

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,
GURUGRAM****Complaint filed on: 20.09.2024**
Order pronounced on: 23.12.2025**Sonam Nehra****R/o:** TOWER – B, House No. 802, Police Line,
Jail Road Nayagaw, Bhondsi (168),
PO: Bhondsi, Dist: Gurgaon, Haryana-122102**Complainant****Versus****M/s GLS Infratech Private Limited****Regd. Office:** 707, 7th Floor,
JMD Pacific Square, Sector – 15 Part-II,
Gurugram, Haryana**Respondent****CORAM:**Shri Arun Kumar
Shri Phool Singh Saini**Chairman
Member****APPEARANCE:**Shri Rohit Atri (Advocate)
Shri Harshit Batra (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. Project and unit related details:

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

S. N.	Particulars	Details
1.	Name of the project	"Arawali Homes-2"
2.	Project location	Damadama Lake Road, Village- Khalka, Sector-4, Sohna, Haryana.
3.	Nature of project	Affordable Group Housing
4.	Area of project	10.44375 acres
5.	HRERA registered/ not registered	72 of 2021 dated 25.10.2021
6.	DTCP License	License no. 66 of 2021
7.	Application for allotment	26.06.2022 (Page 18 of reply)
8.	Allotment Letter	05.07.2022 (Page 46 of reply)
9.	Flat Buyer's Agreement	20.07.2022 (Page 52 of reply)
10.	Unit no.	104, Tower 17 (Page 27 of complaint)
11.	Area of unit	645 sq.ft (Page 27 of complaint)
12.	Possession clause	7.POSSESSION OF THE APARTMENT FOR RESIDENTIAL USE: <i>The Promoter assures to hand over possession of the Apartment for Residential use within 4 (four) years from the date of approval of the building plans or the date of grant of environment clearance, whichever is later or as per agreed terms and conditions unless there is delay due to "force majeure", Court orders, Government policy/guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Promoter</i>

		<i>shall be entitled to the extension of time for delivery of possession of the Apartment for Residential use.</i> (Page 59 of reply)
13.	Environment clearance	14.08.2020 (Stated by the respondent vide proceedings dated 27.11.2024)
14.	Due date of possession	14.08.2024 (Calculated 4 years form date of environment clearance i.e., 14.08.2020 as per possession clause of the agreement, in absence of date of approval of building plans)
15.	Sale Consideration	Rs.23,80,156/- (Page 54 of reply)
16.	Amount paid by the complainant	Rs.11,88,064/- (Rs.2,36,000/- via cheque and Rs.9,00,000/- paid by Bank) (Stated by the respondent vide proceedings dated 27.11.2024 to which complainant raised no objection)
17.	Payment Plan	Construction Linked
18.	Reminder/Demand letter dated	12.09.2022, 12.02.2023, 11.03.2023, 21.07.2023, 05.08.2023, 22.09.2023, 07.10.2023, 22.12.2023 (Page 74-87 of reply)
19.	Publication in Newspaper (Danik Jagran)	21.12.2023 (Page 82 of reply)
20.	Cancellation letter	23.01.2024 (Page 83 of reply)
21.	Occupation certificate	20.06.2024 (Page 93 of reply)
22.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -

- a. The respondent, M/s GLS Infratech Pvt. Ltd advertised about its new project namely 'Aravali Homes 2' (hereinafter called as 'the project') in Sector 4 of the Sohna. The respondent painted a rosy picture of the project in its advertisements making tall claims and thereby invited applications from prospective buyers for the purchase of unit in the said project. Respondents confirmed that the projects had got building plan approval from the authority.
- b. In 2022, the complainant while searching for a commercial was lured by such advertisements and calls from the brokers of the respondent for buying a residential unit in their project namely Arawali Homes-2. the respondent company told the complainant about the moonshine reputation of the company and the representative of the respondent company made huge presentations about the project mentioned above and also assured that they have delivered several such projects in the national capital region. The respondent handed over one brochure to the complainant which showed the project like heaven and in every possible way tried to hold the complainant and incited the complainant for payments.
- c. Relying on various representations and assurances given by the Respondents company and on belief of such assurances, complainant booked a unit in the project by paying an amount of Rs. 5,50,000/- in cash as booking amount towards the booking of the unit bearing no. T-17-104, First Floor, Type 3BHK, in Sector 4, Sohna having carpet area measuring 645.08 sq. ft and balcony area (as forms part of the sanctioned plan for the apartment) to the respondents dated 05.07.2022 and the same was acknowledged by the respondents. At the time of booking, the complainant was assured that project of the respondent

