HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Date of decision:	09.10.2025

Name of the Builder/ Respondent Project Name		RPS INFRASTRUCTURE LTD RPS AURIA RESIDENCIES, SECTOR -88, FARIDABAD.		
Sr. no.	**Complaint no.**	**Title of the case**	**Appearance on behalf of the complainant (through VC)**	**Appearance on behalf of the respondent (in person)**
1.	271 of 2022	Divija Gupta Vs RPS Infrastructure Ltd.	Adv. Munish Gupta	Adv. Garvit Gupta
2.	272 of 2022	Divija Gupta Vs. RPS Infrastructure Ltd.	Adv. Munish Gupta	Adv. Garvit Gupta
3.	273 of 2022	Divija Gupta Vs. RPS Infrastructure Ltd.	Adv. Munish Gupta	Adv. Garvit Gupta
4.	277 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd.	Adv. Munish Gupta	Adv. Garvit Gupta
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19.	292 of 2022	Ritu Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
20.	293 of 2022	Ritu Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
21.	294 of 2022	Ritu Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
22.	295 of 2022	Ritu Gupta Vs.	Adv. Munish Gupta	Adv. Garvit Gupta

		RPS Infrastructure Ltd		
23.	296 of 2022	Ritu Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
24.	297 of 2022	Ritu Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
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45.	318 of 2022	Sukrit Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
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48.	321 of 2022	Nitin Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
49.	322 of 2022	Bhuvan Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
50.	323 of 2022	Bhuvan Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
51.	324 of 2022	Saroj Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
52.	364 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
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66.	379 of 2022	Saroj Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta
67.	390 of 2022	Nitin Gupta Vs. RPS Infrastructure Ltd	Adv. Munish Gupta	Adv. Garvit Gupta

CORAM:

Parneet S Sachdev	**Chairman**
Nadim Akhtar	**Member**
Dr. Geeta Rathee Singh	**Member**
Chander Shekhar	**Member**

Hearing: 11th in all cases

ORDER (PARNEET S SACHDEV - CHAIRMAN)

1. Above captioned complaints are taken up together for hearing as facts and grievances to be addressed in all the complaints involve same issue and are related to the same project namely, "RPS AURIA RESIDENCIES", situated at revenue estates of Village Baselwa & Palwali, Sector-88, Faridabad, Haryana. Therefore, final order is being passed by taking the Complaint No. 271 of 2022 titled "Divija Gupta Vs. RPS Infrastructure Ltd", as a lead case for deciding all captioned matters.

2. Present (lead) complaint has been filed on 10.03.2022 by the complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

3. The facts of all the complaints filed by the complainants are broadly similar. However, for the sake of clarity these complaints have been classified into the following three categories:

Category I: Lead Case being Complaint No. 271 of 2022

Sr. no.	Complaint no.	Title of the case	Documents on record
1.	271 of 2022	Divija Gupta Vs RPS Infrastructure Ltd.	Memorandum of Understanding dated 27.10.2024 of Ms. Divija Gupta is attached and receipts are placed on record.
2.	272 of 2022	Divija Gupta Vs. RPS Infrastructure Ltd.	
3.	273 of 2022	Divija Gupta Vs. RPS Infrastructure Ltd.	

Category II: Lead Case being Complaint No. 277 of 2022

Sr. no.	Complaint no.	Title of the case	Documents on record
1.	277 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd.	In this category, reliance is placed on the Memorandum of Understanding dated 27.10.2014 executed in the name of Ms. Divija Gupta. It is pertinent to note that she is not a complainant in these cases. Apart from this document, no corresponding agreements of complainants have been filed; only payment receipts have been placed on record.
2.	278 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd.	
3.	279 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd.	
4.	280 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd.	
5.	281 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd.	
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47.	323 of 2022	Bhuvan Gupta Vs. RPS Infrastructure Ltd	
48.	324 of 2022	Saroj Gupta Vs. RPS Infrastructure Ltd	

Category III: Lead Case being Complaint No. 364 of 2022

Sr. no.	Complaint no.	Title of the case	Documents on record
1.	364 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd	Complainants have placed on record Ledger Accounts of the respondent wherein certain unit numbers are reflected, along with their corresponding bank statements.
2.	365 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd	
3.	366 of 2022	Chaman Lal Gupta Vs. RPS Infrastructure Ltd	
	367 of 2022	Ritu Gupta Vs. RPS Infrastructure Ltd	
4.	368 of 2022	Ritu Gupta Vs. RPS Infrastructure Ltd	
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13.	378 of 2022	Nitin Gupta Vs. RPS Infrastructure Ltd	
14.	379 of 2022	Saroj Gupta Vs. RPS Infrastructure Ltd	
15.	390 of 2022	Nitin Gupta Vs. RPS Infrastructure Ltd	

A. FACTS OF THE CASE AS STATED IN THE COMPLAINT

4. That the complainant approached respondent for allotment of a unit in the project "RPS Auria Residencies" situated in the revenue estate of Village Baselwa & Palwali, Sector 88, Faridabad.

5. That the respondent agreed to allot Unit No. T-05-1205 admeasuring 1565 sq. ft. to the complainant for a total sale consideration of ₹67,17,181/-. That against the said unit, the complainant paid a sum of ₹25,00,000/- for which the respondent

issued receipt No. 43511 dated 24.07.2015. A copy of the said receipt is annexed with complaint as Annexure C-1.

6. That pursuant to this, a Memorandum of Understanding was executed between the parties, wherein it was agreed that vide clause 6 of MoU in event of complainant being not satisfied with the development of the unit, the complainant would have right to surrender the unit as per option I and Option II. Copy of the MoU dated 27.10.2014 is attached as Annexure C-2.

7. The said MoU was executed in relation to three units, including the unit in question. The complainant had paid a total of ₹75,00,000/- for all three units, including ₹25,00,000/- for the subject unit. Copies of the receipts in respect of the second and third units are annexed as Annexure C-3, and the complainant's bank statement reflecting payment of ₹25,00,000/- on 27.10.2014 is annexed as Annexure C-4.

