

BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint No: 3720 of 2024
Date of complaint: 20.08.2024
Date of order: 16.12.2025

1. Mr. Gaurav Manoher Negi
2. Ms. Ritushka Negi

Both Resident of: House No. 1138, Sector- C, Pocket-1,
Vasant Kunj, South West Delhi- 110070.

Complainants

Versus

M/s Fantasy Buildwell Private Limited

Registered office at: - Room No. 205, Welcome Plaza, S-551,
School Block-II, Shakarpur, New Delhi- 110092.

Corporate office at: - 11th Floor, Tower-B, Paras Twin
Towers, Sector-54, Golf Course Road, Gurugram- 122002,
Haryana

Respondent

CORAM:

Shri Arun Kumar

Chairman

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Rishabh Jain, Advocate

Complainants

Shri Dhruv Rohatgi, Advocate

Respondent

ORDER

1. The present complaint has been filed by the complainants/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the

provisions of the Act or the Rules and regulations made thereunder or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of the project, the details of sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. No.	Particulars	Details
1.	Name of the project	"Paras Quartier", Sector-2, at Village Gwal Pahari, District- Gurugram
2.	Project area	10.096875 acres
3.	Project type	Residential group housing colony
4.	DTCP License no. & validity status	74 of 2012 dated 31.07.2012 valid up to 30.07.2020
5.	HRERA registration	Registered vide no. 164 of 2017 dated 28.09.2017
6.	Unit no.	02, Floor-29 th Tower-Iconic (Page no. 34 of complaint)
7.	Area of the unit	6000 sq. ft. [Super Area] (Page no. 34 of complaint)
8.	Builder Buyer's Agreement	03.07.2013 (Page no. 31 of complaint)
9.	Possession clause	<p>3. Possession</p> <p>3.1 Within 42 months with an additional grace period of 6 months from the date of execution of the Agreement or obtaining all licenses, approvals for commencement of construction, whichever is later.</p> <p style="text-align: right;">[Emphasis supplied]</p> <p>(Page no. 42 of complaint)</p>
10.	Due date of possession	16.04.2017 (Note: - due date of possession already decided in CR/5728/2019, earlier filed by the allottees herein)
11.	Sale consideration	Rs.6,51,20,000/- (As per payment plan at page no. 64 of complaint)
12.	Total amount paid by the complainants	Rs.6,31,55,224/-

		(As per customer statement dated 09.08.2019 at page no. 69 of complaint)
13.	Occupation certificate	22.06.2020 (As per detailed order dated 31.03.2021, in CR/5728/2019, at page no. 76 of complaint)
14.	Offer of possession	19.11.2020 (Page no. 70 of complaint)
15.	Possession certificate	07.01.2023 (Page no. 129 of complaint)

B. Facts of the complaint:

3. The complainants have made the following submissions: -
 - a. That the respondent published very attractive brochure, highlighting residential housing group colony, 'Paras Quartier' at Sector-2, village Gwal Pahari, Gurugram, Haryana. The respondent claimed to be one of the best and finest in construction and one of the leading real estate developers of the country, in order to lure prospective customers including the Complainants to buy apartments in the project. There are fraudulent representations, incorrect and false statements in the brochure.
 - b. The complainants, were approached by the sale representatives of the respondent company, who made tall claims about the project 'Paras Quartier' as the world class project. They were invited to the sales office and were lavishly entertained, and promises were made to them that the project will be completed within prescribed time including that of parking and other common area facilities and amenities. The complainants were impressed by their oral statements and representations and ultimately booked an apartment in the project 'Paras Quartier' by paying Rs.50,00,000/- via cheque no. 975633 to the respondent on 21.01.2013.
 - c. That the apartment buyer agreement was executed between the complainants and the respondent on 03.07.2013 for the purchase of apartment no. PL-3/2902 at 29th Floor in Tower - Iconic having a super

area of 6000 square feet in the said project for a total sale consideration of Rs.6,51,20,000/-. As per clause 3.1 of the buyer's agreement, the date of delivery of possession of the apartment is calculated as 42 months plus grace period of six months from the environment clearance dated 16.10.2013, which comes out to be 16.10.2017.