- company is eligible for 90% loan amount from various financial institutions specifically PNB Finance.
- d. The respondent, confirming the booking of the unit through allotment letter dated 05.07.2022, allotting a unit no. T-17-104, First Floor, Type 3BHK, in Sector 4, Sohna having carpet area measuring 645.08 sq. ft and balcony area (as forms part of the sanctioned plan for the apartment), (hereinafter referred to as 'unit') in the aforesaid project of the developer for a total sale consideration of the unit i.e. Rs. Rs. 23,80,156/- which includes basic price, parking charges, and development charges, PLC, IFMS, IBRF, club membership charges and other specifications of the allotted unit and providing the time frame within which the next instalments was to be paid.
 - e. The allotment of the said unit and agreement has been executed after coming into force of the RERA Act, 2016 but respondent failed to fulfil and abide by the provisions of the RERA Act, 2016, as the buyer builder agreement executed has been registered and even it is not as per standard format provided under the Act. Hence, penal action to be initiated against the respondent builder.
 - f. The unit buyer's agreement was executed between the complainant and respondents on 20.07.2022.
 - g. As per the buyer's builder agreement the respondent had -The developer shall endeavor to handover possession of the sold flat within of period of 4 years i.e. 48 months from the date of commencement of project, subject to force majeure & timely payment by the allottee, towards the sale consideration, in accordance with the terms as stipulated in the present agreement. Therefore, due date of possession comes out to be 25.01.2024.

- h. The complainant within time and due process applied home loan from various financial institutes but all of them deny to provide the finance on the said project of the respondent company even the PNB Finance denied the same as the reputation of the builder is bad in the eyes of the financial institutions and the construction of the said project not yet started. Therefore, after running from pillar to post complainant finally arrange to get the loan from IIFL Home Loan of Rs. 21,00,000/- dated 25.07.2022 and disbursed first installment in a sum of Rs. 9,52,064/- directly credited into the respondent company account and the said financier and the respondent company agreed to communicate with each other in future with regards to payment of remaining installment. However, the complainant is making payment of due installment to financier regularly till date.
- i. Besides Rs. 5,50,000/- in cash paid on 08.07.2022 at the time of application, complainant make payment of Rs. 2,36,000/- at the time execution and registration of agreement bearing vasika no. 3965. As such the complainant make payment of Rs. 7,86,000/-, exceeding the scheduled payment, upto 20.07.2022. As per schedule 'C' of payment a sum of Rs. 25% required to be paid upto execution and registration of BBA which comes to 5,95,000/- only. However, the respondent not yet issued receipt of payment of Rs. 5,50,000/- despite its promise. As per the demands raised by the respondent company, the complainant to buy the captioned unit already paid a total sum of Rs. 17,38,064/- towards the said unit against total sale consideration of Rs. 23,80,156/-.
- j. The complainant having dream of its own unit in NCR signed the agreement in the hope that the unit will be delivered on or before 25.01.2024. The complainant was also handed over one detailed payment plan which was time linked plan. It is unfortunate that the

dream of owning a unit of the complainant was shattered due to dishonest, unethical attitude of the respondent.

