

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA
REAL ESTATE REGULATORY AUTHORITY, GURUGRAM**

Complaint No. 3440-2024

Date of Decision: 05.01.2026

Ravi Narain Vats S/o Sh. N. D. Vats, R/o 479/20, Shakti Nagar, Gurgaon-122001.

.....Complainant.

Versus

Apex Build-well Pvt. Ltd. Office: 707, 7th Floor, JMD Pacific Square, Sector-15, Part 2, Gurgaon.

.....Respondent

APPEARANCE

For Complainant:	In person.
For Respondent:	Mr. Harshit Batra, Advocate.

ORDER

1. This is a complaint filed by Ravi Narain Vats (allottee), under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016) against Apex Build-well Pvt. Ltd. (promoter), as per section 2 (zk) of Act of 2016.
2. According to complainant, he is an allottee within the meaning of Section 2 (d) of The Real Estate (Regulation and Development), Act 2016. The respondent is a limited company

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incorporated under The Companies Act, 1956 and is inter alia engaged in the business of providing real estate services. Group housing project namely "Our Homes" (hereinafter called as the "Project") located in village Gadoli Khurd, Sector 37 C, Tehsil and District, Gurgaon. The respondent painted a rosy picture of the project in its advertisement making all claims and representing that the project aims at providing world class amenities.

3. That the complainant time and again asked the respondent as to when the possession will be handed over to him but the respondent always replied by saying that the possession would be offered soon. The respondent kept delaying the handing over of possession thereby inflicting mental agony and financial hardship upon the complainant. Complainant is a retired person and was staying on rent. Rent agreement was annexure in earlier RERA complaint 1961 of 2019 where compensation for delayed possession was claimed.

4. Complainant being in need of accommodation took the possession of the said flat despite having found several irregularities at the time of offer of possession. The project in question is having several structural defects due to poor construction quality, use of

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disproportionate construction material in the construction of the project and further poor workmanship. The quality of bad construction was visible soon after of the occupation certificate of the project as the exterior plaster of the project started falling off and resulted into big holes and cracks in the walls. Guest room door was renewed by claimant on 03.02.2023 and voucher of Rs.9440/- was sent shared with Apex Our Homes & OH Maintenance.

5. That he (complainant) had filed a complaint on CM Window, Grievance no. CMOEF/N/2023/011584 dated 27.01.2023. He (complainant) time and again approached the respondent to resolve the grievances but till date, neither written assurance nor resolution of those grievances have been provided by the respondent.

6. Citing the facts mentioned above, the complainant has prayed for following compensations/reliefs: -

a) Compensation for substandard material used in construction. Under Section 14 (3) of the Act. 1 Mason 3 days, labour 3 days, Painter 5 days, labour 5 days. Material including plastic paints of 3 different colors. Estimated expenses: Rs.30,000/-;

b) Compensation for guest room door replaced. Voucher Rs.9440+500/- (carter-age);

c) Compensation for kitchen door to be replaced Rs.12,000/-

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d) Compensation for mental torture Rs.5,00,000/-;

e) House rent compensation (due date to possession), total rent Rs.4,58,997/-,

f) Compensation for legal expenses Rs.30,000/-,

g) Pass such order or further order as this Hon'ble Authority may deem fit and proper in the facts and circumstances of the present,

h) Promoter should be asked to re-plaster external walls by removing substandard plaster of entire tower's walls.

7. The respondent contested the complaint by filing a written reply. It is submitted that all the averments, submissions and contentions made by the complainant in the complaint are denied unless specifically admitted to hereunder. The project in question was developed under the Affordable Group Housing Scheme, as per the Affordable Housing Policy, 2009. The project has been constructed in accordance with the terms and conditions set forth under the policy, ensuring that all standards and specifications were followed. The complainant after thoroughly satisfying himself with respect to the title of the land, necessary approvals, sanctions, designs, specifications and the overall suitability of the construction, approached the respondent and applied for the allotment of the unit. This fact is clearly evident from the terms laid out in the

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Conveyance Deed, which the complainant voluntarily executed after being fully aware of the project details and conditions.

8. That the allegations put forth are irrelevant to the present case as the complainant has already been awarded delay compensation by the Learned Authority for the said complaint no. 1961 of 2019. The rent agreement is not admissible unless the proof of payment has been provided to substantiate the same. The complainant is a habitual defaulter, having failed to make timely payments as required under the agreement.

9. That defects as claimed by the complainant are normal wear and tear, which the complainant was obligated to maintain. No other allottee from the project has raised similar complaint, making this claim frivolous and without merit. The complainant's allegations do not reflect a genuine defect in construction but are attributed to his own negligence in maintaining the unit and hence, there is no valid cause of action against the respondent.

10. Stating all this, respondent prayed for dismissal of the complaint.

11. Both of the parties filed affidavits in support of their claims.


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12. I have heard learned counsels appearing for both of parties and perused the record.

13. However, there are some photographs showing some work allegedly done by the complainant like paints and repair of doors. As per learned counsel for respondent, these are usual wear and tear of maintenance. Complainant failed to prove that respondent used substandard material in the construction of unit in question. It is worth^h~~while~~ mentioning here that complainant had approached the Authority seeking compensation for delay of delivery of the possession and said complaint has already been allowed by the Authority vide order dated 11.09.2019, copy of which has been put on file. The respondent in that case has been directed to pay interest at the prescribed rate of 10.35% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 02.06.2017 till the actual offer of possession, apart from some other reliefs.

14. It is contended by the complainant that despite said order of the Authority, it is for the Adjudicating Officer to allow compensation for delay in handing over possession, in view of section 72 of Act of 2016. Learned counsel reminded that this Forum (AO) has jurisdiction to allow

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compensation in view of Sections 12, 14, 18 and 19 of said Act. Section 18 (3) prescribes for liability of promoter to pay compensation to the allottees, if same (promoter) fails to discharge any other obligation imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale. Complainant claims that respondent (promoter) failed to discharge its obligation of handing over possession, in agreed time as per terms and conditions of BBA and hence, liable to pay compensation.

15. Similarly, section 19 provides for the compensation in case promoter fails to complete or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with terms of agreement for sale or due to discontinuance of the business on account of suspension or revocation of registration under this Act.

16. True, as per section 71, the Adjudicating Officer has been appointed for the purpose of adjudging compensation under sections 12, 14, 18 and 19 of the Act. There is no denial that in case, promoter fails to discharge his obligation imposed upon him under this Act or rule & regulations made thereunder or in accordance with the terms and


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conditions of the agreement for sale, he is liable to pay compensation to the allottee as prescribed under this Act.

17. In this way, when the complainant claims that promoter/respondent fails in this case to discharge its obligations under Builder Buyer Agreement, the Adjudicating Officer gets jurisdiction to adjudge compensation but as it was mandated by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited***, it is for the Authority to entertain the complaint seeking DPC. Relevant portion of the Apex Court order is reproduced here as under: -

86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory Authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory Authority which has the power to examine and determine the outcome of a complaint.

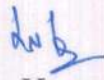
18. Considering all this, there is no reason to allow compensation to the complainant for causing delay on the part of respondent in delivery

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of possession (apart from DPC which has already been allowed to the same). Complaint in hands is thus dismissed.

19. File be consigned to record room.


Announced in open court today i.e. on **05.01.2026**.


(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory
Authority,
Gurugram.

Present: Complainant in person.
Mr. Harshit Batra, Advocate for respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
05.01.2026