

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

Complaint no.: 3701 of 2023  
Date of filing of complaint: 16.08.2023  
Date of order 30.10.2025

Kiran Bala  
**R/o:** - House No.-62, Village Moti Bagh, Nanak  
Pura, New Delhi-110078

**Complainant**

Versus

KPDK Buildtech Private Limited.  
**Regd. office at:** A-8, Paryavaran Complex,  
2<sup>nd</sup> Floor, IGNOU Road, New Delhi-110030.

**Respondent**

**CORAM:**  
Shri Phool Singh Saini

**Member**

**APPEARANCE:**  
Sh. Abhinav Arora and Ms. Shweta (Advocates)  
Sh. Himanshu Singh (Advocate)

Complainant  
Respondent

**ORDER**

1. This 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 allottee 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. No.	Particulars	Details
1.	Name of the project	"New Town Square" Sector- 95 A, Pataudi Road, Gurugram
2.	Project area	3.075 acres
3.	Nature of project	Commercial Plotted Colony Project
4.	DTCP License no. and validity	98 of 2013 dated 09.11.2013 valid up to 08.11.2019
5.	Name of licensee	Mahender Kumar Gupta S/o Dayanand Gupta
6.	RERA registered/not registered	Registered vide no. 192 of 2017 dated 14.09.2017
7.	RERA registration valid up to	30.11.2018
8.	RERA extension no.	101 of 2019 dated 08.05.2019
9.	RERA extension valid up to	30.11.2019
10.	Unit no.	SA/636, 6th Floor (As per page no. 65 of the complaint)
11.	Unit measuring	475 sq. ft. (super area) (As per page no. 65 of the complaint)
12.	Date of execution of MOU	31.10.2015 (As per page no. 57 of the complaint)
13.	Date of execution of space buyer's agreement	06.05.2016 (As per page no. 64 of the complaint)
14.	Clause of Assured Return as per MOU dated 31.10.2015	<i>10.(a) From the date of this MOU till the receipt of balance Rs.9,55,938/- plus service tax payable by second party on demand by the first party on completion of building structure, the first party on demand by first party on completion of building structure, the first party shall pay to the purchase a part assured return at the rate of Rs.19,278/-. From the date of receiving the balance amount of Rs.9,55,938/- ( payable on completion of building structure) till the date of handover of the units to the designated operator, the first party shall pay to the second party as assured return of Rs.28,041/- per</i>

		<p>month. The assured return shall be subject to tax deduction at source, which shall be payable on or before 7<sup>th</sup> day of every English Calendar month on due basis. The said assured return shall be paid, via post-dated cheque(s), till such time the possession is handed over to the designated operator and not thereafter.</p> <p>(As per page no. 60 of the complaint)</p>
15.	Possession clause	<p><b>2. Possession</b></p> <p>2.1 Subject to force majeure circumstances, intervention of statutory authorities and purchaser having timely complied with all its obligations, formalities or documentation, as prescribed by seller and not being in default under any part hereof and the agreement, including but not limited to the timely payment of instalments of the total sale consideration and other charges as per the payment plan opted, the seller proposes to offer possession of the said premises to the purchaser within a period of 36 months from the date of execution of the agreement ("commitment period") subject to an extension of 6 months grace period. After filing an application for grant of occupation certificate (OC), seller shall not be liable for any delay in grant thereof by the competent authority and such delay shall proportionately extend the commitment period.....</p> <p>(As per page no. 70 of the complaint)</p>
16.	Due date of possession	<p>06.11.2019</p> <p>(Note: Due date to be calculated 36 months from the date of execution of agreement i.e., 06.05.2016 plus grace period of 6 months)</p>
17.	Total sale consideration	<p>Rs.41,32,500/-</p> <p>(As per payment plan on page no. 83)</p>

		of the complaint)
18.	Total amount paid by the complainant	Rs.39,42,643/- (As per receipt information on page no. 36, 50-56 of the complaint)
19.	Occupation certificate	Not obtained
20.	Offer of possession for fit-outs	21.10.2019 (As per page no. 84 of the complaint)