- k. At the time of execution of the agreement the complainant had objected towards the highly titled and one-sided clauses of the agreement, however, the respondents turned down the concerns of the complainant and curtly informed that the terms and conditions in the agreement are standard clauses and thus, no change can be made. A bare perusal of the agreement reveals that the terms and conditions imposed on the complainant were totally biased in so far as the disparity between the bargaining power and status of the parties, tilted the scale in the favor of the respondents.
- l. During the period the complainant went to the office of respondent several times and requested them to resolve the issue and accept the amount and allow them to visit the site but it was never allowed saying that they do not have permission from the seniors.
- m. The complainant as on one hand the complainant constantly in touch with the respondent company requested to visit the cite and also in coordination with another unit – T-18- 205, Arawali Homes 2; in the name of the complainant's parents. On the other hand, when the said financier deducted an interest amount of Rs. 756/- dated 05.05.2024 which comes under suspicion, However, complainant making payment of remaining installments to IIFL regularly and when complainant contacted the IIFL Home Loan regarding the lower interest amount then IIFL misguided the complainant to ask the same from respondent company then the complainant in the sudden shock got to know that the respondent cancelled the abovementioned unit of the complainant due to non-reply of demand letters, alleged to have been served upon the complainant, despite the fact that the MEP service yet not completed and

the respondent company received more than the amount required to be paid prior to completion of MEP service. And informed the respondent company that neither any demand letter, as alleged yet served to the complainant not by the IIFL Home Loan Financer in any manner till date.

- n. The complainant contacted the respondents on several occasions and were regularly in touch with the respondents. The respondents was never able to give any satisfactory response to the complainant regarding the reason of the cancellation of the abovementioned unit and gave lame excuse that the respondent sent the demand letters to the complainant through email but the amount was not remitted by the complainant's financer and later also the cancellation letter but no letter has ever been delivered to the complainant either by the respondent company nor by the IIFL Financer yet. And complainant submitted that the email id given was not in use from beginning as it was created by the complainant's ex-husband same was communicate to the respondent and during the matrimonial dispute a new email id has been given to the respondent company but no email has ever been sent to the complainant but surprisingly the respondent company sending the correspondences via email for another unit to the complainant at the same new email address. and the contact number registered with the respondent is of complainant's now ex-husband, and the same is informed to the respondent company by the complainant that the complainant is not in contact with her husband and the complainant filed an F.I.R. bearing No. 320/2021 against her husband and divorce proceedings are also going on between the couple. But no heed has been paid by the respondent thus all in vain.
- o. The complainant kept pursuing the matter with the representatives of the respondents by visiting their office regularly as well as raising the

matter to pay the arrears and execution of the builder buyer agreement. But some or the other day the respondent company was not able to give any satisfactory response to the complainant or likewise senior official of the respondent company not available, etc.

- p. Furthermore, since the respondent was in dominant position, they fabricated the agreement according to their whims and fancies and allegedly cancelled the unit without the consent of the complainant. As it is neither confirmed by the respondent nor by the financier in written till date.
- q. The respondent cancelled the unit of the complainant a way to extract the complete payment from the buyers. The complainant approached the respondents and asked about the reason of returning the payment of the EMI through bank loan and also raised objections towards cunningness of the respondent as not even a single intimation has ever been delivered to the complainant. That such arbitrary and illegal practices have been prevalent amongst builders before the advent of RERA, wherein the payment/demands/ etc. have not been transparent and demands were being raised without sufficient justifications and maximum payment was extracted just raising structure leaving all amenities/finishing/facilities/common area/road and other things promised in the brochure, which counts to almost 50% of the total project work.
- r. The respondents 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. The respondents had further malafidely failed to implement the BBA executed with the complainant. And cunningly trying to forfeit the unit of the complainant. Hence, the complainant being aggrieved by the

offending misconduct, fraudulent activities, deficiency and failure in service of the respondents is filing the present complaint.

- s. The respondents is guilty of deficiency in service within the purview of provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017. The complainant has suffered on account of deficiency in service by the respondents and as such the respondents is fully liable to cure the deficiency as per the provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017.
- t. The complainant after losing all the hope from the respondent company, having their dreams shattered of owning annuity & having basic necessary facilities in the vicinity of "Arawali Homes-2" Project and also losing considerable amount, are constrained to approach this Hon'ble Authority for redressal of their grievance. Hence the present complaint.

