

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

Complaint no. : 1667 of 2025
Date of complaint : 27.03.2025
Date of order : 12.09.2025

Mr. Nitin Oberoi and Karuna Oberoi
R/o: - L-29/2 DLF Phase II, Gurugram

Complainant

Versus

Mapplehill Credit Holdings and Leasing Limited.
Regd. Office at: F-79/18, Sainik Farms,
New Delhi

Respondent No. 1

CORAM:
Arun Kumar

Chairman

APPEARANCE:
Shiv Gupta(Advocate)
Rohit Mehla (Advocate)

Complainant
Respondent

ORDER

1. The present complaint has been filed by the complainant/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 allottees as per the agreement for sale executed *inter se*.

A. Project and unit related details

2. The particulars of unit details, sale consideration, the amount paid by the complainants, 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 of the project	"MVL I Park" sector -91, Gurugram.
2.	Nature of the project	Commercial project
3.	Land bearing no.	Khasra no.11/3/1/1/,8/1/1/1, 8/1/2, 13/1
4.	Allotment Letter	27.02.2012 (Page 17 of complaint)
5.	Buyer's agreement	26.03.2012 (Page 18 of complaint)
6.	Unit no.	309,floor 3 rd .,at rate of Rs. 4000/-
7.	Total sale price	Rs. 19,36,000/- (as per BBA on page 19 of complaint)
8.	Paid up amount	Rs. 19,36,000/- (as per receipts on page 28,29 of complaint)
9.	Area Admeasuring	Super area 484 sq. ft. (as per BBA on page 19 of complaint)
10.	Lease deed	04.04.2012 (as per page 34 of complaint)
11.	Cancellation of lease deed deed	09.10.2014 (as per page 41 of complaint)



12.	Possession clause	<p>8. That the SECOND PARTY/PURCHASER(S) shall only be entitled to transfer, assign or lease or part with possession of the premises with the prior consent of the developer, which consent will not be unreasonably withheld as long as assignment etc. is in consonance with terms of agreement and willingness of proposed assignee to execute documents of transfer, maintenance agreement, indemnity bond, affidavit etc. as prescribed by the DEVELOPER. The SECOND PARTY/PURCHASER(S) shall also be required to obtain No Objection Certificate from the Maintenance Agency prior to transfer of the premises. The Maintenance Agency shall issue the No Objection Certificate only if there are no dues outstanding against the SECOND PARTY/PURCHASER(S) towards maintenance /electricity /power back up charges etc. and also such other amounts as may be payable under the maintenance agreement. The DEVELOPER may, without prejudice to its rights under any Act, Rules or Regulations permit such nomination on such terms and conditions which it shall impose including payment of such nomination charges as may be determined by the DEVELOPER from time to time. Further, in case any charges, levies, duties, taxes, stamp duty or increased stamp duty become payable on this account due to any legislation, Rules and Regulations, such charges, levies, taxes, duties, stamp duty or increased stamp duty shall be borne jointly and severally by the PURCHASER(S)/or</p>
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		<p><i>his/her Nominee(s) as the case may be. The nominee(s) shall be bound by the terms and conditions of this Agreement. The SECOND PARTY/PURCHASER(S) assures the DEVELOPER that he shall solely be responsible for any violation under any law committed by him in respect of such nomination and that the DEVELOPER shall not be liable on any account whatsoever in respect of any transaction between the SECOND PARTY/PURCHASER(S) and his/her Nominee(s). It is distinctly understood by the SECOND PARTY/PURCHASER(S) that upon such nonunation, the SECOND PARTY/PURCHASER(S) shall no more be entitled to any privileges and facilities if any available in the said Building arising from the allotment of the said premises. The terms and conditions of this agreement shall be binding upon the nominee with full force and effect and he shall be liable to make all payments contemplated the aforesaid agreement.</i></p>
13.	Reminder letter for execution of sale deed and maintenance agreement	22.07.2024,14.02.2024,28.10.2024 (Among others from page 13- 30 of reply)
14.	Occupation certificate	12.03.2011 (at page 12 of reply)

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:
 - a. The complaints, Nitin Oberoi and Karuna Oberoi, who are husband and wife, booked a IT/ Cyber space in October 2011, with MVL Credit

Holdings & Leasing Ltd. and a Unit No. 309, admeasuring 484 sq. ft. on 3rd floor of MVL I Park, Gurgaon was allotted to the complainants vide allotment letter dated 27.02.2012.

