



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

Complaint no.: 5799 of 2024

Date of decision: 15.10.2025

M/s Foothills and Yards Real Estate Cons Private Limited
Office at: 1464, Sector-15, Part-II,
Gurugram-122002.

Complainant

Versus

M/s Green Heights Projects Pvt. Ltd.
Regd. Office at: N-71, Panchsheel Park, New
Delhi-110017.

Respondent

CORAM:

Ashok Sangwan

Member

ORDER

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

A. Unit and Project Details:

2. The details of the complaints, status of reply, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given below:

Sr. No.	Particulars	Details
1.	Name of the project	"Banni Centre Point"
2.	Location of the project	Sector-M1D, Urban Complex, Village-Nakhnaula, Sector-M-1D, Tehsil-Manesar, Gurugram.
3.	Nature of the project	Commercial Colony
4.	DTCP license no.	59 of 2009 dated-26.10.2009
5.	Registered/not registered	Registered Vide registration no. 187 of 2017 dated-14.09.2017
6.	Provisional allotment letter	01.12.2014 (As on page no. 22 of complaint)
7.	Letter for change of unit from GF-020 to GF-059	24.02.2015 (As on page no. 34 of complaint)
8.	Office/Shop/Commercial space/Food Court no.	GF-020, Ground Floor [Earlier] GF-059, Ground Floor [Now] As on page no. 34 of complaint)
9.	Area of the unit	437 sq.ft. [Super Area] (As on page no. 22 of complaint)



10.	Commercial Space Buyer's Agreement	Not executed
11.	Possession clause	<i>Not available</i>
12.	Due date of possession	30.03.2018 [30.09.2017 + 6 months grace period] [Vide proceedings dated 24.09.2025 the same was inadvertently mentioned as 01.12.2017]
13.	Sale consideration	Rs.32,77,500/- [Calculated @ Rs.7,500/- per sq.ft.]
14.	Total amount paid by the complainant	Rs.42,68,718/-
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered

B. Facts of the complaint

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

- I. That the respondent launched a commercial space project namely "Baani Center Point" situated at Sector-M1D, Manesar, Gurugram, and promoted by "Green Heights Project Pvt Ltd". The complainant was allured by an enamored advertisement of the respondent and believing the plain words of respondent in utter good faith, the complainant booked a unit in the aforesaid project of the complainant.
- II. That the complainant was allured by an enamoured advertisement of the respondent, the complainant, booked a unit in the said commercial space project by paying the initial booking amount of Rs.3,00,000/-.

- III. That the respondent issued a provisional Allotment Letter dated 01.12.2012 in favour of the complainant, allotting unit no. G-20, admeasuring 437 sq.ft. and further raised the second demand which was due at the time of commencement of work at site and demanded a sum of Rs.3,39,902/-.
- IV. The respondent vide Letter dated 24.02.2015 changed the unit allotted to the complainant from G-20 to G-59. The complainant kept on making further payments in a time bound manner, as and when demanded by the respondent.
- V. That the complainant kept on requesting the respondent in regards to the status of execution of BBA, however, the respondent did not pay any heed to it.
- VI. After much deliberations, the respondent sent a copy of the Buyer's Agreement to the complainant for signing. The complainant duly signed the copy of the Buyer's Agreement and sent it back to the respondent for execution. However, the respondent never executed the same.
- VII. That as per the unexecuted Buyer's Agreement, the Payment Plan was Construction-Linked and the Total Sale Consideration of the unit was Rs.47,25,664/- including BSP, EDC, IDC, Car parking charges, Project development Charges, etc.
- VIII. That as per Clause 2.1 of the unexecuted Buyer's Agreement, the respondent was liable to handover the possession by 30.09.2017, but the respondent failed to do so. The complainant kept on requesting the respondent to execute the Buyer's Agreement and give updates of the project, but to no avail.
- IX. That the complainant further kept on making payments as and when demanded by the respondent. Till date, the complainant has paid a sum



of Rs.42,68,718/- in a time bound manner. It is submitted that only last two demands which are payable at the time of completion of Super Structure and Offer of possession is remaining. The project in question is far from completion till date, thus, the last two remaining demands are not yet due.

- X. That the status of the development of the project in question is still stagnant, however the respondent kept on raising further demand and sent a reminder letter dated 02.06.2023 demanding a sum of Rs.4,58,660/-
- XI. That since the Development of the project in question is still in a stagnant state, the complainant is not liable to make any further payment. The complainant sent an email dated 05.06.2023 to the respondent seeking relevant information in regards to the status of its booked unit.
- XII. That the respondent devised a plan under which the respondent extracted monies from the allottees and thereafter, didn't even bother to care about the completion of the project till date. That it has been years but the Builder is yet to hand over the final physical possession of the said unit.
- XIII. That the complainant has spent his entire hard-earned savings in order to buy this unit, stands at a crossroad to nowhere. The inconsistent and lethargic manner, in which the respondent conducted its business and their lack of commitment in completing the project on time, has caused the complainant great financial and emotional loss.
- XIV. That the malafide intentions and dishonest conducts of the said respondent is evident from the very fact that they have become infamous for their *modus operandi* of alluring thousands of innocent people into their trap by way of false advertising and assurances and then extracting

huge amounts of monies from them, then leaving them at a cross-road to nowhere.

