

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

Complaint no.: 3595 of 2024
Date of filing of complaint: 25.07.2024
Date of Order: 16.12.2025

Sandeep Sharma
R/o: - D-362, Indra Park Colony,
Opposite D Block Park, Najafgarh, New
Delhi-110043

Complainant

Versus
M/s Mahira Buildtech Private Limited.
Regd. Office at: 311-A, Global Foyer,
Sector-43, Golf Course Road,
Gurugram-122009

Respondent

CORAM:
Shri Arun Kumar
Shri Phool Singh Saini

Chairman
Member

APPEARANCE:
Sh. Ravi Rao (Advocate)
None

Complainant
Respondent

ORDER

1. The present complaint dated 25.07.2024 has been filed by the complainant/allottee 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 provision 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 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:

S. No.	Particulars	Details
1.	Name and location of the project	"Mahira Homes" at sector 103, Gurgaon, Haryana
2.	RERA Registered/not registered	Not registered
3.	Unit no.	802, 8 th floor & Tower-C (As per page no. 17 of the complaint)
4.	Unit area admeasuring	586 sq. ft. (Carpet area) (As per page no. 12 of the complaint)
5.	Date of building plan approval	29.03.2019 (taken from another complaint of the same project)
6.	Allotment letter	01.07.2019 (As per page no. 12 of the complaint)
7.	Environmental clearance	29.01.2020 (taken from another complaint of the same project)
8.	Date of execution of flat buyer's agreement	Not executed
9.	Possession clause	N.A
10.	Due date of possession	29.07.2024 [Note: Due date of possession to be calculated 4 years from the date of environmental clearance dated 29.01.2020 being later plus grace period of 6 months on account of Covid-19]
11.	Total sale consideration	Rs.24,17,940/- (As per page no. 5 of the complaint)
12.	Amount paid by the complainant	Rs.12,31,491/- (As per receipt information on page no. 19-21 of the complaint)
13.	Occupation certificate	N/A
14.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint:
 - I. That the respondent gave advertisement in various leading newspapers about their forthcoming project named "Mahira Homes-103", Gurgaon promising various advantages, like world class amenities and timely completion/execution of the project etc. Relying on the promise and undertakings given by the respondent in the aforementioned advertisements, the complainant booked an apartment/flat measuring 586 sq. ft. in aforesaid project of the respondent for total sale consideration of Rs.24,17,940/-.
 - II. That the complainant made payment of Rs.12,31,491/- to the respondent vide different cheques on different dates, the details of which are annexed with the complainant.
 - III. That at the time of booking of the aforesaid unit and after the payment of booking amount, the respondent allotted unit no. 802, unit type 2 BHK unit type-B in tower-C on 01.07.2019 and also the respondent had orally agreed to deliver the possession of the unit within 4 years from sanctioning of building plan or grant of environmental clearance, whichever is later. The complainant regularly followed up the respondent for execution of the builder buyer's agreement but the respondent evaded the matter on one pretext or other. The respondent kept assuring the complainant that the possession of the unit will be handed over soon as the complainant had made the payment. However, for the reason best known to the respondent, the respondent never delivered the possession of unit nor executed the builder buyer's agreement.
 - IV. That the tripartite agreement is also executed between the complainant, respondent and bank on 16.07.2021 for the said unit. The respondent has

taken more than 50% of the total sale consideration of the said unit without executing builder buyer's agreement with the complainant.

- V. That the complainant used to telephonically ask the respondent about the progress of the project and the respondent always gave false impression that the work is going in full mode and accordingly asked for the payments which the complainant gave on time and the complainant when visited to the site was shocked & surprised to see that construction work is not in and no one was present at the site to address the queries of the complainant. It appears that the respondent has played fraud upon the complainant. The only intention of the respondent was to take payment for the unit without completing the work and not handing over the possession on time. The respondent mala-fide and dishonest motives and intention cheated and defrauded the complainant.
- VI. That despite receiving of more than 50% payments on time for all the demands raised by the respondent for the said unit and despite repeated requests and reminders over phone calls and personal visits of the complainant, the respondent has failed to deliver the possession and to execute builder buyer's agreement of the allotted unit to the complainant within stipulated period.
- VII. That it could be seen that the construction of the block in which the complainant unit was booked with a promise by the respondent to deliver the unit but was not completed within time for the reasons best known to the respondent which clearly shows that ulterior motive of the respondent was to extract money from the innocent people fraudulently.
- VIII. That due to this omission on the part of the respondent, the complainant has been suffering from disruption on his living arrangement, mental torture, and agony and also continues to incur severe financial losses. This could have been avoided if the respondent had given possession of

the unit on time. It was orally agreed by the respondent that in case of any delay, the respondent shall pay to the complainant a compensation @ Rs.5/- per sq. ft. per month of the super area of the flat. It is however, pertinent to mention here that a clause of compensation at such a nominal rate of Rs.5/- per sq. ft. per month for the period of delay is unjust and the respondent has exploited the complainant by not providing the possession of the unit even after a delay from the agreed possession plan. It could be seen here that the respondent has offered to pay a sum of Rs.5/- per sq. ft. for every month of delay. If we calculate the amount in terms of financial charges it comes to approximately @ 2% per annum rate of interest whereas the respondent charges @ 24% per annum interest on delayed payment.