8. As per Option II under Clause 6 of the MoU, the complainant was entitled to a resale consideration of ₹50,00,000/- per unit, totalling ₹1,50,00,000/-, upon surrender of the units after completion of 50 months.

9. Being dissatisfied with the progress of the project, the Complainant exercised Option II and surrendered the unit vide email dated 10.09.2018, also sent by registered post on 11.09.2018 requesting release of the resale consideration amount as per the terms of the MoU. Copies of the email and postal receipt are annexed as Annexure C-5.

10. That the Complainant again submitted Option II under Clause 6 vide letter dated 30.11.2018 vide registered post dated 01.12.2018, reiterating the request for resale consideration. Despite repeated communications, the Respondent neither replied nor refunded the agreed amount.

11. That after waiting for a considerable period, the complainant visited the respondent's office in July 2019 and was assured that the refund would be made at the earliest along with interest @2% per month. The complainant made further follow-up visits in February 2020 and June 2020, where similar assurances regarding payment with interest were reiterated by the respondent.

12. That the complainant asserts that despite receiving more than 10% of the total sale consideration amount qua the unit in question, the respondent company has failed to execute a Builder Buyer Agreement, thereby violating Section 13 of the Real Estate (Regulation and Development) Act, 2016.

13. It is the case of the complainant that the respondent has been misappropriating his hard-earned money amounting to ₹25,00,000/- since July 2014 and must be held accountable in terms of the MoU dated 27.10.2014.

14. It is further alleged that the Respondent has resold the same unit to third parties and that the project remains incomplete entitling the Complainant to withdraw from the project.

15. Therefore, being aggrieved by the conduct of the respondent, complainant has filed the present complaint before this Hon'ble Authority for seeking the reliefs as prayed as under

B. RELIEFS SOUGHT

16. The complainant in his complaint has sought following reliefs:

(i) The respondent be directed to make payment of Fixed Resale Consideration, amounting to Rs. 50 Lacs, as agreed vide clause 6 of the MOU dated 27.10.2014, (i.e. upon completion of 50 months from the date of MOU), as Option 2 was submitted by the complainant.

(ii) The respondent be directed to make payment of interest @24% per annum (2% per month) qua the delayed period from 27.12.2018 onwards, on the amount of Rs. 50 lacs, in view of clause 6 of MOU dated 27.10.2014

(iii) The respondent be directed to make payment of Rs. 10 lacs, on account of compensation towards mental harassment and torture suffered by the complainant at the hands of respondent.

(iv) The respondent be directed to make payment of litigation expenses to the tune of Rs. 55,000/-.

C. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Ld. Counsel for the respondent no.1 has filed a detailed reply on 21.09.2022 pleading therein as under :-

17. That the present complaint is not maintainable and is liable to be out-rightly dismissed as the present complaint has been filed without any locus standi or cause of action against the respondent.

18. That the complainant and her family members are family and friends of the directors of the respondent company. They are investor partners/ financers of the

respondent company and have advanced money to respondent from 2007-2008 onwards.

19. That the directors of the respondent company have returned the amounts advanced by the complainant and her family, as is evident from the statement of account annexed as Annexure R-2

20. That the complainant along with her family members had advanced financial assistance to the respondent during the year 2014 2015. As a token of acknowledgment and by way of security for repayment of the said amount, a receipt came to be executed.

21. That the complainant had categorically admitted and acknowledged that the said receipt was neither meant to be acted nor acted upon the same as these were issued only for security for repayment of the aforesaid amount. The complainant was well aware that neither they had applied for allotment nor any property was allotted to her by the respondent.

22. That the respondent throughout had agreed to the terms but unfortunate events happened among the brothers of the complainant that the complainant has filed the present complaint.

23. That the complainant has relied upon a purported "Memorandum of Understanding" stated to be executed between the respondent and the complainant. The respondent denies execution of any such document and has submitted that the alleged MoU is forged, fabricated, bogus, and incapable of reliance.

24. Further, he stated that only an "Allottee" as defined under section 2(d) of the RE(R&D) Act, 2016 can avail remedies against a promoter/ builder under the act. That the complainant is neither an allottee, representative of an allottee, any agent nor any other concerned person. A lender who assisted the respondent with the finance cannot be equated with an allottee.

25. That even if the said MoU is considered, it is a non-binding, unregistered document that merely records an intention to enter into an agreement and cannot be equated with an "agreement". That no allotment letter or agreement was issued, and Clause 21 of the MoU itself confirms that no final allotment was made. He added that there was no intention to create any legal/ builder- buyer relationship of an allottee and that the MoU contains no terms regarding due date of possession or procedure for taking possession, which no genuine buyer would omit. It is thus evident that the MoU was never intended to be acted upon.

26. That the relief sought by the complainant pertains to specific performance of a MoU alleged to have been entered into between the complainant and respondent which cannot be adjudicated by this authority as the remedy does not lie with it. Since, this authority only has power to adjudicate and grant reliefs to the extent of refund of the deposited amount and delayed possession charges as per the agreement, if any in existence which is missing in the present complaint.

27. Further, all rights under RE(R&D) Act, 2016 arise only out of an Agreement. It is submitted that as per Section 11(4) of the RE(R&D) Act, 2016, the promoter/builder is responsible to an 'allottee' as per the agreement for sale only.

Even as per Section 18 of the RE(R&D) Act, 2016, a genuine allottee could seek relief of either refund or delayed possession charges if the promoter/builder fails to abide by the terms of the Agreement. Moreover, the rights and liabilities of an allottee under the RE(R&D) Act, 2016 arise out of an Agreement and the same is evident from a bare perusal of Section 19(1)(2)(4) and (6) of the said Act.

28. It is alleged that the complainant has approached this Authority only to avoid the jurisdiction of the civil court, which would involve payment of substantial court fees.

29. That the document styled as "receipt" contains none of the essential elements of a valid contract, i.e., offer, acceptance, consideration for the alleged purpose, intention to create legal relations, capacity, and certainty. There is no iota of evidence that there was "consensus ad idem" regarding allotment of any unit in the project of the respondent.