- d. That the complainants had cleared all the dues towards the apartment. As per the customer statement dated 09.08.2019, the complainants had paid a total of Rs.6,31,55,224/- for the Apartment till 30.06.2018, i.e., around 97% of the total consideration.
- e. Despite receiving all payable amount of the apartment from the complainants, failed to comply the terms of the agreement to timely deliver possession of the apartment to the complainants. The respondent kept harassing the complainants, and due to its failure in delivering the possession of apartment on time, the complainants filed a complaint (comp. no. 5728 of 2019) before this Authority on 29.11.2019 for seeking delay possession charges as well as for handover of physical possession for the abovementioned apartment.
- f. During the pendency of the aforesaid complaint, the respondent/promoter vide letter dated 19.11.2020 made an illegal, unlawful, invalid and unethical offer for possession, and raised demand of Rs.81,32,697/- without adjusting the statutory dues towards delay possession charges of the apartment, as stipulated under the provisions of the Act, 2016.
- g. The Authority via its order dated 31.03.2021 pronounced the verdict in favour of the complainants. The respondent is a habitual offender who is intentionally not complying with the promises it has committed and even failed to timely comply with the directions of this Authority, passed in the aforesaid complaint. Ultimately, the complainants were forced to file the execution (E/4202/2021/5728/2019) in aforesaid complaint.

- h. That the respondent, in order to delay the course of execution, approached the High Court of Punjab & Haryana under writ jurisdiction (CWP No. 9266 of 2022), which was dismissed with direction to approach the Haryana Real Estate Appellate Tribunal, Chandigarh. Subsequently, the respondent filed appeal (HREAT Appeal No. 299/2022) before the Haryana Real Estate Appellate Tribunal, Chandigarh (H-REAT) against the order dated 31.03.2021 of the HARERA, Gurugram. The said appeal filed by the respondent was dismissed by the H-REAT, Chandigarh via its order dated 09.12.2022, and the order was passed in favour of the Allottees. Later, the H-REAT modified its said order dated 09.12.2022, due to an arithmetical error, via order dated 29.04.2023.
- i. That the respondent wrongly issued the possession certificate dated 07.01.2023, to the complainants whereas the actual physical possession of the apartment was handed over to the complainants on 09.01.2023, that too after the Adjudicating Officer during proceeding dated 09.01.2023 observed that the respondent/promoter was ready to handover the keys of the apartment on the same day. After, numerous efforts, the complainants got the possession of the apartment and also received Rs.1,27,94,757/- as delay possession charges from the respondent after adjustment of all the dues payable by the allottees. Thus, the said execution petition was withdrawn via order dated 30.04.2024.
- j. That the respondent delayed the possession by more than five (5) years and two (2) months and now, even after numerous requests, the respondent has failed to execute the conveyance deed of the apartment till date. The complainants are made to feel like tenants in their own apartment.
- k. That the respondent was duty bound to execute the conveyance deed in favour of the complainants but till date the respondent has failed to get the conveyance deed for the apartment executed in favour of the complainants.

This is violation of Section 11(4)(f) read with Section 17 of the Act, 2016. Even after receiving the total consideration for the apartment, the respondent has failed to get the conveyance deed executed. The complainants approached the respondent many times and pleaded for execution of conveyance deed for their apartment as per the commitments in the agreement. The respondent did not submit any justified response to their letters, emails, telephone calls and personal visits seeking information about the status of the execution of conveyance deed for their apartment. This is a violation of section 19 of the Act, 2016.

- l. That the complainants have lost confidence and in fact have got no trust left in the respondent, as the respondent has deliberately and willfully indulged in undue enrichment, by cheating the complainants beside being guilty of indulging in unfair trade practices and deficiency in services in not getting the conveyance deed executed in favour of the complainants till date. Moreover, the respondent remained non-responsive to the requisitions of the complainants.
- m. That the respondent has also failed to discharge its obligation of getting the conveyance deed of the apartment executed till date. The complainants reserve their right to seek compensation from the promoter for which the complainant may make a separate application to the Adjudicating Officer, in case it is required, with regard to the subject matter in the present complaint.
- n. That the respondent has failed to execute conveyance deed, whereas the complainants have made complete payment towards total consideration for the apartment. The respondent did not perform his part of obligations and has failed to execute conveyance deed till date, thus it constitutes unfair trade practices & deficiencies in service and cheating on the part of the respondent.

o. That the respondent has cheated the complainants knowingly and has taken monies by deception, made fraudulent representations and deliberate false written promises to get the conveyance deed executed in time. The fraudulent behaviour of the Respondent also attracts criminal liability under the Indian Criminal Dispensation System. The conducts of the respondent are suspect, wilfully unfair and arbitrary, deficient in every manner and scandalous. The complainants have lost faith, confidence and trust in the respondent as the respondent is continuously deceptive and non-responsive to the requisitions made by the complainants.

C. Relief sought by the complainants:

4. The complainants have sought following relief:

- i. Direct the respondent to get the legitimate and lawful conveyance deed executed for the apartment bought by the complainants.
- ii. Direct the respondent to pay legal expenses of Rs.1,00,000/- incurred by the complainants.
- iii. Any other damages, interest and relief which the Authority may deem fit and proper under the circumstances of the case may kindly be passed in the favour of the complainants and against the respondent.

5. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent

6. The respondent contested the complaint on the following grounds:-

- i. That the present complaint has been filed before this Authority, inter-alia seeking a direction for execution of the conveyance deed. The respondent received a notice from this Authority, the present reply is being filed by the respondent herewith.