### **B. Facts of the complaint:**

3. The complainants have made the following submissions:

- That in 2013, the respondent company issued an advertisement announcing a commercial colony project called "New Town Square" at Sector -95-A, Gurugram was launched by respondent on 3.075 acres of land, under the license no. 98 of 2013, issued by DTCP, Haryana and thereby invited applications from prospective buyers for the purchase of unit in the said project. The respondent confirmed that the projects had got building plan approval from the authority.
- That the complainant while searching for a unit was lured by such advertisements and calls from the brokers of the respondent for buying a unit in their project. The respondent told the complainant about the moonshine reputation of the company and the representative of the respondent made huge presentations about the project mentioned above and also assured that they have delivered several such projects in the National Capital Region. The respondent handed over one brochure to the complainant which shows the project like heaven and in every possible way tried to hold the complainant and incited the complainant for payments.
- That relying on various representations and assurances given by the respondent and on belief of such assurances, the complainant booked a unit in the project by paying an amount of Rs.2,00,000/- to

the respondent towards the booking of the said unit on 31.10.2015 and the same was also acknowledged by the respondent.

- iv. That the respondent confirmed the booking of the unit to the complainant vide MOU dated 31.10.2015, providing the details of the project and allotting a unit no. SA/636 6<sup>th</sup> Floor admeasuring 475 sq. ft. (super built up area) in the aforesaid project of the developer for a total sale consideration of Rs.41,32,500/- which includes basic price, plus EDC and IDC, car parking charges and other specifications of the allotted unit and also provided the time frame within which the next instalment was to be paid.
- v. That as per clause 10.(a) of the MOU dated 31.10.2015, the respondent assured the complainant to pay a monthly assured return till handover of the unit and thereafter 45% of the gross room revenue or Rs.28,678/- per month but the respondent paid the monthly assured return till November, 2022 thereafter without providing any justification stop paying the same.
- vi. That a space buyer's agreement was executed between the original allottee and respondent on 06.05.2016. As per clause 2.1 of the buyer's agreement, the respondent had to deliver the possession of the unit within a period of 36 months from the date of execution of the agreement along with grace period of 6 months. Therefore, the due date of possession comes out to be 06.11.2019.
- vii. That as per the demands raised by the respondent, based on the payment plan, the complainant to buy the captioned unit already paid a total sum of Rs.42,42,643/-, towards the total sale consideration of Rs.41,32,500/-.
- viii. That further, the complainant having dream of its own unit in NCR signed the agreement in the hope that the unit will be delivered

on or before 2019. The complainant was also handed over one detailed payment plan. It is unfortunate that the dream of owning a unit of the complainant was shattered due to dishonest, unethical attitude of the respondent.

- ix. That the payment plan was designed in such a way to extract maximum payment from the buyers viz a viz or done/completed. The complainant approached the respondent and asked about the status of construction and also raised objections towards non-completion of the project. It is pertinent to state herein that such arbitrary and illegal practices have been prevalent amongst builders before the advent of RERA, wherein the payment/demands/ etc. have not been transparent and demands were being raised without sufficient justifications and maximum payment was extracted just raising structure leaving all amenities/finishing/facilities/common area/road and other things promised in the brochure, which counts to almost 50% of the total project work.
- x. That meanwhile the complainant went to the office of respondent several times and requested to allow them to visit the site but it was never allowed stating that they do not permit any buyer to visit the site during construction period. The complainant even after paying a huge amount received nothing in return till date but only loss of the time and money invested by the complainant.
- xi. That the complainant contacted the respondent on several occasions and was regularly in touch with the respondent. The respondent was never be able to give any satisfactory response to the complainant regarding the status of the construction and was never definite about the delivery of the possession. The complainant kept pursuing the matter with the representatives of the respondent by visiting

their office regularly as well as raising the concern to about the timelines for delivery of the project and why construction is going on at such a slow pace, but to no avail. Some or the other reason was being given in terms of shortage of labour etc.