30. That the respondent has averred that even if the MoU is considered, the following points have to be considered-

(i) That the claim is barred by limitation. The alleged cause of action arose in 2014, and the time limit to seek relief from the appropriate forum would have been three years from the date of the alleged cause of action accrued.

(ii) That even as per Clause 6(i) of the alleged MoU, a decision to surrender the unit was to be communicated three months prior to the expiry of the 50-month period from the date of execution. Assuming execution on 27.10.2014, the 50-month period would lapse on 26.12.2018, and intimation was required by 26.09.2018. No

such specific request was made by the complainant instead, reliance is placed on an email dated 10.09.2018 sent by another family member without necessary particulars.

(iii) That the alleged Mou contains no terms regarding due date of possession or procedure for taking possession, which no genuine buyer would omit if his intent is to take posession. It is thus evident that the MoU was never intended to be acted upon.

(iv) That the complainant was bound to make payment towards the total sale consideration. No payment demand was sought by the complainant as she was aware that there was no allotment with the respondent. He has also relied on section 51 of Indian Contract Act, 1872. As per Section 51 of the Act, a promisor is not bound to perform unless the promisee is ready and willing to perform the reciprocal promise.

(v) Further, as per Clause 17 of the alleged MoU, any dispute, if any, was to be referred to arbitration.

31. That the complainant has not come with clean hands and the present complaint deserves to be dismissed with heavy costs.

D. REJOINDER TO THE REPLY OF THE RESPONDENT

Ld. Counsel for the complainant has filed a rejoinder on 20.07.2023 and made the following assertions:

32. That the payment made in each case was duly acknowledged by the respondent by issuing respective receipts and perusal of said receipts would show specific project name, tower number and unit numbers.

33. That in some cases, MoU were also executed, providing for option to the complainant to seek refund after a certain period of time. In exercise of which the complainant opted for same by sending notices through emails as also via registered post but due to non-refund the complainant has filed present complaint.

34. That the respondent's objection regarding the MoU being forged is denied as the same is duly stamped and signed by respondent and contains the details of payment made.

35. That the signatures of the Authorised representatives of respondent company, i.e., Mr. Rajesh Jain who being authorised signatory has also filed the reply are evident. The allegation thus, is uncalled and unwarranted. Additionally, he has not denied receipt of email/ letters sent via post.

36. That the respondent has in the alternative, sought to rely upon the terms of the MoU and contended that since it contains an arbitration clause, this Authority lacks jurisdiction. However, it is a settled that the provisions of the Real Estate (Regulation and Development) Act, 2016, being a special statute enacted to protect the interests of allottees, are not ousted by Section 8 of the Arbitration and Conciliation Act, 1996. Accordingly, the presence of an arbitration clause does not divest this Authority of its jurisdiction.

37. That respondent has referred to the amounts received by them to be a financial assistance and alleged that the receipt is just for security purpose. However, he has not denied issuance of receipt despite that it contained all the unit details. Now respondent is trying to back away from the allotment made to complainants because of the reason that the respondent has mortgaged the entire project including the units in question to L&T Finance Limited.

38. Said fact of mortgaging the project came into knowledge of complainant when a public notice was issued by L&T Finance Limited a notice had also been issued by complainant to L&T finance Limited for withdrawal of the said public notice as the unit which has been allotted to the complainant, could not have been mortgaged by respondent.

39. That respondent has failed to point out under what provision of law a promoter is entitled to receive investments in lieu of promising returns.

40. That respondent has annexed a ledger statement with the reply however such statement cannot be relied upon as it is an internal and personal document of respondent.

41. That the complainant has been made to part with substantial amounts under the disguise of allotments made and is now denying execution of the documents itself although receipts of payments have been admitted.

42. That it is denied that complainant is not entitled to invoke jurisdiction of this authority as he falls under the definition of "Allottee" as huge amounts have been accepted by respondent and further, allotments have been made, and in some

cases where allotments have not been made same would amount to violation of section 13 of RERD Act, 2016.

E. ADDITIONAL SUBMISSIONS ON BEHALF OF RESPONDENT

Ld. Counsel for the respondent has filed additional written submissions on 17.07.2025 and made the following assertions:

43. That the complainants are related by blood with Mr. Shanti Prakash Gupta, the chairman of respondent company and being immediate family and friends, they used to invest with the respondent company since 2007-08. The directors of respondent company have returned the amount deposited by them and entire amount stands returned to the complainant till 2013-2014.

44. That the respondent has put forth his submissions according to category of cases.

With respect to the category I- i.e, complaint nos, 271,272 & 273 of 2022- wherein the complainant is seeking specific performance on the basis of the alleged MoU placed on record. The respondent has made following submissions-

(i) That the alleged MoU has been shown in the name of Divija Gupta who was a minor at the time of execution of the MoU. The same has been signed by Mr. Nitin Gupta without disclosing in what capacity he has signed. Said MoU is not supported by any guardianship certificate for executing the said MoU on behalf of minor. That a third party cannot sign an agreement/ MoU on behalf of other party until and unless other party has authorised the third party to do us.

(ii) That the complainant has sought relief of "Payment of fixed sale consideration" amounting to Rs. 50 lakhs each by relying on clause 6 of MoU dated 23.08.2014

which does not fall within the ambit of reliefs which can be granted by the Authority.

(iii) That the complainant has failed to show under which provision of the RE(R&D) Act, 2016 is this relief claimed since it is neither relief of possession or refund rather a financial return. Additionally, it is averred that the same has been done to evade jurisdiction of a civil court for which a court fees is requisited. Even if MoU is taken for consideration, it was never meant to create a builder buyer relationship or does not confer any right upon the complainant.

(iv) That the subject matter transaction is only the financial help extended by the complainants and by no means can constitute to be an allotment making the complainants "allottee" falling within the definition defined under section 2(d) of the RE(R&D) Act, 2016. In contrast, under the alleged MoU it is stipulated as "agreed to allot" and thus not an allotment in existence at the time of MoU when read together with other clauses of MoU.

(v) That no application form was filled in to initiate the process of allotment due to the fact that the subject matter transaction is only the financial help and not in any manner constitutes an allotment of a unit rather is a direct remittance of a uniform amount of Rs. 25,00,000/- per complainant for all these matters.