C. Relief sought by the complainant: -

- 4. The complainant has sought following relief(s):
 - a. Direct the respondent to hand over the possession of the said unit with the amenities and specifications as promised in all completeness without delay and not to hold delivery of the possession for certain unwanted reasons much outside the scope of BA.
 - b. Restrain the respondent from raising fresh demand for payment for any head, which is not the part of the payment plan as agreed at the time of booking.
 - c. Direct the respondent, not to cancel allotment of the unit and to accept the further amount due from the complainant.

- d. Direct the respondent not charge any penalty/interest from the complainant and to corporate by providing the demand letter.
 - e. Direct the respondent to provide the copy of the builder buyer agreement executed the complainant on the terms and condition as per the allotment letter.
 - f. Direct the respondent to provide the committed date of completion of the unit.
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 on the following grounds:
- i. The complainant being interested in purchasing a residential apartment in project being developed by the respondent, known under the name and style of "ARAWALI HOMES 2" situated at Damdama Lake Road, Vill-Khaika, Sector-4, Sohna, Gurugram, Haryana (the "Project") approached the respondent after conducting her own due diligence, seeking allotment of an apartment via application number FAPPAH2/00949/23 dated 05.07.2022.
 - ii. Upon the acceptance of the application made by the complainant for allotment, apartment bearing no. T17-104 tentatively having carpet area of 645.08 square feet, on 1st floor in Tower No. T17 along with one two-wheeler parking admeasuring 0.8 x 2.5m (the "Unit") was allotted to the complainant vide Allotment Letter dated 05.07.2022.
 - iii. Thereafter, the parties mutually entered into an apartment buyer's agreement on 20.07.2022 (the "Agreement"). The agreement was consciously and voluntarily executed and the terms and conditions of the same are binding on the parties. That the complainant opted for a

construction linked payment plan annexed as annexure c of the agreement for remittance of the sales consideration of the unit i.e. 23,80,156/- plus taxes and other charges.

- iv. in terms of clause 1.4 of the agreement, complainant was required to make payments to respondent as per the payment plan set out in Schedule C (herein referred to as "Payment Plan") of the agreement. Clause 1.4 of the agreement is reproduced herein below for the sake of brevity.
- v. The respondent received a total sum of Rs.11,88,064/-, comprising Rs. 2,36,000/- received from complainant and Rs.9,52,064/-, which was disbursed as the first instalment by IIFL Home Finance Ltd. (hereinafter referred to as "IIFL"). The complainant had taken loan from IIFL.
- vi. The complainant is a chronic defaulter, who has time and again breached the terms of the agreement and failed to make timely payment of demands despite repeated reminders, publications and notices. that constrained by the continuous defaults on part of the complainant, the respondent was constrained to issue notice for cancellation dated 23.01.2024. That the defaults of the complainant are detailed hereinbelow in the grounds for dismissal of the complaint.
- vii. The construction of the project is complete and the competent authority granted occupation certificate dated 20.06.2024. It is widely acknowledged; a continuous flow of funds is essential in the real estate industry. The default in question is an indisputable fact and is specifically addressed in clause 5 of the agreement, which emphasizes that time is of the essence. it is important to note that the complainant has significantly failed to make timely payments towards the sale consideration of the apartment. This failure to adhere to the agreed payment schedule has had a ripple effect on the respondent's operations. The resulting delay has

considerably increased the costs associated with the proper execution of the project, leading to significant business losses for the respondent. Moreover, due to the delays in the complainant's payments, they were issued several payment reminders.

Particulars	Date	Amount
Payment Request Letter	12.09.2022	Rs. 9,54,315/-
Payment Request Letter	21.02.2023	Rs. 2,99,771/-
Payment Request Final Reminder	11.03.2023	Rs. 2,99,771/-
Payment Request Letter	21.07.2023	Rs. 5,97,291/-
Payment Request Final Reminder	05.08.2023	Rs. 5,97,291/-
Payment Request Letter	22.09.2023	Rs. 8,94,811/-
Payment Request Final Reminder	07.10.2023	Rs. 8,94,811/-
Newspaper Publication	21.12.2023	
Intimation of Cancellation of allotment letter	22.12.2023	Rs. 8,94,811/-
Cancellation Notice	23.01.2024	Rs. 8,94,811/-