C. Relief sought by the complainant

4. The complainant has sought the following relief(s):
- i. Direct the respondent to refund the entire paid amount along with interest at the prescribed rate of interest.
 - ii. Direct the respondent not to raise any illegal demands in respect to the unit in question.
 - iii. Direct the respondent not to create third party interest in the unit.
 - iv. Issue the show cause notice for violation of terms of RERA registration certificate and Act.
 - v. Immediately start the enquiry against the respondent for violation of term of RERA registration certificate and Act.
 - vi. Stop the future sale of project till the receiving of outcome of enquiry or future thereon.
 - vii. Revoke the registration certificate of respondent for sheer violations of RERA Act, 2016.
 - viii. Form High End Committee which will produce the report about violation of provisions of the Act and Registration Certificate.
 - ix. Impose heavy penalty for violation of terms of registration certificate and Act.
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 respondent

6. The respondent has contested the complaint on the following grounds.

- I. That the commercial relationship between the parties revolves around a commercial unit in the project. Upon gaining knowledge of the project, the complainant herein apply for a provisional unit in the project by submitting an application form dated 04.03.2013. That the terms of the booking were categorically, willing and voluntarily agreed by the complainant herein. The said request for allotment was accepted by the respondent and allot a provisional unit tentative bearing number BG-042, tentatively admeasuring 437 sq. ft. was allotted to the complainant through allotment letter.
- II. That thereafter, the complainant wrote to the respondent requesting for change of the location of the unit from GF-020 to GF-059. The said request was accepted and consequently, the change in the unit was reflected in the records of the company and the confirmation in this regard was given to the complainant.
- III. That the respondent sent a copy of the Buyer's Agreement to the complainant, however, due to reasons best known to the complainant, the signed copy of the same was never returned to the respondent. In such a circumstance, the commercial relationship qua the unit in question has to be in line with the terms of the booking.
- IV. That from the beginning of the implementation of the project, there have been various intervening circumstances, beyond the control and apprehension of the respondent that have affected this commercial relationship between the parties. For ease of reference all the factors and events having a direct effect on the project have been delineated herein below.

Category I	<i>Period between 06.04.2004 and 23.04.2015</i>	<i>The events that transpired under this category show that there was not one event that could have been pre-conceived by the Respondent and neither was there any event/default on part of the Respondent that has</i>
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		led to the subsequent stay and the departmental delays.
Category II:	Period between 24.04.2015 and 13.03.2018 (hereinafter referred to as Zero Period I)	Due to the pendency of the proceedings before the Hon'ble Supreme Court, a stay was affected over the project land, however, permission was granted to Paradise to approach DTCP to seek clarifications qua the applicability of stay over the project in question. During this time, the company was in constant follow up with DT P (enforcement) with respect to grant of necessary permissions concerning the project.
Category III:	Period Between 14.03.2018 and 12.10.2020	After the removal of the stay by the Hon'ble Supreme Court, continuous follow ups were made by the Respondent regarding the grant of pending permissions. The Respondent herein is seeking the grace of this period as the entire time was utilised in following up with the concerned departments.
Category IV:	Period Between 13.10.2020 – 21.07.2022 (hereinafter referred to as the Zero Period II)	The Project was under injunction by the Hon'ble Supreme Court due to an application filed by HSIIDC.
Category V:	Period from 22.07.2022 till Date	The Respondent is seeking the benefit of this period as a grace period from this Id. Authority. The entire list of events ex facie show that the Respondent has been left at the mercy of the competent department and has been entangled in the procedural requirements and departmental delays due to no fault whatsoever on part of the Respondent.

- V. That the project land had become a part of certain land acquisition proceedings by the State. The following detailed list of dates, shows the detailed events that have transpired relating such land acquisition proceedings, within the period falling in the aforesaid categories:

S. No.	CATEGORY	DATE	EVENTS
1	CATEGORY I: The events that transpired prior to the effect of the Hon'ble Supreme Court's orders over the Project. This shows the required permissions for the project were obtained in a timely fashion.	06.04.2004 07.04.2024	Paradise Systems Pvt. Ltd. purchased 2.681 acres of land in the village Lakhnaula by registered sale deeds, hence Paradise Systems Pvt. Ltd. is the landowner of the project in question (hereinafter referred to as " Paradise ")
2		27.08.2004 24.08.2007	A notice was issued by Haryana Govt, industries Department under Section 4 of Land Acquisition Act, 1894 for acquiring land admeasuring 912 acres 7 Marlas from village Manesar, Lakhnaula and Naurangpur, Tehsil & Dist Gurugram for setting up Chaudhari Devi Lal Industrial Township. Paradise's Land fell under the above mentioned 912 acres. The land acquisition proceedings were withdrawn by the State Government on 24.08.2007



