

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

Date of decision: 14.11.2025

NAME OF THE BUILDER		VATIKA LTD.	
PROJECT NAME		Vatika India Next 2	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/3526/2024	Sandeep Gupta and Vineet Gupta V/s Vatika Limited.	Sh. Amit Singh Sh. Venket Rao
2.	CR/3527/2024	Vineet Gupta and Sandeep Gupta V/s Vatika Limited.	Sh. Amit Singh Sh. Venket Rao

CORAM:

Shri. Arun Kumar

Chairman

ORDER

1. This order shall dispose of both the complaints titled as above filed before this authority in Form CRA 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 agreement for sale 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 projects,

namely, 'VATIKA INDIA NEXT 2' being developed by the same respondent promoters i.e., M/s Vatika Ltd.

3. The details of the complaints, reply to status, unit no., date of agreement, & allotment, due date of possession, offer of possession and relief sought are given in the table below:

Project Name and Location		"Vatika India Next 2", Sector 88B, Gurugram, Haryana.
Possession clause:		
<i>Not available</i>		
OC: Not obtained		
Offer of possession: Not Offered		
Comp no.	CR/3526/2024	CR/3527/2024
Allotment letter	15.10.2022 [Page 64 of reply]	15.10.2022 [Page 64 of reply]
Unit no. and area	16, J-11, admeasuring 268.6 sq. ft.	18, J-11, admeasuring 268.6 sq. ft.
Builder buyer agreement	Not executed	Not executed
Total sale consideration	Rs.2,33,74,290/- [As per SOA on pg. 23 complaint]	Rs.2,33,74,290/- [As per SOA on pg. 23 complaint]
Amount paid	₹70,00,000/- [As stated by complainant]	₹35,49,716/- [As stated by complainant]
a. Obtain OC AND offer possession b. DPC c. To execute builder buyer agreement		

4. 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 allottees and the

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

5. The facts of all the complaints filed by the complainants/ allottees are also similar. Out of the above-mentioned cases, the particulars of lead case ***CR/3526/2024 titled as Sandeep Gupta and Vineet Gupta V/s Vatika Limited.*** are being taken into consideration for determining the rights of the allottees qua delay possession charges, quash the termination letter get executed buyers' agreement and conveyance deed.

A. Unit and project related details

6. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, date of buyer's agreement etc, have been detailed in the following tabular form:

CR/3526/2024 titled as Sandeep Gupta and Vineet Gupta V/s Vatika Limited.

S. N.	Particulars	Details
1.	Name and location of the project	"Vatika India Next 2, Sector 88B, Gurugram
2.	Project area	2.11 acres
3.	Nature of Project	Residential
4.	DTCP license no. and validity status	Not available
5.	Rera registered/ not registered and validity status	Registered 74 of 2024 dated 08.07.2024 valid upto 30.06.2030
6.	Allotment letter dated	15.10.2022

		(page 64 of reply)
7.	Unit no.	16, J-11 (page 38 of complaint)
8.	Unit Admeasuring	268.67 ft. (super area)
9.	Buyer's Agreement	Not executed
10.	Possession Clause	Not available
11.	Due date of possession	15.10.2025 (Calculated as per Fortune Infrastructure and Ors. Vs. Trevor D'Lima and Ors. (12.03.2018- SC); MANU/SC/0253/2018 From the date of allotment letter i.e. 15.10.2022
12.	Total Sale Consideration	Rs.2,33,74,290/- (As per Statement of Account on page 23 of complaint)
13.	Total amount paid	Rs.70,00,000/- (as stated by complainant)
14.	Occupancy Certificate	Not known
15.	Offer of possession	Not Offered

B.Facts of the complaint:

7. The complainants have submitted as under:

- That the respondent company is a builder/developer of real estate projects. That the respondent under the guise of being a reputed builder and developer has perfected a system through organized tools

and techniques to cheat and defraud the unsuspecting, innocent, and gullible public at large. It seems none of their projects initiated in last decade or so have been completed till date. Meanwhile, the respondent advertises its projects extensively through advertisements, channel partners, agents etc. and collect large sums in hundreds of crores from the public/customers on pretext of developing and delivering quality real estate projects.

- ii. Respondent through its personnel approached and represented to the complainants that the respondent is a renowned builder company having vast experience of real estate development and enjoys enormous goodwill in the market having successfully completed various projects & lured them to invest in its upcoming 'Vatika Next 2 Plots' Situated at Sector 88B, Gurugram, Haryana, as safe & viable.
- iii. That without suspecting any malafides & foul play on the part of the respondent and believing the representations to be true & correct, the complainants agreed to invest their money for the purchase of a residential plot in the above said project and accordingly booked a plot bearing number 16 admeasuring 268.67 sq. yds in J-11 Tower in the project 'Vatika Next 2 Plots' promoted/developed by the respondent at Sector 88B, Gurugram, Haryana.
- iv. That the present complaint is being filed before the Hon'ble Haryana Real Estate Regulatory Authority, Gurugram by the complainants, being aggrieved by the deficient services and unprofessional acts of the respondent, misrepresentation by its agent/broker and in this manner extracting around 30% of the total sale consideration without deliberately not executing the builder buyer agreement.

