

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

**Complaint no. : 4548 of 2024**  
**First date of hearing : 13.09.2024**  
**Order pronounced on : 26.11.2025**

**Lalitha Walia and Satish Chander Walia**  
R/o - 202B, LTH, Laburnum, Sushant Lok-1, Galleria  
DLF-IV, Gurugram, Haryana-122009

**Complainants**

Versus

**Blackberry Realcon Pvt. Ltd.**  
Office - 11<sup>th</sup> Floor, Paras Twin Towers,-B, Golf Course  
Road, Sector-54, Gurugram, Haryana

**Respondent**

**CORAM:**

Shri Ashok Sangwan

**Member**

**APPEARANCE:**

Ms. Ankur Berry (Advocate)  
Sh. Sagar Bhatia (Advocate)

**Complainants  
Respondent**

**ORDER**

1. The present complaint dated 09.04.2021 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 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 related details**

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

| S.N. | Particulars                       | Details   |
|------|-----------------------------------|---|
| 1.   | Name and location of the project  | "Paras Square" at sector-63A, Village-Behrampur, Tehsil- Sohna, Gurugram, Haryana.  |
| 2.   | Project Type                      | Commercial complex  |
| 3.   | DTPC license no.                  | 23 of 2013 dated 17.05.2013   |
| 4.   | RERA registered/Not registered    | Registered vide Registration no. 13 of 2018 dated 06.09.2018<br>Valid till 31.12.2018   |
| 5.   | Date of approval of building plan | 30.07.2013<br>[As on page no.36 of complaint]   |
| 6.   | Allotment letter                  | 06.02.2020<br>[As on page no.22 of complaint]   |
| 7.   | Unit no.                          | 36, Floor-Ground, Tower/ Building-A<br>(As on page no. 36 of complaint)   |
| 8.   | Unit Area                         | 749 sq.ft [Super Area]<br>426 sq.ft [Carpet Area]<br>(As on page no. 36 of complaint)   |
| 9.   | Date of Agreement for Sale        | Not executed by respondent  |
| 10.  | Payment Plan                      | Down Payment Plan<br>[Page 23 of complaint]   |
| 11.  | Possession clause                 | <b>Clause 5</b><br><b>TIME IS ESSENCE:</b><br><b>5.1</b> <i>The Promoter shall abide by the time schedule for completing the Project as disclosed at the time of registration of the Project with the Authority or any extended time schedule as granted by the Authority to the Promoter and time schedule towards handing over the Unit to the Allottee and the Common Areas to the Association of Allottees or the Competent Authorities, as the case may be.</i><br>[Emphasis supplied]<br>(As on page no. 44 of complaint) |
| 12.  | Due date of possession            | Not required as ready to move-in property was allotted  |



|     |  |   |
|-----|--|---|
| 13. | Total sale consideration   | Rs.1,07,84,102/-<br>(As on page no. 37 of complaint)  |
| 14. | Total amount paid by the complainant   | Rs.1,07,84,102/-<br>(As per complainant's assertions)   |
| 15. | Occupation certificate   | 23.07.2018<br>(As per TCP's website]  |
| 16. | Amount paid by respondent to complainants as per ledger statements on account of Monthly Income Plan | Rs.25,48,992/-<br>(As on page 6 of additional document submitted by respondent on 08.10.2025) |

**B. Facts of the complaint:**

3. The complainants have made following submissions: -

- i. The respondent's representatives persuaded the complainants to invest in their commercial project, assuring them it was ready for possession, fully approved, and RERA-registered. Relying on these claims, the complainants applied and paid ₹5,00,000 on 28.01.2020 toward a unit priced at ₹1,07,84,102.
- ii. That thereafter the commercial unit no. 36, GF, tower A, admeasuring super area 749 sq. ft. and carpet area of 426 sq. ft. was allotted to the complainants vide allotment letter dated 06.02.2020. That along with the allotment letter the payment plan was provided to the complainants and a payment of 85% of the total sale consideration was demanded. The complainants could not understand the large sum being demanded even before the execution of the builder buyer agreement since the RERA guidelines were strict that only 10% of the total sale consideration can be demanded before the BBA. The complainants raised the issue however the respondent clarified that the project was ready to move-in and the payment would result in



