

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

Complaint No: 4896 of 2024
Date of complaint: 04.10.2024
Date of order: 23.12.2025

Mamta Sharma

Resident of: BFH-33, 2nd Floor, Infront of Jaspal Kaur School,
Shalimar Bagh West Delhi- 110088.

Complainant

Versus

M/s Splendor Landbase Limited

Registered office at: - Unit No. 501-511, 5th Floor, Splendor
Forum, Plot No. 3, Jasola District Center, New Delhi- 110025

Respondent

CORAM:

Shri Arun Kumar

Chairman

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Harshit Batra, Advocate

Complainant

Ms. Shriya Takkar, 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 thereunder or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S. No.	Particulars	Details
1.	Name and location of the project	“Splendor Epitome” at Sector 62, Gurugram, Haryana
2.	Nature of the project	Commercial colony
3.	Project area	3.35 acres
4.	DTCP license no.	i. 51 of 2009 dated 27.08.2009 Valid upto 26.08.2019 ii. 58 of 2012 dated 05.06.2012 Valid up to 04.06.2020
5.	RERA Registered/ not registered	22 of 2019 dated 26.03.2019 Valid up to 31.12.2023
6.	Unit no.	069, tower retail space, second floor (As per demand letter cum service invoice at page no. 30 of complaint)
7.	Unit area admeasuring	915 sq. ft. (carpet area) (As per demand letter cum service invoice at page no. 30 of complaint)
8.	Allotment letter dated	Not issued
9.	Date of execution of buyer's agreement	Not executed
10.	Date of execution of MoU	24.07.2019 (Page no. 40 of the complaint)
11.	Possession clause	N. A
12.	Due date of possession	N. A
13.	Total sale consideration	Rs.65,88,000/- (As per clause B of the MoU at page no. 41 of complaint)
14.	Amount paid by the complainant	Rs.5,00,000/- (As per receipt information at page no. 27 of complaint) Rs.45,67,488/- (As alleged by the complainant at page 19 of the complaint)
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions: -

- That the complainant applied for a registration of the commercial space in the year 2011 at project "Splendor Epitome" at Sector-62, Golf Course Extension Road, Gurgaon, vide application for registration. The complainant was allotted a unit no. -069 admeasuring of super area 915 sq. ft on the ground floor of the said project. At the time booking the complainant has paid booking amount of Rs.5,00,000/- vide receipt no. 1044 dated 02.08.2011 for the allotment of the commercial space.
- That the respondent promised that it shall make an allotment in favour of the complainant. That in lieu of the same, the complainant, time and again visited the office of the respondent to enquire about his allotment, however, was always told that the allotment process is being undergone and the same shall be made soon. That the respondent, intentionally and willfully kept on delaying the allotment of the complainant. Further, the respondent company with an ulterior motive failed to execute the builder-buyer agreement between the parties, in order to avoid any responsibility and commitment to offer possession to the complainant.
- That the total sale consideration of the unit is Rs.65,88,000/- and till date the complainant has paid Rs. 45,67,488/- for the commercial unit in the project. Consequently, the respondent malafidely raised the following demands to the complainant but always assured that these are merely formality and that the complainant need not worry about any of the demands raised.

S. No.	Demands	Date
1.	<i>On Registration</i>	02.08.2011
2.	<i>15% of the BSP</i>	19.09.2011
3.	<i>Bhoomi Poojan</i>	10.01.2012
4.	<i>On start of excavation</i>	10.12.2013
5.	<i>Upto 4th floor roof slab</i>	05.05.2019

- d. That on 05.10.2016 the respondent sent letter stating that the project construction is going on in full swing. That further in 2016 the respondent vide letter dated 09.11.2016 stated that the work at the project was halted due to NGT ban. It is pertinent to note that for 5 years, from 2013 to 2019, the respondent no.1 did not raise any demand. Further in the year 2017, the respondent informed the complainant that the developer in the licence is being changed to his name vide letter dated 12.10.2017. That no prior information or consent was taken by the respondent no.1.
- e. That in 2018, the respondent informed the complainant that the project is under development and attached images of the project. It is pertinent to note that till date the respondent has not completed the project nor received occupation certificate and offered the possession.
- f. That the gigantic promises made by the respondent with respect to the developing status, the speedy procurement of licenses and delivery of possession all turned be bogus and a sham with the actual intent to misappropriate monies from the innocent buyers. Since almost 13 years, the respondent has wrongfully enjoyed a huge sum of money paid by the complainant with a desire of getting the unit in his name for his personal and domestic use. That the promises, assurances and warranties made by the respondent were broken in the most unlawful and illegal manner.
- g. That the respondent has intentionally caused wrongful gains to itself and wrongful losses to the complainant when in fact the complainant has deposited his hard-earned money by being ensnared in the false lucrative and sham promises of the respondent, when in fact, the respondent never intended to make any allotment in favour of the complainant. The respondent has acted in the most unlawful and illegal manner and has violated many provisions of the Act.
- h. That the respondent kept on raising illegal demand and reminder letter in

order to extract money from the innocent allottee, but failed to construct the commercial space. That the respondent had the obligation of executing an agreement for sale with the complainant. That it is well established that the relationship between the respondent and the complainant, being commercial in nature, is fastened by the contractual terms and conditions, which, the respondent has willfully escaped. That such obligation remained since the booking of the Unit, as under the terms of the Indian Contract Act, 1972 which categorically require the ascertainment of the relationship between the parties and the general market practice of executing and agreement for sale for the future transfer of property.