- ii. That the complainants are estopped by their own acts, conduct, acquiescence, laches, omissions etc. from filing the present complaint. The complainants have been offered the possession as early as on 07.01.2023. The delay in taking over the possession was solely attributable to the complainants, who have pressurized the respondent to handover the possession, despite there being huge outstanding dues, still to be paid by the complainants to the respondent.
- iii. That the complainants herein had earlier filed a complaint bearing no. 5728 of 2019, titled Gaurav Manohar Negi Vs Fantasy Buildwell Pvt. Ltd., seeking delay possession charges. It is a matter of record that this Authority, vide its Judgment/Order dated 31.03.2021, was pleased to allow the said complaint and awarded delay possession charges to the complainants from due date of possession, i.e. 16.04.2017 till the date of offer of possession, i.e. 19.11.2020. It is also a matter of record that the Authority, vide its Judgment dated 31.03.2021 had also directed the complainants to pay their outstanding dues.
- iv. That as per the duly executed buyer's agreement, the execution of the conveyance deed was subject to the complainant making all the payments. Hence, the conveyance deed of the complainants can only be executed, once the complainants clear the outstanding dues.
- v. That though, the complainants have not sought the relief to set aside the offer of possession, either in the previous complaint, or in the present complaint. However, any attempt to seek such a declaration in the present complaint is now hit by the provisions of Order 2 Rule 2 CPC. The relevant provision of Order 2 Rule 2 CPC is reproduced herein for the sake of brevity: -

"Suit to include the whole claim.—

(1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

(2) Relinquishment of part of claim.—Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.”

- vi. Thus, it is very much clear that the complainant herein had failed to seek any declaration against the lawful and valid offer of possession and is now precluded/ estopped from challenging the demands therein. In the absence and non-sustainability of such an objection and this stage, the complainants are liable to clear the outstanding dues in order for the execution of the conveyance deed.
- vii. That the respondent herein, approached the Hon'ble Haryana Real Estate Appellate Tribunal, in HREAT-299-2022, titled Fantasy Buildwell Pvt. Ltd. Vs Gaurav Manohar Negi & Anr., wherein, the Hon'ble Appellate Tribunal, vide its judgment dated 09.12.2022, was pleased to partly allow the said appeal to the extent to modify the due date of delivery of the unit to be construed as 16.10.2017, instead of 16.04.2017. It is also a matter of record that the respondent herein, in order to secure the complainants herein, had already deposited the entire decretal amount under Section 43(5) of the Act 2016, at the time of the filing of the said Appeal. The Hon'ble Appellate Tribunal, in order to compensate the allottee and to penalize the respondent herein, had further imposed a cost of Rs.5,000/- per day on the respondent, with effect from 20.07.2022, till the date of handing over of possession.

- viii. That the Judgment/order dated 09.12.2022, was later, modified/rectified by the Hon'ble Appellate Tribunal, vide its Order dated 29.04.2023, in order to correct certain clerical/ arithmetical errors. That the possession has been taken over by the complainants on 07.01.2023, during the pendency of the execution proceedings, filed by the complainants herein, bearing no. E-4202-2021.
- ix. That the complainants have received the entire decretal amount, which was disbursed from the amount deposited by the respondent herein, before the Appellate Tribunal. The complainants herein, upon being satisfied with the amounts so received as well as the handover of the physical possession, apprised the Adjudicating Officer of the same and withdrew the execution petition, as is reflected in the order dated 30.04.2024. The complainants have received a total sum of Rs.1,27,94,758/-, from the respondents, which was towards the delay possession charges, in light of the directions of the Authority vide its Order dated 31.03.2021 and superseded and coupled with the Judgment/Order dated 09.12.2022 of the Hon'ble Appellate Tribunal, modified vide Order dated 29.04.2023.
- x. That the ledger of the complainants, maintained by the respondent, there exists an outstanding of Rs.1,04,30,009/-, towards principle dues including delay payment interest and Rs.10,09,324/-, towards advance maintenance charges. The present complaint is therefore, not maintainable, until the complainants clear their dues.
- xi. That the present complaint is also not maintainable as the same is a unlawful attempt of the complainants to circumvent their way out from payment of their outstanding dues, for which the respondent herein has already filed a Complaint bearing No. 4801 of 2024, titled Fantasy Buildwell Pvt. Ltd. Vs Gaurav Manohar Negi, which is pending adjudication

before this Authority. It is submitted that the said complaint has been filed by the respondent herein seeking the relief of payment of outstanding dues from the complainant.

