

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

Complaint filed on: **02.09.2024**
Order pronounced on: **27.11.2025**

Krishan Kumar

R/o: Post Office-Pandwala Kalan, Rewla Khanpur, West Delhi,
Delhi- 110043

Complainant

Versus

M/s Agrante Developers Private Limited

Regd. Office: 522,523,524 DLF Tower- A, Jasola,
Near Apollo Hospital, New Delhi-110025

Corporate Office: Unit no.122, 1st Floor,
Suncity Trade Tower, Sector-21, Gurugram, Haryana

Respondent

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Akash Arora (Advocate)

Complainant

Shri Brijmohan (Advocate)

Respondent

ORDER

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

A. Project and unit related details:



2. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over of the possession, delay period, if any, have been detailed in the following tabular form:

S. N.	Particulars	Details
1.	Name of the project	"Kavyam", Sector- 108, Gurgaon (Phase-1)
2.	Nature of project	Affordable group housing
3.	RERA registered/not registered	Registered vide registration no. 23 of 2018 dated 22.11.2018
	Licensed area	31.11.2022
4.	DTPC License no.	101 of 2017 dated 30.11.2017
	Validity status	29.11.2022
	Name of licensee	Arvinder Singh & others
	Licensed area	5 acres
5.	Unit no.	T-A1-904 [Page 39 of complaint]
6.	Unit area admeasuring	512.50 sq. ft [Page 39 of complaint]
7.	Allotment dated	01.07.2019 [Page 39 of complaint]
8.	Possession clause	N/A
9.	Possession clause as per Affordable Housing Policy, 2013	1 (iv) <i>All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy.</i>

10.	Building plan approved on	06.07.2018 [As per project details]
11.	Environment clearance	20.08.2019 [Taken from CR/3857/2021 dated 16.05.2024]
12.	Due date of possession	20.08.2023 [calculated as 4 years from date of environmental clearance i.e., 20.08.2019 as the same is later]
13.	Total sale consideration	Rs. 21,21,661/- [As stated by the respondent in the reply on page 4 whereas no document has been attached for the same.]
14.	Amount paid by the complainant	Rs. 18,56,536/- [As receipts annexed at page 34-38 of complaint]
15.	Surrender by the complainant	18.07.2022 Stated by the complainant during proceedings dated 27.11.2025 (Page 16 of the reply)
16.	Pre- cancellation	15.09.2022 (Page 15 of reply)
17.	Amount refunded by the respondent	Rs. 5,00,000/- [As mentioned, vide cheque dated 18.07.2022 at page 20 of reply]
18.	Occupation certificate	Not obtained
19.	Offer of possession	Not offered

B. Facts of the complaint

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



- a. That respondent, Agrante Realty Limited collectively owns and possesses land admeasuring 5 acres approximately situated at, Sector - 108, Gurugram, Haryana. The Director, Town and Country Planning Haryana, Chandigarh had granted permission vide licence bearing no. 101 of 2017 dated 30-11-2017 to Agrante Realty Limited i.e. one of the group companies of respondent no.1, for developing a residential group housing project comprising of multi storied residential apartments to be known as 'Kavyam'.
- b. Based on the licence, the respondents collected a huge amount from gullible and naïve buyers including the complainant from 2021 onwards and kept on promising the complainant for the delivery of possession of their apartment on time as per the agreement. The complainant had paid, the payable amounts, as and when demanded by the respondents, a total of Rs.18,56,536/- till January, 2022 for the apartment.
- c. The genesis of the present complaint lies in the gross indifference, refusal and failure of the various obligations on the part of the respondents. The respondents initially enticed various customers including the complainant to pay their hard-earned money for the purchase of the apartment in the project. Even after paying 85% of the amount, the respondent failed to execute the builder-buyer agreement, despite repeated calls and requests from the complainant.
- d. On 2022, the construction of towers was still under process and despitess of regular phone calls and in-person meetings by the complainant with the respondent to get the exact date of possession but the respondent continuously failed to provide the date of possession and always delay delaying the matter. Moreover, the respondent extends the possession dates beyond what was originally promised at the time of booking the apartment which was shocking for my client and it was clearly showing

the negligence on the part of the builder. As per project site conditions, it seems that the project is in question and will take another couple of years for the construction to be completed in all respects, subject to the willingness of respondent to complete the project and which shaken the creditability of the complainant's trust towards the respondent to complete the project on time.