3		09.09.2007	Paradise entered into a collaboration agreement with the erstwhile developer - Sunshine Telecom Services Pvt. Ltd. Paradise granted the 'absolute developmental right' of land for construction of commercial office space to Sunshine.
4		20.09.2007	Haryana State Industrial & Infrastructure Development Corporation (hereinafter referred to as the "HSIIDC") proposed to constitute an Inter Department Committee to submit a report with recommendations regarding issuance of fresh acquisition.
5		26.10.2009	Paradise had obtained license for of land measuring 2.681 acres situated at village Lakhnaula Manesar MID, from the Town and Country Planning Department, Govt. of Haryana (hereinafter referred to as the "DTCP") vide License No. 59/2009 dated 26.10.2009, being valid up to 25.10.2013. The license was granted for the development of the Project in question.
6		29.01.2010	The report of the interdepartmental committee was submitted and the said report was duly endorsed by HSIIDC. The State Government in Industries and Commerce Department decided to close the acquisition proceedings in view of the recommendations of the Inter Departmental Committee.
7		30.03.2013	Paradise alleged that Sunshine did not adhere to the terms of the collaboration agreement. Paradise claims to have refunded all amounts received by it and annulled that transaction by deed dated 30.03.2013.
8		30.03.2013	Paradise thereafter entered into a collaboration agreement with Green Heights projects Pvt. Ltd. (the Respondent herein) for the development of the Project in question.
9		22.05.2013	The bonafide of the Respondent is evident from the fact that in order to comply with the then applicable guidelines and regulations, the Respondent paid the entire External Development Charges and Internal Development Charges (EDC & IDC) to the DTCP.
10		01.04.2014	Paradise was granted the NOC for Height clearance from the Airports Authority of India.
11		23.07.2014	The building plans for the development of the Project in question were approved by DTCP.
12		17.10.2014	Environment clearance was granted for construction of the commercial project in question.
13	CATEGORY II: ZERO PERIOD I Due to the pendency of the proceedings before the Hon'ble Supreme Court, a stay was affected over the project	24.04.2015	The said Land became the subject of the proceedings before the Hon'ble Supreme Court in a case titled Rameshwar & Ors. vs. State of Haryana & Ors. bearing Civil Appeal No. 8788 of 2015. The Hon'ble Apex Court, vide its order dated 24.04.2015 in the Rameshwar Case, stayed the construction on the said land with effect from 24.04.2015, which was eventually affected till 12.03.2018. Notably, on 24.04.2015, the Project land, inter alia, became the subject land in the legal proceedings in the Rameshwar Case.



14	land, however, permission was granted to Paradise to approach DTCP to seek clarifications qua the applicability of stay over the project in question. During this time the company was in constant follow up with DT P (enforcement) with respect to grant of necessary permissions concerning the project.	27.04.2015	Pursuant to the directions passed by the Apex Court, the DTCP directed all Owners/Developers to stop construction in respect of the entire 912 Acres of land which included our Real Estate Project Baani Center Point vide letter dated 27.04.2015.
15		21.08.2015	Paradise approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether order dated 24.04.2015 was applicable to the land and license no. 59 of 2009. Paradise contended that their land was distinct from the land involved in the Rameshwar case. The Hon'ble Supreme Court directed Paradise to seek clarifications from DTCP, designating the DTCP as the appropriate authority to issue orders in the matter.
16		25.08.2015 08.01.2016	Paradise approached DTCP on 25.08.2015 for clarification and stated that the land owned by Paradise doesn't fall within the ambit of the Rameshwar case. Paradise had also issued a reminder dated 08.01.2016 to DTCP for the clarification being sought.
17		15.01.2016	In the meanwhile, the permissions and approvals, previously granted qua the project had expired and hence, Paradise had also requested DTCP for renewal of the permissions. Paradise also submitted an application for transfer of license and change in developer, in favour of Green Heights Projects Pvt. Ltd.
18		20.04.2016	That Paradise approached DTCP vide various representations however DTCP did not take any decision as the matter was pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of entire 912 acres have been taken by Central Bureau of Investigation (hereinafter referred to as the "CBI") of all the projects and till original files are returned by CBI, DTCP will not be in a position to provide clarification in respect of various representations.
19		13.09.2016 (receiving dated 14.09.2016) 21.10.2016 (receiving dated 25.10.2016) 01.02.2017 (Received on 02.02.2017)	Paradise again wrote to DTCP to retrieve the original files from CBI. It was informed that in the writ petition filed seeking retrieval of the original files, directions for handing back of the original files as already passed. It was requested that such retrieval be done and DTCP should process the pending application for renewal and transfer of License and sanction of revised building plans. Due to the non-action part of DTCP, multiple reminders and representations were written by Paradise with a bonafide attempt towards the completion of the project.
20		27.03.2017	Paradise then approached Punjab and Haryana High Court for directions to CBI to handover original files in respect of

