

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

Complaint no. : 2121 of 2025
Date of complaint : 01.05.2025
Date of order : 09.01.2026

Nabeel Raja,
R/o: - V-9/2, DLF Phase 3, Gurugram.

Complainant

Versus

M/s Ishv Realtors Pvt. Ltd.
(Formerly known as M/s Ish Realtors Pvt. Ltd.
Regd. Office at: - Shop No. 9-10,
GF Plot-1311, A/8, Shankar Market,
Fasil Road, Ajmeri Gate, Delhi-110006.

Respondent

CORAM:

Arun Kumar

Chairman

APPEARANCE:

Pritam Sharma (Advocate)
Ankur Yadav (Advocate)

**Complainant
Respondent**

ORDER

1. The present complaint 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 provisions of the Act or the Rules and regulations made thereunder or to the allottee 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 of the project	Platina street 109, Sector 109, Gurugram
2.	DTCP license	24 of 2011 dated 24.03.2011 valid up to 23.03.2015
3.	RERA registered/ or not	37 of 2023 dated 02.02.2023 Valid up to 30.09.2027
4.	Shop No.	UG-19, Upper Ground Floor, 556 sq. ft. (page no. 57 of complaint)
5.	Date of builder buyer agreement	19.04.2013 (page no. 23 of the complaint)
6.	Possession clause	15. "That the possession of the said premises is proposed to be delivered by the developer to the allottee(s) within four years from the date of this agreement.....".
8.	Due date of possession	19.04.2017 [calculating from the date of execution of agreement]
9.	No objection certificate	15.02.2016, Mr. Karan transfer the unit in the name of Mr. Nabeel Raja [on page 57 of complaint]
10.	Total sale consideration	Not on record
11.	Amount paid by the complainant	Rs.17,21,049/- [As per receipts annexed by the complainant at page 51-56 of complaint]
12.	Occupation certificate	Not obtained
13.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions:-

- I. That initially the complainant Mr. Nabeel Raja and another co-applicant Mr. Karan Kumar Bhirani were allured to buy a commercial space by the respondent. It is submitted that basis the representations made by the respondent/promoter, the complainant and the aforementioned co-applicant applied for allotment of the unit no. 19 on the Upper Ground Floor vide application form dated 14.07.2012 for allotment of commercial space having carpet area of 556sq. ft. At the time for making the aforementioned application, the applicants made a payment of a sum of Rs.2.5 Lakhs only to the respondent promoter who was then known as Ish Realtors Pvt. Ltd.
- II. That thereafter a "buyer agreement" on stamp paper dated 19.04.2013 was executed between the parties along with his co-applicant Mr. Karan Kumar Bhirani.
- III. That even as per clause 5 of the aforementioned buyer agreement, the respondent/promoter acknowledged receipt of a sum of Rs.12,51,000/- at the time of application for the unit.
- IV. That as per the aforementioned buyer agreement, the payment was based on a "construction linked payment plan" under which the respondent/promoter was obligated to apprise the allottees about the status of the construction activity on the project and consequently raise the respective demands as per the payment plan agreed between the parties and upon such demand the allottees were to make payment to the respondent/promoter.
- V. That the complainant made a total payment of Rs.17,36,687/- to the respondent/promoter basis the demands raised. It is pertinent to mention here that most of these payments were already made by the complainant and his co-allottee around the years 2012 to 2014 itself as is evident from a bare perusal of the various payment receipts. It is

submitted that thereafter the respondent/promoter never issued any construction update along with demand notices to the complainant and thus no occasion arose for making any payment by the complainant.

- VI. That in the year 2016, the other co-applicant of the unit i.e. Mr. Karan Kumar Bhirani desired to transfer his entire interest in the allotted unit in favour of the complainant (i.e. Mr. Naveel Raja S/o Shakil Ahmed) and thus both the co-allottees sought a no objection certificate from the respondent/promoter in that regard which was issued vide "No-Objection Certificate" dated 15.02.2016 by the respondent/promoter through its authorized signatory.
- VII. That as per the Clause 15 of the buyer agreement, the possession of the allotted premises was proposed to be delivered by the respondent/promoter to the allottee within a period of 4 (Four) years from the date of agreement.
- VIII. That initially, environment clearance was granted by the competent authority vide letter dated 14.03.2014. However, the project had not been progressing as envisaged and the respondent/promoter thus applied for environmental Clearance once again which was granted for a period of 7 (seven) years vide letter dated 29.01.2022.
- IX. That the Respondent/Promoter unilaterally increased the carpet area of the unit without following the due procedure provided under Section 14 (2) of the RERA Act, 2016 for change in the plans, layouts and specifications and the respondent/promoter simply unilaterally and arbitrarily notified the complainant/ allottee about having increased the carpet area to 750 sq. ft. from the initially agreed 556 sq. ft. and thereafter the respondent/promoter began demanding additional payment from the complainant/allottee.

