

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

Complaint filed on : 10.10.2024

Order pronounced on: 23.12.2025

Tarlochan Singh Badyal

R/o: Ashirwad Farm House, Mandi Road, Gadaipur,
South Delhi, Delhi-110030.

Complainant

Versus

M/s Bright Buildtech Private Limited.

Regd. office: D-35, Anand Vihar, Delhi-110092

Also At:- Ace Studio, 7th Floor, Plot No. 01B, Greater
Noida Expressway, Sector-126, Noida-201303

Respondent

CORAM:

Shri Arun Kumar

Shri Phool Singh Saini

**Chairman
Member**

APPEARANCE:

Shri Gaurav Rawat (Advocate)

Shri Bhavya Sareen (Advocate)

**Complainant
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 there under or to the allottee as per the agreement for sale executed *inter-se* them.

A. Unit and Project-related details

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

| Sr. No. | Particulars | Details |
|---------|---------------------------|---|
| 1. | Name of the project | "Woodview Residencies", Sector: 89-90, Gurugram |
| 2. | Total area of the project | 101.081 acres |
| 3. | Nature of the project | Residential Plotted Colony |
| 4. | DTCP license no. | 59 of 2013 dated 16.07.2013 |
| 5. | Registered/not registered | Registered vide no. 09 of 2018 dated 08.01.2018 for 2.80 acres valid up to 31.12.2020 |
| 6. | Allotment letter | 16.01.2015 [Page 50 of complaint] |
| 7. | Unit no. | C-167-FF [Page 50 of complaint] |
| 8. | Area of the unit | 1415 sq. ft. [Page 50 of complaint] |
| 9. | Date of execution of BBA | Annexed but not executed [Page 86 of complaint] |
| 10. | Possession clause | 5. Possession of Dwelling Unit <i>5.1 Subject to Clause 5.2 and subject to the Buyer making timely payments, the Company shall endeavour to complete the construction of the Building Block in which the Dwelling Unit is situated within 36 months, with a grace period of 6 (six) months from the date of issuance of</i> |

| | | |
|-----|--|---|
| | | <p>Allotment Letter provided that all amounts due and payable by the Buyer has been paid to the Company in timely manner. The Company shall be entitled to reasonable extension of time for the possession of the Dwelling Unit in the event of any default or negligence attributable to the Buyer's fulfilment of terms and conditions of this Agreement.</p> <p>(Emphasis supplied)</p> <p>[Page 92 of complaint]</p> |
| 11. | Due date of possession | <p>16.07.2018</p> <p>(Note: 36 months from date of allotment i.e., 16.01.2015 + 6 months grace period is allowed unconditionally)</p> |
| 12. | Sale consideration | <p>Rs.1,09,08,453/-</p> <p>[As per payment plan annexed at page 51 of complaint]</p> |
| 13. | Total amount paid by the complainant | <p>Rs. 79,25,760/-</p> <p>[as per alleged by the complainants in brief facts at page 08 also admitted by respondent in its reply at page 8]</p> |
| 14. | Settlement agreement for termination of allotment and refund of amount paid of Rs. 34,11,455/- dated | <p>20.03.2022</p> <p>[Page 110 of complaint]</p> |
| 15. | Cancellation of unit | <p>vide settlement deed dated 20.03.2022</p> <p>[Page 111 of complaint.]</p> |
| 16. | Offer of possession | Not offered |
| 17. | Occupation certificate | Not obtained |