- i. That thereafter, the implementation of the Act followed with crystallizing the obligations of the respondent, however, since March 2016 (i.e., the date of passing of the Act), the respondent has been in constant default as it did not proceed with the allotment and the execution of the agreement despite stringent obligations being derived from the sections 11(3), & 11(4) and 13(2) of the Act. That at this juncture, it needs to be noted that allotment is considered to be a pre-requisite, which is followed by execution of the agreement.
- j. That the respondent has gravely violated the above mention provisions by not executing the BBA, accepted more than 10% before even execution of the BBA, either before or after the implementation of the Act. It has been almost 13 years since the booking that respondent has been wrongfully enjoying the money of the complainant including the returns and profit over the sum deposited by the complainant.
- k. That as stated above the complainant made the booking on 02.08.2011. Thereafter, the respondent had an obligation to execute agreement to sell and deliver possession within a reasonable period of time. Accordingly, the respondent was obligated to give possession within 3 years from the date

of booking, i.e., 02.08.2011. Thus, the due date of possession comes out to be 02.08.2014. That it needs to be categorically noted that in the absence of any agreement for sale and consequently, the ascertainment of the due date of delivery of possession of the unit, a reasonable time should be taken from the date of booking/allotment. It is a settled principle that an allottee cannot be made to wait indefinitely for the delivery of possession of the Unit, as has been observed by the Hon'ble Supreme Court in 5.C. Civil Appeal No. 3182/19 Kolkata West International Vs. Devasis Rudra decided on 25/3/19, that, "It would be manifestly unreasonable to construe the contract between the parties as requiring the buyer to wait indefinitely for possession. A buyer can be expected to wait for possession for a reasonable period." Moreover, in a case where there is no ascertainment of the due date of delivery of possession, a reasonable time needs to be taken, as was observed by the Hon. Supreme Court in Fortune Infrastructure Vs. Trevor Dlima MANU/SC/0253/2018: (2018) 5 S.C.C. 442, in the opinion of which, three years of time was ought to be reasonable.

1. That since the complainant failed to execute the agreement, the complainant cannot be perpetually made to wait for the possession of the unit. That the Hon'ble Supreme Court in various judgments have upheld that in the absence of any agreement for sale and consequently for the ascertainment of the due date of delivery of possession of the unit, a reasonable time should be taken from the date of booking and the reasonable time period to be 3 years. That the time period of 3 years expires on 02.08.2014. That it has been more than 9 years since the expiry of the due date of possession, the respondent has miserably failed in executing an agreement and in giving possession of the unit.
- m. That as stated above the respondent had an obligation to execute agreement to sell and deliver possession within a reasonable period of time.

Accordingly, the respondent was obligated to give possession within 3 years from the date of allotment. Thus, the possession should have been delivered by 02.08.2014. That the complainant visited the project site in 2019, and was shocked to see that the construction has not even started and further there is no intention of the respondent company to complete the same. Thus, there is a delay of more than 9 years and the respondent has failed to offer a valid possession and compensation for the delay in possession. That the basic obligations of the Act have been miserably violated by the respondent, due to its inordinate delay.

- n. That the complainant had invested her hard-earned money in the booking of the unit in the project in question on the basis of false promises made by the respondent at the time of booking in order to allure the complainant. However, the respondent has failed to abide all the obligations of him stated orally and failed to execute the builder buyer agreement between the parties.
- o. That due to the inordinate delay on part of the respondent, the respondent offered refund of the entire amount of Rs.45,67,488/- paid by the complainant. That to that effect the respondent company made the complainant to execute the Memorandum of Understanding dated 24.07.2019 between the parties. That the respondent undertook to repay the amount in 7 instalments. The respondent failed to abide by the terms of MOU and neither gave the refund of the amount nor gave the possession of the unit. It is pertinent to note that the project is still under construction and has not received the occupancy certificate.
- p. That the respondent failed in complying with all the obligations provided under the concerned laws, rules, and regulations thereunder, due to which the complainant faced innumerable hardships. Moreover, the respondent made false statements about the progress of the project as and when

inquired by the complainant. That taking advantage of the dominant position and malafide intention the respondent had resorted to unfair trade practices by harassing the complainant by way of delaying the project by diversion of the money from the innocent and gullible buyer. That in case of delay in the offer of possession, the complainant has a right under proviso of section 18 of the Act to seek delay possession charges till the actual handover of possession.