- xii. That the respondent despite having made multiple tall representations to the complainant, the respondent has chosen deliberately and contemptuously not to act and fulfil the promises and have given a cold shoulder to the grievances raised by the cheated allottees.
- xiii. That the respondent has completely failed to honour its promises and has not provided the services as promised and agreed through the brochure, buyer's agreement and the different advertisements released from time to time. It is abundantly clear that the respondent has played a fraud upon the complainant and has cheated her fraudulently and dishonestly with a false promise to complete the construction over the project site within stipulated period. The respondent had further malafidely failed to implement the buyer's agreement executed with the complainant. Hence, the complainant being aggrieved by the offending misconduct, fraudulent activities, deficiency and failure in service of the respondent is filing the present complaint.
- xiv. That the complainant has suffered a loss and damage in as much as they had deposited the money in the hope of getting the said unit for residential purposes. They have not only been deprived of the timely possession of the said Unit but the prospective return they could have got if they had invested in fixed deposit in bank. Therefore, the compensation in such cases would necessarily have to be higher than what is agreed in the buyer's agreement. The complainant after

many request and emails received the permissive possession letter on 21.10.2019.

- xv. That the complainant after receiving the aforesaid letter of offer of possession asked the respondent to provide the copy of the OC but respondent fail to provide the same. It is pertinent to note here that the respondent in respect of the said unit has not received the OC till dated. Hence, the offer of possession sent by the respondent without obtaining occupation certificate is bad in the eyes of law and clearly shows the malafide intention on the part of the respondent to cheat and extract the money from the innocent allottees.
- xvi. That the complainant has never delayed in making any payment and has always made the payment rather much before the construction linked plan attached to the SBA. The allottee has approached the company with a request for payment of compensation, despite not making payments on time and on the assurance that he shall make the payment of the delay payment charges as mentioned above along with all other dues to the company.
- xvii. That the buyer's agreement issued to the complainant by the respondent stipulates payment of compensation on account of delay in handing over possession of the flat in the project. The so called compensation payable as per the said agreement is Rs.5/- per sq. ft. per month. It is respectfully submitted that the said amount is atrociously low and unfair. No compensation was provided to the complainant till date.
- xviii. That the respondent has arbitrarily demanded for payment of interest on account of delayed payment at the rate of 24% whereas the compensation for delay stipulated for the buyers is merely Rs.5/-

per sq. ft. The complainant is actually entitled to interest @ 9.30% per annum on the total sum paid by her.

xix. That the present complaint sets out the various deficiencies in services, unfair and/or restrictive trade practices adopted by the respondent in sale of the unit and the provisions allied to it. The modus operandi adopted by the respondent from the respondent point of view may be unique and innovative but from the allottee point of view, the strategies used to achieve its objective, invariably bears the irrefutable stamp of impunity and total lack of accountability and transparency, as well as breach of contract and duping of the allottee, be it either through not implementing the services/utilities as promised in the brochure or through not delivering the project in time.

xx. That the complainant is the one who has invested her life savings in the said project and is dreaming of a home for herself and the respondent has not only cheated and betrayed her but also used her hard earned money for their enjoyment.

xxi. That the present complaint is within the prescribed period of limitation. The complainant has not filed any other complaint before any other forum against the erring respondent and no other case is pending in any other court of law.

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

4. The complainant has sought following relief(s):

- Direct the respondent to hand over the possession of the said unit with the amenities and specifications as promised in all completeness without any further delay and not to hold delivery of the possession for certain unwanted reasons much outside the scope of SBA.