- v. That on 15.10.2022, an allotment letter was sent by the respondent to the complainants allotting them plot bearing number 18 admeasuring 268.67 sq. yds in j-11 tower in the project 'Vatika Next 2 Plots' however, despite repeated requests, the respondents failed to execute the builder buyer agreement.
- vi. That the complainants kept on requesting the respondent and its representative/broker namely Mr. C. P Sharma for executing the builder buyer agreement however, they kept on delaying the execution of BBA despite taking huge payment of Rs 70,00,000/- from the complainants. The respondent has raised demand of part sale consideration for the said plot from the complainant's time to time, which were duly paid by the complainants however, after the payment of Rs 12,00,000/- on 30.11.2022, the complainants stopped paying any further amount to the respondent in want of execution of the builder buyer agreement.
- vii. That the respondent and its officials after deliberately failing to execute the BBA in pursuance of booking of plot in favour of the complainants are now asking for shifting of plot to some other project as the price in the concerned project has gone high. Hence, the complainants, have approached this Hon'ble Authority for justice.
- viii. That the complainant is aggrieved by the inaction and deficiency of part of the respondent. The respondent has time and again sought payments from the complainants while threatening the termination of unit however, the respondent has failed to fulfil its obligations to execute the builder buyer agreement, thereby, leading to deficiency on part of the respondent.
- ix. That the complainant has suffered long enough, this agreement has brought only mental harassment and stress, and therefore, the

complainants/allottee wish to get the builder buyer agreement executed in his favour by the respondent and further get the timely possession of the plot booked along with delay penalty without prejudice to any other remedy available along with interest at the prescribed rate, compensation and legal expenses.

C. Relief sought by the complainants:

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

- i. To direct the respondent to pay delay possession charges at the prescribed rate to the complainant for the period of delay accrued from the due date of possession to the date of offer of possession along with occupation certificate by respondent.
- ii. To direct the respondent to deliver possession of the booked unit along with occupation certificate.
- iii. To direct the respondent to execute builder buyer agreement in favour of complainant of the booked unit.

9. On the date of hearing, the authority explained to the respondent /promoters 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.

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

- i. It is an admitted fact that complainant in around the year 2022, were looking for investment opportunity and have booked the plot in the project of the respondent vide expression of interest dated 09.07.2022 and had paid an amount of Rs. 11,00,000/- for further registration.

ii. That vide said expression of interest dated 09.07.2022, the complainant herein agreed to pay the balance out of the total sale consideration of Rs. 2,33,74,290/- . That upon receipt of the EOI dated 09.0.2022, the respondent vide allotment letter dated 15.10.2022, have allotted plot no. 18, in the project Vatika Next, in favour of the complainants.

iii. However, the complainants failed to pay the balance amount due upon booking of the plot and owing to the said fact the respondent herein was constrained to serve a notice of termination dated 10.10.2022.

iv. Complaint under reply as already been settled as the respondent has refunded the entire amount so received before during the course of criminal complaint filed before the Economic Offence Wing, Gurugram.

v. It is pertinent into the attention of the Ld. Authority that the complainant herein has already proceeded to file a criminal complaint bearing no. 15911/CP/2024/BYH dated 25.07.2024, against the allotment of both the plots, before the Economic Offence Wing, Gurugram, seeking the same relief of refund so prayed before this Ld. Authority in the present complaint under reply.

vi. Subsequent to filing of the complaint before the EOW, Gurugram the respondent herein has also filed its detailed reply along with the relevant documents on 12.08.2024.

vii. However, in meantime the respondent herein posts discussion and mutual agreement have amicably settled the complaint filed by the complainant before the EOW, Gurugram and have refunded an amount of Rs. 1,05,49,716/- in two tranches via RTGS transfer, against the

amount so received from the complainants vide settlement letter dated 13.08.2024.

viii. That vide said settlement letter dated 13.08.2024, the complainants agreed and assured that after receipt of the said amount the complainants shall refrain from making any future claims or any litigations or dispute before different forums against the company.

ix. It may also be noted that the allotment made in favour of the complainants has already been cancelled as the matter has been settlement by way of full and final settlement vide settlement letter dated 13.08.2024. Despite after receipt of the refund of the entire amount paid to the respondent the complainants under malafide intention of making unlawful/illegal gains have now approached this Ld. Authority.

x. It is evident that the complainants herein happened to be investors and have filed the instant complaint under reply to hoodwink the Ld. Authority alleging to being aggrieved and have knowingly have avoided to disclose the fact refund already being initiated by the respondent against the allotment of two plots, in the project in question and have now filed the false and frivolous complaints which are liable to be dismissed in the interest of justice, equity and fair play.

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

E. Jurisdiction of the authority

12. 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

13. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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

14. Section 11(4) (a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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(j) 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.

15. 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 complainants at a later stage.