execution of the conveyance deed and possession at faster pace. believing the words of the respondent the complainants paid Rs.92,83,668/- by 06.02.2020. That again on 10.06.2020 another amount of Rs.15,00,000/- was paid to the respondent on account of last installment. At this time the respondent promised that the BBA would be executed in 15 days however even after waiting and regularly communicating for the date of execution of the BBA, the complainants were left in lurch.

- iii. That after waiting for many months the complainants seeing that respondent failed to proceed further with the BBA, the complainants repeatedly visited the office of the respondent requesting for signing of the BBA. That thereafter on 19.05.2023, the complainants were surprised to receive a draft BBA which was completely one-sided and filled with false information.
- iv. That the said BBA draft was absolutely illegal and a forgery since the clause 1.13 of the said BBA falsely mentioned that the complainants had paid a sum of Rs.50,00,000/- as advance consideration/booking amount whereas in terms of allotment letter the booking amount was Rs.5,00,000/- and a total of Rs.1,07,83,668/- had actually already been received by the respondent.
- v. That further as per the clause 7.1 of the draft BBA the respondent assured to hand over the possession of the commercial unit as per time mentioned in the RERA certificate. That the complainants upon perusing the RERA certificate of the project were however confused since the said certificate no. 13 of 2018 had no due date of completion and rather the said certificate was only valid till 31.10.2018 thus there was no definite timeline for completion and handing over of the commercial unit, thus the complainants having no other option and



visited the office of the respondent where respondent failed to supply any information regarding the delivery and possession.

- vi. That the respondent intended to cheat from the very beginning since even at the time of booking and allotment of the complainants stated that the project had all the necessary approvals and plans however upon checking the RERA website the complainants became aware that the project's registration has lapsed and the RERA registration no. 13 of 2018 was only valid till 31.12.2018.
- vii. That the respondent had been taken more than 90% of the total sale consideration even before execution of the builder buyer agreement and even till date there is no communication from the respondent as to the status of the commercial project. That the whole project is a sham and scheme to cheat innocent buyers, the complainants have no option but to get refund of their hard-earned money.
- viii. That the respondent has harassed the complainants by keeping Rs.1,07,83,668/- being more than 99% of the total sale consideration without ever executing the BBA. Further till date no offer of possession has been issued to the complainants even though the respondents claimed that the commercial project was complete and ready to move-in.
- ix. That the complainants are being stone walled by the respondent and its representatives and hence have come before the Authority requesting and praying to get refund along with interest from the date of deposit till the date of realisation.
- x. That no other complaint or legal proceedings are pending before any Court of law or forum between the parties.

**C. Relief sought by the complainant:**

4. The complainants have sought following relief(s):

- i. Direct the respondent to refund the entire amount of Rs.1,07,84,102/- along with prescribed rate of interest.
  - ii. Pass an order imposing penalty on the promoter on account of various defaults of RERA Act, 2016.
  - iii. The respondent be restrained from creating third-party righty or alienate the unit till complete amount is refunded to the complainant.
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. Written Submission by the respondent.**
6. The defence of the respondent was struck off vide order dated 24.09.2025 after giving various opportunities to file reply and pay the cost imposed. However, in the interest of justice respondent was given opportunity to file the written arguments/submissions.
7. That the respondent filed written submission on 08.10.2025 stating the following facts:
- i. That the allegations raised on behalf of the complainants are not substantiated with any document and are contrary to the terms of the allotment letter dated 06 February 2020 and the draft of the agreement for sale ("ATS"). The complainants made payments willingly as per the agreed schedule and are now estopped from challenging the same.
  - ii. That, the delay in the execution of the final ATS is solely attributable to the complainant's failure to come forward for execution.
  - iii. The complainants, without any support of its contentions raised in the complaint have malafide alleged that they were induced into investing



in the apartment based on a representation that the project was "already complete" and possession would be delivered in 6 months. Such averment made in the complaint without supporting any documents is nothing but an afterthought to somehow make the case and seek unjust enrichment.