(vi) That the allotment was merely a future possibility, contingent upon the complainant exercising the option to this effect. Clause 8 of the MoU expressly keeps the date of possession in abeyance during the subsistence of the MoU, as the question of allotment would arise only after 24 months in the event the

complainant elected to opt for allotment instead of availing repayment of the fixed sale consideration. It is thus submitted that this is not a case where the deemed date of possession is absent, but rather one where the allotment itself stood suspended for 24 months, dependent entirely on the complainant's election either to seek allotment or to exit. That the abeyance of the terms of possession indicates non- allotment.

(vii) Further, as per clause 7 of the MoU, respondent had a right to return the amount deposited to complainant after 24 months till 50 months. Such clause was added to allow the respondent to return the amount advanced by complainant in future in case it has sufficient funds which never happens in case of booking or allotment. Thus, it implies that it was not an allotment.

(viii) Further, clause 7 makes it explicit that the allotment of the earmarked unit would only arise if the complainant chose to exit the MoU or exercise the option to avail allotment instead of availing the fixed resale consideration and/ or the assured interest as the case may be. Subsequent to such condition only the terms regarding BBA execution, payment plan adherence, and formal allotment would come into effect. Upon conjoint reading of the clauses of MoU it is clear that the allotment was contingent upon the election of complainant after 24th month- 50th month either to exit after taking a fixed resale construction or to get the allotment finalised in his favour after execution of necessary doucuments pertaining to such allotment.

(ix) That Clause 2 of the alleged MoU mentions a "down-payment plan" but no such plan has been annexed. Even if such plan is presumed, the complainant paid only 37% of the alleged Net Sale Price. Annexures A, B, and C to the MoU stipulate a pre-fixed resale consideration computed solely on the basis of this first and only payment, payable at a pre-determined time. This shows the complainants were never required or obligated to make any further payments, which is inconsistent with a genuine allotment. The absence of any payment demand and the option under Clause 6 to take pre-fixed resale consideration indicate that the transaction was investment-oriented, amounting to financial assistance and falling outside RERA's ambit.

(x) That Clause 21 of the MoU clearly shows that allotment would have arisen only if, after 24 months, the complainant opted for it. Such allotment would require execution of an allotment letter, Builder Buyer Agreement (BBA), and a payment plan. This confirms that the MoU, by itself, was never intended to be a final allotment document.

(xi) That at no stage did the complainants inquire about the construction status, development progress, or demanded execution of the BBA. Their inaction demonstrates that both parties treated the arrangement as a financial investment rather than a builder-buyer transaction, which lies outside the scope of RERA.

(xii) That the complainants themselves admitted no BBA was executed by the respondent. Even assuming that the MoU was related to allotment, the absence of

any formal communication or demand from the complainants since 2014 casts shadow on such a claim.

(xiii) That since it was a family matter involving a total of 51 units. Considering that no family would reasonably require so many units for residential purpose, indicates that it was a financial help rendered by family members to another family member.

45. **With respect to Complaint Nos. 277–324 of 2022, lead case being 277 of 2022 the respondent has made following submissions-**

(i) That the complainants have sought specific performance and payment of fixed resale consideration of ₹50 lakhs under Option 2 of Clause 6 of an MoU dated 27.10.2014, allegedly executed between one Divija Gupta and the respondent. They claim that a similar MoU was executed with them on the dates mentioned in their complaints. However, they have failed to annex any MoU signed by themselves with the respondent. It is settled law that a party seeking relief must rely on the document executed by them, not on a document executed by a third party. There is no privity of contract between these complainants and the respondent in respect of the annexed MoU, rendering them without locus standi to approach this forum for the relief sought.

(ii) That none of the complainants have ever communicated with the respondent to obtain a copy of the alleged MoU or any other document relating to booking or allotment of units.

(iii) That the only documents annexed by the complainants are payment receipts. These receipts were issued solely for acknowledging payments and cannot, by themselves, create any bilateral relationship between the parties. They do not satisfy the essential requirements of a valid contract under the Indian Contract Act, 1872 namely, a valid offer and its unequivocal acceptance.

(iv) That the mere mention of a unit number on the receipts does not constitute an allotment, as the receipts contain no terms of allotment. In the absence of any document evidencing allotment, such receipts cannot be construed as creating an allotment in favour of the complainants.

46. **With respect to Complaint Nos 364, 365, 366 of 2022, lead complaint no 364 of 2022 respondent has submitted that-**

(i) That the complainant has averred that he applied for a space in the project. However, no such booking application, allotment letter, payment plan, or receipt has been placed on record to substantiate such averment. The only document annexed is a bank statement, which by itself does not constitute proof of booking or allotment and only evidences financial assistance extended to the respondent. Mere assertion of entitlement to assured returns without placing any reliance on any contractual clause guaranteeing such return amounts to a mockery of the legal process.

(ii)That the complainant has himself admitted that the respondent in December 2017 and again in June 2020, assured him that the amount deposited would be returned along with interest for the delay. This assurance was never disputed by the complainant, which indicates that the transaction was in the nature of financial help rather than a booking. Had it been a booking, the complainant would have demanded possession instead of agreeing to the return of funds.

(iii) That the complainant has no locus standi before this forum as he is not an "allottee" under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016. There was no offer, acceptance, consideration, or intention to create legal relations between the parties. No document reflects the Total Sale Price (TSP) or the due date of possession and the complainant has failed to discharge the burden of proof.

(iv) That the respondent had paid assured interest on the financial assistance extended by the complainant, as is evident from the ledger annexed by him. This was not "assured return" arising from a booking. The respondent's accounting nomenclature distinguishes between the two: "Assured Interest" is used for transactions in the nature of loans or financial help, whereas "Assured Return" applies to sums advanced towards booking/allotment of a unit. This distinction can be corroborated from the ledgers maintained in the case of Saroj Gupta (pertaining to the RPS Infinia Project), which was a genuine booking/allotment.

