

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

Complaint no.: 155 of 2024
Order reserved on: 16.10.2025
Order pronounced on: 13.11.2025

Sachin Kumar

R/o: House No.30, Gali No.3/4, Sheetala Mata Mandir,
Sheetala Colony, Gurugram-122001.

Complainant

Versus

M/s Ocean Seven Buildtech Private Limited

Regd. Office At: - 2th Floor, Tilak Bhawan, Tilak
Marg, Jaipur.

Office at: B 505-506, Spaze I Tech Park, Sohna Road,
Sector 49, Gurugram, Haryana- 122001.

Respondent

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Bhajan Lal Jangra (Advocate)

Shri Arun Yadav (Advocate)

**Complainant
Respondent**

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 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. Project and unit 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 and location of the project	"Expressway Towers", Sector-109, Gurugram.
2.	Project area	7.50 Acres
3.	Nature of Project	Residential (Affordable Group Housing)
4.	DTCP license no. and validity status	06 of 2016 dated 16.06.2016 Valid upto 15.06.2021
5.	Name of Licensee	M/s Ocean Seven Buildtech Pvt. Ltd.
6.	Rera registered/ not registered and validity status	Registered Vide no. 301 of 2017 dated 13.10.2017 Valid upto 12.10.2021
7.	Unit no.	306, 3rd floor, Tower-09. (page 24 of complaint)
8.	Unit Admeasuring	307 sq. ft. carpet area 69 sq. ft. balcony area (page 24 of complaint)
9.	Allotment Letter	01.04.2017 (page 24 of complaint)
10.	Approval of Building Plan	26.09.2016 (Taken from similar complaint of similar project bearing no. CR/4086/2020)
11.	Environmental Clearance	30.11.2017 (Taken from similar complaint of similar project bearing no. CR/4086/2020)
12.	Buyer's Agreement	Not executed

13.	Possession Clause as per buyer's agreement	Not provided
14.	Possession Clause (as per affordable housing policy, 2013)	1(IV) of the Affordable Housing Policy, 2013 <i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i>
15.	Due date of possession	30.05.2022 30.11.2021 Plus additional grace of 6 months in lieu of Covid-19 as per the HARERA Notification. [Note: The due date is calculated from the date of environmental clearance (31.11.2017), being later.]
16.	Total sale consideration	Rs.12,28,000/- (as alleged by the complainant in complaint)
17.	Total amount paid	Rs.7,31,251/- (60% of TSC) (as alleged by the complainant at page no.14 of complaint)
18.	Demand letter	16.03.2020 (page 5 of documents submitted by the respondent on 01.08.2025)
19.	Publication in Hindi newspaper (Gurgaon Mail)	19.06.2020 (page 6 of documents submitted by the respondent on 01.08.2025)
20.	Notice for non-payment of dues	21.07.2021 (as per page no.37 of complaint)
21.	Cancellation letter	03.09.2021 (page 3-4 of documents submitted by the respondent on 01.08.2025)

22.	Allotment letter/ demand letter [in favor of Ms. Barkha]	18.05.2022 (page 1-2 of documents submitted by the respondent on 01.08.2025)
23.	Occupancy Certificate	Not obtained
24.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:

- i. That the complainant is an Indian resident and well conversant with the facts of the present case hence competent to sign, verify and file the present complainant before this Authority for seeking restoration of the said flat.
- ii. That the respondent is a registered company which had undertaken to develop the project namely "Expressway Towers" consisting of residential units under the Affordable Housing Policy, 2013 launched vide DTCP licence No. 06/2016 granted to the respondent. The project consisting of 1089 units (one/two bedroom + SR) proposed to be developed over the land measuring 7.5 Acre situated at Village Babupur, Sector - 109 of Gurugram, Haryana.
- iii. The complainant had signed and submitted an application dated 05.01.2017 for allotment of residential flat under Affordable Housing Policy, 2013 issued by Govt. of Haryana. That the draw was held on 31.03.2017 a unit no. 306 in tower 09 admeasuring 307 sq. feet (carpet area) and 69 sq. feet balcony area was allotted against total sale consideration of Rs.12,28,000/-, vide allotment letter dated 01.04.2017.
- iv. That the respondent negligently did not execute any agreement to sell till date to avoid the obligation of completion of project within the stipulated period and to extend completion date at his whims and fancies even after receiving more than half of the agreed sale price of the flat which is in violation of Section 13(1) of RERA Act, 2016.