- xii. That the terms and conditions as set out in the agreement were accepted by the complainants and he agreed and undertook to scrupulously comply with the same. Therefore, he is now barred by estoppel in raising any grievance qua the same. It does not now lie in the mouth of the Complainants to allege default on part of the respondent.
- xiii. In the above circumstances, it is clear that there is no default or lapse on the part of the respondent and there is no equity in favour of the complainants. It is evident from the entire sequence of events, that no illegality can be attributed to the respondent. The allegations levelled by the complainants are totally baseless. Thus, the present complaint deserves to be dismissed at the very threshold.
- xiv. That the respondent has acted strictly in accordance with the terms and conditions of the agreement between the parties. There is no default or lapse on the part of the respondent. The allegations made in the complaint inter-alia that the respondent has failed to comply with the obligations under the agreement. On the contrary, it is the complainants who is in clear breach of the terms of the agreement by not making timely payments.

7. 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 both the parties.

E. Jurisdiction of the Authority

8. 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

9. 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 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 completed territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

10. 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) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

11. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Findings on the relief sought by the complainant.

F. I Direct the respondent to get the legitimate and lawful conveyance deed executed for the apartment bought by the complainants.

12. On the basis of the documents placed on record and submissions made by both the parties, the Authority observes that the complainants were allotted a unit bearing no. PL-3/2902 at 29th Floor in Tower - Iconic having a super area of 6000 sq. ft, in the project of the respondent vide buyer's agreement dated 03.07.2013. The total sale consideration of the unit was Rs.6,51,20,000/- and

the complainants have paid an amount of Rs.6,31,55,224/- against the said unit. The respondent has offered the possession of the unit on 19.11.2020, after obtaining the occupation certificate from competent authority on 22.06.2020.

13. It is within knowledge of the Authority that the complainants have filed a previous complaint bearing no. 5728 of 2019 on 29.11.2019 decided by the Authority on 31.03.2021 the respondents were directed with the following directions mentioned below:
 - i. *The respondent is directed to pay interest at the prescribed rate of 9.30% p.a. for every month of delay from the due date of possession i.e., 16.04.2017 till the date of offer of possession i.e., 19.11.2020.*
 - ii. *The arrears of delayed possession charges be adjusted in the ledger account of the complainants.*
 - iii. *The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.*
 - iv. *It is directed to the respondent that he shall not charge any extra amount which is not mentioned in builder buyer agreement.*
 - v. *It is directed that no holding charges shall be payable to the respondent.*
14. Thereafter, the complainants filed an execution petition before the executing court to execute the order dated 31.03.2021, passed by the Authority. In compliance of the said order dated 31.03.2021, the respondent handed over the possession of the unit to the complainants, and the said execution petition was disposed of vide order dated 30.04.2024.
15. During proceeding dated 30.10.2025, the counsel for the respondent states that the respondent/promoter is ready to execute the conveyance deed in favour of the complainants, subject to the payment of stamp duty charges and registration charges as applicable. On the same day, the counsel for the complainants and the complainant no. 1 present in person states that they are ready to make payment of the stamp duty charges and registration charges as applicable to get the registration of conveyance deed in their favour.
16. In view of the above statement made by both the parties, the Authority observes that as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainants. Whereas as per section 19(11) of the Act of 2016, the

allottees are also obligated to participate towards registration of the conveyance deed of the unit in question. The complainants had taken the physical possession of the unit on 07.01.2023. Furthermore, as per clause 11(a) of the buyer's agreement, the respondent shall prepare and execute along with allottee(s) a conveyance deed to convey the title of the said flat in favor of the allottee but only after receiving full payment of total price of the apartment and the relevant clause of the agreement is reproduced for ready reference: -

11(a) *"The conveyance deed of the flat as well as the proportionate undivided share of the land underneath as permissible as per applicable laws shall be executed in favour of the buyer by the developers, all costs of stamp duty, registration fee and other miscellaneous/ incidental expenses for execution and registration of the conveyance deed of the flat shall be borne and paid by the buyer."*

17. 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. 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 and the same 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."

18. As the occupation certificate of the unit was obtained from the competent authority on 22.06.2020. Therefore, there is no reason to withhold the

execution of conveyance deed which can be executed with respect to the subject unit. Accordingly, the respondent is directed to execute the registered conveyance deed in favour of the complainant in terms of section 17(1) of the Act of 2016, upon payment of requisite stamp duty/registration charges at applicable rates fixed by local administration, within a period of 90 days from the date of this order.

G. Directions of the Authority

19. 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 respondents are directed to execute the registered conveyance deed in favour of the complainant/allottee in terms of Section 17(1) of the Act of 2016, upon payment of requisite stamp duty/registration charges at applicable rates fixed by local administration, within a period of 90 days from the date of this order.
 - ii. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.
20. Complaint as well as applications, if any, stand disposed off accordingly.
21. Files be consigned to the registry.



(Phool Singh Saini)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 16.12.2025



(Arun Kumar)

Chairman