- viii. Despite the Respondent's persistent efforts and repeated requests, the complainant failed to respond to the demands outlined in the reminder letters dated 22.09.2023 and 07.10.2023. As a result, the respondent was left with no alternative but to publish complainant's unit is defaulters list in hindi newspaper, requesting payment of the outstanding amount. Accordingly, on 21.12.2023, the respondent published the complainant's name, specifying that the due amount must be paid within 15 days from the date of publication. Even after the publication in the newspaper and the subsequent intimation regarding the cancellation of the allotment, complainant still failed to pay the due amount to the respondent. Failure to comply with this ultimatum constrained the respondent to cancel the allotment of the apartment to the complainant.
- ix. The complainant had defaulted/delayed in making the timely payment of outstanding dues, raised in demands as per the payment plan duly opted by the complainant, upon which, repeated reminders were also served to the complainant. That the *bonafide* of the respondent is also essential to

be highlighted at this instance, who had served demand letters follow by numerous reminders and even newspaper publication to ensure granting of opportunity to complainant to make payment of outstanding dues.

- x. Following the cancellation, respondent had sent multiple emails to IIFL requesting the foreclosure letter to facilitate the initiation of the refund process for the unit. Reference is made to emails dated 11.01.2024, 27.03.2024 and 20.03.2024. On 28.03.2024, the respondent received a foreclosure letter from IIFL. Pursuant to this, after deducting Rs. 2,36,000 as earnest money, respondent refunded Rs. 9,74,676/- to the bank account details provided by IIFL. For convenience, the calculation chart is reproduced below:

Total Received	Rs. 11,88,064
Refund to Bank	Rs. 9,52,064
BALANCE (DEDUCTIONS)	Rs. 2,36,000
LPF Deduction	Rs. 39,844
Cancellation Charges Deductions	Rs.1,68,539
GST deducted on reversal of invoices	Rs. 14,730
Bouncing charges	Rs. 236

- xi. As per the cancellation notice dated 22.12.2023, which was properly served to the complainant, the respondent requested the return of all original documents issued to the complainant in relation to the apartment. However, to date, the respondent has not received any of the original documents from the complainant.
- xii. The construction of the project is complete and the competent authority granted occupation certificate dated 20.06.2024. The respondent has always acted in good faith and maintained a good reputation. That the facts and circumstances of the present case reveal that the complainant is not eligible for possession of the unit. The allotment of the complainant

stands cancelled, thus, the present claim against the respondent-company is infructuous. Hence, the complaint is liable to be dismissed.

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 based on these undisputed documents and submission made by the parties as well as the written submission of the complainant.

E. Jurisdiction of the Authority

8. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E. I Territorial jurisdiction

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram 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

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

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

F. Findings on the relief sought by the complainant.

F.I Direct the respondent, not to cancel allotment of the unit and to accept the further amount due from the complainant.

F.II Direct the respondent to provide the committed date of completion of the unit.

12. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.
13. The complainant was allotted a unit no. 104 in the project "Arawali Homes 2" by the respondent/builder for a total consideration of Rs.23,80,156/- under the Affordable Group Housing Policy 2013. Buyer's agreement has been executed between the parties on 20.07.2022. The possession of the unit was to be offered with 4 years from approval of building plans or from the date of environment clearance (14.08.2020) whichever is later as per possession clause 1(iv) of Affordable Housing Policy. The due date of possession was calculated from 4 years from the date of approval of environment clearance i.e., 14.08.2020, as per policy, of 2013. The complainant had paid a sum of Rs. 11,88,064/- (Rs.2,36,000/- via cheque and Rs. 9,00,000/- paid by Bank) out of the total sale consideration.
14. Learned counsel for the respondent vide proceedings dated 27.11.2025 stated that the respondent obtained the occupation certificate on 20.06.2024, i.e., prior to the committed due date, and therefore there is no default on the part of the promoter. Several reminder letters and

demand notices were issued to the complainant as per the payment plan agreed between the parties, however, the complainant failed to respond or clear the outstanding dues. Consequently, upon continued non-payment, a public notice was issued in the newspaper dated 21.12.2023, and thereafter the allotment was terminated on 23.01.2024.