- iv. That the aforementioned allegation attracts doctrine of *caveat emptor*, which states that it is the responsibility on the buyer to perform due diligence and inspect before making purchase. By applying this principal, it cannot be overseen that the complainants were obligated to conduct proper due diligence before making the payment to the respondent, having said that, the plea taken by the complainants that it was a mis-representation and the project was not at all at the verge of completion is false and vague.
- v. Further, the relationship between the parties is governed by the written terms of the allotment letter and the subsequent draft of the ATS, neither of which contains any such representation. The written agreed terms between the parties can only be taken into reference and none of the term communicates the aforementioned representation.
- vi. That the complainants themselves confirm they chose a "Down Payment Plan", which is typically offered for projects at an advanced stage of construction and not necessarily "already complete". The complainants are attempting to twist the nature of the payment plan to build a false narrative of misrepresentation.
- vii. That the respondent forwarded the draft of the ATS to the complainants for execution. Instead of executing the agreement or proposing amendments, the complainants chose to sit on it and have now filed the present complaint, making the delay in execution a result of their own inaction.

- viii. The averment made by the complainants that there are various flaws in the ATS are mere a typographical, minor, rectifiable clerical errors. The ATS mistakenly mentions Rs.50,00,000 as an advance in clause 1.13 of the draft ATS is nothing more than a typographical error. The complainants had never approached or written to the respondent regarding this clerical mistake, also, the initial receipt clearly depicts that the booking amount was of Rs.5,00,000.
- ix. That the complainants after making payment of the consideration amount as per the agreed terms and conditions, and were receiving monthly income plan ("MIP"), had never approached the respondent for the execution of the draft ATS. It was only when the complainants raised an issue before the respondent for the execution of the draft ATS, when the respondent stopped paying the MIP. This in itself depicts that after enjoying the amount received by way of MIP i.e., total amounting to Rs.25,48,992/- the complainants are now seeking unjust enrichment against the respondent.
- x. That the said clerical mistakes cannot be considered as fraud, but the same is curable defects. The complainants, instead of putting this mistake in light before the respondent, had malafide chosen to use this as a method of raising false and frivolous allegation, in order to somehow make a case of fraud.
- xi. Further, regarding averment on the non-allotment of a parking space false, misleading and vehemently dishonest. The clause F of the draft ATS states *"The Allottee has applied for the allotment of a unit without the car parking space(s) in the project vide application dated 28<sup>th</sup> Jan 2020"*.

- xii. Nonetheless, the clause G clarifies that the complainants are restricted and not permitted from using parking space: *"Please note, there is no Car Parking usage rights permitted on the above said unit."*
- xiii. That the complainants have miserably failed to execute the ATS, which is a condition precedent for possession, as stipulated in clauses 7.2 and 7.3 the draft ATS.
- xiv. As per clause 9.3 of the draft ATS, default by the allottee entitles the promoter to cancel the allotment and forfeit the booking amount. Therefore, the complainants cannot take advantage of their own wrong by causing a delay and then claiming a refund on that basis.
- xv. That, the complainants had never approached the respondent for the execution of the draft ATS. However, after repeated request by the respondent to execute the draft ATS, the complainants failed to come forward to execute the same. Constrained whereof, respondent had left with no other option but to stop the payment of MIP amount. It was only then the complainants started raising grievances pertaining to the execution of the draft ATS, before the respondent.
- xvi. That the complainants had received an amount Rs.25,48,992/- in total and the same is discernible through their ledger account.
- xvii. 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 those undisputed documents and submissions made by the parties.

