

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

Date of decision : 26.08.2025

Name of the Builder		Assotech Moonshine Urban Developers Private Limited	
Project Name		Assotech Blith	
S.no.	Complaint No.	Complaint title	Appearance
1.	CR/2267/2023	Nilima Srivastava and Manoj Srivastava Vs. M/s Assotech Moonshine Urban Developers Pvt. Ltd.	Saurabh Saini (Complainant) Sh. Dhruv Lamba (Respondent)
2.	CR/2268/2023	Nilima Srivastava and Manoj Srivastava Vs. M/s Assotech Moonshine Urban Developers Pvt. Ltd.	Saurabh Saini (Complainant) Sh. Dhruv Lamba (Respondent)

CORAM:Shri Arun Kumar
Shri Ashok Sangwan**Chairman
Member****ORDER**

1. This order shall dispose of both the complaints titled as above filed before this authority in form CRA 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, "Assotech Blith" at Sector 99, Gurugram, Haryana being developed

by the respondent/promoter i.e., M/s Assotech Moonshine Urban Developers Pvt. Ltd. The terms and conditions of the Allotment Letter, fulcrum of the issue involved in both the cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of delayed possession charges and compensation.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

Project Name and Location	"Assotech Blith", Sector-99, District Gurugram, Haryana.
Project area	12.062 acres
Nature of the project	Group Housing Project
DTCP license no. and other details	95 of 2011 Dated 28.10.2011 valid up to 27.10.2024
RERA Registered/ not registered	Registered 83 of 2017 dated 23.08.2017 valid up to 22.08.2023
Occupation certificate	Not obtained
Possession clause as per clause 19 of Allotment Letter	19(i): The possession of the apartment shall be delivered to the Allottee(s) by the Company within 42 (Forty-two months from the date of allotment subject to the Force Majeure, circumstances, regular and timely payments by the intending Allottee(s), availability of building material, change of laws by the Governmental/Local Authorities etc. The constructions shall be deemed to be complete on obtaining the occupation certificate by the Company from the DTCP. No claim by way of damage, compensation shall lie against the Company in case of delay in handing over the possession on account of delay in obtaining the occupation certificate or any other reasons beyond the control of the Company."

S.No.	Particulars	Details	w.r.t	Details	w.r.t.
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		CR/2267/2023	CR/2268/2023
1.	Allotment letter	03.07.2012 [pg. 31 of complaint]	03.07.2012 [pg. 31 of complaint]
2.	Unit no.	1103, Tower D, 11 th floor (Page no. 30 of complaint)	1104, Tower D, 11 th floor (Page no. 31 of complaint)
3.	Unit area	2700 sq. ft. of super area (Page no. 30 of complaint)	2700 sq. ft. of super area (Page no. 31 of complaint)
4.	Builder buyer agreement executed on	Not executed	Not executed
5.	Due date of possession	03.01.2016	03.01.2016
6.	Total sale price of the flat	Rs. 1,25,35,000/- (page no. 30 of complaint)	Rs. 1,25,35,000/- (page no. 31 of complaint)
7.	Amount paid by the complainant	Rs. 31,50,000/- (page no. 98 of complaint)	Rs. 31,50,000/- (page no. 63 of complaint)
8.	Offer of possession	Not offered	Not offered
9.	Relief sought	1. DPC 2. Compensation 3. Litigation cost	1. DPC 2. Compensation 3. Litigation cost

4. The aforesaid complaints were filed by the complainants against the promoter on account of violation of the terms agreed vide Allotment Letter executed between the parties *inter se* in respect of said unit for seeking award of delayed possession charges.
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 promoter, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of both the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case

CR/2267/2023 titled as Nilima Srivastava and Anr. Vs. M/s Assotech Moonshine Urban Developers Pvt. Ltd. are being taken into consideration for determining the rights of the allottee(s) qua delayed possession charges and other reliefs.

