

BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,
 GURUGRAM

Date of order: 30.10.2025

| NAME OF THE BUILDER | | VATIKA LIMITED | |
|---------------------|--------------|-------------------------------------------|----------------------------------------------------------|
| PROJECT NAME | | "VATIKA INDIA NEXT", Sector-83, Gurugram. | |
| S. NO. | CASE NO. | CASE TITLE | APPEARANCE |
| 1. | CR/3567/2024 | Nandini Pratap V/s Vatika Limited | Shri Gaurav Rawat Advocate (Advocate for complainant) |
| 2. | CR/3568/2024 | Nandini Pratap V/s Vatika Limited | Shri Venket Rao Advocate (Advocate for respondent) |

CORAM:

Shri Phool Singh Saini

Member
ORDER

1. This order shall dispose of both the complaints titled as above filed before this authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the flat buyer's agreement executed inter se between parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Vatika India Next Plots" (Residential Township) being developed by the same respondent/promoter i.e., M/s Vatika Limited. The terms and conditions of the allotment letter and fulcrum of the issues involved in all these cases pertains to failure on the part of the promoter to execute the agreement to sale w.r.t the subject units in question, hence, the complainant(s)



intends to continue with the project and seeking direction for setting aside the notice for termination and execution of buyer's agreement w.r.t the allotted unit.

3. The details of the complaints, reply to status, unit no., expression of interest, allotment letter, total sale consideration, total paid up amount, and relief sought are given in the table below:

| | | | | | |
|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|--|
| Project Name and Location | M/s Vatika Limited at "Vatika India Next Plots" situated in Sector-83, Gurugram. | | | | |
| Nature of the project | Residential Township | | | | |
| DTCP license no. and other details | 113 of 2008 dated 01.06.2008 Valid up to 31.05.2018 | | | | |
| RERA Registered/ not registered | Registered [For Vatika India Next Phase-II] Vide no.36 of 2022 dated 16.05.2022 Valid up to 31.03.2029 | | | | |
| Completion certificate | Not yet obtained (As confirmed by the counsel for the respondent during proceedings dated 30.10.2025) | | | | |
| Possession clause as per buyer's agreement | Handing over possession of the said plot to the allottee. <i>That the promoter based on its present plans and estimates and subject to all just exceptions, contemplates to complete the development of the said township or the sector/ part thereof where the said plot is proposed to be located, within a period of three years from the date of execution of this Agreement unless there shall be delay or there shall be failure due to reasons beyond the control of the promoter or due to failure of the Allottee to pay in time the price of the said plot along with all other charges and dues in accordance with the schedule of payments given in Annexure-II or as per the demands raised by the promoter from time to time or any failure on the part of the allottee to abide by any of the terms or conditions of this Agreement.</i> | | | | |
| (Emphasis supplied) | | | | | |

| Sr. No. | Complaint no. / Title/ Date of Filing / Reply | Unit no. and area | Date of allotment letter and builder buyer agreement | Due date of possession | Total sale consideration and amount paid |
|---------|-------------------------------------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1. | CR/3567/2024 Nandini Pratap V/S Vatika Limited | D/240/027 [Old Unit] Plot no.15, Street J-10 [Current unit] | BBA: 01.12.2009 (page 31 of complaint) | 01.12.2012 [Note: the due date of possession is calculated three years] | TSC: - Rs.46,27,200/- (As per clause 1.2 of BBA at page 33 of complaint) |

| | | | | | |
|----|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | D.O.F. 05.08.2024 Reply 06.03.2025 | 240 sq. yards. (page no. 28 of reply) | AL: 16.05.2013 (page no. 28 of reply) | from the date of execution of buyer's agreement] | AP: - Rs.45,05,250/- (As per SOA dated 12.08.2024 at page 29 of reply also as confirmed by counsel for the complainant during proceedings dated 30.10.2025) |
| 2. | CR/3568/2024 Nandini Pratap V/S Vatika Limited D.O.F. 05.08.2024 Reply 06.03.2025 | D/240/015 [Old Unit] Plot no.17, Street J-10 [Current unit] 240 sq. yards. (page no. 33 of reply) | BBA: 12.07.2011 (page 33 of complaint) AL: 16.05.2013 (page no. 33 of reply) | 12.07.2014 [Note: the due date of possession is calculated three years from the date of execution of buyer's agreement] | TSC: - Rs.1,10,99,520/- (As per clause 1.2 of BBA at page 33 of complaint) AP: - Rs.1,02,98,900/- (As per SOA dated 13.08.2024 at page 34 of reply also as confirmed by counsel for the complainant during proceedings dated 30.10.2025) |

Note: In the table referred above certain abbreviation have been used. They are elaborated as follows:

| Abbreviation | Full Form |
|--------------|--------------------------------|
| DOF | Date of filing complaint |
| BBA | Builder buyer's agreement |
| AL | Allotment letter |
| TSC | Total Sale consideration |
| AP | Amount paid by the allottee(s) |

4. The aforesaid complaints were filed against the promoter on account of violation of the plot buyer's agreement and allotment letter against the allotment of units in the project of the respondent/builder and for not handing over the possession by the due date, seeking award of possession along with delayed possession charges and quashing of offer of possession dated 30.05.2017.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/ respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the

real estate agents under the Act, the rules and the regulations made thereunder.