IX. That the complainant has requested the respondent several times on making telephonic calls and also personally visiting the offices of the respondent to deliver possession of the unit and to execute builder buyer's agreement in question along with prescribed interest on the amount deposited by the complainant but the respondent has flatly refused to do so. Thus, the respondent in a pre-planned manner defrauded the complainant with his hard-earned huge amount of money and wrongfully gains himself and caused wrongful loss to the complainant.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - i. Direct the respondent to refund the amount of Rs.12,31,491/- paid by the complainant.
 - ii. Direct the respondent to pay the interest on the aforesaid amount at the rate of 18% per annum to the complainant.

5. The authority issued a notice dated 26.07.2024 to the respondent by speed post and also on the given email address at sandeep2050sharma@gmail.com, crm@mahiragroup.com and rravi9006@gmail.com for filing of reply and putting up appearance on the date fixed for hearing. The delivery reports have been placed in the file. Despite given ample opportunities vide hearings dated 14.11.2024, 20.02.2025, 01.05.2025, 21.08.2025 and 16.10.2025 the counsel for the respondent neither put in appearance nor did not file any reply to the complaint within the stipulated period. Therefore, vide proceedings of the day dated 16.10.2025 the authority has struck off the defence of the respondent and proceeded ex-parte against the respondent.

D. Jurisdiction of the authority:

6. 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

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

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.

7. 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.
8. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in **Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors.**" SCC Online SC 1044 decided on 11.11.2021 and followed in M/s Sana Realtors Private Limited & others V/s Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022 wherein it has been laid down 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. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

9. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the matter of **M/s Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. and M/s Sana Realtors Private Limited & others V/s Union of India & others (supra)**, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the amount paid by him.

E. Findings on the relief sought by the complainant:

E.I Direct the respondent to refund the amount of Rs.12,31,491/- paid by the complainant.

E.II Direct the respondent to pay the interest on the aforesaid amount at the rate of 18% per annum to the complainant.

10. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.

11. The complainant booked a unit in the project of respondent "Mahira Homes", in Sector 103, Gurugram vide allotment letter dated 01.07.2019. Though no flat buyer's agreement was executed between the parties but the complainant started paying the amount due against the sale consideration of Rs.24,17,940/- and paid a total sum of Rs.12,31,491/-.

12. The due date of possession is to be calculated 48 months from the date of environment clearance i.e., 29.01.2020 which comes out to be 29.01.2024 as per the possession clause of another project of affordable group housing.

13. It is in the notice of the Authority that the project was registered on 01.04.2019 and valid up to 28.02.2023. The authority has gone through the possession clause of the agreement of another project of affordable group housing and observed that the respondent-developer proposes to handover the possession of the booked unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. In the present case, the date of

approval of building plan is 29.03.2019 and date of environment clearance is 29.01.2020 as per information provided by the planning branch. The due date is calculated from the date of environment clearance being later, so, the due date of subject unit comes out to be 29.01.2024. ***Further as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due date on or after 25.03.2020.*** The completion date of the aforesaid project in which the subject unit is being booked by the complainant is 29.01.2024 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. So, in such case the due date for handing over of possession comes out to **29.07.2024**.

14. It is further observed that the Authority on 27.05.2022 initiated Suo-Motu action against the promoter under Section 35 of the Act, 2016 based upon the site visit report submitted on 18.05.2022 wherein it is clearly stated that the physical progress of the project was approximately 15-20% and progress of construction works did not seem commensurate to the payments withdrawn from the bank accounts. Moreover, on 17.05.2022 the Director Town & Country Planning blacklisted the said developer from grant of license on account due to various grave violations by the promoter company which was subsequently withdrawn by the department on 21.07.2022 subject to fulfillment of certain conditions. Also, on 19.05.2022 all the accounts were frozen by the Authority due to non-compliance of the provisions of the Act, 2016. On 06.11.2023 the Authority initiated suo-motu revocation proceedings under Section 35 of the Act, 2016. Thereafter, the Authority vide order dated 11.03.2024 revoked the registration certificate of the project under Section 7(1) of the Act, 2016 and

accordingly the respondent company shall not be able to sell the unsold inventories in the project and also, the accounts are frozen therefore, this amounts to discontinuation of business of the respondent.

15. The Authority considering the above mentioned facts opines that Section 18 of the Act, 2016 is invoked if the promoter is unable to handover the possession of the unit as per the terms of the agreement **due to discontinuance of his business as developer on account of suspension or revocation of the registration under this Act** or any other reason than the complainant shall be entitled for entire refund of the amount paid to the respondent along with the prescribed rate of interest. The relevant portion is reproduced herein below for the ready reference:

"Section 18: Return of amount & compensation:

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

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

*(b) due to discontinuance of his business as a developer on account of **suspension or revocation of the registration under this Act or for any other reason**, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:....."*

16. The Authority is of the view that since vide order dated 11.03.2024 the registration certificate of the project stands revoked under Section 7(1) of the Act, 2016 therefore, the promoter cannot carry out the business in presence of the said circumstances, also due to the promoter's serious violations, there seems no possibility of completing the said project by the due date. Thus, the Authority is of the view that the complainant is entitled to his right under Section 18(1)(b) read with Section 19(4) of the Act of 2016 to claim the refund of amount paid along with interest at prescribed rate from the promoter. Accordingly, the Authority directs the respondent to refund the paid-up amount of Rs.12,31,491/- received by it along with

interest at the rate of 10.80% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.

F. Directions of the Authority:

17. 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):

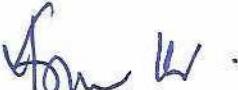
- i. The respondent is directed to refund the paid-up amount of Rs.12,31,491/- received by it along with interest at the rate of 10.80% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.
- 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.

18. Complaint stand disposed of.

19. Files be consigned to registry.



(Phool Singh Saini)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 16.12.2025