47. **With respect to complaint nos. 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380 of 2022. Lead case being Complaint No 380 of 2022. The respondent has made following submissions-**

(i) That the Complainants have merely alleged that they applied for a unit in the project in question. However, no booking application, allotment letter, payment plan, receipt, or any other document evidencing such transaction has been placed on record. The only annexures are certain bank statements, which, per se, are not proof of booking or allotment. These statements merely reflect a financial transaction, which, as admitted by the Complainants themselves, was in the nature of monetary assistance extended to the Respondent.

(ii)In the absence of any document establishing a Builder Buyer relationship, the Complainants have no locus standi before this Hon'ble Authority. They do not fall within the definition of an "allottee" under Section 2(d) of the RERA Act, 2016. There was no concluded contract no offer, acceptance, consideration, or intention to create legal relations. Further, no document on record specifies the Total Sale Consideration or the due date of possession. The burden of proof lay upon the Complainants, which they have failed to discharge.

(iii) The Complainants have admitted that the Respondent assured them in December 2017, and again in June 2020, that the amount deposited would be refunded along with interest for delayed payment of assured returns. This admission establishes that the transaction was never for booking a unit but merely

for providing financial assistance. If the alleged transaction was for purchase, the Complainants would have sought possession, not repayment.

(iv) The bank statements annexed as Annexure C2 pertain to bookings made in the Respondent's other project "RPS Infinia" by the same Complainants, and not to the present project "RPS Auria." This is evident from the cheque numbers, which match those issued by the Respondent towards assured returns to these Complainants under their genuine booking in "RPS Infinia." The Complainants are put to strict proof of their claim. It is submitted that they are attempting to mislead this Hon'ble Authority.

H. ORAL SUBMISSIONS BY THE PARTIES

48. Both parties reiterated the submissions made in their respective complaints, replies and supporting documents. The issues arising therefrom have already been addressed and dealt with in the foregoing paragraphs of this order.

I. ISSUES FOR ADJUDICATION: -

Whether the complaints are maintainable and complainants are entitled to the reliefs sought or not?

J. OBSERVATIONS OF THE AUTHORITY

49. In view of the facts, circumstances, and documents placed on record, this Authority is of the considered opinion that the captioned complaints pertains to the project "RPS AURIA", located at revenue estates of Village Baselwa & Palwali,

Sector- 88, Faridabad, Haryana. The complaints revolves around the factum that the complainants and respondent are related to each other and the parties agreed to execute a purported "Memorandum of Understanding" (MoU) dated 27.10.2014, under which the complainants have claimed rights in respect of allotment of a unit in the project of the respondent. The complainants allege that the said MoU created binding obligations of allotment and possession.

50. In view of the above, the preliminary issue for determination is twofold. First, whether the complainants can be regarded as "allottees" under the Act so as to maintain the present proceedings. Second, whether the reliefs sought, namely, payment of fixed resale consideration and interest under the MoU, fall within the jurisdiction of this Authority.

51. At this stage, reference must be made to Section 31 of the RE(R&D) Act, 2016 which provides for filing of complaints. Section 31 is being reproduced below for reference-

> ***"Section 31- Filing of complaints with the Authority or the adjudicating officer.***
>
> *(1) **Any aggrieved person** may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder, against any promoter, allottee or real estate agent, as the case may be.*
> *Explanation.- For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.*
> *(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be [prescribed]."*

52. A plain and literal construction of the provision makes it clear that the right to invoke the jurisdiction of this Authority is not restricted only to "allottees." The legislature in its wisdom has consciously employed the expression *"any aggrieved person"* so as to vest locus standi in a wider category of individuals who can demonstrate that they have suffered a legal injury on account of a violation of the Act or rules made thereunder. The use of the word *"may"* in conjunction with the words *"any aggrieved person"* expands the remedial jurisdiction and ensures that technical objections do not defeat substantive justice.

53. It is therefore not an indispensable pre-condition that the complainant must necessarily fall within the definition of an "allottee" under Section 2(d) for filing of complaint before the Authority. The critical test under Section 31 is whether the complainant has established himself to be an *"aggrieved person"* in respect of an alleged violation or contravention attributable to the promoter, allottee or real estate agent. Once this threshold is crossed, next steps will come into play. In the present case, the complainants by placing reliance on the MoU and the receipts issued by the respondent, have prima facie demonstrated a grievance referable to the conduct of the promoter and accordingly fall within the ambit of an "aggrieved person" under Section 31.

54. The next question which arises for determination is whether the complainants are entitled to the reliefs sought in the present proceedings. The complainants have also contended that the demand for fixed sale consideration under the MoU is in substance, nothing but a claim for refund of the amounts paid, since possession has

not been handed over till date and the complainants had opted to surrender the unit. Reliance in this regard has been placed on Section 18 of the RE(R&D) Act, 2016.

"Section 18- Return of amount and 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:*
Provided that where an ***allottee*** *does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.*
(2) The promoter shall compensate the ***allottees*** *in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.*
(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the ***allottees,*** *in the manner as provided under this Act."*

55. A careful reading of Section 18 makes it evident that the legislature while structuring the framework under Section 18, has deliberately employed the expression "allottee". The relief of refund and compensation is therefore, legislatively circumscribed to those who qualify as allottees under Section 2(d) of the Act. The use of this restrictive terminology underscores the legislative intent to confine such statutory remedies only to genuine homebuyers or person vested with enforceable right of allotment.

56. Thus, even if for the sake of argument the complainants demand for fixed sale consideration is construed as a claim for refund, the sine qua non for availing such relief under Section 18 is that the complainants must first establish their legal character as "allottees." The critical enquiry therefore is not merely whether payment was advanced but whether such advancement culminated in a present binding allotment which would attract the statutory protections of the Act.

57. Thus, the second test is to determine whether the complainants are allottee or not. Therefore, it becomes necessary to consider the specific grounds urged by the complainants to bring themselves within the ambit of the definition of "allottee" under Section 2(d) of the Act.