- v. That the respondent obtained building plan approval on 26.09.2016 (as per the details available on website of DTCP) and received environmental clearance on 30.11.2017 as mentioned in the order dated 13.12.2022 by this Authority in case titled Rajni Kukreja VS M/s Ocean Seven Buildtech Pvt. Ltd. complaint no. 4086 of 2020 however the respondent had neglected to complete the project till date.
- vi. That the respondent cannot override clause 1(iv) of Affordable Housing Policy, 2013, relating to completion of construction and possession which stipulates as under:
- "All such projects shall be required to be necessarily completed within four years from date of approval of building plan or grant of environmental clearance whichever is later. This date shall be referred to as the date of commencement of the project for the purpose of the policy."*
- vii. Hence, the due date of possession is to be reckoned from environmental clearance that is 30.11.2017 which comes to 30.11.2021 (possession date).
- viii. That the complainant had already paid sum of Rs.7,31,251/- up to 06.09.2021 which is more than half of the amount of total sale consideration of the said flat but the respondent sent demand notice dated 21.07.2021 of Rs.6,84,905/- upon the complainant to pay the said amount within 15 days from date of receipt of letter dated 21.07.2021 failing which allotment of the booked unit will be cancelled. The act on the part of the respondent is against the law.
- ix. The status of the project is still incomplete which is why the complainant stopped paying to the respondent after 06.09.2021 as there was no construction happening in the said project. However, the complainant is ready to pay the outstanding amount of the said flat at the time of valid offer of possession.



- x. That there is a delay of 24 months in completion of the project as on date from 30.11.2021 to 30.11.2023.
- xi. That to the knowledge of the complainant, the RERA registration no. 301/2017 of the project has also lapsed and penalty proceeding have been initiated and going on against the respondent for violation of RERA Act.
- xii. That it is evident from the alleged acts, deed and omission the respondent has neglected to complete the project and have grossly violated affordable housing norms notified by Haryana Govt.
- xiii. That for the reason stated above, the complainant is left with no other efficacious remedy available except to file the present complaint before the Authority for seeking cancellation and alleged violation of section 11(5), 14, 18 and 61 of the RERA Act, therefore are liable to be compensated by the respondent under RERA Act.

C. Relief sought by the complainant: -

- 4. The complainant has sought following relief(s):
 - I. To restrain the respondent from cancellation of the allotted unit, in case unit has been cancelled the respondent be directed to restore the allotment of the complainant and to make a valid offer of possession of allotted unit.
 - II. Direct the respondent to pay DPC from 31.11.2021 till handing over of possession.
 - III. Direct the respondent to complete the project and handover the physical possession.
 - IV. Direct the respondent to first to execute buyer's agreement and subsequently execute the conveyance deed after offering valid offer of possession to the complainant.
 - V. Direct the respondent to restrain from demanding Labour Cess, VAT, Work Contract Tax and Power Backup Charges.
 - VI. Direct the respondent to give input tax credit of GST by allowing refund with interest in terms of order dated 05.11.2019 passed by Hon'ble National Anti-Profitteering Authority.



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 complainant.

6. The respondent has contested the complaint on the following grounds.
- That this Authority lacks jurisdiction to adjudicate upon the present complaint as vide clause 16.2 of the builder buyer agreement both the parties have unequivocally agreed to resolve any disputes through arbitration.
 - That the complainant is a willful defaulter and deliberately, intentionally and knowingly have not paid timely instalments.
 - That starting from February 2023, the construction activities have been severely impacted due to the suspension of the license and the freezing of accounts by the DTCP Chandigarh and HRERA Gurugram, respectively. This suspension and freezing of accounts represent a force majeure event beyond the control of the respondent. The suspension of the license and freezing of accounts, starting from Feb 2023 till date, have created a zero-time scenario for the respondent. Further, there is no delay on the part of the respondent project as it is covered under clause number 5.5 force Majeure, which is beyond control of the respondent.
 - That the final EC is CTE/CTO which has been received by the respondent in February 2018. Hence the start date of project is Feb 2018 and rest details are as follows.

Covid and NGT Restrictions	
Project completion Date	Feb-22
Covid lock down waiver	18 months
NGT stay (3 months approx. for every year) i.e., 6*3	18 months



Total Time extended to be extended (18+18) months	36 months
Accounts freezed & license suspended further time to be extended till the unfreezing of the accounts i.e. Feb- March 2024 (13 months)	Feb 2023 till date Mar-24
Final project completion date (in case project is unfreezed) further time would be added till unfreezing the accounts	Mar-26

v. As per the table given above, the final date for the completion of construction is Feb 25 in case the accounts are unfreezed by the competent authority on the date of filing this reply. From Feb 2023, the license has been suspended and accounts have been freezed by the DTCP Chandigarh and HRERA Gurugram.