B. Facts of the complaint:

1. The complainant has made following submissions:

- i. In 2013, the respondent company issued an advertisement announcing a plotted colony Project "Woodview Residences" now known as ACE Palm Floors" was launched by respondent, under the license no. 59 of 2013 dated 16.07.2013 issued by DGTCP, Haryana, Chandigarh and thereby invited applications from prospective buyers for the purchase of unit in the said project. Respondent confirmed that the projects had got building plan approval from the authority.
- ii. Relying on various representations and assurances given by the respondent company and on belief of such assurances, complainant booked a unit in the project by paying an amount of Rs.10,00,000/- towards the booking of the said unit C-167-FF, First Floor, along with basement / terrace area of 325 Sq. Ft. on plot no. C-167, admeasuring 239.20 sq. yards, unit having super area measuring 1415 sq. ft to the respondent dated 09.11.2013 and the same was acknowledged by the respondent.
- iii. As per the provisions of the RERA Act,2016, no builder/promoter can take advance amount without getting the project registered with the HARERA Authority, GGM but in the present case respondent till date has failed to get the said project registered with HARERA. Furthermore, respondent even did not take the said amount in the ESCROW Account as mandatory as per the provisions of the RERA Act,2016.
- iv. The respondent confirmed and provided the details of the project vide offer of provisional allotment letter dated 02.04.2014, confirming the booking of the unit dated 09.11.2013, allotting a unit

no. C-167-FF, First Floor, along with basement / terrace area of 325 Sq. Ft. on plot no. C-167, admeasuring 239.20 sq. yards, unit having super area measuring 1415 sq. ft in the aforesaid project of the developer for a total sale consideration of the unit i.e. Rs. 1,09,08,453/-, other specifications of the allotted unit and providing the time frame within which the next instalment was to be paid.

- v. That after repeated request and reminders respondents sent an allotment letter dated 16.01.2015 to complainants confirming the booking the said unit and also mentioning the moonshine reputation of the company and the location of project. Further, providing the details of payment to be made by complainants. That respondent confirmed the booking of the unit dated 09.11.2013. The booking of the said unit was done under the construction linked payment plan but the demand letters were send were not in accordance with the actual construction on the site to which complainant raised the objection and raised the query but respondent failed to provide any satisfactory response.
- vi. Even after repeated reminders and follow ups with the respondent, respondent failed to provide terms and conditions and builder buyer agreement for the said unit. That even after repeated reminders and follow ups with the respondent, till date buyer's agreement has not been executed between the parties. As per clause 5 of the unexecuted agreement-company shall endeavor to complete the construction of the building block in which dwelling unit is situated within 36 months with a grace period of 6 months from the date of issuance of allotment letter. Allotment letter was issued on 16.01.2015. Hence, due date of possession comes out to be 16.01.2018.

- vii. Despite the after repeated request, emails and reminders respondent failed to get the buyers agreement executed and allotment letter with the complainant. It is pertinent to mention here that booking of the said unit was done on 02.04.2014. That allotment of the unit was made on 16.01.2015, as per the Act, after coming into force of the Act the respondent is under obligation to get the buyers agreement executed as per the sample agreement provided under the Act, and HARERA Rules, 2017, made thereafter, but in the present case respondent failed to comply with the same. As the agreement has not been executed with the complainant as provided under the Act, and HARERA Rules, 2017. Hence, the respondent violated the same.
- viii. 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. 37,90,506.00, towards the said unit against total sale consideration of Rs. 1,09,08,453/-.
- ix. During the period the complainant went to the office of respondent several times and requested them to allow them to visit the site but it was never allowed saying that they do not permit any buyer to visit the site during construction period, once complainant visited the site but was not allowed to enter the site and even there was no proper approached road. The Complainant even after paying amounts still received nothing in return but only loss of the time and money invested by them.
- x. The complainant contacted the respondent on several occasions and were regularly in touch with the respondent with regard to construction update. The respondent was never able to give any satisfactory response to the complainant regarding the status of the

construction and were never definite about the delivery of the possession.