- b. A buyer's agreement dated 26.03.2012 was executed between the parties. The total super area of the unit is 484 sq. ft. and the total consideration is Rs.19,36,000/-.
- c. The respondent company informed the complainants at the time of booking that the construction of the project is almost complete, and the respondent company will take the said unit on lease from april 2012 onwards, even if the construction is not completed by then. The respondent company as promised, entered into an lease deed dated 04.04.2012 through one of its other venture, effective from 15.04.2012 for a period of 9 years on a monthly rent of Rs.31,460/- for the initial term of 3 years. However, the respondent company abruptly cancelled the lease as the respondent was defaulting in making regular payment of the rent, and a cancellation deed was executed on 09.10.2014.
- d. The possession of the said unit was retained by the respondent company and till date the respondent company is in possession of the said unit and had not transferred the physical possession of the said unit to the complainants.
- e. The respondent company has not been able to complete the construction of the project as per the approved plans and has further failed to obtain occupancy/ completion certificate from the concerned authorities.
- f. The respondent company without obtaining the occupancy certificate and handing over possession of the unit to the complainants is

demanding the maintenance charges from the complainants. The respondent company contrary to the law and the terms of the buyer's agreement sent a maintenance and service agreement for signatures to the complainants, which the complainants refused to execute till the occupancy certificate is received by the respondent company and possession of the unit is handed over to the complainants. The respondent company is sending reminders to the complainants to execute the maintenance agreement but are refusing to get the sale deed executed in favour of the complainants, and the same is evident from the letter dated 22.04.2024 and 28.10.2024 issued by the respondent.

- g. The respondent company is further illegally demanding electricity charges, power backup charges and fixed charges, without obtaining the occupancy/ completion certificate and handing over possession of the said unit to the complainants.
- h. The complainants have vide their letter dated 27.09.2023 had demanded from the respondents to provide the (i) completion certificate, (ii) occupancy certificate, and site plan of the entire 3rd floor clearly demarcating their unit and the facilities provided thereon.
- i. The respondent company replied to the said letter, vide their reply dated 18.10.2023, the contents of which are denied and disputed being false and incorrect. However, the respondent company failed to furnish copy of completion certificate or occupancy certificate and further failed to supply the site plain.
- j. The respondent company is further demanding property tax from the complainants, which is also-a-completely unlawful demand as the

title of the said unit is not yet transferred in the name of the complainants and no demand can be made from the complainants towards payment of property tax.

- k. That all the efforts of the complainants to reach an amicable resolution with the respondent have failed and the complainants have no other efficacious remedy expect to approach this Authority.

C. Relief sought by the complainants: -

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

- i. The respondent company be directed to produce the occupancy certificate in terms of section 19 (10) of the RERA Act, 2016 which mandates that the respondent company must obtain the same before offering possession.
- ii. The respondent company be directed to produce the declaration as per section 2 of the Haryana Apartment Ownership Act 1983.
- iii. The respondent company be directed to complete the construction as per the sanctioned plan and hand over physical possession in terms of clause 29 and 19 of the buyers agreement dated 26.03.2012.
- iv. Set aside the demand made by the respondent company towards the maintenance charges as the same are invalid in the absence of valid occupancy certificate and noc from the fire department.
- v. Set aside the demand made by the respondent company regarding the electricity charges, power backup charges and fixed charges as valid legal possession is not yet handed over by the respondent company to the complainants.
- vi. Set aside the demand made of property tax as the title to the said unit does not stand in the name of the complainants.
- vii. Award compensation to the complainants for delay in handing over possession of the unit despite receiving the entire sale consideration in the year 2012 and also for mental harassment and loss suffered by the complainants.

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

- I. The captioned complaint is liable to be dismissed as section 3 of the said act envisages registration of "ongoing projects" and "projects for which the completion certificate has not been issued". In the present case MVL I-Park, situated at Khasara No.11/3/1/1, 8/1/1/1, 8/1/2, 13/1, Revenue Estate Village Sliokhara, Gurugram, was completed in the year 2011 and has also received Occupation Certificate / Completion Certificate on 12.03.2011, from the competent authority Le, Senior Town Planner, Gurgaon Circle, Gurugram. It is pertinent to point out that as the said project received the occupation certificate/completion certificate on 12.03.2011-10 approximately five years prior to the said act coming into force. Therefore, this regulatory authority does not have the jurisdiction to adjudicate complaints with respect to the said project where the occupation certificate/completion certificate has been received.
- II. The captioned complaint is liable to be dismissed, as the said project does not fall within the definition of "ongoing project". It is submitted that the said rules were published on 28.04.2017, and the respondent company had received the occupation certificate/ completion certificate for the said project on 12.03.2011, itself - i.e. approximately six years before the publication of the said rules. Thus, in terms of both the said act and the said rules, the said project is not an ongoing project and thus, this regulatory authority does not have jurisdiction to entertain such complaint.