**E. Jurisdiction of the authority**

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**

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

**E.II Subject matter jurisdiction**

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

**Section 11.....**

*(4) The promoter shall-*

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

**Section 34-Functions of the Authority:**

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

10. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

**G. Findings of Authority on the reliefs sought in the complaint:**

- G.I. Direct the respondent to refund the entire amount of Rs.1,07,84,102/- along with prescribed rate of interest.**
- G.II. Pass an order imposing penalty on the promoter on account of various defaults of RERA Act, 2016.**



**G.III. The respondent be restrained from creating third-party righty or alienate the unit till complete amount is refunded to the complainant**

11. The above-mentioned reliefs sought are taken together for the purpose of better adjudication.
12. In the present case, it is observed that a commercial unit bearing no. 36, GF, tower A, admeasuring super area 749 sq. ft. and carpet area of 426 sq. ft. was allotted to the complainants vide allotment letter dated 06.02.2020 for a total consideration of Rs.1,07,83,668/- against which the complainants have paid an amount of Rs.1,07,83,668/- to the respondent till date. As per record, a copy of draft "agreement for sale" was shared with the complainants for its due execution, however, the complainants in pleadings have submitted that they did not execute the same as the respondent has unilaterally and arbitrarily mentioned the amount paid by them as Rs.50,00,000/- instead of Rs.1,07,83,668/- and the respondent failed to supply any information regarding the delivery and possession. Therefore, the complainants are seeking refund of the amount paid by them along with interest. The respondent vide its reply has duly admitted that due to typographical error the amount paid by the complainants have been mistakenly mentioned as Rs.50,00,000/-. It is further observed that, as per ledger statement submitted by respondent with its written submission, the respondent has paid an amount of Rs.25,48,992/- to the complainants on account of Monthly Income Plan (MIP).
13. On consideration of documents available on record as well as submissions made by the parties, the Authority is satisfied that the respondent has completed the construction and development of the project and got the OC/CC on 23.07.2018 and the unit in question was allotted to the complainants on 06.02.2020. Thus, in the present matter



ready to move-in unit was allotted to the complainants as the same was allotted to them after receipt of occupation certificate. However, the complainants are not willing to continue with the project and are seeking refund of the entire paid-up amount along with interest by filing the present complaint. The Authority observes that Section 18(1) is applicable only in the eventuality where the promoter fails to complete or unable to give possession of the unit in accordance with terms of agreement for sale or duly completed by the date specified therein. This is a case where a ready to move-in unit was offered to the complainants after obtaining occupation certificate. The Authority observes that when unit is ready for possession, such withdrawal on considerations other than delay such as reduction in the market value of the property and investment purely on speculative basis will not be in the spirit of the Section 18 of the Act.

14. This view is supported by the judgement of Hon'ble Supreme Court of India in case of ***Ireo Grace Realtech Pvt. Ltd. v/s Abhishek Khanna and Ors. (Civil appeal no. 5785 of 2019)***, wherein the Hon'ble Apex court took a view that those allottees are obligated to take the possession of the apartments since the construction was completed and possession was offered after issuance of occupation certificate. Relevant para of the said order is reproduced under for ready reference:

*"(i) We are of the view that allottees at Serial Nos. 1 and 2 in Chart A are obligated to take possession of the apartments, since the construction was completed, and possession offered on 28.06.2019, after the issuance of Occupation Certificate on 31.05.2019. The Developer is however obligated to pay Delay Compensation for the period of delay which has occurred from 27.11.2018 till the date of offer of possession was made to the allottees."*

15. In view of the above, no case for refund under Section 18(1) of the Act, 2016 is made out. Further, with regard to the prayer seeking imposition of penalty upon the promoter for alleged violations of the provisions of



the Act, 2016, it is observed that the complainant has failed to specifically plead or establish the particular provisions allegedly violated by the respondent. In the absence of such particulars, the relief sought cannot be granted. Accordingly, the present complaint is devoid of merit and is dismissed as not maintainable.

16. File be consigned to registry.

**Dated: 26.11.2025**

**Ashok Sangwan**  
**(Member)**

Haryana Real Estate  
Regulatory Authority,  
Gurugram



**HARERA**  
**GURUGRAM**