6. The facts of all the complaints filed by the complainant/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/3567/2024 titled as Nandini Pratap V/S Vatika Limited** are being taken into consideration for determining the rights of the allottee(s) qua delayed possession charges along with interest and others.

A. Unit and project related details.

7. 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:

CR/3567/2024 titled as Nandini Pratap V/S Vatika Limited

| S. N. | Particulars | Details |
|-------|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| 1. | Name and location of the project | Vatika India Next, Gurgaon, Haryana |
| 2. | Nature of project | Residential Township |
| 3. | DTCP license | 113 of 2008 dated 01.06.2008 valid up to 31.05.2018 |
| 4. | Rera registered/ not registered and validity status | Registered (for Vatika India Next Phase-II) Vide no. 36 of 2022 dated 16.05.2022 Valid up to 31.03.2029 |
| 5. | Unit no. | D/240/027 [Old unit] (As per clause 1.1 of BBA page 33 of complaint) |
| | | Plot no.15, Street J-10 [Current unit] (as per allotment letter at page 28 of reply) |
| 6. | Unit Size | 240 sq. yards (As per clause 1.1 of BBA page 33 of complaint) |
| 7. | Date of buyer agreement | 01.12.2009 (Page 31 of complaint) |

| | | |
|-----|------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8. | Allotment letter | 16.05.2013 (as per allotment letter at page 28 of reply) |
| 9. | Possession clause | <p>10. Handing over possession of the said plot to the allottee.</p> <p><i>"That the promoter based on its present plans and estimates and subject to all just exceptions, contemplates to complete the development of the said township or the sector/ part thereof where the said plot is proposed to be located, within a period of three years from the date of execution of this Agreement unless there shall be delay or there shall be failure due to reasons beyond the control of the promoter or due to failure of the Allottee to pay in time the price of the said plot along with all other charges and dues in accordance with the schedule of payments given in Annexure-II or as per the demands raised by the promoter from time to time or any failure on the part of the allottee to abide by any of the terms or conditions of this Agreement..."</i></p> <p style="text-align: right;">(Emphasis supplied)</p> <p>(As per clause 10 of BBA page 35 of complaint)</p> |
| 10. | Due date of possession | <p>01.12.2012</p> <p>[Note: due date of possession is calculated three years from the date of execution of buyer's agreement.]</p> |
| 11. | Total sale consideration [BSP + IFMS] | <p>Rs.46,27,200/-</p> <p>(As per clause 1.1 of BBA page 33 of complaint)</p> |
| 12. | Amount paid against the allotted unit | <p>Rs.45,05,250/-</p> <p>(As per SOA dated 12.08.2024 at page 29 of reply also as confirmed by counsel for the complainant during proceedings dated 30.10.2025)</p> |
| 13. | Final opportunity | <p>12.05.2016</p> <p>(page 32 of reply)</p> |

| | | |
|-----|---------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| 14. | Completion certificate/ Occupation certificate | Not yet obtained (As confirmed by the counsel for the respondent during proceedings dated 30.10.2025) |
| 15. | Offer of possession | 30.05.2017 (page 33 of reply) |

B. Facts of the complaint.

8. The complainant has made the following submissions in the complaint:
- i. The respondent issued an advertisement announcing a residential plotted colony project called "Vatika India Next" at Sector - 81-85, Gurugram was launched by respondent under the license no. 113/2008, 71/2010, 62/2011, 76/2011, issued by DTCP, Haryana, Chandigarh and thereby invited applications from prospective buyers for the purchase of unit in the said project. That the respondent confirmed that the projects had got building plan approval from the authority.
 - ii. That relying on various representations and assurances given by the respondent company and on belief of such assurances, allottee booked a unit in the project by paying a booking amount towards the booking of the said unit bearing no. unit/ plot- 027, D/240/027, in Sector 83, having super area measuring 240 sq. yards. to the respondent dated 25.08.2009 and the same was acknowledged by the respondent.
 - iii. That the respondent confirm the booking of the unit to the allottee and providing the details of the project, confirming the booking of the unit dated 25.08.2009, allotting a unit/ plot- 027, D/240/027 measuring 240 sq. yards (super built up area) in the aforesaid project of the developer for total sale consideration of Rs.45,91,200/- plus Rs.36,000/- (IFMS) totalling to Rs.46,27,200/- and other Specifications of the allotted unit and providing the time frame.