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:

S. No.	Particulars	Details
1.	Name of the project	"Assotech Blith", Sector-99, District Gurugram, Haryana.
2.	Nature of the project	Group Housing Project
3.	Project area	12.062 acres
4.	RERA registered/ not registered	Registered 83 of 2017 dated 23.08.2017 valid up to 22.08.2023
5.	DTCP License no.	95 of 2011 Dated 28.10.2011 valid up to 27.10.2024
6.	Name of licensee	Uppal Housing Pvt. Ltd. and other
7.	Flat no.	1103, Tower D, 11 th floor (Page no. 30 of complaint)
8.	Unit admeasuring	2700 sq. ft. of super area (Page no. 30 of complaint)
9.	Allotment Letter	03.07.2012 (Page no. 31 of complaint)
10.	Flat Buyer Agreement	Not executed
11.	Possession clause	19.Possession: <i>The Allottee (s) shall be entitled to delivery of possession of the apartment only after the Allottee (s) has completed all formalities and paid all amounts due and payable by the Allottee (s) and after the execution and registration of the sale deed or such other document as stipulated herein or required in accordance with the laws.</i>

		i. The possession of the apartment shall be delivered to the Allottee (s) by the Company within 42 months from the date of allotment subject to the Force Majeure circumstances, regular and timely payments by the intending Allottee (s), availability of building material, change of laws by Government/Local Authorities etc. The construction shall be deemed to be complete on obtaining the Occupation Certificate by the Company from the DTCP. (as per allotment letter on page no. 34 of complaint)
12.	Due date of delivery of possession	03.01.2016 Calculated from the date of allotment letter
13.	Total sale consideration	Rs. 1,25,35,000/- (page no. 30 of complaint)
14.	Total amount paid by the complainant	Rs. 31,50,000/- (page no. 98 of complaint)
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered

B. Facts of the complaint

8. The complainants have made the following submissions in the complaint: -
 - a. That the complainants in the year 2012 were looking to purchase a property, and were approached by the respondent for purchasing a unit in the project being developed by the respondent namey 'Assotech Blith' situated at Sector 99, Gurugram, Haryana [hereinafter referred to as the "Project"]. Based on the various representations made by the respondent, the complainants paid an amount of Rs.5,50,000/- towards booking of a unit in the said Project and again on 15.06.2012 paid an amount of Rs.5,00,000/-. However, it was only in July 2012 that they executed an allotment letter in respect of unit no. D1103 which was allotted to the complainants.

- b. That the complainants were shocked to find that the Allotment Letter was filled with various arbitrary and one-sided terms and conditions. For instance, as per Clause 12(c) of the Allotment Letter, on delay in making the instalment payment towards the consideration of the unit, the complainants were liable to pay interest @18% compounded quarterly per annum, compounded quarterly to the respondent however, upon the delay in providing possession of the unit, the respondent was supposed to pay to the complainant a meagre interest of Rs 10/- per square feet per month. However, the complainants could not negotiate any of the one-sided and arbitrary terms and conditions as any disagreement thereof would have led to the cancellation of the unit and forfeiture of the non-refundable amounts paid by the complainants along with earnest money i.e., 10% of the basic sale price of the unit. In this regard, the complainants place reliance on order dated 20.05.2020 passed in appeal bearing no. 21 of 2019 titled as 'M/s Pivotal Infrastructure Pot. Ltd. v. Prakash Chand Arohi'.
- c. That as per Clause 19(i) and (ii), the possession of the unit was promised to be offered within 42 months from the date of allotment along with a grace period of 6 months for making an offer of possession of the unit. Thus, the possession of the Unit was promised to be offered to the complainants latest by 02.07.2016.
- d. The complainants complied with the demands raised for the first three milestones but since there was a delay that was apparent, the complainants decided not to pay the amounts any further. Upon enquiring from the respondent, every time the respondent said that the unit will be constructed as early as possible. However, it was clear from the demand letters that each payment demand as was raised by the respondent dated 23.12.2013, 06.12.2015, 14.10.2016, 07.06.2017,

and

12.12.2020

that the construction was delayed and the respondent had supplied incorrect information about the tower in which the unit was situated being completed in the year 2017. The Respondent had collected an amount of Rs. 31,50,000/- against consideration of the unit from the complainants. However, the respondent failed to offer possession of the unit to the complainants within the time period stipulated in the agreement and even till date which is almost 7 years from the date of the Allotment Letter. The complainants relentlessly chased the respondent seeking a tentative date by when possession of the unit would be offered but every time incorrect and misleading information was provided.