58. The complainants have sought to substantiate their claim primarily on two sets of documents. First, reliance is placed on the MoU dated 27.10.2014, wherein according to the complainants, the expression "allottee" finds mention in various clauses, thereby evidencing the intent of the parties to treat the complainants as purchasers of a unit in the project. Secondly, reliance is placed upon receipts issued by the respondent company acknowledging payments. For instance, in Complaint No. 271 of 2022, the receipt dated 24.07.2014 records that a sum of ₹25,00,000/- was received by the respondent against Unit No. T-05-1205, Tower 05, specifically described as "on account of booking amount and instalment," duly signed by an authorised representative of the company. Similar receipts, containing details of unit numbers and amounts received have been produced in other captioned complaints. The complainants further argue that as per MoU, a right of surrender

was also conferred upon them, thereby vesting certain enforceable rights. The complainants contend that such receipts, coupled with the MoU constitute prima facie evidence of allotment and recognition of their status as allottees under the RE(R&D) Act, 2016. Further, on respondent's objection that this Authority has no jurisdiction to enforce MoU, the complainants contend that even if their prayer is differently worded such technical distinctions cannot render their complaint defective or non-maintainable and refund may be given under section 18. Thus, even if authority rejects MOU, builder buyer relationship can be established by the receipts issued.

59. On the other hand, the respondent has denied that the complainants qualify as allottees under the Act. It is his plea that the complainants and their family members were mere investors/financiers who had extended financial assistance to the company from time to time, which has been substantially repaid. The MoU, according to the respondent, was not an agreement for sale within the meaning of Section 13 of the Act but only a financial arrangement, contingent and revocable, conferring no present right of allotment. Respondent submitted that the complainants cannot invoke Section 18, as the statutory remedies therein are reserved to be specifically pleaded by the complainants which are not pleaded by the complainant in his prayer.

60. Having heard the submissions, this Authority is of the considered view that in order to arrive at a conclusion, it is necessary to refer to Section 2(d) of the Act which is reproduced below-

*"**2(d) "allottee"** in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"*

61. It is clear that the statutory definition of "allottee" under Section 2(d) of the Act requires that a plot, apartment, or building must be allotted, sold, or otherwise transferred by the promoter. It further contemplates cases where an existing allotment stands subsequently transferred. The determinative question, therefore, is whether in the facts of the present case there exists any valid and genuine allotment which would bring the complainants within the ambit of the said definition.

62. It is an admitted position that no allotment letter or builder buyer agreement was ever executed vis-a-vis the complainants and the respondent. The Authority is, therefore, constrained to examine whether any other document on record can be treated as equivalent to a binding allotment.

63. **In Category 1-** The complainant has relied upon two sets of documents to establish the existence of an allotment, namely: (i) the MoU dated 27.10.2014; and (ii) payment receipts mentioning unit numbers, such as the receipt dated 24.07.2014 annexed as Annexure 4 in Complaint No. 271 of 2022. In context of MoU dated 27.10.2014, respondent has raised a preliminary objection, contending that the said MoU was executed by Ms. Divija Gupta, who was a minor at the relevant time. No

cogent evidence has been produced to establish that her father was duly authorised in law to execute such an agreement on her behalf. It is difficult to comprehend how a minor in the absence of compliance with statutory safeguards could validly enter into a document purporting to create binding contractual obligations.

64. Nevertheless, for the limited purpose of ascertaining whether the MoU can be said to evidence a genuine allotment, this Authority has scrutinized the said document in comparison with the MoU filed in Complaint No. 380 of 2022 pertaining to the project "RPS Infinia". The MoU in Complaint No. 380 contains detailed clauses delineating the super area, inclusions, services, and significantly clauses 5 and 6 expressly stipulating that possession shall be delivered within 36 months from the commencement of construction. By contrast, the MoU relied upon in the present case makes only a bald reference to a unit number and area and is conspicuously silent as to amenities, payment schedule, reciprocal obligations of the parties and any timeline for possession.

65. The silence of the MoU on such vital terms casts a grave doubt on the true nature of the transaction. It is difficult to accept that a genuine homebuyer, while parting with substantial sums of money would remain unconcerned with essential stipulations such as timelines for possession, construction milestones, or facilities to be provided. The absence of these fundamental terms strongly indicates that the MoU was never intended to function as a builder buyer agreement but was in substance no more than a financial arrangement between the parties.

66. Further, inference has to be drawn to clause 6 and 7 of the MoU which are being reproduced below-

"Option 1:
That after completion of 24 months from the date of this MOU, in case Allottee is not satisfied with the development activities in the project, or due to slow development of surroundings area or due to non-development of external services by the authorities, , being a privileged customer, an option to surrender the unit is available with him. Surrender value as well as period of such surrender, in such an eventuality will be calculated as per Annexure - A attached with this MOU:
(i)That this right to surrender may be opted after completion of 24 months from the date of this MOU till 45 month with a written request to Company.
(ii)That after receipt of written request of the Allottee the Company will refund the fixed surrender value as per Annexure - A. However after receipt of such request the Allottee will have no interest/right of any nature what so ever in the unit except the right to get the fixed surrender value from the company & this MOU shall stand cancelled.
(iii)That the Allottee will have to complete all necessary formalities and will return all the original documents to the company and only after receipt of these documents, the company will start this process of surrender of unit.

"Option 2:

That after completion of 50 months from the date of this MOU, if the Allottee is not satisfied with the development of project/ area or appreciation in property prices is not visible in near future or due to any of its personal decision, an option to surrender the unit is available with him. Surrender value in such an eventuality will be calculated as per Annexure - B attached with this MOU:
(i)That allottee will have to communicate his decision to surrender the unit under Option 2 above with a written request, three months prior to end of 50 months period.
(ii)That after receipt of written request of the Allottee the Company will refund the fixed surrender value as per Annexure - B. However after receipt of such request, the Allottee will have no interest/right of any nature what so ever may be in the unit except the right to get the fixed surrender value from the company & this MOU shall stand cancelled

(iii)That the Allottee will have to complete all necessary formalities and will return all the original documents to the company and only after receipt of these documents, the company will start this process of surrender of unit.