- III. The captioned complaint is liable to be dismissed, as the buyers agreement executed between the complainant and respondent is dated 26.03.2012 hereinafter referred to as "Buyers Agreement" - i.e., 4 years before 01.05.2016 i.e., date on which the said Act, came into force. The provisions of said act would not be applicable on a buyers agreement executed 5 years prior to the coming into force of said act and the buyers agreement would not be governed by the said act.
- IV. The captioned complaint is liable to be dismissed, as the complainant is patently guilty of suppressio veri suggestio falsi. The complainant has not come before this regulatory authority with clean hands. the complainant has deliberately concealed and suppressed the fact that the complainant has been paid lease / rent to the tune of Rs. 10,05,147/- approximately and has not paid dues of approximately rs 42,16,429/- comprising of total dues payable to the respondent company till 20.06.2025, and property tax to be paid to the Municipal Corporation, Gurugram till March, 2017. Additionally, the complainant has failed to execute the maintenance agreement as envisaged by the buyers agreement. the various failure and inaction of the complainant has resulted in the non-execution of the sale deed as has been explained in the present reply. Anything said to the contrary is denied being wrong.
- V. The captioned complaint is miserably misplaced in terms of the laws and facts in circumstances. The complainant by virtues of the present complaint is making a vail endeavor to extract a refund which is untenable and illegal.
- VI. The complainant contends that the said unit is not complete / under construction without any reference to buttress the same. whereas

evidently the occupation / completion certificate qua the project was obtained on 12.03.2011 prior to the buyers agreement dated 08.08.2011. Further a careful perusal of the buyers agreement would reveal that on the even date said of the complainant was also leased out. from april 2012 till september 2014, the complainant has been paid lease rent to the tune of Rs. 10,05,147/- and the time there was no grouse with respect to the alleged incompleteness of the said project. It is also pertinent to mention herein that it was the complainant who insisted on the cancellation of the lease deed dated 04.04.2012.

VII. It is since september, 2014 the respondent company after the cancellation of the lease dated dated 04.04.2012 intimated the complainant to takeover the possession of your concerned unit. Further, since September, 2014 and till date itself the Complaint has been issued several notices and reminders to (i) execute the maintenance agreement (ii) pay the outstanding maintenance dues and fixed electricity charges (iii) execute the conveyance deed.

VIII. Patently the present complaint is an ill attempt to scuttle away from the obligations of the complainant after enjoying rentals.

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 submission made by the complainants.

E. Jurisdiction of the authority

7. 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.

F. Findings on the relief sought by the complainants.

F.I The respondent company be directed to produce the occupancy certificate in terms of section 19 (10) of the RERA Act, 2016 which mandates that the respondent company must obtain the same before offering possession.

F.II The respondent company be directed to produce the declaration as per section 2 of the Haryana Apartment Ownership Act 1983.

F.III The respondent company be directed to complete the construction as per the sanctioned plan and hand over physical possession in terms of clause 29 and 19 of the buyers agreement dated 26.03.2012.

F.IV Set aside the demand made by the respondent company towards the maintenance charges as the same are invalid in the absence of valid occupancy certificate and noc from the fire department.

F.V Set aside the demand made by the respondent company regarding the electricity charges, power backup charges and fixed charges as valid legal possession is not yet handed over by the respondent company to the complainants.

F.VI Set aside the demand made of property tax as the title to the said unit does not stand in the name of the complainants.

F.VII Award compensation to the complainants for delay in handing over possession of the unit despite receiving the entire sale consideration in the year 2012 and also for mental harassment and loss suffered by the complainants.

11. The above-mentioned reliefs sought by the complainant are being taken together, as the findings in one relief will necessarily affect the outcome of the others and the same being interconnected.
12. The present complaint pertains to the real estate project "MVL I Park", situated in Sector-91, Gurugram. It is an admitted and undisputed position on record that the competent authority had granted occupation certificate dated 12.03.2011 in respect of the said project. At the very threshold, this Authority is required to examine whether the statutory conditions necessary for assumption of jurisdiction are satisfied. Jurisdiction under the Act is not automatic, nor does it arise merely from the filing of a complaint. The Authority is a creation of statute and derives its powers strictly from the legislative mandate. It is, therefore, incumbent upon this Authority to first ascertain the existence of jurisdictional facts, without which the exercise of adjudicatory power would be impermissible in law.