F. Relief sought by the respondent.

F.I. To direct the respondent to pay delay possession charges at the prescribed rate to the complainant for the period of delay accrued from the due date of possession to the date of offer of possession along with occupation certificate by respondent.

F.II. To direct the respondent to deliver possession of the booked unit along with occupation certificate.

F.III. To direct the respondent to execute builder buyer agreement.

16. The above-mentioned reliefs sought by the complainants is being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

17. In the present complaint, the complainants were allotted a unit bearing no. 16, J-11 admeasuring 268.67 sq. ft. (super area) vide allotment letter dated 15.10.2022. The complainants paid an amount of ₹70,00,000/- against the total sale consideration of ₹2,33,74,290/-. On 10.10.2022, the respondent issued the notice for termination of unit on the ground of non-payment of outstanding dues. Now, the question arises that whether the termination of the unit is valid or not?

18. It is an admitted and undisputed position that no builder buyer agreement was executed between the parties. It is further evident from the record that no structured or mutually agreed payment plan was ever brought into existence. Moreover, no demand has been ever raised by the respondent. Therefore, the Authority is of the considered view that unilateral termination of the allotment, without a subsisting agreement for sale and without a determinable payment schedule, is arbitrary, illegal and bad in the eyes of law.

19. In the present complaint, the complainants intend to continue with the project and are seeking possession of the subject unit and delay possession charges as provided under the provisions of section 18(1) of the Act which 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"

(Emphasis Supplied)

20. **Due date of handing over possession:** As per the documents available on record, BBA has not been executed between the parties and the due date of possession cannot be ascertained. A considerate view has already been taken by the Hon'ble Supreme Court in the cases where due date of possession cannot be ascertained then a reasonable time period of 3 years has to be taken into consideration. It was held in matter **Fortune Infrastructure v. Trevor d' lima (2018) 5 SCC 442: (2018) 3 SCC (civ) 1** and then was reiterated in **Pioneer Urban land & Infrastructure Ltd. V. Govindan Raghavan (2019) SC 725 :-**

"Moreover, a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract i.e., the possession was required to be given by last quarter of 2014. Further there is no dispute as to the fact that until now there is no redevelopment of the property. Hence, in view of the above discussion, which draw us to an irresistible conclusion that there is deficiency of service on the part of the appellants and accordingly the issue is answered."

21. Accordingly, the due date of possession is calculated as 3 years from the date of allotment letter i.e. 15.10.2022. Therefore, the due date of handing over of the possession comes out to be 15.10.2025.
22. **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"

23. 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.
24. 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., 14.11.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.

25. 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;"

26. Therefore, interest on the delay payments from the complainants shall be A 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.

27. On consideration of the documents available on record and submissions made by both the parties regarding contravention of 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. The authority has observed that the buyer's agreement was not executed between the parties and the possession of the subject unit was to be offered within a period of 3 years from the date of 15.10.2025. The respondent has failed to handover possession of the subject unit till date. Accordingly, it is the failure on the part of the

respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period.

28. However, in the present case, there is no record available on the paper book to show why the occupancy certificate has not been granted by the competent authority. Neither the respondent has given any valid or specific reason to justify this delay.
29. Accordingly, it is the failure of the respondent/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 make a valid offer of possession after receipt of occupancy certificate of the allotted unit to the complainant as per the agreement.
30. 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 complainants are entitled to delay possession charges at rate of the prescribed interest @ 10.85% p.a. w.e.f. 15.10.2025 till valid offer of possession plus two months after obtaining of occupancy certificate from the competent authority 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.

G. Directions of the authority:

31. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- I. The respondent is directed to handover the possession of an alternative unit of same size, similar location and at the same rate and specifications at which the unit was earlier purchased, after obtaining of occupation certificate/CC/part CC from the competent authority as per obligations under section 11(4) (b) read with section 17 of the Act, 2016 within two months from the date of this order and thereafter, the complainants are obligated to take the physical possession within 2 months as per Section 19 (10) of the Act, 2016.
- II. The respondent is directed to pay the interest to the complainants against the paid-up amount at the prescribed rate i.e., 10.85 % p.a. from the due date of possession i.e., 15.10.2025 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.
- III. 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. The complainant is not entitled for the interest on the amount returned by the respondent through RTGS.
- IV. The complainants is directed to pay outstanding dues, if any, after adjustment of delay possession charges/interest for the period the possession is delayed.

V. The respondent is also directed to execute the builder buyer agreement of the allotted unit within a period of 30 days from the date of this order.

VI. The respondent shall not charge anything from the complainants which is not the part of the builder buyer agreement.

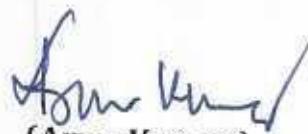
VII. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

32. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order wherein details of due date of possession, offer of possession, total sale consideration, amount paid by the complainant and execution of conveyance deed is mentioned in each of the complaints.

33. Complaint stands disposed of.

34. Files be consigned to registry.

Dated: 14.11.2025



(Arun Kumar)
Chairman
Haryana Real Estate
Regulatory authority,
Gurugram