- e. That on 19.02.2016, the complainant no. 2 requested the respondent to remove his name from the allotment and to have only the name of the complainant no. 1 as the sole allottee however, such email was never acknowledged by the respondent.
- f. That despite a delay of more than 6 (Six) years and 9 months from the promised date of possession as per the Allotment Letter, the construction of the project is still far from completion, and possession of the unit could not be anticipated to be offered in the foreseeable future. Thus, as per Section 18 of the Act, the respondent is liable to pay interest to the complainants at a prescribed rate of interest which is prescribed as the highest marginal cost of lending rate plus two percent.

C. Relief sought by the complainants:

- 9. The complainants have sought following relief(s):
 - a. Direct the respondent to pay interest @ 10.50% per annum on the amount deposited by the complainants with the respondent with effect

from the date of delivery promised in the agreements, till the date of execution of the sale deed in the favour of the complainants.

- b. Direct the respondent, to pay a sum of Rs. 5,00,000/- to the complainants towards compensation for mental agony caused by the respondent.
 - c. Direct the respondent, to pay a sum of Rs. 2,00,000/- to the complainants towards litigation costs.
10. On the date of hearing, the authority explained to the respondent/promoter about the contravention 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

11. The respondent by way of filing reply and written arguments has contested the complaint on the following grounds:

- a. That Mr. Manoj Srivastava was appointed as one of the Directors of M/s Assotech Limited in the year 2007. Thereafter, in 2009, he was also appointed as Director of M/s Assotech C P Infrastructure Private Limited, a wholly owned subsidiary of M/s Assotech Limited. Vide a Board Resolution dated 30.09.2007, Mr. Manoj Srivastava was specifically entrusted with the responsibility of overseeing the development of the project titled "Windsor Hill, Gwalior", being developed by M/s Assotech Limited.
- b. That Ms. Nilima Srivastava, the wife of Mr. Manoj Srivastava, held a senior position within M/s Assotech Limited from 2008 to 2014/2015. Both Mr. Manoj Srivastava and Mrs. Nilima Srivastava drew considerable remuneration during this period, i.e., Mr. Manoj Srivastava received Rs. 1,20,000/- per month and Ms. Nilima Srivastava received Rs. 1,10,000/- per month. Together, they earned approximately Rs. 2.30 Crores over 8 years.

- c. During the tenure of their employment, Mr. Manoj Srivastava and Mrs. Nilima Srivastava incorporated M/s Technoash Infrastructure Private Limited, wherein both were the sole shareholders and directors. Additionally, they founded a partnership firm named M/s Ecotech Developer in the name of their driver Mr. Mukesh Kumar and Mr. Ankit Ranjan, nephew of Mr. Manoj Srivastava.
- d. While in a position of trust and fiduciary responsibility, Mr. Manoj Srivastava misused his authority as the person in charge of project sales and executed a fraudulent scheme whereby units (flats, shops, plots) from M/s Assotech Limited were sold to the aforementioned firm at bare minimum prices. These units were then resold at market value to actual buyers.
- e. The proceeds from these sales were then diverted to various bank accounts, including:
- Accounts in the name of Late Sh. Mahendra Prasad (father of Mr. Manoj Srivastava),
 - Late Sh. Gopal Krishna (father of Ms. Nilima Srivastava),
 - Axis Bank Account No. 913020029116846, and
 - Bank accounts in the names of Ms. Aishwarya Srivastava (daughter of Mr. and Mrs. Srivastava) and various firms/companies related to them.
- f. In total, the amount siphoned from the company is approximately Rs. 60,00,00,000/- (Rupees Sixty Crores Only). The diversion of Rs. 60 Crores had a catastrophic effect on the financial health of M/s Assotech C P Infrastructure Pvt. Ltd., leading to provisional liquidation of the parent company M/s Assotech Limited. Consequently, the development of 'Assotech Blith', Sector - 99, Gurugram was delayed significantly, causing immense hardship to hundreds of genuine homebuyers as M/s Assotech Limited was the construction contractor

company of the answering Respondent in respect of the subject project.

- g. From the illegally siphoned funds, Mr. Manoj Srivastava and Mrs. Nilima Srivastava purchased real estate worth more than Rs. 30 Crores, including:

- 2 Flats in Assotech Blith, Sector – 99, Gurugram
- 8 Units in Assotech Windsor Court, Sector – 78, Noida
- 2 Luxury Flats in Assotech Celeste Tower, Sector – 44, Noida
- 2 Residential Flats in The Nest, Crossing Republik, Ghaziabad
- 2 Flats in Bangalore

These purchases were clearly disproportionate to their legitimate income, further proving misappropriation.