			the project of Green Heights and the High Court by order dated 27.03.2017 noting the handover.
21		09.05.2017	Paradise approached DTCP to issue BR-III for revised building plans stating that the conditions of the in-principle approval have been complied with.
22		07.08.2017	Paradise again approached DTCP to issue BR-III for revised building plans.
23		2015-2017	Despite various efforts and representatives DTCP did not clarify about the status of land and license of Paradise thus the order of the Supreme Court de-facto remained applicable on the said project.
24		14.09.2017	After the implementation of the RERA Act, the Real Estate Project Baani Center Point was registered under RERA Act 2016 and Haryana RERA Rules 2017. The project was registered on 14.09.2017 vide registration no. 187 of 2017.
25		23.10.2017	Paradise wrote to DTCP detailing all the facts and events that have led to the present situation and again requested the DTCP to issue BR-III revised building plans. It was also highlighted that the delay in issuance of BR III is also delaying the service plan estimates and fire scheme approvals.
26		27.11.2017	Paradise requested DTCP to consider the period during which the no construction order is in frame, as the cooling period and extend the license accordingly.
27		15.12.2017	DTCP wrote to Paradise that the final approval for sanction of building plans on BR-III will be issued only after the Hon'ble Supreme Court of India removes the restrictions imposed for not raising further construction in the area.
28		12.03.2018	The stay of supreme court was lifted and the project Baani Center Point was not included in tainted projects.
29	CATEGORY III: After the removal of the stay by the Hon'ble Supreme Court, continuous follow ups were made by the Respondent regarding the	14.03.2018	Paradise wrote to DTCP that the order dated 12.03.2018 has clarified that lands transferred/purchased prior to 24.08.2004 are not governed by the directions being given by Hon'ble Supreme Court which only pertain to lands transferred/purchased between the period from 27.08.2004 till 29.01.2010 only. The land owned by Paradise stands excluded from the dispute as the land was purchased on 06.04.2004 and 07.04.2004. Paradise requested DTCP to consider the period as Zero Period and requested for the renewal of the license and issue BR-III.



30	grant of pending permissions. The Respondent herein is seeking the grace of this period as the entire time was utilised in following up with the concerned departments	23.07.2018	Paradise approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018. That while renewing the license the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.
31		01.07.2019	The HSIIDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 in the matter of Rameshwar & Ors. Vs. State of Haryana & Ors. to include the land of Paradise developed by Green Heights in the award dated 26.08.2007, being Application for Clarification of Final Judgment dated 12.03.2018 passed by the Supreme Court.
32		31.08.2019 13.09.2019	DTCP has passed an order dated 31.08.2019 stating that the renewal and transfer of license of Paradise and approval of revised building plan will be processed only after clarification is given by the Hon'ble Supreme Court on the application filed by HSIIDC. The intimation of this order was received from DTCP vide letter dated 13.09.2019.
33	CATEGORY IV: ZERO PERIOD II	13.10.2020	The Hon'ble Supreme Court through its order dated 13.10.2020 granted injunction on further construction and creating third party rights of projects to the said case including project Baani Center Point.
34	The Project was under injunction by the Hon'ble Supreme Court due to an application filed by HSIIDC	21.07.2022	Through the judgment dated 21.07.2022 in Rameshwar Case, the stay on construction was cleared by the Hon'ble Supreme Court of India with directions to Green Heights for payment of Rs. 13,40,50,000/- (Rupees Thirteen crores forty lakhs and fifty thousand only) as additional cost of land payable to HSIIDC @ Rs. 5 crores per acre. This order was passed by the Hon'ble Supreme Court after considering the development status of the project, amount received from the allottees, and to protect the interest of the allottees.
35	CATEGORY V: The Respondent is seeking the benefit of this period as a grace period from this Id. Authority. The entire list of events ex facie show that the Respondent has been left at the mercy of the competent department and has been entangled in the procedural	25.07.2022 (Receiving dated 26.07.2022) 04.08.2022 (Receiving dated 05.08.2022)	Paradise approached DTCP to issue BR-III for revised building plans as the land owned by Paradise shall be excluded from the deemed award after depositing a sum of 13,40,50,000/- to HSIIDC. It was highlighted that DTCP had previously (vide its letter dated 15.12.2017) stated that any application of the Project will be processed only after the restrictions imposed by Hon'ble Supreme Court were removed. Due to such acts of DTCP, there had been many delays in getting the necessary permissions. It was intimated that no such restriction is effective now and hence, DTCP was requested to process the following: • Renewal of license no. 59 of 2009; • Application dated 07.09.2020 with request to consider the period between 23.07.2018 till 21.07.2022 as cooling / zero period as no approvals were granted;