- e. On June 2022, the complainant raised an application for cancellations of his unit vide application no. 2497 and asked for refund of the amount which was paid by the complainant i.e., Rs.18,56,536/-.
- f. On 18th July 2022, the respondent accepted the cancellation application of the said unit and issued a cheque of Rs. 5,00,000/- vide cheque no. 403592 drawn on Federal Bank and promised that the remaining amount will be refunded within two months from the date of letter.
- g. Even after the cancellation and the respondent's promise to refund the amount within two months, they paid only Rs.5,00,000/- within the stipulated period. Despite numerous repeated requests, calls, and reminders, the respondent subsequently paid an additional Rs.8,00,000/-, making a total of Rs. 13,00,000/- paid so far out of the total amount of Rs.18,56,536/- The remaining Rs.5,56,536/- is still pending with the respondent.
- h. That the present complaint has been filed to seek refund of the pending principal amount paid by the complainant along with interest at the prescribed rate in accordance with RERA, 2016 and HRERA, 2017 from the date of payments till the date of actual receipt of refund.

C. Relief sought by the complainant: -

- 4. The complainant has sought following relief(s):
 - a. Direct the respondent to refund the pending principal amount paid by the complainant along with interest at the prescribed rate in accordance

with RERA, 2016 and HRERA, 2017 from the date of payments till the date of actual receipt of refund.

- b. The respondents to pay legal expenses of Rs.1,00,000/- incurred by the complainant and sum of Rs. 3,00,000/- for through mental and physical agony as well as emotional trauma.
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 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. The complainant herein is Mr Krishan Kumar, who had booked the unit/flat bearing no. TA1-904, 2BHK having a carpet area of 512.50 square feet and balcony area of 130.30 square feet in the project of the respondent company i.e., M/s Agrante Reality Ltd. namely "Kavyam" which is situated at revenue estate of Village Dharampur, Sector 108, Gurgaon-122001, Haryana. The said unit was booked for a total consideration amount of Rs. 21,21,661/-.
 - ii. The complainant had booked his Unit in the aforesaid project of the respondent vide application no.2497, dated 23.01.2019 and paid booking amount of Rs. 1,05,758. The respondent issued acknowledgment receipt for the same and allotted unit no. TA1-904 to the complainant vide allotment letter dated 01.07.2019.
 - iii. The complainant herein is a chronic defaulter who has apparently failed to remit dues as and when they fell due. The respondent on several occasions issued demand notices as per the fixed timelines but the complainant failed to adhere to the same. Therefore, the respondent was constrained to send pre cancellation notice dated 15.09.2022 and gave

final opportunity to pay the outstanding due as per Affordable Housing Policy.

- iv. Even after various reminder letters and pre cancellation notice complainant failed to pay the outstanding amount, rather requested to the respondent company to refund his amount of Rs. 18,56,536/- It seems that the complainant is a speculative investor who had no interest in purchasing an affordable housing unit but was only trying to leverage a profit. However, later the complainant changed his mind and now wants a refund of his amount due to reasons known to him.
- v. The complainant had filed an application dated 02.07.2022 with the respondent to surrender his unit with an affidavit citing personal reason for the same and requested to refund his paid amount, hence the respondent had paid advance amount of Rs. 5,00,000/- through cheque no. 403592 dated 18.07.2022 and issued a letter of refund & part payment.
- vi. On 15.09.2022, respondent has issued a pre-cancellation notice and final opportunity, citing the non-payment of the outstanding amount as specified in the earlier demand letters and reminder letters. That despite multiple reminder letters and phone calls regarding the unpaid dues, the amount remained is still unpaid. The respondent gave the final opportunity to retain the said unit/flat by depositing the entire due amount but complainant surrendered his booking and took 5 Lakh rupees in advance and till date the complainant has received 13 lakh rupees from the respondent. The version of the complainant completely falls to the ground and the present complaint is nothing but abuse of process of law.
- vii. The contention of the complainant regarding the non-completion of construction of the project is vehemently denied as the same is a false