- xi. That complainant raised objections on account of non-adjustment of the amount, price and raising the concern/objection that on ground reality status of construction of is not the same as the demand of money raised. Furthermore, requested for the inspection of the unit as per the agreement. Thereafter complainant sent several reminders through telephone to the respondent's company but they were never able to give any satisfactory response regarding the aforesaid issues raised by the complainant.
- xii. That the complainant after delay of approx. 4 years sent an email dated 16.02.2022 to the respondent company stating that with reference to our discussion held with you regarding cancelation and refund of payment pertaining to unit no. C-167 FF situated in Woodview Residences, Sector 89-90, Gurgaon. Kindly cancel the booking of unit no. C-167 FF situated in Woodview Residences, Sector 89-90, Gurgaon which is booked in the name of Tarlochan Singh Badyal and arrange the refund of payment of Rs.37,90,506/- which is paid against the said unit.
- xiii. Thereafter, respondent company on 20.03.2022 approached the complainant regarding settlement of issues and refund of the amount on account of failure on behalf of the respondent company in obtaining the OC and completion of the project. Complainant having no option left and in hope of getting the amount paid agreed for refund of the amount and settlement deed dated 20.03.2022 was executed between the parties.
- xiv. That as per said deed respondent was duty bound to refund the amount on or before 20.05.2022 to the complainant but same has not

been refunded till date. Furthermore, despite after repeated request and reminders dated 13.05.2022 and 25.05.2022 did not received the said amount till date nor any satisfactory response from the respondent company.

- xv. It is abundantly clear that the respondent have 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 and paying the monthly assured amount. The respondent had further malafidely failed to implement the agreement executed with the complainant. Hence, the complainant being aggrieved by the offending misconduct, fraudulent activities, deficiency and failure in service of the respondent is filing the present complaint.

C. Relief sought by the complainant:

3. The complainants have sought the following relief(s):
- Direct the respondent to refund the amount received by the promoter in respect of the allotted unit with interest at the prescribed rate.
4. 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) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent:

5. The respondent has made following submissions:
- The respondent, Bright Buildtech Pvt. Ltd., is developing a project titled 'Woodview Residences' (now rebranded as "ACE Palm Floors") on its share of land measuring 101.081 acres situated in the revenue estate of Village Hayatpur, Sectors 89 and 90, Gurugram.
 - M/s Ace Mega Structures Private Limited ("ACE") was appointed as the Development Manager for the Project pursuant to a Development

- Management Agreement (DMA) dated 23.05.2019, with the objective of ensuring timely execution and professional customer service.
- iii. Upon receiving the application, the respondent issued an allotment letter dated 16.01.2015, allotting to the complainant Flat No. C-167-FF (First Floor) along with basement/terrace area measuring 325 sq. ft. on plot no. C-167, admeasuring 239.20 sq. yards (the "Unit"). The letter outlined the payment plan and particulars of the unit, with the total sale consideration agreed at Rs. 1,09,08,453/-.
 - iv. As of date, the complainant has paid Rs. 37,70,481/-, while an amount of Rs. 35,17,152/- remains outstanding and payable before possession of the unit, which is now ready for handover.
 - v. Although the stipulated period for completion had lapsed, the delay was due to unforeseen circumstances beyond the Respondent's control. The delay in project completion was caused by genuine and unavoidable factors including: Judicial orders halting construction in the NCR region, shortage of construction material and labor, and nationwide lockdown imposed to curb the spread of Covid-19. All of these constitute *force majeure* events, beyond the control of the respondent.
 - vi. The respondent's project has experienced reasonable delays due to a *force majeure* situation, which is beyond the control of the respondent. Nevertheless, despite these challenges, the respondent, in collaboration with the Development Manager, *Ace*, is making every possible effort to expedite the construction at the project site and expects to hand over possession in the near future.
 - vii. Given the prevailing *force majeure* circumstances, the respondent is not in a position to meet the arbitrary demand of the complainant for interest payment for the period affected by these uncontrollable

events. The complainant's unit is now complete and ready for possession in all respects. Apart from the reasons mentioned above, the delay in handing over possession has also been caused by several other factors beyond the respondent's control.