	requirements and departmental delays due to no fault whatsoever on part of the Respondent.		- BR-III for revised building plans which were approved on 22.02.2017 - Grant of approval of transfer of license and change of developer
36		04.08.2022	Green Heights filed an application for extension of the RERA registration under section 7 sub clause 3 dated 04.08.2022 which is awaited.
37		16.11.2022 14.12.2022	In complete compliance of the order passed by the Hon'ble Supreme Court, and with an intent to complete the development of the Project, Green Heights projects Pvt. Ltd. paid the amount ₹ 13,40,50,000/- from its own resources on 16.11.2022 and requested for confirmation of such compliance. HSIIDC wrote to Green Heights confirming the amount 13,40,50,000/- received in HSIIDC account and that Green Heights has complied with the orders of Hon'ble Supreme Court.
38		15.12.2022 (Receiving dated 16.12.2023)	Paradise approached DTCP to issue BR-III for revised building plans as the sum of 13,40,50,000/- was deposited by Green Heights to HSIIDC and now the land was excluded from the deemed award.
39		05.01.2023 (Receiving dated 11.01.2023)	Paradise approached DTCP to process the pending applications for transfer of license.
40		02.09.2023 (Receiving dated 04.09.2023)	Paradise again approached DTCP to process the pending applications for renewal and transfer of license and issuance of BR-III.
41		03.10.2023	Paradise vide letter dated 03.10.2023 again approached for renewal of license no. 59 of 2009 and grant of approval for transfer of license and change of developer.
42		17.10.2023 23.10.2023	DTCP renewed the license no.59. of 2009 up to 21.01.2025. DTCP granted Zero Period from 23.07.2018 to 21.07.2022. BR III was also issued.
43		31.10.2023	Paradise vide letter dated 31.10.2023 again approached DTCP for grant of pending approval of transfer of license no. 59 of 2009 and change of developer.
44		20.02.2024 04.04.2024	The Hon'ble Supreme Court had directed the enforcement directorate to inquire about the projects falling within the purview of the subject matter. While following up from DTCP, it came within the knowledge of Green Heights Projects Pvt. Ltd. that DTCP is awaiting clearance from the enforcement directorate before proceeding towards the grant of pending permissions. Taking matters in its own hands, Green Heights Projects

		Pvt. Ltd. approached the enforcement directorate seeking a closer report.
45	15.04.2024 17.05.2024 (Receiving dated 20.05.2024) 03.06.2024	Paradise has been approaching DTCP, time and again, seeking the issuance of the pending permission for change of developer and transfer of license. Highlighting the urgency of the matter, it was informed that the project has been completed and around 400 customers are awaiting the possession. As part of the proactive approach of the company, Paradise also conveyed DTCP of the relevant email ids that need to be addressed while seeking clarifications from the enforcement directorate.
46	26.11.2024	Paradise again wrote to DTCP. It was highlighted that while DTCP allowed the BR III on 26.10.2023 and had also renewed the license, no further approvals were granted. It was highlighted that the project is complete and requested for grant of pending approvals.
47	As on date	The approval for transfer of license and change of developer is pending at the department's end, due to no fault of the Respondent or Paradise.

- VI. That the entire project, along with other land parcels, were entangled with the land acquisition proceedings, as noted above. However, at every stage and instant, the respondent had, communicated the complainants of all the updates of the matter. For instance, reference may be given to the letters dated 26.03.2021, 26.07.2022, and 06.12.2022 which show that the respondent had duly informed the complainants about the injunction over the project, the resumption of the construction works, and the imposition of additional fee of Rs.13.4 crore upon the respondent. Hence, no interest can be sought at this stage on such a ground, over which, acquiescence of the customer has already been noted.
- VII. That the complainant has malafidely referred to a clause of an unexecuted agreement to calculate the due date, which is not accepted. No reference to any term of any agreement of a separate party can be agreed to be binding upon the parties herein. Rather, in order to calculate the due date, three years have to commence from the date of execution of the Buyer's Agreement. In the

present case, since no agreement has been executed, the date of sharing of the buyer's agreement may be referred.

- VIII. That at the sake of repetition, the Hon'ble Supreme Court in the matter titled ***Rameshwar & Ors. vs. State of Haryana & Ors.*** bearing Civil Appeal No. 8788 of 2015 vide its order dated 24.04.2015 stayed the construction on the project land for the period between 24.04.2015 till 12.03.2018. That in lieu of the same, DTCP on 23.07.2018, exempted the period from 24.04.2015 till 12.03.2018 as 'Zero Period I'. That the said period of Zero Period I amounts to a period of 1054 days.
- IX. That although the project land was freed by the Hon'ble Supreme Court in *Rameshwar (Supra)*, however, HSIIDC filed an application seeking clarification and inclusion of project land in the Award. During this period, the Hon'ble Supreme Court had again effective an injunction on further construction from 13.10.2020. The said application was dismissed with directions of payment of Rs.13.405 Cr to HSIIDC vide order dated 21.07.2022. Considering all the facts, the DTCP renewed License No. 59 of 2009 up till 21.01.2025 and granted '**Zero Period II**' for the period of 23.07.2018 to 21.07.2022. That the said period of Zero Period II amounts to a period of 1460 days.
- X. That the concept of force majeure is not codified; however, it is of essence to note that even the Authority considers the period of force majeure under the Model RERA Agreement. Clause 7.1 of Annexure A of the Haryana Real Estate (Regulation and Development) Rules, 2017 exempts the promoter from such charges in cases of delay attributable to force majeure events, court orders, or government policies. The imposition of the aforementioned zero periods by the DTCP and Supreme Court orders unequivocally falls within these exemptions, thereby absolving the respondent from liability for delayed possession charges.