- ii. Direct the respondent to quash the permissive possession letter dated 21.10.2019.
- iii. Direct the respondent to obtain the valid OC and issue fresh offer of possession.
- iv. Direct the respondent to pay monthly assured return as per clause 10(a) of the MOU and thereafter to pay 45% of the gross room revenue or Rs.28,678/- per month as an minimum guarantee.
- v. Direct the respondent to pay the interest on the total amount paid by the complainant at the prescribed rate of interest as per Act of 2016 from due date of possession till date of actual physical possession as the possession is being denied to the complainant by the respondent in spite of the fact that the complainant desires to take the possession.
- vi. Restrain the respondent from raising fresh demand for payment under any head.
- vii. Direct the respondent not to charge anything which was not the part of the space buyer's agreement.
- viii. Direct the respondent to refund the amount illegally charged from the complainant which complainant was not liable to pay as per the payment plan like labour cess etc.
- ix. Direct the respondent not to force the complainant to sign any Indemnity cum undertaking indemnifying the builder from anything legal as a precondition for signing the conveyance deed.
- x. Direct the respondent to get the conveyance deed executed.
- xi. Direct the respondent to provide the exact lay out plan of the said unit.

**D. Reply by the respondent:**

5. The respondent has contested the complaint on the following grounds:

- I. That the respondent had completed the construction of the said project in all aspect in June 2019 and thereafter, the company had applied for the occupancy certificate for the said project on 27.09.2019 with the DTCP, Haryana which was conditionally approved on 27.05.2020. It is submitted that the final occupancy certificate for the said project was received on 04.08.2020.
- II. That in 2015, the complainant applied for booking a commercial unit in the said project which was subsequently approved by the respondent and a commercial shop bearing no. SA/636, admeasuring 475 sq. ft. on the Sixth Floor of the project. On 31.10.2015, a Memorandum of understanding was executed between the parties with respect to the impugned shop.
- III. That the respondent offered permissive possession of the impugned shop to the complainant after making application of occupation certificate vide letter dated 21.10.2019 and thereafter affidavit cum undertaking for permissive possession was submitted by the complainant.
- IV. That the respondent has sent an email dated 21.03.2023 and the same was followed on 05.06.2023 to the complainant requesting/notifying them to give the respondent the additional government approval for pre-operation clearance from local authorities to start commercial apartment units operations after completion of fit-out work. Though this letter, the respondent offered to the complainant to refund the amount received on account of allotment along with applicable interest in accordance with the RERA guidelines, terms and conditions of the builder buyer's agreement and memorandum of understanding signed and

executed by complainants. But the complainant failed to reply to the same till date.

V. That by way of the above MoU, it was mutually decided by both parties that after offer of possession by the respondent, the complainant would be eligible to receive a sum of Rs.19,278/- per month as return on investment. From the date of receiving the balance amount of Rs.9,55,938/- (payable on completion of building structure) till the date of handover the units to the designator operator, the first party shall pay to the second party an Assured Return of Rs.28,041/- per month. The Assured Return shall be subject to tax deduction at source, which shall be payable on or before 7<sup>th</sup> day of every English calendar month on due basis. The said Assured Return shall be paid, via post-dated cheque(s), till such time the possession is handed over to the designated operator and not thereafter.

VI. That an agreement to sell dated 06.05.2016 was executed between the respondent and the complainant with respect to the impugned shop which was part of a similarly placed cluster of shops at the sixth floor. It is pertinent to mention that the buyer's agreement duly covers all the liabilities and rights of both the parties. It is submitted that the cost of the commercial unit was Rs.41,32,500/- plus taxes and other charges as applicable.

VII. That the present complaint is not maintainable since possession had to be handed over to the complainant in terms of clause 2 of the buyer's agreement dated 06.05.2016 which clearly provide that the seller agrees and understands that timely delivery of possession of the commercial unit to the allottee and the common areas to the association of allottees or the competent authority. Subject to force

majeure circumstances, intervention of statutory Authority and purchaser having timely complied with all its obligations, formalities or documentations, as prescribed by the sellers within the 36 months from the date of execution of this agreement, subject to an extension 6 months grace period. After filing an application for grant of OC, the seller shall not be liable for any delay in grant thereof by the competent Authority and such delay proportionately extend the commitment period.