- viii. The respondent had also verbally communicated to the complainant on several occasions that the construction had to be temporarily paused due to unforeseen and uncontrollable circumstances. A table outlining the specific periods during which construction activities were restricted by orders of competent authorities/courts is provided below for reference:

| S. No. | Court/Authority & Order Date | Title | Duration |
|--------|---|--|------------------------------|
| 1. | National Green Tribunal- 08.11.2016 10.11.2016 | Vardhman Kaushik vs Union of India | 08.11.2016 to 16.11.2016 |
| 2. | National Green Tribunal 09.11.2017 | Vardhman Kaushik vs Union of India | Ban was lifted after 10 days |
| 3. | Press Note by EPCA-Environment Pollution (Prevention and Control) Authority | Press Note-31.10.2018 | 01.11.2018 to 10.11.2018 |
| 4. | Supreme Court- 23.12.2018 | Three-day ban on industrial activities in pollution hotspots and construction work | 23.12.2018 to 26.12.2018 |
| 5. | EPCA/ Bhure Lal Committee Order- 31.10.2018 | Complete Ban | 01.11.2019 to 05.11.2019 |
| 6. | Hon'ble Supreme Court 04.11.2019-14.02.2020 | M.C Mehta v. Union of India Writ Petition (c) no. 13029/1985 | 04.11.2019 to 14.02.2020 |
| 7. | Government of India | Lockdown due to Covid-19 | 24.03.2020 to 03.05.2020 |

| | | | |
|----|---------------------|--------------------------|-----------------|
| 8. | Government of India | Lockdown due to Covid-19 | 8 weeks in 2021 |
| | Total | 37 weeks (approximately) | |

- ix. The complainant defaulted in making the required instalment payments. In response, the Company issued multiple demand notices, reminder letters, and a final demand notice dated 20.03.2017, seeking payment of Rs. 40,70,463/-. These were disregarded by the complainant. The final notice explicitly stated that timely payment of instalments is essential under the terms of the allotment/agreement, and failure to comply would entitle the respondent to charge interest at 18% per annum until the outstanding dues are cleared. It is respectfully submitted that granting the complainant's request for waiver or adjustment of interest will adversely impact the construction progress, thereby affecting the interests of other allottees in the project. The respondent is currently focused on completing and delivering the project, and funds received from allottees have been duly utilized in construction. Therefore, the complainant's demands are without merit.
- x. In view of the aforesaid, it is most humbly prayed that this Hon'ble Authority may graciously be pleased to dismiss the present complaint.
6. Copies of all the relevant documents have been filed and placed on 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:

7. The plea of the respondent regarding the rejection of the complaint on the grounds of jurisdiction stands rejected. 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

8. 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 the entire Gurugram District for all purposes 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.

E. II Subject-matter jurisdiction

9. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per the 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 with the obligations cast upon the promoters, the allottees, and the real estate agents under this Act and the rules and regulations made thereunder.

10. Hence, given 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. Findings on the objections raised by the respondent:**F.I Objections regarding Force Majeure.**

11. The respondent's invocation of the force majeure circumstances such as orders of the NGT, High Court and Supreme Court and various govt. schemes as a justification for non-performance, is without merit in this case. The contractual due date for possession was clearly stipulated as 16.07.2018, while the unit was allotted to the complainant in the year 2015. Thus, the respondent had ample time to fulfill their contractual obligations well before the pandemic's onset. The circumstances cited by the respondent as force majeure did not hinder their ability to meet the specified due date. Furthermore, a grace period of six months has already been unconditionally granted by the Authority. Hence, events alleged by the respondent do not have any impact on the project being developed by the respondent. Moreover, some of the events mentioned above are of routine in nature happening annually and the promoter is required to take the same into consideration while launching the project. Thus, the promoter 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 wrong. Therefore, the objection raised by the respondent regarding project delays due to circumstances classified as force majeure is hereby dismissed.

F.II Objection regarding the delay in payment.