13. The Real Estate (Regulation and Development) Act, 2016 is a regulatory statute designed to govern a specific class of real estate projects identified by the legislature. The applicability of the Act is circumscribed by Section 3, which mandates compulsory registration of real estate projects with the Regulatory Authority. However, the legislature has, in its wisdom, expressly excluded certain categories of projects from the operation of the Act. Section 3(2)(b) categorically provides that no registration shall be required where the promoter has received a completion certificate for a real estate project prior to the commencement of the Act. The relevant portion of the section is reproduced below :-

3. Prior registration of real estate project with Real Estate Regulatory Authority.-

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

14. This exclusion is neither incidental nor ancillary; it is a substantive legislative determination forming an integral part of the statutory scheme. The statutory framework thus makes it abundantly clear that the Act is not intended to operate retrospectively so as to reopen completed transactions or subject concluded projects to a new regulatory regime. The jurisdiction of the Authority is, therefore, confined only to such projects as fall squarely within the definition and scope prescribed by Section 3 of the Act.

15. The constitutional validity of this legislative classification and the scope of the Act have been examined in depth by the Hon'ble Supreme Court in Pioneer Urban Land and Infrastructure Ltd. v. Union of India. The Hon'ble Supreme Court has authoritatively held as under:

"The Real Estate (Regulation and Development) Act, 2016 is a prospective legislation and applies only to those real estate projects which are brought within its fold by the legislature."

"Parliament has consciously made a distinction between ongoing projects and completed projects, and has deliberately excluded the latter from the purview of the Act."

"Such exclusion is founded on an intelligible differentia and forms an integral part of the statutory scheme."

"The Act cannot be interpreted in a manner so as to retrospectively apply its provisions to projects which had already been completed in accordance with law prior to its commencement."

"Courts and authorities are bound to give effect to the legislative classification and cannot, by interpretative process, expand the scope of the Act beyond what the legislature has expressly provided."

16. The above pronouncement lays down, in unequivocal terms, that the Act is prospective in nature and that completed projects constitute a distinct and excluded class. The exclusion is founded on intelligible differentia and bears a rational nexus with the object of the legislation. The Hon'ble Supreme Court has further cautioned that neither courts nor statutory authorities can, by interpretative ingenuity, enlarge the scope of the Act so as to bring within its fold projects which the legislature has consciously kept outside. This declaration of law binds this Authority and admits of no deviation.

17. The jurisdictional limits of the Authority have been further elucidated by the Hon'ble Supreme Court in *Newtech Promoters and Developers Private Limited v. State of Uttar Pradesh and Others*. In the said judgment, the Hon'ble Supreme Court has delineated the contours of jurisdiction under the Act in the following terms:

"The Real Estate Regulatory Authority is a creature of statute and can exercise only such powers as are expressly conferred upon it by the Act."

"The existence of an 'ongoing project' is a jurisdictional fact which must be established before the Authority can assume jurisdiction under the Act."

"If the project is not an ongoing project within the meaning of Section 3 of the Act, the Regulatory Authority would have no jurisdiction to entertain a complaint in respect thereof."

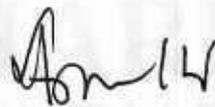
"Jurisdiction cannot be conferred upon the Authority by consent of parties, nor can it be assumed on considerations of equity or hardship."

"When the statute clearly defines the limits of jurisdiction, neither the Authority nor the Courts can travel beyond the same by interpretative exercise."

18. This judgment reinforces the principle that jurisdiction under the Act is conditional and not plenary. The existence of an "ongoing project" is not a mere procedural formality but a foundational jurisdictional fact. In the absence of such a fact, the Authority lacks competence to entertain, adjudicate, or grant relief. The Hon'ble Supreme Court has further clarified that jurisdiction cannot be assumed on sympathetic considerations, nor can it be conferred by consent, or waiver of parties. The limits of jurisdiction, once statutorily defined, are binding and inviolable.
19. When the aforesaid principles are applied to the facts of the present case, it becomes evident that the project in question had already attained completion to the extent certified prior to the commencement of the Act. The part completion certificate dated 19.08.2014, which predates the coming into force of the Act on 01.05.2017, conclusively demonstrates that the project, to that extent, stood completed in accordance with law. Such completion brings the project squarely within the exclusion contemplated under Section 3(2)(b) of the Act.
20. Once the statutory exclusion is attracted, the project ceases to be an "ongoing project" for the purposes of the Act. In such circumstances, this

Authority cannot, by interpretative expansion or equitable reasoning, assume jurisdiction where none exists. To do so would amount to rewriting the statute and transgressing the limits of authority conferred by Parliament.

21. In view of the statutory scheme, and in light of the binding law declared by the Hon'ble Supreme Court, this Authority holds that the present project does not satisfy the jurisdictional pre-condition of being an "ongoing project" within the meaning of Section 3 of the Act. The absence of this foundational fact renders the present complaint outside the purview of the Act and beyond the jurisdiction of this Authority.
22. In view of the foregoing reasons, the Authority finds no merit in the present complaint and the same is accordingly dismissed. Pending applications, if any, also stand disposed of.
23. File be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.09.2025