7. That after the completion of 24 months from the date of this MOU till 50 months, if circumstances so demand, company also has the right and may exercise its right to cancel the said unit. Company will cancel the said unit and refund the cancellation value as calculated as per Annexure - C. However, Allottee has the right to reject/accept the cancellation offer of the company.
In case of acceptance by the Allottee
• On accepting, allottee will surrender the unit in favor of the company after completion of necessary formalities and after handing over all original documents to the company & this MOU shall stand cancelled.
• The Company will refund the cancellation value to the Allottee as per Annexure-C.
In case of refusal by the Allottee
(i)In such an eventuality, allottee will cease to have any opportunity to exercise any of above said option 1 and option 2 under para 6 above.
(ii) Allottee will comply with all the applicable terms & conditions of Buyer's Agreement, allotment and payment plan of the company.
(iii) Allottee will also comply with all the provision of service tax, VAT, TDS or any other tax as applicable as per terms & conditions of Buyer's Agreement and allotment."

67. A conjoint reading of Clauses 6 and 7 of the MoU indicates that the arrangement was not primarily intended to secure possession of a residential unit but rather to assure a fixed financial return to the allottee. Clause 6 provides two separate exit options: the first after completion of 24 months, in situations where the allottee was *dissatisfied with the pace of construction, external infrastructure, or surrounding development*. The expression 'surrounding development' is critical. It implies how the surroundings to the project have developed implying the rise of prices in the area. Significantly, this clause does not stipulate any binding construction schedule.

delivery timeline, or refund mechanism linked to the actual progress of the project. The second option available after 50 months, assures a fixed resale consideration on similar grounds as former one, irrespective of the stage of construction or possession. *Both alternatives, therefore, are structured around predetermined payouts rather than obligations of delivery of possession.* Clause 7 further empowers the promoter to unilaterally cancel the MoU and relegate the allottee to the terms of a builder-buyer agreement, which in the present case admittedly was never executed. These stipulations taken together reveal that the MoU bears the character of an investment arrangement promising assured returns rather than a genuine agreement for allotment of a dwelling unit. This interpretation is further fortified by the subsequent observations recorded hereinbelow.

68. Moreover, it is a settled principle that in construing a contract, the decisive factor is not the nomenclature employed but the substance and intent of the parties. Tested on this touchstone, the present MoU being bereft of the fundamental attributes of an agreement for sale as contemplated under Section 13 of the Act cannot be elevated to the status of a binding builder buyer agreement.

69. The Hon'ble Supreme Court in *Civil Appeal No. 3826 of 2020 titled as* "***Mansi Brar Fernandes v. Shubha Sharma and Anr***", while examining the nature of agreements between developers and allottees, has dealt at length the distinction between a genuine homebuyer contract and a speculative or purely financial arrangement. The Court reiterated the principle laid down in *Pioneer Urban Land and Infrastructure Ltd. v. Union of India*, wherein a clear distinction was drawn

between speculative investors and genuine homebuyers. The Hon'ble Apex Court observed as under:

"15.3 The decision of this Court in Pioneer Urban Land and Infrastructure Ltd v. Union of India (supra) drew a distinction between speculative investors and genuine homebuyers. The present case affords an opportunity to reinforce that distinction through a principled intelligible differentia."

The Hon'ble Supreme Court has clearly delineated the parameters for distinguishing a genuine homebuyer transaction from one that is purely financial in nature and unconnected with the intent of purchasing a residential unit. The following parameters were laid down to identify whether a person is a genuine homebuyer or a speculative investor:

"18.1. The determination of whether an allottee is a speculative investor depends on the facts of each case. The inquiry must be contextual and guided by the intent of the parties. Indicative factors include: (i) the nature and terms of the contract; (ii) the number of units purchased; (iii) presence of assured returns or buyback clauses; (iv) the stage of completion of the project at the time of investment; and (v) existence of alternative arrangements in lieu of possession. Possession of a dwelling unit remains the sine qua non of a genuine homebuyer's intent."

It is further added that *"Unlike financial markets – where speculation may sometimes serve a liquidity function – speculation in residential housing undermines stability, fairness, and the very object of housing development.*

Schemes of assured returns, compulsory buybacks, or excessive exit options are in truth financial derivatives masquerading as housing contracts."

The court also stated that -

"Criteria to identify speculative investors

18.4. "Speculation" has been defined in P. Ramanatha Iyer's Law Lexicon (6th edition) as "a risky investment of money for the sake of and in expectation of unusually large profits". A "speculator" is "one who practices speculation in trade or business". Two elements emerge: (i)expectation of unusually high profits, and (ii)activity in the nature of business or trade. These elements accord with the ratio of Pioneer Urban, which described speculative investors as those seeking refund or profit without an intention to occupy.

18.4.1. In Duni Chand Rataria v. Bhuwalka Brothers Ltd. this Court considered the validity of an ordinance of the State of West Bengal prohibiting speculative transactions in the jute trade. A Constitution Bench (four Judges) held that constructive delivery by intermediate parties would be valid provided that it culminated in actual delivery to the end purchaser. The Court observed:

"The mate's receipts or the delivery orders as the case may be, represented the goods. The sellers handed over these documents to the buyers against cash payment. The constructive delivery of possession which was obtained by the intermediate parties was thus translated into a physical or manual delivery of possession in the ultimate analysis eliminating the unnecessary process of each

of the intermediate parties taking and in his turn giving actual delivery of possession of the goods."

Thus, where there is an actual chain of delivery ending with possession by a genuine buyer, the transaction is not speculative. Conversely, in the present context, where there is no intention to take possession, the onus to find another buyer and effect resale is cast on the developer. Delivery in such cases is more in the nature of a lien or an option. For a genuine allottee, however, delivery and possession are a sine qua non."

Applying the above decision of the Hon'ble Apex court, is amply clear that the complainants never intended to occupy the apartments in question. With no timelines for delivery, no specifications and nothing containing to the delivery of apartments, it was obvious that the contract was only a masquerade for a housing contract. The only clauses worth mentioning are the two exit options that relate to receiving an extraordinary amount of money back, i.e, more than 15% return. It is clear that this arrangement is squarely covered by the above judgement of the Hon'ble Apex Court.

