

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

Complaint no.: 4347 of 2023
Order reserved on: 09.10.2025
Order pronounced on: 13.11.2025

Balvinder Daria

R/o: House No.1330 G, Sector-19, Housing Board
Colony, Panchkula -134109.

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:

Shir Arun Kumar

Shri Phool Singh Saini

Chairman

Member

APPEARANCE:

Shri Devinder Singh and Shri Sumit Tanwar (Advocates)
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.	805, 8 th floor, Tower-6. (page 16 of complaint)
8.	Unit Admeasuring	644 sq. ft. carpet area and 100 sq. ft. balcony area (page 16 of complaint)
9.	Allotment Letter	20.05.2017 (page 12 of complaint)
10.	Approval of Building Plan	26.09.2016 (page 73 of complaint)
11.	Environmental Clearance	30.11.2017 (page 77 of complaint)
12.	Date of execution of buyer's agreement	19.08.2017 (page 15 of complaint)
13.	Possession Clause as per buyer's agreement	5.2 Possession Time <i>The company shall sincerely endeavor to complete the construction and offer the possession of the said unit within</i>



		five years from the date of receiving of license ("Commitment Period") ... [Emphasis supplied] (page 26 of complaint)
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 no.9/3-2020 dt. 26.05.2020. [Note: The due date is calculated from the date of environmental clearance (31.11.2017), being later.]
16.	Sale consideration	Rs.26,26,000/- (as mentioned in BBA at page 19 of complaint)
17.	Total amount paid	Rs.19,77,758/- (as alleged in para 12 at page 6 of complaint also as per disbursed amount as mentioned in Loan account statement at page 60 of complaint)
18.	Tripartite Agreement (M/s Capri Global Housing Finance Limited)	11.08.2017 (As per the date on stamp paper at page 53 of complaint)
19.	Occupancy Certificate	Not obtained
20.	Offer of possession	Not offered

21.	Demand letter	04.11.2019 & 04.05.2020 (As per the documents provided by the respondent.)
22.	Newspaper Publication (Gurgaon Mail)	19.06.2020 (As per the documents provided by the respondent during proceedings dated 21.08.2025)
23.	Cancellation of unit	21.07.2021 (as per the para 4 of reply to the legal notice at page 85 of complaint also as per the documents provided by the respondent during proceedings dated 21.08.2025)
24.	Re-allotment to new allottee [Mrs. Sonika Belwal]	31.05.2022 (As per the documents provided by the respondent during proceedings dated 21.08.2025)
25.	Legal Notice by allottee (Claiming possession and adjustment of interest on account delayed possession)	13.03.2023 (page 78 of complaint)
26.	Reply to the legal notice dated 13.03.2023	05.04.2023 (page 83 of complaint)

B. Facts of the complaint

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

- I. That the complainant is a law abiding citizen of India, who is resident of house no. 1330 G, Sector- 19, Housing Board Colony, Panchkula-134109 and had applied for booking of a 2 BHK, Type II flat vide application dated 15.10.2016 in the Affordable Housing Project of the Respondent Company under the name and style of "EXPRESSWAY TOWERS" located in Sector 109, Gurugram, Haryana.
- II. That the respondent is a company incorporated under the companies Act, 1956 and having its registered office at 505-506, 5th Floor, Tower-B4, Spaze

IT Park, Sohna Road, Gurugram-122018 and claims to be one of the leading real estate company.

- III. That the respondent is engaged in the construction and development of real estate projects and is responsible for the development of the project, hence, is a promoter under Section 2(d) of the Act. That the affordable Housing real estate project "Expressway Towers" at Sector 109, Gurugram, Haryana came to the knowledge of the complainant through its authorized representatives, for and on behalf of the respondent making tall claims in regard to the project and the respondent lured the complainant for booking a Unit in the above said project of the respondent.
- IV. That pursuant to draw conducted by respondent on 19.05.2017 the complainant was declared successful and were intimated by the respondent vide allotment letter dated 20.05.2017 bearing customer code OSB/ET/2BC2/1058 for allotment of unit /flat No. 805, Tower-"6", 8th Floor, having admeasuring 644 sq. ft. carpet area and 100 sq. ft. balcony area in Expressway Towers, Sector-109, Gurugram, Haryana.
- V. That relying on the representations, warranties and assurances of the respondent about the timely delivery of possession, and accordingly the respondent had executed buyer's agreement on dated 19.08.2017 for the sale of the flat/ unit for a total sale consideration of Rs.26,26,000/-
- VI. A tripartite agreement was also executed amongst complainant, the respondent and the lender i.e. M/s Capri Global Housing Finance Ltd on 11.08.2017.
- VII. Thereafter, with dream of owning a house which was advertised to be a progressive and aesthetic property, the complainant took a housing loan for Rs.23,12,886/- from Capri Global Housing Finance Ltd.