- XI. Hence, adding such time period (2514 days) to the tentative due date (30.03.2018), the date comes out to be 15.02.2025 that the said date has not been crossed yet and hence the complaint filed by the complainants is premature. That the section 18 (1)(b) of the Act allows that the relief of delayed possession charges arises only in case of failure of the promoter to deliver the project/unit in accordance with the promised timelines.
- XII. That apart from the requirement of the permissions, as noted above, the real estate industry faced other force majeure circumstances from 2015 to 2023. That all these circumstances come within the meaning and ambit of the force majeure circumstances and benefit, it is comprehensively established that a period of 497 days was consumed on account of circumstances beyond the power and control of the respondent, owing to the passing of Orders by the statutory authorities and the Covid-19 pandemic. That the Hon'ble Haryana Real Estate Regulatory Authority, Gurugram granted 6 months extension for all ongoing projects vide Order/Direction dated 26th of May, 2020 on account of 1st wave of COVID-19 Pandemic. It is pertinent to mention herein that the Hon'ble Haryana Real Estate Regulatory Authority, Panchkula had decided to grant extension of 3 months in addition to waiver granted during first wave of COVID Pandemic from 1st of April 2021 to 30th of June 2021 considering the 2nd wave of COVID-19 as a Force Majeure event.
- XIII. That, if a party is unable to fulfil a duty or obligation due to circumstances beyond their control, without any fault on their part, the law generally excuses them. Therefore, applying the above legal principle to the instant case, the respondent's inability to meet contractual obligations is indeed a result of the force majeure event zero periods, and they had no control or anticipation of such an event. In essence, the respondent's situation falls within the scope of

"impotentia excusat legem," and it should be acknowledged that their inability to perform does not constitute a 'default' under the contract.

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 purposes 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 a 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 the objections raised by the respondent.**F.1 Objection regarding delay due to force majeure circumstances and Zero Period to be taken into consideration.**

12. The respondent took a plea that the project "Baani Centre Point" was under stay orders of the Hon'ble Supreme Court of India for 7 years 3 months (24.04.2015 to 21.07.2022) which was beyond the respondent's reasonable control and because of this no construction in the project could be carried. Hence, there is no fault of the respondent in delayed construction which has been considered by DTCP and the Authority while considering its applications of considering zero period, renewal of license and extension of registration by the Authority.
13. Due to reasons stated hereinabove it became impossible to fulfil contractual obligations due to a particular event that was unforeseeable and unavoidable by the respondent. It is humbly submitted that the stay on construction order by the Hon'ble Supreme Court is clearly a "Force Majeure" event, which automatically extends the timeline for handing over possession of the unit. The intention of the Force Majeure clause is to save the performing party from consequences of anything over which he has no control. It is no more res integra that force majeure is intended to include risks beyond the reasonable control of a party, incurred not as a product or result of the negligence or malfeasance of a party, which have a materially



adverse effect on the ability of such party to perform its obligations, as where non-performance is caused by the usual and natural consequences of external forces or where the intervening circumstances are specifically contemplated. Thus, it was submitted that the delay in construction, if any, is attributable to reasons beyond the control of the respondent and as such the respondent may be granted reasonable extension.

14. The Authority is of the view that the pivotal issue arises from the builder's actions during the period between 13.10.2020 to 21.07.2022, there were specific directions for stay on further construction/development works in the said project passed by the Hon'ble Supreme Court of India in **M.A No. 50 of 2019** vide order dated 21.07.2022 which was in operation from **13.10.2020 to 21.07.2022** and there is no evidence that the respondent did not comply with such order. The Authority observes that during this period, there was no construction carried out in the project nor any demands made by the respondent from the allottees. In view of the above, the promoter cannot be held responsible for delayed possession interest during this period. Therefore, in the interest of equity, no interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order of Hon'ble Supreme Court on further construction/development works on the said project.