7. 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

8. 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

9. As per notification no. **1/92/2017-1TCP dated 14.12.2017** issued by Town and Country Planning Department, 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

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

Section 11

.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

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

F. Findings on objections raised by the respondent**F.I Objection regarding complainant is in breach of agreement for non-invocation of arbitration.**

12. The respondent has submitted that the complaint is not maintainable for the reason that the agreement contains an arbitration clause which refers to the dispute resolution mechanism to be adopted by the parties in the event of any dispute.
13. The Authority is of the opinion that the jurisdiction of the authority cannot be fettered by the existence of an arbitration clause in the buyer's agreement as it may be noted that section 79 of the Act bars the jurisdiction of civil courts about any matter which falls within the purview of this authority, or



the Real Estate Appellate Tribunal. Thus, the intention to render such disputes as non-arbitrable seems to be clear. Also, section 88 of the Act says that the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Further, the Authority puts reliance on catena of judgments of the Hon'ble Supreme Court, particularly in ***National Seeds Corporation Limited v. M. Madhusudhan Reddy & Anr. (2012) 2 SCC 506***, wherein it has been held that the remedies provided under the Consumer Protection Act are in addition to and not in derogation of the other laws in force, consequently the authority would not be bound to refer parties to arbitration even if the agreement between the parties had an arbitration clause.

F.II Objections regarding force majeure.

14. The respondent/promoter has raised the contention that the construction of the project has been delayed due to force majeure circumstances such as ban on construction due to orders passed by NGT, major spread of Covid-19 across worldwide, suspension of license by the DTCP, Chandigarh and freezing of accounts by HRERA Gurugram etc. which is beyond the control of the respondent and are covered under clause 5.5 of the agreement. The respondent has further submitted that suspension of the license and freezing of accounts, starting from Feb 2023 till date have created a zero-time scenario for the respondent. Furthermore, the final EC is CTE/CTO which has been received by the respondent in February, 2018, hence the start date of project is Feb 2018. However, all the pleas advanced in this regard are devoid of merits. As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as*



the "date of commencement of project" for the purpose of this policy. The respondent has obtained environment clearance and building plan approval in respect of the said project on 30.11.2017 and 26.09.2016 respectively. Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession was 30.05.2022. As far as other contentions of the respondent w.r.t delay in construction of the project is concerned, the same are disallowed as firstly the orders passed by NGT banning construction in the NCR region was for a very short period of time and thus, cannot be said to impact the respondent-builder leading to such a delay in the completion. Secondly, the licence of the project of the respondent was suspended by DTCP, Haryana vide memo dated 23.02.2023, due to grave violations made by it in making compliance of the terms and conditions of the licence. In view of the same and to protect the interest of the allottees, the bank account of the respondent related to the project was frozen by this Authority vide order dated 24.02.2023. It is well settled principle that a person cannot take benefit of his own wrong.

G. Findings on the relief sought by the complainant.

- G.I To restrain the respondent from cancelation of the allotted unit, in case unit has been cancelled the respondent be directed to restore the allotment of the complainant and to make a valid offer of possession of allotted unit.**
- G.II Direct the respondent to pay DPC from 31.11.2021 till handing over of possession.**
- G.III Direct the respondent to complete the project and handover the physical possession.**
- G.IV Direct the respondent to first to execute buyer's agreement and subsequently execute the conveyance deed after offering valid offer of possession to the complainant.**



G.V Direct the respondent to restrain from demanding Labour Cess, VAT, Work Contract Tax and Power Backup Charges.

G.VI Direct the respondent to give input tax credit of GST by allowing refund with interest in terms of order dated 05.11.2019 passed by Hon'ble National Anti-Profiteering Authority.