- VIII. That the M/s Capri Global Housing Finance Limited had disbursed the loan amount of Rs.19,77,758/-.
- IX. That the builder buyer agreement was executed between the parties on dated 19.08.2017 and as per clause 5.2 of the builder buyer's agreement, the respondent had agreed to deliver the possession of the flat within 60 months (five year) from the date of receiving the license and as per para (A) of the builder buyer agreement. Therefore, their license bearing no. 6 of 2016 was issued to the respondent on dated 16.06.2016 and approval of building plan on dated 26.09.2016 and environment clearance on dated 30.11.2017.
- X. That the possession clause of the agreement is not in accordance with the date of completion stipulated in the Affordable Housing Policy, 2013. Clause 1(iv) of Affordable Housing Policy, 2013 stipulates 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 environment clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy"
- XI. The Policy prevails over any agreement executed inter se the parties and thus, the due date of possession is to be calculated in accordance with the policy. That the date of approval of environment clearance has been given as 30.11.2017. Whereas, the date of sanction of building plan is 26.09.2016. The due date of possession is calculated from the date of sanction of environmental clearance i.e.; 30.11.2017, being later which comes out to be 30.11.2021.
- XII. That even after approx. 2 years of delay, the respondent has not handed over the possession of the unit, till date. The respondent has instead always been vague and ambiguous in the speaking about the status of development in the project. It must be noted that the project is still not in a position to be

completed any time soon and the respondent has only delaying the construction by giving frivolous excuses.

- XIII. That the total amount paid by the complainant is of Rs.19,77,758/- towards the total sales consideration of the flat. Therefore, the complainant has already paid around 80% of the total cost of the unit till 31.05.2019.
- XIV. That thereafter, the malafide conduct and unlawful activities of the respondent continued to be seen in its conduct as the delivery of the possession has been delayed by a very long period of almost 2 years and have consequently caused the Complainant to go through mental agony and financial distress.
- XV. That the complainant had sent a legal notice to the respondent on dated 14.03.2023 regarding the payment of interest on account of delayed possession. Thereafter, the respondent replied to the legal notice and mentioned in para no.4 of reply and stated that the respondent has cancelled the flat/unit of the complainant vide letter dated 21.07.2021.
- XVI. that the complainant has paid around 80 % of the total cost of the unit till 31.05.2019. Thereafter, the complainant had stopped the payment in terms of payment schedule as the construction was not going on at that time.
- XVII. That the respondent had mentioned in para no 5 of reply to legal notice that "Possession must be offered after obtaining occupation certificate. Whereas the respondent has neither issued offer of possession nor occupation certificate has been granted to the respondent till date. Which is evident is from the latest status report generated on dated 30.07.2023 from the site of Department of Town & Country Planning Government of Haryana that no OC has been granted to the respondent till date.

- XVIII. That the respondent paying absolutely no heed to the requests and inquires of the complainant, keeping the complainant in the dark and consequently caused the complainant to go through mental agony and financial distress.
- XIX. That neither occupancy certificate nor intimation of offer of possession has been issued to the complainant and the complainant could not, in any whatsoever, anticipate the delivery of the possession of the property.
- XX. That even after an inordinate delay of almost 2 years, the project has not yet received the OC and is not anticipated to receive the same. That the complainant cannot be allowed to be left in the lurch for a long period of time.
- XXI. That the respondent has unlawfully and illegally cancelled the flat/unit of the complainant without any cancellation letter and without any intimation even after paying almost 80% of the total sales consideration.
- XXII. That the respondent does not conduct his business in a bona fide manner as he has previously defaulted in obliging by his responsibility, this authority has in the case of similar facts of delayed possession and refund in Rajni Kukreja V/s M/s Ocean Seven Buildtech Pvt Ltd (Complaint no. 4086 of 2020), Mrs Narita Yadav & Anr V/s M/s Ocean Seven Buildtech Pvt Ltd (Complaint no. 77 of 2020), Vinod Kumar V/s M/s Ocean Seven Buildtech Pvt Ltd (Complaint no. 3487 of 2020) against the same respondent in same project and held the respondent liable for delay in delivery of possession and refund directed them to pay the interest and refund at the prescribe rate.
- XXIII. That the present case is a clear exploitation of innocence and beliefs of the complainant and an Act of the respondent to retain the complainant hard-earned money illegally.
- XXIV. That the facts and circumstances of the present case clearly makes out a case where the respondent has blatantly failed to perform its obligation to give

position in terms of the buyer's agreement and hence in the present scenario complaint is filed under section 31 of the Act, 2016.

- XXV. That the respondent has utterly failed to fulfil his obligation to deliver the possession of the apartment in time and adhere to the contentions of the agreement which has caused mental agony, harassment and huge losses to the complainant, hence the present complaint.