- h. Upon discovery of these fraudulent activities, an FIR bearing No. 27/17 at PS Sirol, Gwalior and another FIR No. 0627 dated 05.07.2017 at PS Sector – 24, NOIDA were registered against Mr. Manoj Srivastava, Ms. Nilima Srivastava, Ms. Aishwarya Srivastava, Ms. Rita Srivastava, Mr. P.K. Srivastava, Mr. Siddharth Srivastava, Mr. Anand Srivastava, Mr. Ankit Ranjan, among others (Annexure – 7 & 8). After investigation, a Chargesheet was filed by the Gwalior Police demonstrating the orchestrated nature of the fraud committed by Mr. Manoj Srivastava and co-accused. On 14.01.2022, the Hon'ble Court of Dr. Kuldeep Jain, Additional Sessions Judge, Gwalior, found Mr. Manoj Srivastava guilty under section 409, 420, 120B of IPC and 166(5) and 188 of the Companies Act. Thus, Mr. Manoj Shrivastava was convicted for 5 years along with his other family members who were part of this financial scam. This misappropriated fund was transferred to either the Complainants' bank accounts or in their daughter's account making the complainants the sole beneficiary of the stolen money of Respondent.

Further, the investigation is still ongoing with respect to absconding accused persons, namely Mr. Siddharth Srivastava, Mr. Nikesh, Mr. Ankit Ranjan, and Mr. Anand Srivastava. Moreover, Mr. Manoj Srivastava is on bail at present.

- i. That vide order dated 08.02.2016 passed by Hon'ble Delhi High Court, M/s Assotech Ltd. went into provisional liquidation. Subsequently, the Official Liquidator attached to the Hon'ble High Court of Delhi, vide a letter dated 14.09.2020, initiated steps to recover siphoned funds to ensure project completion and protection of homebuyers. M/s Assotech C P Infrastructure Pvt. Ltd., acting upon these instructions, sent a formal demand notice to the Respondent seeking refund of Rs. 63,00,000/-, being the amount paid by Mr. and Mrs. Srivastava towards two units booked by them. The Respondent, in response, issued a notice dated 28.01.2022 to Mr. Manoj Srivastava and Ms. Nilima Srivastava, seeking an explanation, which was never responded to. Consequently, the Respondent had no choice but to cancel the said bookings to protect the interest of the company and its creditors/homebuyers.
- j. Complainants are not the rightful allottees as they have embezzled the respondent company's money using their position as Director in the respondent company to buy the subject units by defrauding the respondent. The complainants have unclean hands and are guilty of suppressing material facts, including:
 - As is evident from the receipt annexed with the complaint at page 65 to 70 of complaint bearing no. 2267/2023, all the payments made by the Complainants were made to the Respondent through KVV Bank and the said transaction through the same bank account is also mentioned in the charges sheet as is evident on page 64 of the reply

filed in complaint bearing no. 2267/2023. Thus, **misappropriation is established on the part of the Complainant.**

- Moreover, the complainants do not fall within the definition of an "allottee" under Section 2(d) of the Act as their booking was not made for bona fide purposes but was part of a larger scheme of financial misappropriation and fraud, as delineated hereinabove.
 - The Complainants have role in **siphoning off Rs. 60 Crores** from M/s Assotech Limited and its subsidiary.
 - Their **criminal conviction** under serious charges including Section 409 (Criminal Breach of Trust), Section 420 (Cheating), and Section 120B (Criminal Conspiracy) of IPC.
 - The **ongoing proceedings** against them and their associates.
 - The Respondent issued a letter dated **28.01.2022** calling upon the complainants to justify the source of funds and status of the booking. Despite this, **no reply was furnished.**
 - Due to failure to comply with the Respondent's legitimate demand, admitted criminal antecedents and fraudulent nature of transaction, the **Respondent had every legal right to cancel the allotment**, especially as recovery proceedings by the Official Liquidator are underway.
 - Hence, **no cause of action survives** in favor of the complainants.
- k. A complainant who approaches the court without disclosing material facts and with fraudulent intent is not entitled to any relief. This is a settled principle in law: *"He who comes to equity must come with clean hands."*
- l. The present complaint is an attempt to legitimize proceeds of fraud and retain possession of property purchased through criminal conduct.