15. Learned counsel for the complainant vide proceedings dated 27.11.2025 submitted that the respondent has acted unfairly and has deliberately not served the complainant at the correct address. Counsel drew attention to para 3 at page 84 of the reply, being the address mentioned in the complainant's legal notice and argued that the reminder letter at page 74 of the reply reflects the same address of the complainant, however, the postal receipt affixed to the said reminder bears an entirely different postal PIN code i.e., 125001, which does not pertain to the complainant's residence. As all alleged reminders and demand letters bear the same incorrect postal PIN, and therefore the complainant never received any communication from the respondent.
16. While the Authority acknowledges the procedural lapse by the respondent in dispatching demand notices to an incorrect address, such a clerical error does not grant the complainant a blanket immunity from their contractual liabilities. Section 19(6) and 19(7) of the RERA Act, 2016, mandate that every allottee is responsible for making timely payments as per the agreement for sale. Under the executed buyer's agreement and the mutually agreed-upon payment plan, the complainant's obligation to remit instalments is a fundamental covenant that exists independently of the receipt of reminders. A real estate project's viability is inherently linked to the timely infusion of capital by allottees and thus, the complainant cannot plead ignorance of the project's progress as a justification for non-payment. Consequently,

the complainant cannot adopt a passive stance and withhold payments on the sole pretext of non-receipt of reminders. Applying the principle of reciprocal promises, the promoter's duty to complete the project is contingent upon the allottee's duty to fund it. In the absence of anything showing that the complainant exercised due diligence to ascertain the project status or verify her payment schedule, the plea of non-receipt of notices is held to be unsustainable as a ground for default.

Now, the question arises whether the cancellation is valid or not?

17. The complainant has opted for construction linked payment plan. As per the opted payment plan, the complainant has to pay 5% of the total sale consideration at application for allotment, 20% on issuance of allotment and execution of BBA, 12.5% on completion of sub-structure, 12.5% on 50% of super structure and so on. The respondent has raised a demand letter dated 22.09.2023 for payment of outstanding dues. Subsequently, the respondent has sent reminder letters dated 07.10.2023. Thereafter, the respondent issued a public notice dated 21.12.2023 as per Affordable Housing Policy, 2013 for payment of outstanding amount due against demand letter dated 22.09.2023. Upon non-compliance on part of the complainant, the respondent finally terminated the unit of the complainant vide termination letter dated 23.01.2024.
18. As per Section 19 (6) & 19 (7) of the Act, 2016, the complainant-allottee was under an obligation to make timely payment as per the agreed payment plan towards consideration of the allotted unit. In the present complaint, despite being granted several opportunities to comply with his obligations, the complainant failed to discharge his obligation for making timely payment of the outstanding dues and the respondent has

obtained the completion certificate on 20.06.2024 i.e., prior to the due date of possession i.e., 14.08.2024.

19. Despite issuance of aforesaid numerous reminders, the complainant has failed to take possession and clearing the outstanding dues. The respondent has given sufficient opportunity to the complainant before proceeding with termination of allotted unit. Thereafter, the respondent issued final notice dated 22.12.2023, and the relevant proportion of the said notice is reproduced as under: -

As you are aware that your allotment (confirmed vide Allotment Letter, dated 05-07-2022 of Unit No. T17-104 in our captioned affordable housing project "Arawali Homes-2", stands cancelled on account of non-performance of your obligations. The aforesaid cancellation is consistent with the provisions of the Haryana Affordable Housing Policy, 2013 (as amended from time to time) and appropriate communication for such cancellation was sent to you.