70. The further circumstance that the MoU stands executed in the name of a minor only reinforces this conclusion. While it is true that a guardian may in certain circumstances contract for the benefit of a minor, the document in question being devoid of essential clauses of a genuine builder buyer arrangement and bearing indications of a financing or investment transaction, cannot be said to operate for the minor's benefit. This Authority is therefore of the considered view that the

MoU dated 27.10.2014 does not evidence a valid allotment and cannot be treated as an agreement for sale within the meaning of the Act.

71. The complainants have further placed reliance upon receipts, annexed as Annexure 4 in Complaint No. 271 of 2022, to contend that the same constitute evidence of a valid allotment. This Authority has carefully examined the said receipts. It is not disputed the payments have been made by the complainants to the respondent, and unit numbers are also mentioned therein. However, the mere mention of a unit number on a payment receipt cannot in the eyes of law, confer upon such document the character of an allotment.

72. Further, the receipts contain no stipulation regarding the terms of sale, possession timelines, obligations of the parties, or consequences of default. The unit number mentioned is at best indicative or provisional and cannot by itself evidence acceptance of booking by the promoter. The absence of any accompanying booking form, allotment letter, or builder buyer agreement makes it clear that these receipts cannot be construed as evidencing a valid allotment under the Act.

73. A receipt is at its highest an acknowledgment of money tendered it does not, by itself embody the consensus ad idem or the reciprocal obligations which are the hallmarks of a binding agreement for sale.

74. Section 10 of the Indian Contract Act, 1872, clearly provides that all agreements are contracts only if they are made by the free consent of competent parties, for a lawful consideration and a lawful object, and are not expressly declared to be void. A valid builder–buyer agreement under the scheme of the RERA Act must

necessarily reflect such essential elements of contract formation, in addition to incorporating vital particulars such as the description of the unit, the payment plan, timelines for possession, and the rights and obligations of both parties. The receipts placed on record are conspicuously silent on these foundational aspects.

75. The legal position in this regard finds support from the judgment of the Hon'ble Punjab & Haryana High Court in ***Ganpati Infrabuild Pvt. Ltd. v. Sudarshana Duggal & Anr.,*** decided on 24.05.2012, where it was held that a mere receipt acknowledging part-payment, in the absence of material stipulations such as time for execution of sale deed, obligations of the parties, consequences of default, or proper description of the property, cannot be construed as an agreement to sell. It was emphasized that essential stipulations relevant to an agreement for immovable property were conspicuously missing, and thus the document could not create enforceable contractual obligations. Applying this principle, the receipts in the present case are nothing more than acknowledgments of payments made and cannot, in law, constitute or substitute an allotment letter or an agreement for sale.

76. In view of the above, this Authority is of the considered opinion that the receipts, though evidencing payments, cannot be elevated to the status of a binding agreement for sale, nor can they, in isolation, establish the complainants' legal character as "allottees" within the meaning of Section 2(d) of the Act.

77. The complainants have further relied upon certain correspondence, including an e-mail dated 10.09 (year not disclosed) and a letter dated 30.11.2018 (Annexure C-6). Upon scrutiny, these communications only reinforce the Authority's finding as to

the true character of the transaction. One of the e-mails carries the subject line: *"Allotment of 51 flats in RPS Auria Residencies in our family name under the scheme double the amount of investment in 50 months from the date of investment."* The very phrasing of this correspondence demonstrates in unambiguous terms, that the object of the complainants was to secure returns on investment and not to obtain possession of a dwelling unit. Likewise, the letter dated 30.11.2018 contains a demand only for refund of payment, with no reference whatsoever to possession, amenities, or performance of reciprocal obligations under a builder buyer agreement. These communications viewed cumulatively, dispel any doubt and fortify the conclusion of this Authority that the complainants never intended to act as allottees in the sense of Section 2(d) of the Act, but instead participated in what was in substance a financial arrangement. *In the absence of a lawful and binding document establishing allotment, the complainants have failed to establish their locus as "allottees" under Section 2(d) of the Act.*

Accordingly, this Authority is constrained to hold that the complainants reliefs cannot be granted by this Authority. The complainants can approach the appropriate forum.

78. **In Category II-** Complainants have asserted that a Memorandum of Understanding was executed between the parties. It is pertinent to note that while on record, an MoU executed in the name of Ms. Divija Gupta has been placed on record. However, no such MoU's of the present complainants have been filed. Reliance on the document of another complainant cannot substitute for the absence

of their own documentary evidence. In proceedings of a summary nature, this Authority cannot proceed on conjecture or import contractual terms from documents not executed by the parties before it. The only material relied upon in these cases remains the payment receipts produced by the complainants. On the evidentiary value of such receipts, detailed observations have already been made in paragraph 68 onwards, which are not reiterated here for the sake of brevity. Accordingly, the complainants could not substantiate their claim to the reliefs sought.

79. **In Category III-** Complainants have placed reliance on ledger account of respondent wherein certain unit numbers are reflected and corresponding bank statements of respective complainants. While these documents establish that payments were made, they do not by themselves evidence a valid allotment. A ledger is merely a financial record. It neither embodies mutual obligations nor satisfies the essentials of an agreement for sale. In the absence of an allotment letter or builder buyer agreement, such entries cannot create the legal status of an "allottee" under Section 2(d) of the Act. Accordingly, the complainants in Category III have also failed to establish themselves as allottees, and their claim under this Act cannot be sustained.

80. In view of aforesaid observations, this Authority is of the considered view that the complainants have failed to establish their status as "allottees" within the meaning of Section 2(d) of the Act. Accordingly, the complaints cannot be adjudicated upon

by this Authority given the facts, the circumstances and the very clear judgements of the Hon'ble Apex Court.

81. The complaints accordingly stand **disposed**. However, the complainants are at liberty to seek appropriate remedies before a competent forum with respect to the amounts claimed to have been paid to the respondent or for specific performance of the MoU.

82. File be consigned to the record room after uploading of the order on the website of the Authority.

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CHANDER SHEKHAR
[MEMBER]

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DR. GEETA RATHEE SINGH
[MEMBER]

.....
NADIM AKHTAR
[MEMBER]

.....
PARNEET S SACHDEV
[CHAIRMAN]