therefore this Hon'ble Authority has got the jurisdiction to try and decide the present complaint. It is submitted that the subject matter of the present complaint is with respect to recovery of Rs.3,01,883/- in respect to surrender of unit being flat no. T5-906, constructed on the 9th floor,



Tower-1, having a super area of 643.28 sq. ft. in Mahira Homes, Sector-95, Gurugram (herein after referred to as "said unit") in the said project. In view thereof, this complaint falls within the provisions of The Real Estate (Regulation and Development) Act, 2016 and The Haryana Real Estate (Regulation and Development) Rules 2017. Hence, the present complaint.

- d) The respondent assured the customers that they have secured all necessary sanctions and approvals from appropriate authorities for the construction and completion of the real estate project.
- e) The respondent was fully aware of the fact that presently most of the builders, especially in the NCR Region fail to deliver the projects within the time period. It therefore plays with the emotional side of the gullible customers including the complainant and promised to deliver the unit within the agreed timeline.
- f) In the year 2020, the respondent through its marketing executives and advertisement done through various mediums and means approached the complainants with an offer to sell a unit in the said project. Being induced by the said offer and the representations made by the executive of the respondent to be true and correct, the complainants agreed to purchase a unit in the said project.
- g) Thereafter the complainant booked a flat in the said project and made an initial payment of Rs. 1,31,000/-. The payment of the said initial amount can be ascertained by the entries from 26.10.2020 made in the Books of Account maintained by respondent no. 1.
- h) Thereafter on 08/12/2020, the complainant was allotted a flat bearing no. 906 in Tower-5, 9th Floor, 3Bhk+s unit type A, admeasuring 643.28 sq. ft. after, a builder buyer agreement was executed between the complainant and respondents.



- i) After this on dated 23 Dec 2020 another amount of Rs. 5,31,336/- on account of a 20% down payment of the total amount of 26 lakh was paid to respondent no. 1 through respondent No. 2. That the complainant, against the said construction linked payment plan, made regular payments and paid a total sum of Rs.6,62,336/- inclusive of service tax, interest etc. to the respondent no. 1.
- j) In the month of May 2021 complainant came to know from reliable sources that another site Sec-68, Gurugram of respondent is also there, and customers of that site were not being given possession as no work was going on. The customers of that site were agitating at Jantar Mantar, New Delhi for the reason mentioned above.
- k) After the complainant checked online about the site of the respondent i.e., Mahira Homes and also came to know that the company is making forged documents of the site for allotment to its customers and the same fact was confirmed from RERA Gurugram since RERA has seized the bank account of the respondents for the same reason.
- l) After that the complainant decided to cancel the agreement with the respondents and get his money returned from the respondent company and cancelled the agreement with the respondent company.
- m) After passage of one and half year of the cancellation of the agreement, on the several requests and persuasion by the complainant the Respondent ready to pay only Rs. 6,01,883/- after deducting Rs. 60,453/- (RERA charges).
- n) The respondent no. 2 on behalf of respondents no.1 & 2 on account of the liability the respondents no 1 & 2 owes towards the complainant has issued two post-dated cheques to the complainant in May 2023 in which one cheque bearing No. 009445 was for Rs.3,00,00/- Lakh of dated 09/06/2023 and second cheque bearing No. 009446 was for Rs.



3,01,883/- of dated 07/07/2023 both drawn on AXIS BANK LTD., Patel Nagar, Old MG Road Gurgaon, HR 122001.

- o) Cheque bearing No. 009445 was for Rs.3,00,00/- Lakh dated 09/06/2023 was cleared on its presentation and the second Cheque bearing No. 009446 was for Rs. 3,01,883/- dated 07/07/2023 returned unpaid/dishonoured vide returning memo dated with reasons "Account Blocked/Seized".
- p) The respondent has acted in a very deficient, unfair, wrongful, fraudulent manner by not paying the admitted amount to the complainant and by getting dishonored the given cheque bearing no. 009446 was for Rs. 3,01,883/- dated 07/07/2023.
- q) That the respondent is trying to take advantage and enjoy the hard-earned money of the complainant without any interest. Upon searches conducted online on behalf of the complainant it appears that some flat buyers have also filed cases against the respondent either claiming possession along with delay possession charges or refund and other reliefs either before the Hon'ble NCDRC or before this Hon'ble Forum.
- r) The cause of action accrued in favor of the complainants and against the respondent arose on 03/08/2023 when the cheque bearing no. 009446 was for Rs. 3,01,883/- of dated 07/07/2023 issued by respondent got dishonored. The cause of action is still subsisting and continuing one as the due amount of Rs.3,01,883/- has not been paid to the complainant by the respondents.
- s) The complainants further declare that the matter regarding which this complaint has been made is not pending before any court of law and any other authority or any other tribunal on the subject matter.