- iv. That a plot buyer's agreement was executed between the complainant and respondent on 01.12.2009. As per the buyer's agreement the sale price of the said apartment shall be Rs.46,27,200/- . That would include the basic sale price, EDC, IDC, Preferential location charges. As per clause 10 of the buyer's agreement the respondent had to deliver the possession of the unit within period of 3 years from the date of the agreement. Therefore, due date of possession comes out to be 01.12.2012.
- v. That respondent in the month of May, 2013 approaches the complainant and provided various representations and assurances regarding change of the unit from unit/ plot- 027, D/240/027 to plot no.15/J-10/83J. respondents confirmed that the unit/plot had got plan approval from the authority. Furthermore, provide the assurance that the total amount paid by the allottees will be adjusted and no extra amount is required to be paid and the terms and conditions will remain the same as agreed. It is pertinent to mention here that respondent builder without obtaining the consent of the complainant acting arbitrarily changed the said plot from unit/ plot- 027, D/240/027 to plot no.15/J-10/83J. Furthermore, till date respondent has not even executed any documents nor has issued any allotment letter etc. with respect to the new plot.
- vi. That respondent without obtaining the CC/OC of the said unit issued possession letter dated 30.05.2017 in favour of the complainant. That along with the above said demand letter respondent raised several illegal demands on various account which are actually not payable as per the buyer agreement.
- vii. That raising demand letter by the respondent on payment of charges which the plot buyer is not contractually bound to pay, cannot be considered to be a valid demand letter/offer of possession. It would be noticed from the details provided above that those charges were never payable by the

complainant as per the Agreement, by the complainant and hence the demand letter is not valid. That at the time of offer of possession respondent failed to provide the copy of OC of the said unit. That it has been held by the Honourable NCDRC, New Delhi in many cases that demand letter on the payment of charges which the buyer is not contractually bound to pay, cannot be considered to be a valid offer of possession/demand letter. In the present case asking for charges as elaborated above, which the allottees are not contractually bound to pay is illegal and unjustified and therefore not a valid offer of possession/demand letter.

- viii. That the respondent asked the complainants to sign the indemnity bond as perquisite condition for handing over of the possession. Allottee raised objection to above said pre-requisite condition of the respondent as no delay possession charges was paid to the complainants but respondent instead of paying the delay possession charges clearly refuse to handover to possession if the complainants do not sign the aforesaid indemnity bond. Further, the complainants left with no option instead of signing the same.
- ix. The fact is that the complainants has never delayed in making any payment and has always made the payment rather much before the construction linked plan attached to the BBA.
- x. 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.
- xi. That the respondent asking for electric meter and electrification charges from the complainants is absolutely illegal as the cost of the electric meter in the market is not more than Rs.2,500/- hence asking for such a huge amount, when the same is not a part of the builder buyer agreement is unjustified and illegal and therefore needs to be withdrawn immediately. So

- are the other demands required to be withdrawn, as per details provided above and those which are not a part of the BBA.
- xii. 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.50,05,250/-, towards the said unit against total sale consideration of Rs.50,05,250/-.
 - xiii. That in terms of clause 10 of the said buyer's agreement, respondent was under dutiful obligation to complete the construction and to offer the possession on or before 2014. That complainant approached in person to know the fate of the plot and offer of possession in terms of the said buyer's agreement, respondent misrepresented to complainant that the handing over of possession will get completed soon.
 - xiv. 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.
 - xv. The respondent has completely failed to honour their promises and have not provided the services as promised and agreed through the brochure, BBA and the different advertisements released from time to time. Further, such acts of the respondent is also illegal and against the spirit of RERA Act, 2016 and HRERA Rules, 2017.
 - xvi. That the respondent has played a fraud upon the complainant and have cheated them 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 BBA executed with the complainant.
 - xvii. 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 BBA.

- xviii. The Vatika India Next amenities are 24X7 Power Back up, 24X7 Security, Badminton Court, Basketball Court, Broadband Connectivity, Club House, Covered Parking, Creche, Gym, Health Facilities, Intercom Facility, Kids Play Area, Lawn Tennis Court, Maintenance Staff, Open Parking, Recreation Facilities, Religious Place, School, Servant Quarters, Shopping Arcade, Swimming Pool, Visitor Parking.
- xix. It has been recently held by the Honourable Supreme Court as under in connection with providing the amenities as assured by the respondent at the time of selling the property:
- xx. The complainant contacted the respondent on several occasions and were regularly in touch with the respondent. The respondent was never able to give any satisfactory response regarding the status of the possession and were never definite about the delivery of the possession.
- xxi. The complainant kept pursuing the matter with the representatives of the respondents by visiting their office regularly as well as raising the matter to when will they deliver the possession and why handing over of possession is going on at such a slow pace, but to no avail. Some or the other reason was being given.
- xxii. That complainant sent various communications to the respondents raising various issues in relation to the said unit and asking the reason for delay in handing over of possession and time line within which possession will be handed over to the complainant and challenging the various illegal and one-sided demands letters on account of maintenance sent to the complainant

but respondents till date has failed to provide any satisfactory response to the complainant.