20. As per clause 9.3(ii) of the buyer's agreement, the respondent/promoter has a right to cancel the unit in case the allottee has breached the agreement to sell executed between both the parties. Clause 9.3(ii) of the agreement to sell is reproduced as under for a ready reference:

In case of Allottee fails to deposit the instalments as per the Payment Plan annexed hereto, a reminder may be issued to the Allottee for depositing the due instalments with a period of 15 days from the date of issue of such notice. If the Allottee still defaults in making payment of the amount due along with interest within the said period of 15 (fifteen) days, the Company may publish the name of the Allottee and other relevant details in a regional Hindi newspaper as a defaulter requiring the payment of the amount due (along with interest) to be made within 15 (fifteen) days from the date of the publication of such notice. Upon the failure of the Allottee to pay the entire amount due, including interest on the delayed payment, within this additional period of 15 (fifteen) days, the Promoter may cancel the allotment of the Apartment for Residential use along with two wheeler parking in favour of the Allottee and refund the money paid to him by the allottee by forfeiting the earnest money as per clause 7.5 and interest component on delayed payment (payable by the customer for breach of agreement and non-payment of any due payable to the promoter). The rate of interest payable by the allottee to the promoter shall be the State Bank of India highest marginal cost of lending rate plus two percent. The balance amount of money paid by the allottee shall be returned by the promoter to the allottee within 90 (ninety) days of such cancellation. On such default, the

Agreement and any liability of the promoter arising out of the same shall thereupon, stand terminated.

21. Furthermore, as per clause 5(iii)(b) of the Policy of 2013, the allottee/applicant is under obligation to deposit the 25% amount of the sale consideration of the unit till allotment. Clause 5(iii) (i) of the Affordable Group Housing Policy, 2013 talks about the cancellation. The relevant part of the clause is reproduced below: -

"If any successful applicant fails to deposit the instalments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due instalments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State for payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs.25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list".

22. In the present case, the agreement to sell was executed *inter se* parties on 20.07.2022, and the complainant has paid only Rs.11,88,064/- which is 49% of the total sale consideration i.e., Rs.23,80,156/-. Accordingly, the respondent /builder issued reminders and final notice to the complainant. Thereafter, the respondent was constrained to issue notice for cancellation dated 23.01.2024 of unit after publishing a list of defaulters in the daily Hindi newspaper on 21.12.2023. The Authority is of the considered view that the respondent /builder has followed the prescribed procedure as per clause 5(iii)(i) of the Policy, 2013 and in view of the same, the cancellation letter dated 23.01.2024 is held to be valid.
23. As per clause 5(iii)(i) of the Affordable Housing Policy of 2013, in case of cancellation the respondent can deduct the amount of Rs.25,000/- only and the balance amount shall be refunded back to the complainant. Till

date no amount has been refunded back by the respondent-builder to the complainant/allottee. In view of aforesaid circumstances, the respondent is obligated to refund the amount paid by the complainant after deduction of Rs.25,000/- as per clause 5(iii)(i) of the Policy 2013 along with interest on the balance amount from date of cancellation of allotment i.e., 23.01.2024 till the actual realization of the amount.

F.III Direct the respondent to hand over the possession of the said unit with the amenities and specifications as promised in all completeness without delay and not to hold delivery of the possession for certain unwanted reasons much outside the scope of BA.

F.IV Restrain the respondent from raising fresh demand for payment for any head, which is not the part of the payment plan as agreed at the time of booking.

F.V Direct the respondent not charge any penalty/interest from the complainant and to corporate by providing the demand letter.

F.VI Direct the respondent to provide the copy of the builder buyer agreement executed the complainant on the terms and condition as per the allotment letter.

24. Since, the cancellation dated 23.01.2024 is held valid, the above-mentioned reliefs sought by the complainant stands redundant and accordingly dismissed.

G. Directions of the Authority:

25. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:

- i. The respondent is directed to refund the paid-up amount of Rs. 11,88,064/- after deduction of Rs.25,000/- as per clause 5(iii)(i) of the Affordable Housing Policy 2013 as amended by the State Government on 05.07.2019, along with interest @10.80% per annum as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development)

Rules, 2017 from the date of cancellation of allotment i.e., 23.01.2024 till the actual realization of the amount.

- ii. Out of total amount paid by the financial institution/ Bank, shall be refunded first in the account of bank and the balance amount along with interest as mentioned in para 26 (i) of this order, shall be refunded to the complainant.

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

26. The complaint stand disposed of.

27. File be consigned to registry.


(Phool Singh Saini)
Member
(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 23.12.2025