X. That the complainant came to know about the change of name of the promoter from M/s Ish Realtors Pvt. Ltd. to one M/s Ishv Realtors Pvt. Ltd. and that the promoter is marketing the project under the name and style of one "M/s Yashika".

XI. That upon coming to know about M/s Yashika having taken over the project and marketing the project in the name and style of Platina Street-109, the complainant, in order to prevent losing his allotment and the money invested long ago, issued a letter dated 21.01.2023 to the Director of the said M/s Yashika whereby the complainant stated that he was writing the letter since the name of the project had changed and name of the promoter had changed a couple of time and thus requested M/s Yashika to update their records and send demand letters to him as per the progress of construction to him which was yet to be started.

XII. That it is further submitted that the respondent/promoter had not even obtained the registration with the HARERA, Gurugram till February 2023 when the Authority finally granted registration to the project of the respondent/promoter in the name and style of "Platina Street-109" which was issued vide registration no. 37 of 2023 dated 02.02.2023. It is pertinent to mention that even as per the completion date as declared by the respondent/promoter in REP-II, the Hon'ble HARERA issued the validity of the registration of the Project till 30.09.2027.

XIII. That when the complainant began raising the issue of the unilateral and arbitrary change in the area, plan and specification of his booked unit, the respondent/promoter began threatening the complainant about cancellation.

XIV. That the complainant is entitled to possession of the unit as per Clause 15 of the buyer agreement read with Section 11 (4) of the RERA Act. Thus, the complainant seeks possession and conveyance of the property from the respondent/promoter in exercise of Section 17 (1) of the Act, 2016. The complainant does not intend to withdraw from the project and is thus also entitled to delayed possession interest under Proviso to Sub-Section (1) of Section 18 of the Act.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - I. Direct the respondent to handover possession, execute conveyance deed and to pay delay possession charges as per the Act.
 - II. Direct the respondent to pay litigation cost.
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 vide reply dated 12.12.2025 contested the complaint on the following grounds: -
 - i. That the complaint has very conveniently abstained from filing the payment plan with the builder buyer agreement which renders the complaint as infructuous and in the absence of payment plan the present complaint cannot be adjudicated upon and decided. It is further submitted that the complainant has filed incomplete builder buyer agreement which nowhere mentions the unit number and the total sale consideration or per sq. ft. rate of the unit.
 - ii. That the complainant has also not filed any allotment letter along with the complaint which casts high doubt that the complainant is even an allottee in the project.

- iii. That from the alleged flat buyer agreement, it transpires that there are two alleged buyers, however, the alleged buyer no. 1 namely, Karan Kumar Bhirani has not been made a party in the present complaint and further, no document has been filed showing the transfer in the name of complainant, Nabeel Raja. Therefore, in absence of the same, the present complaint is liable to be rejected as there cannot be just and proper adjudication of the same.
- iv. That the company namely, M/s Ishv Realtors Pvt. Ltd. (formerly M/s Ish Realtors Pvt. Ltd.) entered into a registered collaboration agreement dated 24.06.2011 bearing registration no. 8083 with the landowners of area on which the project skyline-109 was to be developed. The license no. 24 of 2011, for developing the commercial project on the land was obtained by the landowners on 24.03.2011 i.e. prior to entering into the collaboration agreement with M/s Ishv Realtors Pvt. Ltd.
- v. That earlier the shareholders and Directors of the company were Naveen Gambhir, Pankaj Gambhir, Vivek Arora and Prsanta Arora. The project Skyline 109 was launched by the erstwhile directors of the company in the year 2012-13; however, no construction was ever initiated by them apart from doing excavation on the project site.
- vi. That owing to various disputes among the erstwhile shareholders and directors, Naveen Gambhir and Pankaj Gambhir resigned as directors and shareholders in the year 2019 and the company was in total control of Vivek Arora and Pranta Arora who had 100% shareholding and were the only two directors. That Vivek Arora and Prsanta Arora even after selling approximately 58000 sq. ft. and collecting money from buyers to the tune of Rs. 11.30 crore did not initiate any construction on the site of project apart from excavation.

- vii. That Vivek Arora and Pranta Arora due to disputes with the landlords and multiple litigations owing to failure in developing the project, exited the company in the year 2024 and the shareholding was transferred to the present shareholders.
- viii. That it is only after entering into the company the current shareholders and directors have initiated construction of the project Platina Street 109 on the site land after taking appropriate approvals and permissions from the relevant authorities as the project Skyline 109 were abandoned by the erstwhile shareholders and directors. The erstwhile directors and shareholders had concealed material facts and documents from the present management relating to the development of project Skyline 109 and the actual financial situation of the company. The erstwhile directors and shareholders have siphoned off the money of the allottees of project Skyline 109 and the present management is in process to initiate appropriate civil and criminal proceedings against them.
- ix. That it is in this background, the present management is executing the development and construction of the project Platina Street 109.

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 those undisputed documents and submission made by the complainants.

E. Jurisdiction of the authority

The Authority has complete territorial and 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 entire Gurugram District 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 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 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(j) 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.

10. 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 handover possession, execute conveyance deed and to pay delay possession charges as per the Act.

11. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso 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."

12. Clause 15 of the buyer's agreement dated 19.04.2013 provides for handing over of possession and is reproduced below:

15. "That the possession of the said premises is proposed to be delivered by the developer to the allottee(s) within four years from the date of this agreement.....".

13. The respondent/promoter has proposed to handover possession of the subject unit within a period of 4 years from the date of execution of buyer's agreement. Therefore, the due date of possession comes out to be 19.04.2017.

14. **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]

(1) 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.

17. The legislature in its wisdom in the subordinate legislation under the provision of 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.
18. 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., 09.01.2026 is **8.80%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%**.
19. The respondent has contended that a perusal of the Flat Buyer Agreement reveals the existence of two alleged buyers; however, the alleged Buyer No. 1, namely Shri Karan Kumar Bhirani, has not been impleaded as a party to the present complaint. It has further been contended that no documentary evidence has been placed on record to establish the transfer of the said unit in favour of the complainant, Shri Nabeel Raja. The respondent has also submitted that the project was initially launched by the erstwhile shareholders and directors of the respondent company, and that no construction activity was undertaken by them except for excavation at the project site. It is further submitted that subsequent to the transfer of shareholding in favour of the present shareholders and directors, construction of the project "Platina Street 109" was commenced only after obtaining the requisite approvals and permissions from the competent authorities.
20. Upon due consideration of the aforesaid submissions and the material available on record, it is observed that Shri Karan Kumar Bhirani, vide No Objection Certificate dated 15.02.2016, expressed his consent to transfer the unit in question in favour of the complainant. The

respondent/promoter also conveyed its consent to the said transfer. Consequently, vide side No Objection Certificate dated 15.02.2016, the unit in question stood transferred exclusively in the name of the complainant.

21. With regard to the objection concerning the non-initiation of construction activities by the erstwhile shareholders and the commencement of construction only after the transfer of shareholding to the present management, this Authority observes that the unit in question was allotted by the respondent/promoter company, which remains liable for all consequences arising out of the present complaint. The Authority is not concerned with any alleged siphoning of funds by the erstwhile shareholders. However, it is open to the present management to initiate appropriate civil and criminal proceedings against the erstwhile shareholders, in accordance with law.
22. On consideration of documents available on record as well as submissions made by the parties, 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. By virtue of clause 15 of the agreement executed between the parties on 19.04.2013, the possession of the subject unit was to be delivered by 19.04.2017. However, the respondent has failed to handover possession of the subject unit to the complainant till the date of this order. 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. Moreover, the Authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate or what is the status of construction of the project. Hence, this

project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

15. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with proviso to Section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest at prescribed rate i.e. 10.80% p.a. on the amount paid, for every month of delay from due date of possession i.e., 19.04.2017 till valid offer of possession plus 2 months after obtaining occupation 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.
16. Further, as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to handover possession of the unit and to get the conveyance deed executed in favour of the allottee. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. However, there is nothing on the record to show that the respondent has applied for occupation certificate or what is the status of the development of the above-mentioned project. In view of the above, the respondent is directed to handover possession of the unit and execute conveyance deed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.

G. Directions of the authority

24. 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 pay interest to the complainant against the paid-up amount at the prescribed rate i.e., 10.80% per annum for every month of delay from due date of possession i.e., 19.04.2017 till offer of possession plus two months or actual handing over of possession, whichever is earlier, as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules and Section 19(10) of the Act.
- ii. The arrears of such interest accrued from 19.04.2017 till the date of order by the authority 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 promoter to the allottee before 10th of the subsequent month as per Rule 16(2) of the Rules.
- iii. The respondent is directed to supply a copy of the updated statement of account after adjusting delay possession charges within a period of 30 days to the complainant.
- iv. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges within a period of 60 days from the date of receipt of updated statement of account.
- v. The respondent shall handover possession of the unit and execute conveyance deed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.
- vi. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement dated 19.04.2013.
- vii. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by

the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

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

25. Complaint stands disposed of.

26. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 09.01.2026