VIII. That the respondent has further submitted that after completing the construction of the said premises in all aspects, the respondent sent a notice for offer of permissive possession of the unit to the complainant on 22.10.2019 along with statement of account. Thereafter, the complainant has paid an amount of Rs.7,55,233/- through RTGS on 18.11.2019.

IX. That the complainant herein is an investor and has accordingly invested in the project of the respondent for the sole reason of investing and earning profits and speculative gains. The property has been bought by the complainant for the sole purpose of earning profits in speculative gains, the complaint is therefore liable to be dismissed. The complainant is not a home buyer and cannot be permitted to take shelter under the same by approaching the Hon'ble Authority by way of the present complaint.

X. That the present complaint is liable to be dismissed at the first instance *inter alia* on the ground that the impugned shop allotted to the complainant is admittedly part of the larger commercial unit space which has been offered and the same was cancelled due to non-payment of outstanding dues as agreed between them and also mentioned in the agreement entered into between the respondent

and the retailer has already been shown to the complainant to its satisfaction and thus, the complainant cannot be allowed to take the actual possession or delayed interest on possession after accepting the possession which was offered by the respondent vide letter dated 22.10.2019.

6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the complainant.

#### **E. Jurisdiction of the Authority:**

7. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

##### **E.I Territorial Jurisdiction**

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**

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)(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.*

8. 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 respondents:**

**F.I Objection regarding the complainant being investor.**

9. The respondent took a stand that the complainant is investor and not consumer and therefore, she is not entitled to the protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. However, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the buyer's agreement, it is revealed that the complainant is buyer and she has paid a total price of Rs.39,42,643/- to the promoter towards purchase of a unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

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

10. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the buyer's agreement executed between promoter and complainant, it is crystal clear that the complainant is allottee as the subject unit was allotted to her by the promoter. The

concept of investor is not defined or referred to in the Act. As per the definition given under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". Thus, the contention of the promoter that the allottee being investor is not entitled to protection of this Act also stands rejected.

**G. Findings on the relief sought by the complainant:**

G.I Direct the respondent to hand over the possession of the said unit with the amenities and specifications as promised in all completeness without any further delay and not to hold delivery of the possession for certain unwanted reasons much outside the scope of SBA.

G.II Direct the respondent to pay the interest on the total amount paid by the complainant at the prescribed rate of interest as per Act of 2016 from due date of possession till date of actual physical possession as the possession is being denied to the complainant by the respondent in spite of the fact that the complainant desires to take the possession.

G.III Direct the respondent to quash the permissive possession letter dated 21.10.2019.

G.IV Direct the respondent to obtain the valid OC and issue fresh offer of possession.

11. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.
12. On 14.07.2025, the husband of the complainant stated that the complainant is willing to take the benefit of leasing arrangements and requested for allowing assured returns in terms of MOU dated 31.10.2015. Further on 21.08.2025, the counsel for the complainant also stated that the complainant is seeking payment of assured returns in terms of MOU and execution of conveyance deed. Moreover, on 31.10.2025 the complainant appeared in person along with her advocate and stated that she is seeking pending assured returns amount and execution of conveyance deed as the complainant has paid almost the entire sale consideration. The counsel for the respondent stated that the respondent is ready to pay the assured returns in terms of MOU

dated 31.10.2015. He further stated that only virtual possession is to be given to the complainant as agreed by the terms of MOU.

13. In view of the above-stated facts, the above sought relief(s) becomes redundant. Thus, no direction to this effect.

**G.V Direct the respondent to pay monthly assured return as per clause 10(a) of the MOU and thereafter to pay 45% of the gross room revenue or Rs.28,678/- per month as an minimum guarantee.**

14. The complainant was allotted a unit in the project of respondent "New Town Square", in Sector-95 A, Gurugram for a total sum of Rs.41,32,500/-. The space buyer's agreement was executed between the parties on 06.05.2016 and the complainant started paying the amount due against the allotted unit and paid a total sum of Rs.39,42,643/-. Clause 2.1 of the buyer's agreement dated 06.05.2016 talks about the offer of possession within 36 months from the date of execution of agreement. As per clause 2.1 of the buyer's agreement dated 06.05.2016, the offer of possession of the unit was to be made on or before 06.11.2019 but the respondent failed to fulfil its commitments despite the payment of a considerable amount by the complainant.