15. The above-mentioned relief sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
16. The complainant was allotted unit no.306 on 3rd floor, in tower - 9, in the project "Expressway Towers" by the respondent/builder for a total consideration of Rs.12,28,000/- under the Affordable Group Housing Policy 2013. The buyer's agreement is not yet executed. That as per the Affordable Group Housing Policy 2013, the possession of the unit was to be offered with 4 years from approval of building plans (26.09.2016) or from the date of environment clearance (30.11.2017). Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 30.05.2022. The complainant paid a sum of Rs.6,31,251/- up to 01.04.2018. Further the complainant after cancellation of unit on 03.09.2021 paid an amount of Rs.1,00,000/- through NEFT on 06.09.2021 (page 36 of complaint) against the subject unit. Therefore, the total amount paid by the complainant against the allotted unit comes to Rs.7,31,251/- upto 06.09.2021 and the complainant is willing to retain the allotted unit in question.
17. The counsel for the respondent states that the unit has been cancelled on 03.09.2021 after issuance of demand letter dated 16.03.2020 and publication of list of defaulters in regional newspaper on 19.06.2020. Upon this, the counsel for the complainant submitted that the respondent failed to carry out



the construction of the project and failed to issued demands against the said unit.

18. Now, the question before the authority is whether this cancellation letter dated 03.09.2021 is valid or not. According to clause 5(iii)(i) of the Affordable Group Housing Policy, 2013 which produce as under:

"If any successful applicant fails to deposit the installments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due installments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State for payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs 25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list".

19. It is observed that the complainant failed to pay the remaining amount as per schedule of payment which becomes due on 16.03.2020 and published a notice in the newspaper on 19.06.2020, after this a notice for non-payment of dues dated 21.07.2021 also served upon the complainant, which led to issuance of notice for cancellation by the respondent/builder dated 03.09.2021.
20. It is to be noted that as per the schedule of collection of payment provided under section 5(iii)(b) of Affordable Group Housing Policy 2013, it is time linked payment plan instead of construction linked payment plan. Further as per Section 19(6) of the Act, 2016, every allottee, who entered into an agreement, shall be responsible to make necessary payment within the time period as specified in the said agreement. The relevant para is reproduced below:

"Section 19 Rights and Duties of Allottees

19 (6) Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under section 13, shall

be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any."

21. On 19.06.2020, the respondent published a list of defaulters for payments in the daily Hindi newspaper "Gurgaon Mail". Finally, the cancellation letter has been issued by the respondent on 03.09.2021. The respondent has cancelled the unit as per the provisions of the policy and is hereby held valid. But there is nothing on record to show that the respondent has refunded the balance amount after deduction of Rs.25,000/- as per the provisions of clause 5(iii)(i) of the Affordable Housing Policy, 2013. Therefore, the respondent is directed to refund the paid-up amount of Rs.7,31,251/- to the complainant after deduction of Rs.25,000/- as per the provisions of clause 5(iii)(i) of the Affordable Housing Policy, 2013 along with interest at the prescribed rate i.e., 10.85% per annum as prescribed under rule 15 of the Rules, 2017, on such balance amount from the date of cancellation i.e., 03.09.2021 till its actual realisation.

H. Directions of the authority

22. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:
- The respondent is directed to refund the paid-up amount of Rs.7,31,251/- to the complainant after deduction of Rs.25,000/- as per the provisions of clause 5(iii)(i) of the Affordable Housing Policy, 2013 along with interest at the prescribed rate i.e., 10.85% per annum as prescribed under rule 15 of the Rules, 2017, on such balance amount from the date of cancellation i.e., 03.09.2021 till its actual realisation.



- ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequence would follow.

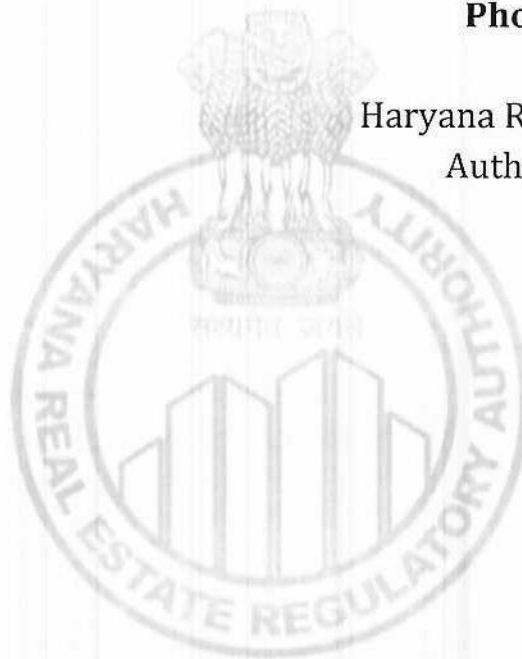
23. The complaint stand disposed of.

24. File be consigned to registry.

Dated: 13.11.2025


Phool Singh Saini
Member

Haryana Real Estate Regulatory
Authority, Gurugram

**HARERA**
GURUGRAM