version to suit his case. It is rather submitted the respondent no.1 is in the process of applying for occupation certificates to roll out offer of possession. It is categorically submitted that the total time to complete the project after adjusting the force majeure circumstances is not over and the due date for offering of possession of the units has not culminated.

- viii. The complainant had filed an application dated 02.07.2025 with the respondent to surrender his unit with an affidavit citing personal reason for the same and requested to refund his paid amount. The respondent on surrendering the unit by the complainant had paid advance amount of Rs. 5,00,000/- through cheque no. 403592 dated 18.07.2022 and issued a letter of refund & part payment.
- ix. The respondent after the surrendering of the unit/booking by the complainant was ready to pay his amount after deduction of Rs. 1,31,300/- with GST out of Rs. 18,56,536 as prescribed under rule 5(iii)h and amendment thereof, paid Rs. 13,00,000/- till date but the cheque of remaining amount after deduction was denied by the complainant as he wanted a full refund. That the policy rule 5(iii)h clearly states that "*On surrender of flat by any successful allottee, the amount that can be forfeited by the colonizer in addition to Rs. 25000/- shall not exceed 5% of the cost of flat after 2 years from the date of commencement of the project*" and the project commencement date of the project 'KAVYAM' is 20.08.2019.
- x. The complaint of the complainant is neither maintainable in law nor on facts. The complaint has been filed with malicious intention to derive wrongful gains from the respondent. The complaint is nothing but an attempt to blackmail the respondent. Instant complaint is without cause of action and has been filed with malafide. Therefore, instant complaint is not maintainable and is liable to be rejected.

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 based on these undisputed documents and submission made by the parties as well as the written submission of the complainant.

E. Jurisdiction of the Authority

8. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E. I Territorial jurisdiction

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

E. II Subject matter jurisdiction

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

Section 11

.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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



11. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.
12. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in **Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022(1) RCR (Civil), 357** and 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** and wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

13. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Findings on the relief sought by the complainant.



F.I Direct the respondent to refund the pending principal amount paid by the complainant along with interest at the prescribed rate in accordance with RERA, 2016 and HRERA, 2017 from the date of payments till the date of actual receipt of refund.

14. The complainant was allotted a unit no. TA1-904 in the project "Kavyam Affordable Housing" by the respondent/builder for a total consideration of Rs.21,21,661/- under the Affordable Group Housing Policy 2013. Buyer's agreement has not been executed between the parties. The possession of the unit was to be offered with 4 years from approval of building plans or from the date of environment clearance (20.08.2019) whichever is later as per possession clause 1(iv) of Affordable Housing Policy. The due date of possession was calculated from date of approval of environment clearance i.e., 20.08.2019, as per policy, of 2013. The complainant had paid a sum of Rs. 18,56,536/- out of the total sale consideration.

15. Further, the complainant vide letter dated 18.07.2022 surrendered the subject unit. The contents of the letter are reproduced as under for a ready reference: -

*To,
M/s Agrante Realty Ltd.
Sector-108, Gurugram, Haryana
Sub: Application for surrender my bearing Flat No.TA-1-904 and application bearing No.2497.
Sir,
With due respect that IKRISHAN KUMAR S/o Late Sh. Trilok Chand Tyagi R/o House No.168, VPO Rewla Khan Pur, Nafasgarh, New Delhi-110043
That I have allotted Flat bearing No. TA-1-904, on Ninth Floor, at Kavyam, situated at Sector-108, Gurugram, Haryana vide application bearing No.2497 date of allotment is 24.06.2019.
That I had paid seven instalments in sum of Rs.10,55,876/-
That now I want to surrender my above said flat due to my personal reason and please return my said amount without any interest as soon as possible.
I don't have any type of pressure I am surrendering this flat with my consent....xxxx"
[Emphasis supplied]*