C. Relief sought by the complainant.

4. The complainant has sought following relief:

- i. Direct the the respondents to pay outstanding amount of Rs. 3,01,883/-.



- ii. Direct the respondents to pay interest and litigation of charges Rs. 1,00,000/- incurred by the complainant.
5. That present complaint was filed on 05.06.2024 and registered as complaint no. 2136 of 2024. The authority issued a notice dated 05.06.2024 to the respondent by speed post and also on the given email address at kumarprince793.com on 06.06.2024. The respondent was directed to file reply in the registry, subject to cost of Rs.5,000/-. The respondent neither filed reply not paid the cost imposed on it despite adequate opportunity. Thus, vide proceedings dated 07.08.2025, the defence of the respondent was struck off.
6. 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 documents and submission available on record.

E. Jurisdiction of the authority

7. 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

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.

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)(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.

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.*** SCC Online SC 1044 decided on **11.11.2021** 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 matter of ***M/s Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra)***, the authority has the jurisdiction



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

E. Finding on relief sought by the complainant

E.1. Direct the respondent to refund the amount along with prescribed rate of interest i.e. MCLR + 2%.

12. The complainant was allotted a unit no. T5-906, Tower-5 at 12th floor in the project "Mahira Homes-95" by the respondent/builder under the Affordable Group Housing Policy 2013. Buyer's agreement was not executed between the parties. The possession of the unit was to be offered with 4 years from approval of building plans (25.10.2021) or from the date of environment clearance (27.04.2022) whichever is later. The due date of possession was calculated 4 years from date of approval of environment clearance i.e., 27.04.2022, as per policy, of 2013. Thus, the due date of possession comes out to be 27.04.2026. The complainant paid a sum of Rs. 6,62,336/- out of the total sale consideration.

13. It is pertinent to mention that the Authority on 28.05.2022 initiated Suo-Motu action against the promoter under section 35 of the Act, 2016 on the basis of site visit report submitted on 18.05.2022 wherein it is clearly stated that only excavation work for tower 2, 3 & 4 was started at site. Moreover, on 17.05.2022 the Director Town & Country Planning blacklisted the said developer from grant of license on account of submitting forged and fabricated bank guarantees and also forged signatures of the bank officials on the bank guarantees being submitted by CZAR Buildwell Pvt. Ltd which was subsequently withdrawn by the department on 21.07.2022 subject to fulfillment of certain conditions. Also, on 19.07.2022 all the accounts were freezed by the authority due to non-compliance of the provisions of the Act, 2016. Finally, on 06.09.2023 the authority initiated suo-moto revocation proceedings under section 35 of the Act, 2016. Thereafter, the authority vide order dated 11.03.2024 revoked the registration certificate of the project



under section 7(1) of the Act, 2016 and accordingly the respondent company shall not be able to sell the unsold inventories in the project and also, the accounts were frozen therefore, this may decode as discontinuation of business.

14. The Authority considering the above mentioned facts opines that although the due date of possession has not lapsed yet, section 18 of the Act, 2016 is invoked if the promoter is unable to handover the possession of the unit as per the terms of the agreement **due to discontinuance of his business as developer on account of suspension or revocation of the registration under this Act** or any other reason then the complainant shall be entitled for entire refund of the amount paid to the respondent along with the prescribed rate of interest. The relevant portion is reproduced herein below for the ready reference:

"Section 18: Return of amount & compensation:

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

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

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

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

15. The Authority is of the view that since vide order dated 11.03.2024 the registration certificate of the project stands revoked under section 7(1) of the Act, 2016 therefore, the promoter cannot carry out the business in presence of the said circumstances, also due to the promoter's serious violations, there seems no possibility of completing the said project by the due date. Thus, the Authority is of the view that the complainant is entitled to his right under section 19(4) to claim the refund of amount paid along with interest at



prescribed rate from the promoter. The complainant in the complaint stated that the respondent has already refunded Rs.3,00,000/-. Accordingly, the complainant is entitled for refund of the remaining amount received by it along with interest at the rate of 10.85% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.

F. Directions of the Authority

19. 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 function entrusted to the authority under section 34(f):
- I. The respondent/promoter is directed to refund the remaining amount i.e., Rs.3,01,883/- received by it to the complainant along with interest at the rate of 10.85% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realisation of the amount.
 - 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.
20. Complaint stands disposed of.
21. File be consigned to registry.


(Phool Singh Saini)
Member**Haryana Real Estate Regulatory Authority, Gurugram**

Dated: 16.10.2025