G. Findings on the relief sought by the complainant.

- G.1 Direct the respondent to refund the entire paid up amount along with prescribed rate of interest under the provisions of the Act, 2016.**
15. The respondent stated that a collaboration agreement dated 30.03.2013 was entered into between M/s Paradise Systems Pvt. Ltd. being the original landholder and M/s. Green Heights Projects Pvt. Ltd., being the developer for the project namely "Baani Center Point". Thereafter, the construction was initiated in the project and during that process a letter was received

from Directorate of Town and Country Planning directing to stop the construction in compliance of the Injunction Order from the Hon'ble Supreme Court of India dated 24.04.2015. Thereafter the respondent-builder approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether it is applicable to the land and license however the Hon'ble Supreme Court directed it to approach DTCP for clarifications. The respondent builder approached DTCP vide various representations however DTCP did not take any decision as the matter was pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of entire 912 acres have been taken by Central Bureau of Investigation of all the projects and till original files are returned back by CBI, DTCP will not be in a position to provide clarification in respect of various representations. The landowner then approached Hon'ble Punjab and Haryana High Court for directions to CBI to handover original files in respect of the project of respondent and the High Court by order dated 27.03.2017 passed appropriate directions. It is pertinent to mention here that between the periods of 24.04.2015 till 12.03.2018, the Hon'ble Supreme Court of India had passed directions in respect of 912 acres of land in 3 villages including the land where the present project (Baani Center Point) is constructed. That vide judgment dated 12.03.2018, the project of the respondent was not included in tainted projects which clearly meant that respondent could commence construction subject to renewal of licenses and other permissions. Shortly after the stay was lifted on 12.03.2018, M/s Paradise Systems Pvt. Ltd. approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018 and thereafter the respondent has developed the project which is almost complete and was left for some

finishing works and interiors. It shall be pertinent to mention that while renewing the license, the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.

16. Later on, the HSIIDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 through M.A. No. 50 of 2019 in the matter of ***Rameshwar Vs. State of Haryana & Ors. CA 8788 of 2015*** being "Application for Clarification of Final Judgment dated 12.03.2018 passed by the Hon'ble Court". It is submitted that the Hon'ble Supreme Court through its order dated 13.10.2020 again granted an injunction on further construction of projects of the parties to the said case including M/s. Paradise Systems Pvt. Ltd. project of Baani Center Point. The relevant portion of the said order stated that: - "Pending further considerations, no third-party rights shall be created and no fresh development in respect of the entire 268 acres of land shall be undertaken. All three aforesaid developers are enjoined from creating any fresh third-party rights and going ahead with development of unfinished works at the Site except those related to maintenance and upkeep of the site". That finally through the recent judgment on 21.07.2022, the stay on the construction was cleared by the Hon'ble Supreme Court of India in ***M.A. 50 of 2019*** in the matter of ***Rameshwar Vs. State of Haryana & Ors. CA 8788 of 2015***.
17. After consideration of all the facts and circumstances, the Authority is of the view that the matter concerns two distinct periods: from 24.04.2015 to 12.03.2018 and from 13.10.2020 to 21.07.2022. The respondent collected payments and executed buyer's agreements during the first period, i.e. 24.04.2015 to 12.03.2018, which indicates their active involvement in real estate transactions.

18. The respondent has raised the demands during the period in which 'stay' was imposed. Also, the builder continued construction activities unabated thereafter concurrently received payments from the allottees during that time. This sustained course of action strongly suggests that the builder possessed the capability to fulfil their contractual obligations despite the purported hindrances. Hence, granting them a zero period for the purpose of completion of the project would essentially negate their involvement and the actions they took during that time. Therefore, it is justifiable to conclude that the respondent is not entitled to a zero period and should be held accountable for their actions during the stay period.
19. However, during the period 13.10.2020 to 21.07.2022, there were specific directions for stay on further construction/development works in the said project passed by the Hon'ble Supreme Court of India in **M.A No. 50 of 2019** vide order dated 21.07.2022 which was in operation from **13.10.2020 to 21.07.2022** and there is no evidence that the respondent did not comply with such order. The Authority observes that during this period, no construction was carried out in the project nor any demands were made by the respondent from the allottees. In view of the above, the promoter cannot be held responsible for delayed possession interest during this period. Therefore, in the interest of equity, no interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court on further construction/development works on the said project.
20. In the present complainant, the complainant intends to withdraw from the project and is seeking return of the amount paid by it in respect of subject unit along with interest. Sec. 18(1) of the Act is reproduced below for ready reference:-

"Section 18: - Return of amount and compensation

18(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

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."

(Emphasis supplied)

21. **Due date of possession:** As per Clause 2.1 of the buyer's agreement, the time period of handing over possession and the same is reproduced below:

"....2.1 Possession

The possession of the said premises shall be endeavoured to be delivered by the intending purchaser by tentative date 30.09.2017 with a grace period of 6 months beyond this date subject to clause 9 and completion of construction..."

[Emphasis supplied]

22. Thus, the due date for handing over of possession as per the above mentioned clause was 30.09.2017. Also, the grace period of 6 months being unqualified is granted to the respondent. Therefore, the due date comes out to be 30.03.2018
23. **Admissibility of refund along with prescribed rate of interest:** The complainant is seeking refund the amount paid by them along with interest prescribed rate of interest. However, the allottee intend to withdraw from the project and are seeking refund of the amount paid by them in respect of the subject unit with interest at prescribed rate as provided under rule 15 of the rules.
24. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid*, has determined the prescribed rate



of interest. The rate of interest, determined by the legislature, is reasonable and if the said rule is followed to award interest, it will ensure uniform practice in all cases.

25. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 15.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
26. The definition of term 'interest' as defined under Section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.
27. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date.
28. It is pertinent to mention over here that neither the construction is complete nor the offer of possession of the allotted unit has been made to the allottee by the respondent/promoter. The Authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to it and for which a considerable amount of money has been paid towards the sale consideration. Further, the Authority observes that there is no document placed on record from which it can be ascertained that whether the respondent has applied for occupation certificate/part occupation certificate or what is the status of construction of the project. In view of the above-mentioned facts, the allottee intends to withdraw from the project and is well within the right to do the same in view of section 18(1) of the Act, 2016.



29. Moreover, the occupation certificate/completion certificate of the project where the unit is situated has still not been obtained by the respondent /promoter. The Authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the allotted unit and for which he has paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in ***Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., civil appeal no. 5785 of 2019, decided on 11.01.2021***

".... The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottees cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."

30. Further, the Hon'ble Supreme Court of India in the cases of ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra)*** reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020*** decided on 12.05.2022, observed as under:

"25. The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

31. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottees as per agreement for sale under section 11(4)(a). The promoter has failed to complete or is unable to



give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottee, as it wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.

32. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to refund of the entire amount paid by them at the prescribed rate of interest i.e., @ 10.85% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*. The Authority vide order dated 28.05.2024, in case no. 1392 of 2022 and 8 others title as ***Neeraj Mahajan Vs. Green Heights Projects Private Limited*** passed by the full bench of the Authority, in the interest of equity, no interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court wherein this was explicitly instructed to cease any further development in the project. Accordingly, no interest shall be payable by the respondent and complainant from 13.10.2020 to 21.07.2022 in view of the stay order passed by the Hon'ble Supreme Court.

G.II Direct the respondent not to raise any illegal demands in respect to the unit in question.

G.III Direct the respondent not to create third party interest in the unit.

33. Since the complainant is seeking refund of the amount paid by it, in view of the same the above said relief became infructuous and thus, are declined.

G.IV Issue the show cause notice for violation of terms of RERA registration certificate and Act.

G.V Immediately start the enquiry against the respondent for violation of term of RERA registration certificate and Act.

G.VI Stop the future sale of project till the receiving of outcome of enquiry or future thereon.

G.VII Revoke the registration certificate of respondent for sheer violations of RERA Act, 2016.

G.IX Form High End Committee which will produce the report about violation of provisions of the Act and Registration Certificate.

G.X Impose heavy penalty for violation of terms of registration certificate and Act.

34. The complainant is seeking the above said reliefs but fails to establish the grounds for seeking the said relief. The complainant neither elaborated upon the said issues in the complaint nor pressed them during the arguments. Thus, the said reliefs are hereby dismissed.

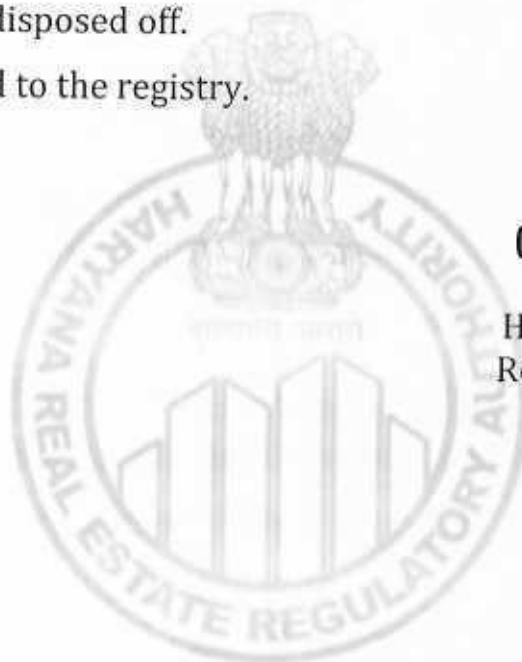
H. Directions of the Authority

35. Hence, the Authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under Section 34(f):

- I. The respondent/promoter is directed to refund the amount received by it from each of the complainant(s) along with interest at the rate of 10.85% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount. No interest shall be payable by the respondent and complainant from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court on further construction/development works on the said project.

- II. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.
- III. The respondent is further directed not to create any third-party rights against the subject unit before the full realization of paid-up amount along with interest thereon to the complainants, and even if, any transfer is initiated with respect to subject unit, the receivable shall be first utilized for clearing dues of allottee-complainant.
36. Complaint stand disposed off.
37. Files be consigned to the registry.

Dated: 15.10.2025



(Ashok Sangwan)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram

HARERA
GURUGRAM