16. As per the clause 5 (iii)(h) of the Affordable Housing Policy, 2013 as amended by the State Government on 05.07.2019, the relevant provision is reproduced as under:

Clause 5(iii) (h) of the Affordable Housing Policy

A waiting list for a maximum of 25% of the total available number of flats available for allotment, may also be prepared during the draw of lots who can be offered the allotment in case some of the successful allottees are not able to remove the deficiencies in their application within the prescribed period of 15 days. [On surrender of flat by any successful allottee, the amount that can be forfeited by the colonizer in addition to Rs.25,000/- shall not exceed the following:-

Sr. No.	Particulars	Amount to be forfeited
(aa)	In case of surrender of flat before commencement of project	Nil
(bb)	Upto 1 year from the date of commencement of the project	1% of the cost of flat
(cc)	Upto 2 year from the date of commencement of the project	3% of the cost of flat
(dd)	After 2 years from the date of commencement of the project	5% of the cost of flat

Such flats may be considered by the committee for offer to those applicants falling in the waiting list. However, non-removal of deficiencies by any successful applicant shall not be considered as surrender of flat, and no such deduction of Rs 25,000 shall be applicable on such cases. If any wait listed candidate does not want to continue in the waiting list, he may seek withdrawal and the licensee shall refund the booking amount within 30 days, without imposing any penalty. The waiting list shall be maintained for a period of 2 years, after which the booking amount shall be refunded back to the waitlisted applicants, without any interest. All non-successful applicants shall be refunded back the booking amount within 15 days of holding the draw of lots.

17. Since the surrender of the unit by the complainant was done after 2 years 10 months 29 days from commencement of construction and hence, the respondent is entitled to forfeit amount in accordance with as per the clause 5 (iii)(h) of the Affordable Housing Policy, 2013 as amended by the State Government on 05.07.2019. The date of commencement of project has been defined under clause 1(iv) of Affordable Housing Policy to mean the date of approval of building plan or grant of environmental clearance, whichever is later. In the instant case, the date of grant of environment clearance i.e., 20.08.2019 is later

and hence, the same would be considered as date of commencement of project.

18. It is observed from the cheque dated 18.07.2022 annexed with reply, an amount of Rs. 5,00,000/- has been already been refunded to the complainant. In line with the aforesaid facts, the documents and submissions placed on record and as per clause 5(iii)(h) of the Affordable Housing Policy of 2013, the respondent/promoter is liable to refund the paid-up amount after deduction of 5% of the consideration money in addition to Rs.25,000/- as per clause 5(iii)(h) of the of Affordable Housing Policy 2013 as amended by the State Government on 05.07.2019, along with interest @10.85% (inadvertently mentioned as "11.10%" vide proceedings dated 27.11.2025) per annum from the date surrender/withdraw i.e., 18.07.2022 till the actual realization of the amount (inadvertently mentioned as "*from date of each payment till actual realization of amount*").

G. Directions of the Authority:

19. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:

- i. The respondent is directed to refund the paid-up amount of Rs. 18,56,536/- after deduction of 5% of the consideration money in addition to Rs.25,000/- as per clause 5(iii)(h) of the of Affordable Housing Policy 2013 as amended by the State Government on 05.07.2019, along with interest @10.85% per annum from the date surrender/withdraw of allotment i.e., 18.07.2022 till the actual realization of the amount as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017.

- ii. The amount of Rs.5,00,000/- already refunded to the complainant shall be adjusted and deducted from the balance refundable amount payable by the respondent.
- iii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

20. The complaint stand disposed of.

21. File be consigned to registry.



(Phool Singh Saini)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 27.11.2025

HARERA
GURUGRAM