- xxiii. The fact is 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 BBA.
- xxiv. That the complainant has suffered on account of deficiency in service by the respondent. Therefore, the respondent is guilty of deficiency in service within the purview of provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017.
- xxv. That the present complaint sets out the various deficiencies in services, unfair and/or restrictive trade practices adopted by the respondent in sale of their unit and the provisions allied to it.
- xxvi. That the complainant(s) being an aggrieved person filing the present complaint under section 31 with the Authority for violation/ contravention of provisions of this Act as mentioned in the preceding paragraph.
- xxvii. That the complainant is entitled to get delay possession charges with interest at the prescribed rate from date of application/ payment to till the realization of money under section 18 & 19(4) of Act. The complainant is also entitled for any other relief which they are found entitled by this Hon'ble Authority.
- xxviii. That the present complaint is within the prescribed period of limitation. That the complainant has not filed any other complaint before any other forum against the erring respondents and no other case is pending in any other court of law. Hence the present complaint.

C. Relief sought by the complainant:

- 9. The complainant has sought following relief(s):



- a. Direct the respondent to handover the physical possession of the said unit immediately along with amenities and specifications as agreed upon.
 - b. Direct the respondent to pay the interest on the total amount paid by the complainant at the prescribed rate of interest as per RERA from due date of possession till date of actual physical possession
 - c. Direct the respondent to pay the balance amount due to the complainant from the respondent on account of the interest, as per the guidelines laid in the RERA, 2016.
 - d. Direct the respondent to refund the excess amount collected from the complainant.
 - e. Direct the respondent to quash the illegal maintenance charges demanded from the complainant.
 - f. Direct the respondent to get the conveyance deed in favour of the complainant.
 - g. Direct the respondent to quash illegal delay payment charges as levied upon the complainant.
 - h. To set aside the one-sided offer of possession letter dated 30.05.2017.
 - i. Restrain the respondents from raising fresh demand(s) for payment under any head, as the complainant had already made payment as per the payment plan.
 - j. To take penal action against the respondent for violation of various provisions of the RERA Act, 2016.
 - k. Direct the respondent not to charge anything irrelevant which has not been agreed to between the parties like Labour Cess, electrification Charges, maintenance charges etc, which in any case is not payable by the complainant.
 - l. Pass such other or further order(s), which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.
10. 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.**
11. The respondent has contested the complaint on the following grounds:

- i. The complaint has failed to provide complete facts and the same are reproduced hereunder for necessary and proper adjudication of the present matter. That the complainant is raising false, frivolous, misleading and baseless allegations against the respondent with intent to acquire unlawful gains.
- ii. That the complainant has not approached the Authority with clean hands and has suppressed the relevant facts with the intent to mislead this Authority through the representations of the one-sided facts.
- iii. That in around the year 2008, the complainant learned about the residential plotted colony launched by the respondent titled as "Vatika India Next", situated at Sector 83, Gurugram, and visited the office of the respondent to know the details of the said project. The complainant further inquired about the specifications and veracity of the project and were satisfied with every proposal demanded necessary for the development.
- iv. That after having keen interest in the project being developed by the respondent and post being satisfied with the specifications of the project, the complainant decided to book a unit in the said project vide application form dated 16.07.2009. That the respondent vide offer of allotment letter dated 25.08.2009 allotted plot bearing no.27, D/240/027, in Sector 83 admeasuring 240 sq. yds. to the complainant.
- v. That on 01.12.2009, builder buyer agreement, was executed between both the parties, for the subject unit having total sale consideration of Rs.46,27,200/- . That after the allotment of the unit to the complainant, the complainant had paid an amount of Rs. 45,05,250/- against the total sales consideration of the subject unit.
- vi. Thereafter, on 16.05.2013, the respondent approached the complainant regarding change of unit no. plot no.27, Street no.83, to plot no. 15/J-10-83/240 sq. yds. /sector 83 and an addendum to the plot buyer agreement

was executed between the parties and further a letter of allotment dated 16.05.2013 was issued in favour of the complainant.