Therefore, the complaint is not maintainable and is liable to be dismissed with exemplary costs for abuse of process.

12. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

13. 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

14. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

15. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

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

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.

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

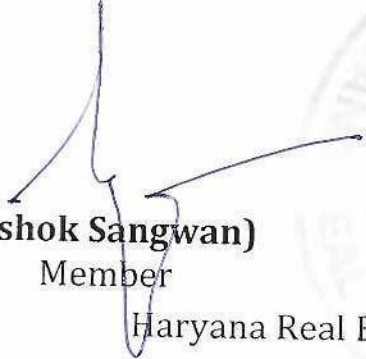
F. Findings on the relief sought by the complainant**F.1 Delay possession charges**

17. The complainant has filed the present complaint alleging that in 2012, the complainants were induced by the respondent to purchase a unit in the project 'Assotech Blith', Sector 99, Gurugram, and paid Rs. 10,50,000/- towards booking, following which Unit No. D1103 was allotted in July 2012. The Allotment Letter, however, contained arbitrary and one-sided terms, including a disproportionate penalty clause imposing 18% quarterly compounded interest on the complainants for delayed payments, while offering only Rs.10/- per sq. ft. per month for delayed possession. As per Clause 19 of the Allotment Letter, the possession was due by 02.07.2016 (including grace period), but despite paying Rs. 31,50,000/- across several demand notices, the unit was not delivered, with construction remaining incomplete even after a delay of over 6 years and 9 months. Repeated queries yielded misleading responses, and an email dated 19.02.2016 requesting change of allottee was ignored. The complainants contend that under Section 18 of the Act, the respondent is liable to pay interest at the prescribed rate due to the inordinate delay in handing over possession.
18. The respondent by way of reply and the written arguments has alleged that the complainants, Mr. Manoj Srivastava and Ms. Nilima Srivastava, while

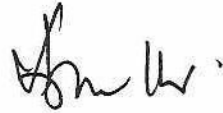
holding fiduciary positions in M/s Assotech Limited and its subsidiary, M/s Assotech C P Infrastructure Pvt. Ltd., misused their authority to siphon approximately Rs. 60 Crores through shell entities, as established by criminal investigation, charge sheet, and conviction dated 14.01.2022 by the Court of Dr. Kuldeep Jain, ASJ, Gwalior, under Sections 409, 420, 120B of the IPC and Sections 166(5), 188 of the Companies Act. These embezzled funds were directly used to book two residential units with the Respondent, including the subject units in 'Assotech Blith', Sector 99, Gurugram, Haryana. Payments were made through KVV Bank, which is also referenced in the charge sheet, thereby establishing the direct link between misappropriated funds and the property in question. Upon discovery, the Respondent issued a notice dated 28.01.2022 seeking explanation, which remained unanswered. In view of their fraudulent conduct, undisclosed criminal antecedents, and ongoing liquidation proceedings, the Respondent rightfully cancelled the allotment to protect the interests of the company and genuine homebuyers. Moreover, the complainants do not fall within the definition of an "allottee" under Section 2(d) of the Act as their booking was not made for bona fide purposes but was part of a larger scheme of financial misappropriation and fraud, as delineated hereinabove. The complainants, having approached the forum with unclean hands and suppressed material facts, are not entitled to any equitable relief, and the complaint is liable to be dismissed as a gross abuse of process.

19. The Authority notes that, due to ongoing criminal proceedings against the complainant related to the alleged siphoning of funds, the allotment of the subject unit remains uncertain. As a result, until the allotment of the unit in the name of the complainants is clearly established to be valid, it would not be appropriate for this Authority to proceed further to adjudicate upon the said matter.

20. In light of the above, the Authority finds that the present complaint is not maintainable as the documents on the basis of which the present complaint has been filed stand challenged. Accordingly, the complaint is dismissed, with liberty granted to the complainants to file a fresh complaint before the Authority if their rights continue to subsist following the conclusion of the pending criminal proceedings before the relevant courts
21. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
22. Ordered accordingly.
23. File be consigned to registry.


(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 26.08.2025
(Arun Kumar)
Chairman**HARERA**
GURUGRAM