C. Relief sought by the complainant: -

4. The complainant has sought following relief(s):
 - I. To direct the respondent to terminate the cancellation letter which he has mentioned in para no. 4 of the reply to the legal notice;
 - II. To direct the respondent to provide the complainant with prescribed rate of interest on delay in handing over of possession of the unit/ flat on the amount paid by the complainant from the due date of possession as per the buyer's agreement till the actual date of possession of the apartment;
 - III. To direct the respondent to submit an affidavit stating the anticipated date of delivery of possession and hand over the possession of the apartment by such date.
 - IV. To direct the respondent to pay Rs.1,00,000/- for the litigation costs.
 - V. To pass any such direction, as may be deemed fit, under section 37 & 38 of the Act, towards giving effect to any or more of the above sought relief.
5. The Authority issued a notice dated 15.09.2023 of the complaint to the respondent by speed post and also on the given email address at corporate@osbgroup.co.in for putting in appearance and for filing reply within 30 days. The counsel for the respondent appeared on 06.10.2023 and he was directed to file reply within the stipulated period. However, after giving sufficient opportunities on 14.10.2023, 21.03.2024 and 16.05.2024, no reply has been filed by the respondent. Therefore, in view of above, vide

order dated 04.07.2024, the defence of the respondent was struck off. Further, during proceedings dated 21.08.2025, the counsel for the respondent stated that as per the provisions of the Affordable Housing Policy, 2013 and on default by the complainant, the unit of complainant was stands cancelled way back in the year 2021 and re-allotted to fresh allottee and requests for filing the documents pertaining to the newspaper publication, cancellation and fresh allotment and submitted a copy of newspaper publication dated 19.06.2020, cancellation letter dated 21.07.2021 as well as allotment letter of new allottee dated 31.05.2022 and supplied a copy of the same to the counsel for the complainant.

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 undisputed documents and submission made by the parties.

D. 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.

D.I Territorial jurisdiction

8. 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.

D.II Subject matter jurisdiction

9. 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.

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 complainant at a later stage.

E. Findings on the relief sought by the complainant.

- E.I To direct the respondent to terminate the cancellation letter which he has mentioned in para no. 4 of the reply to the legal notice;
- E.II To direct the respondent to provide the complainant with prescribed rate of interest on delay in handing over of possession of the unit/ flat on the amount paid by the complainant from the due date of possession as per the buyer's agreement till the actual date of possession of the apartment;
- E.III To direct the respondent to submit an affidavit stating the anticipated date of delivery of possession and hand over the possession of the apartment by such date.
- E.IV To pass any such direction, as may be deemed fit, under section 37 & 38 of the Act, towards giving effect to any or more of the above sought relief.

11. 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.
12. The complainant was allotted unit no.805 on 8th floor, in tower - 6, in the project "Expressway Towers" by the respondent/builder for a total consideration of Rs.26,26,000/- under the Affordable Group Housing Policy 2013. Subsequently on 11.08.2017, the complainant, respondent and M/s Capri Global Housing Finance Limited entered into a tripartite agreement, vide which M/s Capri Global Housing Finance Limited i.e., financial institution has sanctioned a loan of Rs.23,12,886/- to the complainant. That a buyer's agreement was executed interse parties on 19.08.2017 and as per Affordable 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.19,77,758/- up to 31.05.2019 and the complainant is willing to retain the allotted unit in question.
13. The counsel for the respondent states that the unit has been cancelled on 21.07.2021 after issuance of demand letter dated 04.11.2019 and 04.05.2020 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. Subsequently, the complainant also sent a

legal notice letters dated 13.03.2023 to the respondent to provide the possession of the allotted unit and payment of delay possession charges.

14. Now, the question before the authority is whether this cancellation letter dated 21.07.2021 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".

15. It is observed that the complainant failed to pay the remaining amount as per schedule of payment which becomes due on 04.11.2019 and 04.05.2020 after this published a notice in the newspaper on 19.06.2020 which led to issuance of notice for cancellation by the respondent/builder dated 21.07.2021.
16. 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."

17. 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 21.07.2021. 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.19,77,758/- 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., 21.07.2021 till its actual realisation.
18. Out of total amount so assessed, the amount paid by the financial institution i.e., M/s Capri Global Housing Finance Limited be refunded first to the financial institution and the balance amount along with interest will be refunded to the complainant. Further, the respondent is directed to get the NOC from financial institution i.e., M/s Capri Global Housing Finance Limited and give it to the complainant within a period of 30 days of this order.
- E.V To direct the respondent to pay Rs.1,00,000/- for the litigation costs.**
19. The complainant is seeking above mentioned relief w.r.t legal expenses. The Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)*, has held that the adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of legal expenses.

F. Directions of the Authority

20. 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:

- i. The respondent is directed to refund the paid-up amount of Rs.19,77,758/- 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., 21.07.2021 till its actual realisation.
- ii. Out of total amount so assessed, the amount paid by the financial institution i.e., M/s Capri Global Housing Finance Limited be refunded first to the financial institution and the balance amount along with interest will be refunded to the complainant.
- iii. The respondent is further directed to get the NOC from financial institution i.e., M/s Capri Global Housing Finance Limited and give it to the complainant within a period of 30 days of this order.
- iv. 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.

21. Complaint as well as applications, if any, stand disposed off accordingly.

22. File be consigned to registry.


(Phool Singh Saini)
Member
(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.11.2025