- vii. That as per clause 10 of the agreement, the possession was proposed to be handed over within a period of 3 years from the date of execution of the agreement unless there shall be delay or there shall be failure due to reasons beyond the control of developer or due to government rules, orders etc or due to failure of allottee(s) to pay in time the price of the Unit along with all other charges and dues in accordance with the schedule of the payment. It may also be noted that the date of offering possession was to be calculated from the date of execution of the agreement and as per the agreement the due date of possession shall be 01.12.2012.
- viii. That the project was hindered due to the reasons beyond the control of the respondent. It is clearly mentioned under Clause 12 of the Agreement that in case of any unforeseen circumstances faced by the Respondent in mid-way of development of the subject project, then extension time would be granted for the completion of the project.
- Construction, laying down and/ or re-routing of Chalnsa-Gurgaon-Jhajjar-Hissar *Gas Pipeline* by Gas Authority of India Limited (Gail) for supplying natural gas pipeline of GAIL in sector 77, 78, 82, 82A, 86, 90, 93 & 95 in Gurugram and re-routing of gas pipe line should be through green belt/corridor proposed master plan. The consequent litigation for the same, due to which the company was forced to change its building plans, project drawings, green areas, laying down of the connecting roads and complete lay-out of the Township, including that of independent floors.
 - Acquisition process of land by Haryana Urban Development Authority (HUDA) to lay down of *Sector dividing road* and the consequent litigation for the same, the issue is even yet not settled completely;
 - Delay in shifting of *defunct High-Tension Line passing through* the Licenses Land, despite deposition of charges/ fee with HVBNL, Haryana.
 - Further, considering the positive approach of HUDA authorities as they were seeking re-routing permission from GAIL, respondent applied for license and during the pendency of granting of project license, GAIL had granted permission for reducing ROU from 30 mtrs to 20 mtrs., vide its letter dated 04.03.2011 that passes through the project Land. Although GAIL had reduced the ROW, but since they had

denied the re-routing of the GAIL corridor, respondent not only lost approx number of 90-100 plots, units and Villas but had to re-design the project land that consumed money and time.

- The Government of Haryana had notified Gurgaon Manesar Urban Complex 2021, vide their notification dated 05.02.2007 and the licenses for development of real estate projects in Gurgaon and other areas of Haryana were granted by the Govt. of Haryana accordingly. However, the acquisition of sector dividing road 84/85 was de-notified by the government in year 2011 and a fresh section 4 and 6 was notified on 20-03-2013 and 03-12-2013 respectively. Thereafter the final award was announced on 02-12-2015.

Delay in acquisition of sector roads and subsequently various patches of sector road coming under litigation along with no policy on acquisition of 24 mtr roads has resulted in massive delay in laying of services, thus impacting development. Two sector roads (24 mtr) are falling in the project land and due to non-acquisition of the same, we have totally lost the road connectivity and supply of construction materials etc., to the project land has become big challenge for us.

- After de-notification of Sector Road, the government had introduced the land acquisition by way of policies such as TDR (Transfer of Development Rights). The Department has issued draft notification for construction and provision of services (TDR Policy) on 03.06.2014 to ensure "Integrated Infrastructure Development, Including Roads, Water Supply, Drainage, Electricity, Telecom etc.
- Director Town & Country Planning, Haryana, in a joint meeting held at Gurgaon, had directed to developers to purchase the land from farmers, which is part of 24 mtr circulation road. On the request of DGTCP Haryana, we have initiated process to buy the land parcel from the farmers, Munadi and Public notice were published in leading newspapers on 29.11.2013 but it was very difficult to buy the land falling exactly within the proposed road section. Respondent had faced issues in purchasing land under TDR policy as (i) some farmers are interested in selling his land parcel, (ii) no timeline for farmers who do not agree to sell their lands, (iii) some farmers do not wish to follow the lengthy acquisition process and (iv) some farmers are not satisfied with the amount of sale consideration offered.
- Some of the local land owners including a collaborator such as Janakraj, Dhani Mamchand etc. had entered into litigation in respect of their respective land parcel against respondent/Govt. and obtained stay orders. The said litigations have resulted in delay in construction of sector road and further delay in the construction activity in the project.
- The inability of HSVP to resolve this issue of 100 square yards is affecting the entire development of the 84 mtr. sector road which is the main access point into this GH society.
- The National Green Tribunal (NGT)/Environment Pollution Control Authority (EPCA) issued directives and measures (GRAP) to counter the deterioration in Air quality in Delhi-NCR region especially during the winter months over the last few

years. Among various measures NGT, EPCA, HSPCB and Hon'ble Supreme Court imposed a complete ban on construction activities for a total of 70 days over various periods from November 2015 to December 2019.