15. The complainant is seeking unpaid assured returns on monthly basis as per the MOU dated 31.10.2015 at the rates mentioned therein. It is pleaded by the complainant that the respondent has not complied with the terms and conditions of the said MoU. Though for some time, the amount of assured returns was paid but later on, the respondent refused to pay the same. In **Gaurav Kaushik and anr. Vs. Vatika Ltd.** the authority has held that when the payment of assured returns is part and parcel of memorandum of understanding or buyer's agreement (maybe there is a clause in that document or by way of addendum or terms and conditions of the allotment of a unit), then the promoter is liable to pay that amount as agreed upon.

16. A memorandum of understanding was executed between the complainant and the respondent on 31.10.2015 by which a specific unit bearing no. SA/636 has been allotted to the complainant for sale consideration of Rs.41,32,500/- As per clause 10(a) of the MOU, the respondent has promised an amount of Rs.19,278/- per month in the form of assured return till receipt of balance of Rs.9,55,938/- which is payable on completion of building structure. The definition of "allottee" as per section 2(d) of the Act of 2016 provides that an allottee includes a person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the promoter. Section 2(d) of the Act of 2016 has been reproduced for ready reference:

**2(d)**

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

Keeping in view the above-mentioned facts and the definition of allottee as per Act of 2016, it can be said that the complainant is an allottee.

17. The money was taken by the promoter as deposit in advance against allotment of immovable property and its possession was to be offered on or before 06.11.2019. However, in view of taking sale consideration by way of advance, the promoter promised certain amount by way of assured returns for a certain period. So, on his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of his grievances by way of filing a complaint.

18. The promoter is liable to pay that amount as agreed upon. Moreover, an agreement/MoU defines the builder-buyer relationship. So, it can be said that the agreement for assured returns between the promoter and

allottee arises out of the same relationship and is marked by the said memorandum of understanding.

19. In the present complaint, the assured return was payable as per clause 10(a) of MoU, which is reproduced below for the ready reference:

*10.(a) From the date of this MOU till the receipt of balance Rs.9,55,938/- plus service tax payable by second party on demand by the first party on completion of building structure, the first party on demand by first party on completion of building structure, the first party shall pay to the purchase a part assured return at the rate of Rs.19,278/- From the date of receiving the balance amount of Rs.9,55,938/- (payable on completion of building structure) till the date of handover of the units to the designated operator, the first party shall pay to the second party as assured return of Rs.28,041/- per month. The assured return shall be subject to tax deduction at source, which shall be payable on or before 7<sup>th</sup> day of every English Calendar month on due basis. The said assured return shall be paid, via post-dated cheque(s), till such time the possession is handed over to the designated operator and not thereafter.*

20. As per MOU dated 31.10.2015, the assured return was payable @ Rs.19,278/- per month w.e.f. 31.10.2015, till receipt of balance of Rs.9,55,938/- which is payable on completion of building structure. Since the complainant has already paid Rs.39,42,643/- against the sale consideration of Rs.41,32,500/-, thus the complainant is entitled for assured return @ Rs.28,041/- per month till the unit is handed over to the designated operator.

21. In light of the reasons mentioned above, the authority is of the view that as per the MoU dated 31.10.2015, it was obligation on the part of the respondent to pay the assured return. It is necessary to mention here that the respondent has failed to fulfil its obligation as agreed inter se both the parties in MoU dated 31.10.2015. Accordingly, in the interest of natural justice, the liability of the respondent to pay assured return as per MoU is still continuing.