12. Another objection raised by the respondent regarding delay in payment by many allottees is totally invalid because the allottees have already paid the amount of Rs. 79,25,760/- against the sale consideration of Rs. 1,09,08,453/- to the respondent. The fact cannot be ignored that there might be certain group of allottees that defaulted in making payments but upon perusal of documents on record it is observed that no default has

been made by the complainant in the instant case. Section 19(6) of Act lays down an obligation on the allottee(s) to make timely payments towards consideration of allotted unit. Moreover, the stake of all the allottees cannot put on stake on account of non-payment of due instalments by a group of allottees. Hence, the plea advanced by the respondent stands rejected. The fact of inordinate delay of nearly 7 years cannot be ignored and the respondent/ promoter has not followed in any delay compensation while raising demand of balance amount which otherwise is payable in terms of clause 7(1) of buyer's agreement duly executed between the parties.

G. Findings on relief sought by the complainant:

G.I Direct the respondent to refund the amount received by the promoter in respect of the allotted unit with interest at the prescribed rate.

13. The complainant was allotted a unit in the project of respondent "Woodview Residencies" at sector 89-90, Gurugram, Haryana vide allotment letter dated 16.01.2015 for a total sum of Rs.1,09,08,453/- and the complainant started paying the amount due against the allotted unit and paid a total sum of Rs. 79,25,760/- and upon failure of the respondent to handover the physical possession of the unit, the complainant intends to withdraw from the project and are seeking refund of the paid-up amount.
14. However, upon careful consideration of the documents placed on record, it emerges that the parties have already arrived at an amicable settlement in respect of the subject unit. A settlement agreement dated 20.03.2022 has been executed between the parties, whereby the allotment of the complainant's unit stood terminated and the dispute was settled for a total amount of Rs. 34,11,455/-. The relevant clauses of the settlement agreement, for ready reference, are reproduced as under:

XXXX

ii. That the Company has cancelled his/her booking of the said unit against a full and final settlement amount of Rs.34,11,455/- and the same is to his/her full satisfaction towards the cancellation of rights, benefit and obligation in the said Unit.

XXXX

1.2 The parties agree that this Settlement Deed is full and final settlement of all the outstanding dues and claims of the Allottee against the company as on the date of execution of this Settlement Deed.

15. From a bare perusal of the aforesaid clauses, it is evident that the parties consciously and voluntarily entered into the settlement agreement dated 20.03.2022, wherein the allotment was terminated and the complainant accepted a sum of Rs. 34,11,455/- towards full and final settlement of all rights, claims, benefits, and obligations arising out of the said unit.
16. The principal issue that arises for consideration is whether, in the presence of a duly executed settlement agreement dated 20.03.2022, the dispute between the parties survives for adjudication by the Authority. The relevant clauses of the settlement agreement categorically stipulate that the cancellation of the unit and the payment of the settlement amount were in full satisfaction of the allottee, thereby extinguishing all subsisting disputes between the parties.
17. It is well settled principle that when parties voluntarily enter into a settlement and act upon the same, such settlement is binding in nature and operates as a bar to any subsequent claims arising from the same cause of action. In the present case, the complainant has neither pleaded nor demonstrated that the settlement agreement was vitiated by fraud, coercion, undue influence, or misrepresentation. In the absence of any such averment, the settlement agreement dated 20.03.2022 remains valid and enforceable in law.

18. Once the parties have consciously resolved their disputes through a settlement, the Authority cannot reopen or re-adjudicate the settled issues, nor can it modify or rewrite the contractual terms agreed upon between the parties. Any interference with such settlement, in the absence of proven illegality, would amount to substituting judicial wisdom in place of the parties' contractual autonomy, which is impermissible in law.
19. The jurisdiction of the Authority under the Act is limited to adjudicating disputes arising out of subsisting allotments and statutory violations, and not to unsettling concluded contracts which have attained finality by mutual consent.
20. In view of the foregoing, both parties are hereby directed to strictly abide by the terms and conditions of the settlement agreement dated 20.03.2022 in letter and spirit.
21. Accordingly, the present matter stands disposed of.
22. File be consigned to the Registry.



(Phool Singh Saini)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 23.12.2025