- That the developmental work of the said project was slightly decelerated due to the impact of Good and Services Act, 2017 which came into force after the effect of demonetization in last quarter of 2016 which stretches its adverse effect in various industrial, construction, business area. The respondent had to undergo huge obstacles due to the effect of demonetization and implementation of the GST.
- Due to out break of Covid-19. Despite facing shortage in workforce, materials and transportation, the respondent managed to continue with the construction work and has to carry out the work of repair in the already constructed building and fixtures as the construction left abandoned for more than 1 year due to Covid-19.
- ix. That the respondent without any fault of its own, was unable to deliver possession due to constant ban on construction by the government bodies or court orders, which is covered under force majeure circumstances. That all these factors being force majeure may be taken into consideration for the calculation of the period of the construction of the project. That the respondent had carried out its obligations in agreement with utmost diligence.
- x. That the complainant did not pay any outstanding amount, despite sending various reminder letters and notice of termination. That final opportunity for payment of the outstanding due amount was issued to the complainant vide letter dated 12.05.2016.
- xi. That further, vide its letter dated 30.05.2017, the respondent issued intimation of possession. Thereafter, issued notice of termination of BBA cum recovery notice dated 12.04.2021 and lastly, a final opportunity for Intimation of possession cum demand letter for the said unit was issued to the complainant vide letter dated 26.07.2023. Despite various reminder letters and notices the complainant has failed to pay the outstanding due amount towards the unit.
- xii. That if the complainant is allowed to obtain refund from the respondent, then it shall be allowed after making necessary deductions such as earnest

money, brokerage etc as the complainant has failed to take the possession of the said unit despite various opportunities, reminders and demand letters.

xiii. That the complainant has suppressed the above stated facts and has raised this complaint under reply upon baseless, vague, wrong grounds and has misled this Authority, for the reasons stated above. That none of the reliefs as prayed for by the complainant is sustainable before this Authority and in the interest of justice.

12. 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 parties.

E. Written Submissions made by both the parties:

13. The complainant has filed the written submissions on 31.10.2025 and the respondent has filed the written submissions on 13.11.2025 and same are taken on record. No additional facts apart from the complaint, reply and submissions have been stated in the written submissions.

F. Jurisdiction of the Authority:

14. The Authority observes that it has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

F.I Territorial Jurisdiction:

15. 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.

F.II Subject-matter Jurisdiction:

16. 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.

17. 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.

G. Findings on the objection raised by the respondent:

G.I Objection w.r.t force majeure circumstances.

18. The respondent-promoter raised the contention that the construction of the project was delayed due to force majeure conditions such as orders/ restrictions of the NGT in NCR as well as competent authorities account of the environmental conditions, ban on construction by the order of courts, implementation of GST, demonetization and adverse effects of Covid-19 etc. and others force majeure circumstances but all the pleas advanced in this regard are devoid of merit. Firstly, the events such as orders of NGT in NCR on account of the environmental conditions, ban on construction activity and others force majeure circumstances do not have any impact on the project

being developed by the respondent. As the events mentioned above are for short period which does not make such a huge impact on project which can cause and justify inordinate delay of 13 years. Moreover, these events are of routine in nature happening annually and the promoter is required to take the same into consideration while fixing the due date of possession. Secondly, the event of implementation of GST and demonetization are in accordance with government policies and guidelines. Therefore, the respondent cannot categorize the same as force majeure events. And lastly, the Authority has gone through the possession clause of the agreement and observed that the respondent-promoter proposes to handover the possession of the allotted unit within 3 years from the date of execution of buyer's agreement, So the due date comes out to 01.12.2012, which is much prior to the occurrence of Covid-19 restriction and hence, the respondent cannot be benefitted for its own wrong. The Authority put reliance judgment of ***Hon'ble Delhi High Court in case titled as M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I) (Comm.) no. 88/ 2020 and IAs 3696-3697/2020 dated 29.05.2020*** which has observed that-

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself."

19. Thus, the respondent cannot be given any leniency on based of aforesaid reasons and it is well settled principle that a person cannot take benefit of his own wrongs.

H. Findings on the relief sought by the complainant.

- H.I. Direct the respondent to handover the physical possession of the said unit immediately along with amenities and specifications as agreed upon;