22. As per the application to submit additional documents file by the respondent on 18.08.2025, the respondent has paid assured return to the complainant till March 2020 and thereafter from April, 2021 to June, 2022

which amounts to Rs.16,85,489/- . Therefore, considering the facts of the present case, the respondent is directed to pay the amount of assured return in terms of clause 10(a) of MoU dated 31.10.2015 at the agreed rate i.e., @ Rs.28,041/-per month from the date the payment of assured return has not been paid .

**G.VI Restrain the respondent from raising fresh demand for payment under any head.**

**G.VII Direct the respondent not to charge anything which was not the part of the space buyer's agreement.**

**G.VIII Direct the respondent to refund the amount illegally charged from the complainant which complainant was not liable to pay as per the payment plan like labour cess etc.**

23. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.
24. The complainant has opted for a instalment linked payment plan in consonance with the buyer's agreement dated 06.05.2016 and paid an amount of Rs.39,42,643/- against the sale consideration of Rs.41,32,500/- . As per the opted payment plan, an amount of Rs.8,12,250/- is to be paid on offer of possession and till date no valid offer of possession has been made by the respondent. Thus, the respondent is directed not to charge anything beyond the agreed payment plan as per buyer's agreement.

**G.IX Direct the respondent not to force the complainant to sign any Indemnity cum undertaking indemnifying the builder from anything legal as a precondition for signing the conveyance deed.**

**G.X Direct the respondent to get the conveyance deed executed.**

25. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.
26. Clause 5 of the buyer's agreement dated 06.05.2016 executed between the parties states about the execution of conveyance deed. The relevant portion of the clause 5 is reproduced below for the ready reference:

**5. Conveyance Deed and Stamp Duty**

*5.1 Subject to the payment of total sale consideration and adherence to the terms and conditions of this agreement by the purchaser, the seller shall*



*arrange to execute an appropriate conveyance deed so as to sell, transfer and convey its rights, title and interest pertaining to the said premises in favour of the purchaser or its nominee as the case may be. However, the purchaser shall, on his/her/its/their part be responsible and bound to execute the appropriate conveyance/transfer/sale deed as and when called upon to do so by the seller. Failure to get the deed executed when called upon by the seller will be at the sole risk, cost and consequences of the purchaser, including but not limited to termination of this agreement. If the purchaser later requests to get the deed executed, then all the costs including cost of making signatory available on behalf of seller for execution of deed will be borne by purchaser.*

27. Further, as per section 11(4)(f) and section 17(1) of the Act of 2016 also states that the promoter shall execute a registered conveyance deed in favour of the allottee within three months from the date of issuance of occupation certificate but it nowhere defined indemnity-cum-undertaking as a pre-condition for signing of the conveyance deed. In view of the afore-mentioned facts, the respondent is directed to get the conveyance deed executed as per agreed terms of the buyer's agreement dated 06.05.2016 in consonance with the provisions of the Act of 2016 and not to put any indemnity-cum-undertaking as a pre-condition for signing the same .

**G.XI Direct the respondent to provide the exact lay out plan of the said unit.**

28. As per section 19(1) of the Act of 2016, the allottee is entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent Authority and such other information as provided in the Act or the rules and regulations or the agreement signed between the parties. Thus, the respondent is directed to provide the exact lay out plan of the unit of the complainant.

**H. Directions of the authority:**

29. 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 is directed to pay the unpaid assured return at the rate i.e., Rs.28,041/- per month as per agreed terms of MoU dated 31.10.2015.
- ii. The respondent is directed to pay arrears of accrued assured return as per MoU dated 31.10.2015 till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainant and failing which that amount would be payable with interest @ 8.85% p.a. till the date of actual realization.
- iii. The respondent is further directed to execute the conveyance deed in terms of section 17 of the Act of 2016 on payment of stamp duty and registration charges as applicable. The complainant is also directed to participate towards the registration of the conveyance deed of the unit in terms of section 19(11) of the Act of 2016.
- iv. The respondent is directed to provide the exact lay out plan of the unit of the complainant.

30. Complaint stands disposed of.

31. File be consigned to registry.

Dated: 30.10.2025



**(Phool Singh Saini)**  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram