BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.	:	**4654 of 2025**
Date of complaint	:	**02.09.2025**
Date of order	:	**09.01.2026**

Sandip Singh,
R/o: - House No. 16, Bank Enclave,
Near Shiv Mandir, Rajouri Garden,
West Delhi, Delhi-110027. **Complainant**

Versus

Experion Developers Private Limited
Regd. Office At: 8th Floor, Wing B, Milestone Experion Centre, Sector 15, Gurugram. **Respondent**

CORAM:
Arun Kumar **Chairman**

APPEARANCE:
Kanish Bangia (Advocate) **Complainant**
Dhruv Rohatgi (Advocate) **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 there under 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 of the project	"The Westerlies", Phase-2 in Sector 108, Gurgaon.
2.	Nature of the project	Residential Plotted Colony
3.	Project area	100.48125 acres
4.	RERA Registered/ not registered	103 of 2017 dated 24.08.2017 valid up to 23.08.2019
5.	DTCP License No.	57 of 2013 dated 11.07.2013
6.	Plot no.	D1/01 (Page no. 44 of complaint)
7.	Unit admeasuring	483.71 sq. mtr. (Page no. 44 of complaint)
8.	Booking application	03.03.2025 [page 37 of complaint]
9.	Agreement for sale	11.03.2025 [Page 41 of the complaint]
10.	Possession clause	***7.2 Procedure for taking possession of Plot-*** *The Promoter has obtained the part completion certificate for the relevant phase of the project and shall offer in writing the possession of the plot to the allottee as per the terms of this agreement/payment plan.*
11.	Due date of possession	Not required as part-CC for the project was obtained by the respondent from the competent authority way back in 2018 i.e. before execution of the agreement for sale between the parties
12.	Total sale consideration	Rs.7,31,24,928/- (Page 62 of the complaint)

13.	Total amount paid by the complainant	Rs.72,89,352/- [as per payment receipts at page no. 38, 83-85 of complaint]
14.	Demand letter	11.04.2025 [on page 159 of reply]
15.	Reminder I and II	12.05.2025, 29.05.2025 [on page 161 and 162 of reply]
16.	Pre cancellation letter	10.07.2025 [on page 164 of reply]
17.	Cancellation letter	27.08.2025 [on page 165 of reply]
18.	Part CC	For phase II on 22.03.2018 (as per BBA at page 44 of complaint and page 77 of reply)

B. Facts of the complaint

3. The complainant has made the following submissions:

I. That the complainant pursuant to the elaborate advertisements, assurances, representations and promises made by respondent about their project called The Westerlies Phase-1, residential plotted township located in Sector 108, Gurugram, Haryana, with impeccable facilities and believing the same to be correct and true, considered booking a plot No. 01, Block No. D-1' admeasuring 578.52 sq. yards for total sale consideration of Rs.7,28,93,520/-.

II. That the respondent stated in the payment plan that the "balance 70% of the sale consideration shall become payable "within 9 months of booking or on offer of possession, whichever is later." This confirms the commitment given by the respondent to the allottee that the balance payment would be due only after March 31, 2026 as promised. However, the respondent failed to provide any supporting documents such as certified copies of licenses, RERA registration, approved

zoning plans, or layout drawings detailing residential, commercial, and institutional plots, amenities, green areas, roads, parks, schools, and hospitals. The respondent further assured that, since possession would be offered only after December 31, 2026, the allottee would have adequate time to arrange the 70% balance payment. While collecting booking amount of Rs.10,00,000/- and thereafter the full 10% required for the agreement, the respondent issued intimation letter and executed the agreement, but did not provide any documents whatsoever.

III. That the respondent assured the allottee that upon execution and registration of the agreement for sale, all related documents referenced in or forming part of the agreement would be promptly provided without delay or objection. However, the respondent collected the full stamp duty and other registration-related expenses from the allottee without contributing 50:50 as required by law. The agreement for sale, pre-drafted and pre-signed by the respondent, was signed by the allottee at the Sub-Registrar's office, Kadipur, Gurugram, on 11.03.2025, without giving him sufficient time to read or understand its contents.

IV. That the respondent instead of granting a personal hearing or addressing the allottee's lawful demands, to his utter shock sent him a letter in the name & style of "final notice for payment of due instalments" dated 09.06.2025, where else, this was the first & only notice received by the complaint pertaining to said unit, despite these being the allottee's legal right.

V. That upon checking the RERA portal, the allottee discovered that both License Nos. 57 of 2013 and 114 of 2019 were invalid and unenforceable, and that the project's RERA registration had lapsed.

Specifically, the RERA registrations for Phase-1 (No. 68 of 2022), Phase-2 (No. 38 of 2023), and Phase-4 (No. 79 of 2021) had all expired on 11.09.2024 and were no longer valid, operative, or enforceable. It was further discovered by the allottee that there was an absolute, specific & blanket ban and bar on sale, purchase and construction of every type on the said plot imposed by the Government of Haryana which the respondent ad deliberately and fraudulently concealed, suppressed and withheld, and had not disclosed to the allottee even in the agreement to inter-alia grab and assert the hard-earned money of complainant with all immunity and impurity. The Respondent falsely affirmed in Clause 8(iv) of agreements for sale (AFS) that all licenses, approvals, and registrations were valid and in force and the said plot was covered under the "NCZ freezed zone". These misrepresentations were knowingly made to mislead and induce the allottee into paying large sums of money.

VI. That the respondent has falsely and fraudulently affirmed and declared in clause E of the AFS that it has obtained approval of zoning plans for the project from DGTCP Haryana on 22.11.2021. The said affirmation and declaration in clause E of the AFS is absolutely false and fraudulent. Factually, the DGTCP, has approved the zoning of the license no. 57 of 2013 (in which the said plot falls) vide memo no. ZP-913/SD (BS)/2015/21885 dated 05.11.2015, vide which the zoning plan of license no. 57 of 2013 was duly approved. It is very hard to digest rather unbelievable that the zoning plans were allegedly approved on 22.11.2021, but the alleged part completion certificate was issued more than 4 years in advance on 31.07.2017. Hence, the stand of the complainant is vindicated, which clearly establishes that the promoter has openly indulged in a SCAM whereby he is collecting

huge sums of money by selling the plots, the sale, purchase and construction thereupon is specifically and absolutely barred by law being part of the "NCZ freezed area".

VII. That the respondent has intentionally committed material breach and serious violation of the clause 5 "Time is Essence" of the AFS wherein time schedule for completing the project as disclosed at the time of registration of project with the RERA authority, which was up to 11-09-2024 and which has been mutually & specifically incorporated in the AFS as "the essence of the AFS", has been violated, breached, flouted by the respondent.

VIII. That the green areas, green belts, green patches, etc have been erased, altered, vanished by the respondent for his own wrongful gains and presently, they no longer exist and are replaced by filthy stps, huge noisy and polluting diesel gensets creating thunderous vibrations and deafening loudness. Even the plots in the neighbourhood, including but not limited to plot no. C2-31 and C2-21 have been fraudulently erased and replaced by constructing a road without obtaining any approval or sanction from the DGTCP, Haryana and without any permission, consent of allottee. Even the essential provisions of water supply, sewerage, electricity, roads and other amenities, facilities, specifications, etc, which are utmost essential for the habitable environment have not been put in place by the respondent in absolute violation, breach of the terms of the AFS.

IX. That the respondent has cancelled/ revoked the allotment of plot no. C2-20 and A3-01 during the pendency of the HRERA proceedings vide letters dated 09.06.2025. The respondent has further specifically mentioned/recorded in the same that although even after allegedly forfeiting Rs.1,50,00,000/- from the total amount deposited by the

complainant, the alleged balance amount of Rs.2,30,00,000/- payable to the complainant is also withheld on the pretext that the same shall stand transferred/adjusted towards the alleged dues of other plots which stand booked by the complainant as on 09.06.2025 i.e. against plot no. D-1/01. However, still the respondent out of revenge, vengeance and to spit venom upon the complainant, illegally and fraudulently cancelled the allotment of plot no. D-1/01.

X. That the respondent instead of sending the pre-cancellation letter dated 10.07.2025 to the complainant as falsely claimed/alleged by him in the cancellation letter dated 27.08.2025, has actually sent pre-cancellation letter dated 07.07.2025 to the complainant pertaining to plot no. C-3/07 booked in the name of M/s Realty RR Pvt. Ltd., who is active member of the organised crime syndicate/carte of land grabbers/usurpers formed and run by the respondent.

XI. That the respondent vide letter dated 27.08.2025 cancelled the allotment of subject plot no. D1/01 of the complainant, where the respondent has declared therein that he has forfeited the entire amount paid by the complainant amounting to Rs.72,89,352/-, which is absolutely illegal, bad in law and contested. However, in the aforesaid letter dated 27.08.2025, the respondent has referred various demand notes, reminders and pre-cancellation letter dated 11.04.2025, 12.05.2025, 29.05.2025 & 10.07.2025, which is absolutely false and incorrect as they have never been served upon the complainant.

XII. That the terms of clause 9.3 sub-cláuse (i) of the AFS are not fulfilled. There are no two consecutive demands due from the complainant as per the Payment Plan annexed thereto and no two consecutive demands can be raised by the respondent and the same have neither

been raised/made by it, whatsoever. There is only one demand of 15% amount which is admittedly raised by the respondent, which is alleged by it to be due. The terms of sub-clause (ii) thereafter, which are to be fulfilled/satisfied in addition to sub-clause (i) as noted above, admittedly does not even come into force/become operative by any stretch of imagination. Therefore, the alleged final notice dt, 09.06.2025 is null and void.

XIII. That the respondent deliberately delayed the construction of the project and misused the complainant's hard-earned money, thereby causing them financial and mental harassment. In the present case, the respondent intentionally and with malafide intent delayed the delivery of the unit in order to extract more money from the complainant.

XIV. That the respondent is well aware that the project is over delayed and hence are liable to pay interest as per the provisions of the RERA 2016 and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017. According to Sections18(1) and 19(7) of RERA 2016 read with Rule 15, the Respondent is liable to pay the allottee interest for delaying the possession.

XV. That the respondent, in blatant violation, breach and disregard of the express terms and condition recorded at Para No. 9.3 of the AFS, wherein it is specifically agreed/settled that the allottee shall not be under a condition of default until and unless both the conditions as incorporated in clause/para 9.3 (i) and 9.3 (ii) occur and the said milestones required and defined therein are duly fulfilled and established by the efflux of time.

XVI. That the 1st demand (within 60 days of Booking) became due on 11.05.2025. It is pertinent to mention herein that the demand which

was due on 11.05.2025 was already adjusted by the respondent/promoter vide letter dated 09.06.2025 in which the respondent specifically stated the amount payable stood adjusted in the remaining plots of the complainant including the plot in question. It is also not out of the place to mention here that the complainant had booked 5 plots and out of these 5 plots the complainant has filed 5 cases asking refund in 2 cases bearing plot no. A-3/01 and C-2/20 reason being the respondent has sold these plots to the complainant which falls under NCZ area which cannot be constructed or sold by anybody. Further in the rest 2 plots bearing plot no. C2/30A and C2/32, the complainant has already paid the complete amount and further the authority has stayed the demands of the plots as the plots being allotted to the complainant was not as per the AFS schedule A & B. Thereafter, coming to the present plot D1/01 the complainant has already paid an amount of Rs.72,89,352/- and further the next demand of Rs.1,09,34,028/- was adjusted vide letter dated 09.06.2025 and the total amount withheld by the respondent is admittedly Rs.2,30,69,429/-. However, the due amount was Rs.1,09,34,028/- which much less than the amount withheld. Further, it is not out of the place to mention here that the respondent cannot adjust these amounts towards any other plot as there is no payable amount remaining at the part of the complainant.

XVII. That the 2nd consecutive demand (within 9 months of Booking on offer of Possession, whichever is later) would have become due only on 11.12.2025, i.e. after 09 months of booking. However, the plot was cancelled much prior on 27.08.2025 itself, which is pre-mature, illegal, void-ab-initio, motivated, bad- in-law, impossible by any stretch of imagination.

XVIII. That after receiving the reply-cum-notice dt. 18.06.2025 served by the complainant to the promoter, wherein, inter-alia, the promoter was notified that till such time all the material breaches, violations and defects committed by the promoter are not rectified, removed, repaired, remedied by him, he shall not have any right, power to either cancel the allotment or to forfeit any amount, whatsoever, on 09.06.2025, the promoter cancelled the allotment of 2 (two) other plots booked by the complainant, but instead of refunding the alleged refundable amounts of Rs.1,16,90,911/- and Rs.1,13,78,518/- respectively, the promoter withheld with himself the aforesaid entire amount of Rs. 2,30,69,429/- (Rs. 1,16,90,911 + Rs. 1,13,78,518/-) on the pretext of and under the garb of adjusting the said amount towards the outstanding dues amounting to Rs.1,09,34,028/- of the plot in question. Meaning thereby that even as per admission of the promoter himself, an amount of Rs.2,30,69,429/- of the complainant was admittedly lying with him w.e.f. 09.06.2025, which was, as per his own admission, withheld/retained by him to be adjusted towards the alleged due payment of Rs.1,09,34,028/- of the plot in question and instead of adjusting Rs.1,09,34,028/- out of Rs.2,30,69,429/- which were lying/withheld by him, he still proceeded to cancel the plot in question thus, establishing beyond doubt that the promoter's intentions are fraudulent and to usurp the rightful valuable rights and money of the complainant. Promoter, having realised his default rather crime as enumerated above, had already withdrawn the alleged pre-cancellation notice dt. 10.07.2025 subsequently on the very next day itself i.e. on 11.07.2025 (although neither served upon nor admitted by the allottee to have been received by him). The alleged pre-cancellation notice was a pre-requisite and mandatory

requirement to be fulfilled as per the settled terms of clause 9.3 (ii) of the AFS before proceeding for cancellation of allotment.

XIX. That the respondent has himself duly admitted, affirmed and declared at para 25, page 12 of its reply that he had duly received the second demand/payment of Rs.73,78,518/- from the complainant without any default, whatsoever.

XX. That instead of fulfilling its duties, the respondent, acting in a dominant position, unilaterally cancelled the allotment vide letter dated 27.08.2025, without adhering to the mandatory procedure stipulated in Clause 9.3 of the buyer's agreement, including the issuance of notices and establishment of two consecutive defaults.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s).

I. Direct the respondent to withdraw cancellation, quash demands, handover possession in conformity with Schedule A & B of AFS and to pay delay possession charges.

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 has contested the complaint vide its reply and written submissions on the following grounds: -

i. That the complainant had booked the unit in question in the year 2025, at the time when all approvals were in place and the part of the licensed land, where the plot in question is situated, had also received the Part Completion Certificate dated 22.03.2018. Thus, at the time, when the complainant booked the plot in question, he was fully aware of the status of the plots, services laid, approvals including License,

layout plans, zoning plan, part completion certificate etc., as applicable. Thus, the complainant is now estopped from raising frivolous pleas, which are apparently an attempt to somehow withhold the legitimate payments to the respondent and to gain more time to make the payments.

ii. That the complainant has filed five complaints bearing No. 2319 of 2025, 2320 of 2025, 2322 of 2025, 2323 of 2025 and 4654 of 2025 pertaining to 5 plots bearing No. C-2/32, C-2/20, A-3/01, C-2/30A and D-1/01, respectively. That the complainant, prior to purchasing the plot D1/01, i.e. the plot in question had already booked 4 other plots and hence, was fully aware of the entire project. In fact, the complainant, prior to the booking of the plot in question itself, had visited the project on several occasions and was fully aware of the entire project, plot in question, facilities and amenities, and other installations in the project, which stood completed way back in the year 2018.

iii. That the complainant vide an application form, applied to the respondent for provisional allotment of a plot in the project. The complainant, in pursuance of the aforesaid application form, was allotted a residential plot bearing no 01, Block D-1 admeasuring 578.52 sq. mtrs., in the project, Westerlies Phase II, part of the larger integrated plotted township, 'the Westerlies'. The complainant consciously and willfully opted for a time linked payment plan for remittance of the sale consideration for the unit in question and further represented to the respondent that he shall remit every installment on time as per the payment schedule.

iv. That the complainant, vide various cheques, paid the booking amount of Rs.72,89,352/- to the respondent, out of the total sale consideration

of Rs.7,31,24,928/- (excluding possession charges, IFMSD and maintenance charges).

v. That vide email dated 04.11.2024, the respondent had already shared the drafts of the agreement for sale and the layout maps, with the complainant, at the time when the complainant had already booked 4 other plots in the same project.

vi. That the agreement for sale was executed between the parties on 11.03.2025 and registered vide vasika no. 16844 on 11.03.2025 before the Sub-Registrar, Kadipur.

vii. That in terms of the next payment milestone, the respondent raised the second demand of Rs.73,78,518/-on the complainant, against which, the complainant made a payment of Rs.73,78,518/- on 08.11.2024.

viii. That pursuant thereto, in terms of the next payment milestone, the respondent raised further demand on 11.04.2025, against which the complainant paid no heed and has failed to remit any instalment. It needs to be highlighted that the complainant has been issued several reminders dated 12.05.2025, 29.05.2025 and 09.06.2025, but to no avail.

ix. That when the payments were not forthcoming from the complainant, the respondent as an abundant caution, prior to taking any extreme step, sent a pre-cancellation notice dated 10.07.2025. However, when no payment was forthcoming, despite the demand being raised first on 11.04.2025, the respondent finally cancelled the allotment of the complainant vide cancellation letter dated 27.08.2025, after more than 4 months of the demand so raised.

x. That, it is a matter of record that the respondent had already completed the laying down of services and was even issued the Part

Completion Certificate dated 22.03.2018, way before the booking done by the complainant. It is also a matter of record that as per the time linked payment plan opted by the complainant, the entire payment was to be made by the complainant within 9 months of the booking or on the offer of possession, whichever is later.

xi. That owing to the irresponsible, non-responsive and un-cooperative attitude of the complainant, the complainant was constrained to cancel the allotment of the complainant on 27.08.2025, i.e. after a period of 04 months from the date of raising the demand. Thus, the complainant is not entitled to any claim whatsoever on this account as the complainant is in breach of the terms of the buyer's agreement, duly signed by him.

xii. That the complainant claims that he was under an impression that due date of possession was in December 2026. However, the complainant was always aware that the Completion Certificate of the phase was already received on 22.03.2018, before the booking made by him. Thus, there was no reason for him to believe that the possession was to be offered to him in December 2026. Additionally, as per his own expectation, if possession was to be handed over to him in December 2026, then why has the complainant claimed delay possession charges, when admittedly there is no delay.

xiii. That the plot in question does not fall in any NCZ as alleged. The complainant was always aware of the status of the entire project, having booked the unit after receipt of Completion Certificate. If the allegation of the complainant is correct, then why does the complainant want withdrawal of the cancellation letter. The allegation regarding installation of STP/Generators on green areas are completely misconceived and are an afterthought. The respondent has

installed all the STP/Generators as per the approved electrical layout. Further, there is no reason as to why, if the complainant had so many grievances and issues with the project, then why did he choose to Book, not 1 but 5 plots in the same project at different intervals of time and why he chooses to retain this plot.

5. 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 the parties.

E. Jurisdiction of the authority

6. The Authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

7. 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

8. 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.

9. 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.

F. Findings on the relief sought by the complainant.

F.I Direct the respondent to withdraw cancellation, quash demands, handover possession in conformity with Schedule A & B of AFS and to pay delay possession charges.

10. The complainant has submitted that the respondent has cancelled/ revoked the allotment of plot no. C2-20 and A3-01 during the pendency of the HRERA proceedings vide letters dated 09.06.2025. The respondent has further specifically mentioned/recorded in the same that although even after allegedly forfeiting Rs.1,50,00,000/- from the total amount deposited by the complainant, the alleged balance amount of Rs.2,30,00,000/- payable to the complainant is also withheld on the pretext that the same shall stand transferred/adjusted towards the alleged dues of other plots which stand booked by the complainant as on 09.06.2025 i.e. against plot no. D-1/01. However, still the respondent out of revenge, vengeance and to spit venom upon the complainant, illegally and fraudulently cancelled the allotment of plot no. D-1/01. The respondent has himself duly admitted, affirmed and declared at para 25, page 12 of its reply that he had duly received the second demand/payment of Rs.73,78,518/- from the complainant without any default, whatsoever. Instead of fulfilling its duties, the respondent, acting in a dominant position, unilaterally cancelled the allotment vide letter dated 27.08.2025, without adhering to the mandatory procedure stipulated in Clause 9.3 of the buyer's agreement, including the issuance

of notices and establishment of two consecutive defaults. The respondent has submitted that the complainant had booked the unit in question in the year 2025, at the time when all approvals were in place and the part of the licensed land, where the plot in question is situated, had also received the Part Completion Certificate dated 22.03.2018. Thus, at the time, when the complainant booked the plot in question, he was fully aware of the status of the plots, services laid, approvals including License, layout plans, zoning plan, part completion certificate etc., as applicable. It needs to be highlighted that the complainant has been issued several reminders dated 12.05.2025, 29.05.2025 and 09.06.2025, but to no avail. When the payments were not forthcoming from the complainant, the respondent as an abundant caution, prior to taking any extreme step, sent a pre-cancellation notice dated 10.07.2025. However, no payment was forthcoming. Owing to the irresponsible, non-responsive and un-cooperative attitude of the complainant, the respondent was constrained to cancel the allotment of the complainant on 27.08.2025. It is a matter of record that the respondent had already completed the laying down of services and was even issued the part completion certificate dated 22.03.2018, way before the booking done by the complainant. It is also a matter of record that as per the time linked payment plan opted by the complainant, the entire payment was to be made by the complainant within 9 months of the booking or on the offer of possession, whichever is later. Thus, the complainant is not entitled to any claim whatsoever on this account as the complainant is in breach of the terms of the buyer's agreement, duly signed by him. Now, the question before the Authority is whether the cancellation made by the respondent vide letter dated 27.08.2025 is valid or not.

11. The complainant has contended that the respondent has cancelled/revoked the allotment of other plots booked by the complainant in the same project bearing nos. C2-20 and A3-01 vide letters dated 09.06.2025 wherein, the respondent has provided to transfer/adjust the refundable amount towards the alleged dues of other plots booked by the complainant in its project. Further, the respondent has duly admitted in its reply that he had duly received the second demand/payment of Rs.73,78,518/- from the complainant. However, the Authority is of the view that since the complainant has already filed separate complaints bearing no.s CR/2320/2025 and CR/2322/2025 against the said cancellations before the Authority, the said issue shall be dealt by the Authority while adjudicating the said complaints and not in the present matter. So far as the issue regarding payment of Rs.73,78,518/- is concerned, the Authority observes that the complainant has not annexed any proof of payment of said amount to the respondent with the present complaint and is neither part of the SOA submitted by the respondent in its reply. Thus, in absence of any documentary proof, the amount paid by the complainant against the plot in question is being considered as Rs.72,89,352/-. Therefore, the Authority is adjudicating the present complaint on the basis of documents available on record as well as submissions made by the parties towards the unit in question.

12. On consideration of documents available on record and submissions made by both the parties, it is determined that vide clause E of the agreement for sale executed between the parties dated 11.03.2025, it was specifically intimated to the complainant that the respondent has completed the development works of the project and has obtained part completion certificate from the competent authority on 22.03.2018.

Further, vide clause 7.2 of the agreement, it was agreed between the parties that offer of possession of the plot in question is dependent on the payment of outstanding dues as per the payment plan. The Authority observes that the booking of the plot in question was made by the complainant on 03.03.2025 (page 83 of complaint) and as per the payment plan agreed between the parties vide agreement for sale dated 11.03.2025, the complainant was obligated to pay an amount of Rs.1,09,34,028/- within 60 days of booking i.e. by 03.05.2025. However, the complainant has only paid an amount of Rs.72,89,352/- towards the total sale consideration of Rs.7,31,24,928/- against the plot in question as evident from the payment receipts annexed with the complaint. The said amount of Rs.72,89,352/- was paid by them at the time of booking and thereafter no amount was paid by him till cancellation of the unit. It is evident from the record that in terms of the payment plan agreed between the parties, the respondent has sent numerous reminders to the complainant to pay outstanding dues. However, the complainant failed to make payment of the outstanding dues. Therefore, the respondent was constrained to issue pre-cancellation letter dated 10.07.2025, giving last and final opportunity to the complainant to comply with his obligation to make payment of the amount due. However, the complainant failed to act further and comply with his contractual obligations and therefore the allotment of the complainant was finally cancelled vide cancellation letter dated 27.08.2025. The Authority observes that Section 19(6) of the Act of 2016 casts an obligation on the allottee to make necessary payments in a timely manner. Hence, cancellation of the unit in view of the terms and conditions of the payment plan annexed with the buyer's agreement dated 11.03.2025 is held to be valid. The Hon'ble apex court of the land

in cases of ***Maula Bux VS. Union of India, (1970) 1 SCR 928 and Sirdar K.B. Ram Chandra Raj Urs. VS. Sarah C. Urs., (2015) 4 SCC 136,*** has held that *forfeiture of the amount in case of breach of contract must be reasonable and if forfeiture is in the nature of penalty, then provisions of section 74 of Contract Act, 1872 are attached and the party so forfeiting must prove actual damages. After cancellation of allotment, the flat remains with the builder as such there is hardly any actual damage.* National Consumer Disputes Redressal Commissions in ***CC/435/2019 Ramesh Malhotra VS. Emaar MGF Land Limited*** (decided on 29.06.2020) and ***Mr. Saurav Sanyal VS. M/s IREO Private Limited*** (decided on 12.04.2022) and followed in ***CC/2766/2017*** in case titled as ***Jayant Singhal and Anr. VS. M3M India Limited decided on 26.07.2022,*** *held that 10% of basic sale price is reasonable amount to be forfeited in the name of "earnest money".* Keeping in view the principles laid down in the first two cases, a regulation known as the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, was farmed providing as under:

> *"5. AMOUNT OF EARNEST MONEY*
>
> *Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money* ***shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment /plot /building as the case may*** *be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."*

13. Thus, keeping in view the aforesaid legal provisions and the facts detailed above, the respondent was liable to refund the deposited

amount after deducting 10% of the sale consideration being earnest money along with an interest at prescribed rate as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of cancellation i.e., 27.08.2025 till actual refund of the amount within the timelines provided in Rule 16 of the Rules, 2017. However, the amount paid by the complainant i.e., Rs.72,89,352/- constitutes to only 9.96% of the sale consideration of Rs.7,31,24,928/-. Thus, post cancellation of the allotment, no amount is liable to be refunded to the complainant keeping in consideration the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018. In view of the above, the present complaint stands dismissed being devoid of merits. File be consigned to registry.

(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 09.01.2026