- H.II. Direct the respondent to pay the interest on the total amount paid by the complainant at the prescribed rate of interest as per RERA from due date of possession till date of actual physical possession;
- H.III. Direct the respondent to pay the balance amount due to the complainant from the respondent on account of the interest, as per the guidelines laid in the RERA, 2016;
- H.IV. Direct the respondent to refund the excess amount collected from the complainant;
- H.V. Direct the respondent to quash the illegal maintenance charges demanded from the complainant;
- H.VI. Direct the respondent to quash illegal delay payment charges as levied upon the complainant;
- H.VII. To set aside the one-sided offer of possession letter dated 30.05.2017;
20. The above-mentioned relief sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
21. In the present complaint, the complainant was allotted a unit bearing no. D/240/027, having 240 sq. yds. in project "Vatika India Next Plots" situated at Sector-83, Gurugram, being developed by the respondent vide buyer's agreement was executed interse parties on 01.12.2009. Thereafter, an allotment letter was issued on 16.05.2013 vide which the unit of the complainant was changed from D/240/027 to Plot no.15, Street J-10 having 240 sq. yds. The allottee had paid an amount of Rs.45,05,250/- out of total sale consideration of Rs.46,27,200/-.
22. As per clause 10 of the buyer's agreement dated 01.12.2009, provides time period for handing over of possession and is reproduced below:

"10. Handing over possession of the said plot to the allottee.

That the promoter based on its present plans and estimates and subject to all just exceptions, contemplates to complete the development of the said township or the sector/ part thereof where the said plot is proposed to be located, within a period of three years from the date of execution of this Agreement unless there shall be delay or there shall be failure due to reasons beyond the control of the promoter or due to failure of the Allottee to pay in time the price of the said plot along with all other charges and dues in accordance with the schedule of payments given in Annexure-II or as per the demands raised by the

promoter from time to time or any failure on the part of the allottee to abide by any of the terms or conditions of this Agreement....

(Emphasis Supplied)

23. **Due date of handing over possession:** The promoter has proposed to hand over the possession of the said unit within 3 years from the date of execution of the buyer agreement. In the present complaint, the buyer agreement was executed on 01.12.2009. Therefore, the due date of handing over possession as per the buyer's agreement comes out to be 01.12.2012. However, the offer of possession was made by the respondent to the complainant on 30.05.2017 and thereafter issued a notice of termination dated 12.04.2021.
24. Firstly, it is necessary to clarify whether intimation of possession dated 30.05.2017 made to complainant-allottees tantamount to a valid offer of possession or not? The Authority is of considered view that a valid offer of possession must have following components:
 - a. **Possession must be offered after obtaining occupation certificate.**
 - b. **The subject unit should be in a habitable condition.**
 - c. **The possession should not be accompanied by unreasonable additional demands.**
25. In the present matter, the respondent has issued intimation of possession with respect to the allotted unit on 30.05.2017 i.e., before obtaining completion certificate (CC)/ part CC from the concerned department. Therefore, no doubt that the offer of possession has been sent to the complainant without obtaining completion certificate. Thus, the offer of possession dated 30.05.2017 is an invalid offer of possession, as it triggers component (a) of the above-mentioned definition. Further, during proceedings dated 30.05.2025, the counsel for the respondent states that only notice for termination has been sent to the complainant to pay the outstanding dues, however, the allotted unit has not been cancelled till date.



26. In the present complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under:

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building.—

.....
Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

27. Admissibility of delay possession charges at prescribed rate of interest:

Proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under Rule 15 of the Rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

28. The legislature in its wisdom in the subordinate legislation under the rule 15 of the rules has determined the prescribed rate of interest. The rate of interest so determined by the legislature is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
29. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 30.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.

30. The definition of term 'interest' as defined under Section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"

31. Moreover, the interest (DPC) component is levied to balance the time value component of the money. However, the same is applicable on the amount paid by allottee for the delay in handing over of the possession by the respondent from the date of possession till offer of possession and the same is balanced vide provision of Section 2(za) of the Act. The complainant cannot be made suffer due to fault of the respondent and suppose to pay for the unit as per today's rate.

32. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent /promoter which is the same as is being granted to them in case of delayed possession charges.

33. On consideration of the circumstances, the evidence and other record and submissions made by the parties, the Authority is satisfied that the respondent is in contravention of the provisions of the Act. The Authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By

virtue of clause 10 of the buyer's agreement executed between the parties on 01.12.2009, the possession of the said unit was to be delivered within a period 3 years from the date of execution of buyer's agreement. Therefore, the due date of handing over of possession comes out to be 01.12.2012 (calculated 3 years from the date of execution of buyer's agreement i.e., 01.12.2009). However, the respondents have failed to handover possession of the subject unit to the complainant till the date of this order.

34. Therefore, it is the failure of the respondents/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The Authority is of the considered view that there is delay on the part of the respondent to offer the possession of the allotted unit to the complainant as per the terms and conditions of the buyer's agreement dated 01.12.2009 executed between the parties. Further, the Authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for part CC/ completion certificate or what is the status of construction of the project. Also, during the proceedings dated 30.10.2025, the counsel for the respondent states that the completion certificate of the project is not yet received. Hence, the project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the promoter as well as allottees.
35. Section 19(10) of the Act, 2016, it is the duty of the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of occupation certificate. This 2 months' time is reasonable time to be given to the complainant keeping in mind that even after intimation of possession practically he has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit and other procedural documentations etc.

36. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession charges at prescribed rate of the interest @ 10.85% p.a. w.e.f. due date of possession i.e., 01.12.2012 till valid offer of possession after obtaining of occupation certificate from the competent authority plus two months or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules.

H.VIII Direct the respondent to get the conveyance deed in favour of the complainant;

37. The complainant is seeking the relief for the registration of conveyance deed in accordance with Section 17 of the Act of 2016 and also as per clause 16 of buyer's agreement dated 01.12.2009, the relevant clause of the buyer's agreement is reproduced for ready reference: -

16. Conveyance of the title of the said plot

"That the promoter, its associates companies, its subsidiary companies, its collaborators or attorneys duly appointed in this regard, as the case may be shall prepare and execute along with the allottee a deed in the manner as may be prescribed by the Government of Haryana to convey title/ rights in the said plot in favor of allottee but only after receiving full payment of the total price of the said plot and all securities including maintenance security deposits, interest, penal interest etc. on delayed instalments, stamp duty, registration charges, incidental expenses for registration, legal expenses for registration and all other dues as set forth in this agreement or as demanded by the promoter from time to time prior to the execution of the said deed. If the allottee is in default of any of the payments as set forth in this agreement then the allottee authorizes the promoter to withhold registration of the title deed in its favor until full and final settlement of all dues to the promoter is made by the allottee..."

38. It is to be further noted that section 11(4)(f) provides for the obligation of respondent/promoter to execute a registered conveyance deed of the apartment along with the undivided proportionate share in common areas to the association of the allottees or competent authority as the case may be as provided under section 17 of the Act of 2016 and shall get the conveyance deed done after obtaining of OC.

39. As far as the relief of transfer of title is concerned the same can be clearly said to be the statutory right of the allottee as section 17 (1) of the Act provide for transfer of title by registering conveyance deed in favor of complainant/allottee within three months from the date of issue of occupancy certificate from the competent authority and the relevant provision is reproduced below:

"Section 17: Transfer of title.

17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

40. The Authority hereby directs the respondent to execute the registered conveyance deed in favor of the complainant within 3 months after obtaining the completion certificate from the competent authorities.

H.IX. Restrain the respondent from raising fresh demand(s) for payment under any head, as the complainant had already made payment as per the payment plane;

H.X. Direct the respondent not to charge anything irrelevant which has not been agreed to between the parties like Labour Cess, electrification Charges, maintenance charges etc, which in any case is not payable by the complainant;

41. The respondent-promoter is directed not to charge any amount from the complainant-allottee, which is not a part of payment plan annexed with buyer's agreement dated 01.12.2009.

H.XI. To take penal action against the respondents for violation of various provisions of the RERA Act,2016;

H.XII. Pass such other or further order(s), which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

42. The complainant is seeking the relief to take penal action against the respondents for violation of various provisions of the RERA Act, 2016. Since no documents have been placed on record by the complainant to substantiate and in support of the aforesaid contention and also the said relief was not pressed during the pendency of the case. Therefore, the Authority cannot deliberate upon the aforesaid relief.

I. Directions of the Authority

43. 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):

- a. The respondent is directed to pay the interest to the complainant against the paid-up amount at the prescribed rate i.e., 10.85 % p.a. from the due date of possession i.e., 01.12.2012 till valid offer of possession after obtaining of OC from the competent authority plus two months or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
- b. The arrears of such interest accrued from due date of possession till the date of this order shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the respondent-promoter to the allottees before 10th of the subsequent month as per rule 16(2) of the rules.
- c. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges/interest for the period the possession is delayed. The rate of interest chargeable from the complainant-allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent-promoter which is same rate of interest which the promoter shall be liable to pay the

allottee, in case of default i.e., the delay possession charges as per Section 2(za) of the Act.

- d. The respondent is directed to issue a revised account statement after adjustment of delayed possession charges within 30 days and complainant are directed to pay outstanding dues, if any remains after adjustment of interest for the delayed period.
 - e. The respondent is further directed to handover the physical possession of the unit to the complainant complete in all aspect of buyer's agreement, as per obligations under Section 11(4) (b) read with Section 17 of the Act, 2016 and the complainant is also obligated to take the physical possession within 2 months as per Section 19 (10) of the Act, 2016.
 - f. The respondent is further directed to execute the registered conveyance deed in terms of Section 17 (1) of the Act of 2016 within a period of 90 days after payment of requisite stamp duty and administrative charges by the complainant.
 - g. The respondent shall not charge anything from the complainant which is not the part of the builder buyer agreement dated 01.12.2009.
44. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
 45. Complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
 46. File be consigned to registry.

Date: 30.10.2025



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