- q. The respondent is also bound by the regulation and Rules, 2017 which lists the interest to be computed while calculating compensation to be given by a promoter to an allottee in case of a default. Section 15 of the said rules provides that "an allottee shall be compensated by the promoter for loss or damage sustained due to incorrect or false statement in the notice, advertisement, prospectus or brochure in the terms of section 12." That the respondent vide its various letters gave misleading commitments to the Complainant regarding the completion of the project.
- r. It is pertinent to note that no valid offer of possession has been made by the respondent till date. That it is the failure of the promoter to fulfil his obligations, and responsibilities as to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11 (4)(a) & (b) read with section 18(1) of the Act on the part of the Respondent is established. As such the complainant is entitled to delayed possession charges.
- s. That the respondent has utterly failed to fulfil its obligation to deliver the possession of the apartment in time and adhere to the contentions of the agreement which has caused mental agony, harassment, and huge losses to the complainant, hence the present complaint.
- t. That not only has the respondent failed in giving the possession of the unit to the complainant but has wrongly enjoyed over the money of the

complainant and is also liable to give the interest on delayed possession to the complainant as under the proviso to section 18(1) of the Act, 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.

- u. That the respondent is guilty of deficiency in service within the purview of provisions of the Act, 2016 and the provisions of the Rules, 2017. The complainant has suffered on account of deficiency in service by the respondent and as such the respondent is fully liable to cure the deficiency as per the provisions of the Act, 2016 and the provisions of the Rules, 2017.
- v. That the complainant reserves his right to approach the Adjudicating Officer for seeking compensation for the various malafide, unlawful and wrongful acts and conduct of the respondent.
- w. The complainant requests for the relief of possession, interest on delayed possession, execution of the agreement and conveyance deed as per Sections 11(4) (a), (b) & (f) and 18(1) of the Act which squarely falls within the jurisdiction of the Authority. Hence, the present complaint under Section 31(1) of the Act. That in view of the above facts, the Authority is requested to direct the respondent to inform the complainant the exact location of his unit, execute agreement to sell and handover valid physical possession of the unit along with delay possession charges.

C. Relief sought by the complainant:

- 4. The complainant has sought following relief:
 - i. Direct the respondent to comply with the terms of the BBA.
 - ii. Direct the respondent to handover the possession of the unit unit no. -069 admeasuring of super area 915 sq. ft.

- iii. To impose penalty upon the respondent for delay in handing over the possession of the unit as stated in the application for provisional registration.
- iv. To impose penalty upon respondent for non-execution of the builder buyer agreement of the project in question.
- v. Direct the respondent not to create any third-party rights on the unit of the complainant.
- vi. Any other relief which this authority deems fit and proper.

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 filed the application for dismissal of complaint on 30.07.2025 and contested the complaint on the following grounds: -

- a. That the complainant, approached the respondent/applicant company for purchase of commercial unit no. 069, having a super area admeasuring 915 sq. ft., in the commercial project namely "Splendor Epitome", being developed by the respondent company at Sector-62, Gurugram, Haryana. Based on her request and the application submitted, the respondent company provisionally allotted the said unit to the complainant under a construction linked payment plan for total basic sale consideration of Rs.65,88,000/- along with EDC, IDC, PLC and other dues and charges payable by the complainant against the said unit.
- b. That somewhere, in 2019, the complainant expressed inability to proceed with the said provisional allotment. To amicably conclude the matter, the respondent company and the complainant entered into a Memorandum of Understanding dated 24.07.2019, under which the respondent company agreed to buy back the said unit.

- c. It is important to brought to the attention of this authority that under recital clause C of the said MOU, the complainant herein showing her inability to continue with the allotment of the said unit for her bonafide needs and requirements has requested for refund of amount paid by her and surrender, transfer and convey all her rights, titles and interests in the said unit and in respect of all the documents issued by the respondent herein in favour of the complainant unto the respondent and the applicant/respondent has agreed to acquire the same and accordingly the said mou was executed.
- d. That the said MOU, the respondent company agreed to buy back the said unit for mutually agreed consideration i.e. Rs.49,67,448/- being composite of [Rs.4,87,448/- (amount paid by the Complainant) + Rs.44,80,000/- (profit)]. That the respondent/applicant company agreed to buy back the said unit at such huge profit for the reason that, at the relevant time, it was approached by a third-party buyer namely Mr. Amarpreet Singh who was interested in purchasing the said unit.
- e. That as per clause 7 of the said MOU executed between both the parties herein, it was categorically agreed and acknowledged by the complainant that upon execution of the said MoU, the respondent would be entitled to use the said unit as the owner thereof and would have full authority to sell, transfer, alienate and/or let out the said unit, either wholly or in parts, without any objection, interference, or claim from the complainant. Accordingly, all rights, title, or interest of the complainant in the said unit stood extinguished upon the signing of the MoU.
- f. That further as per clause 5 of the said MOU it has been agreed between the parties that upon execution of the said MOU all documents including receipts, provisional allotment letter/space buyers' agreement executed between the parties in respect of the said unit shall be deemed to cancelled,

invalid and unenforceable upon execution of the MOU. In terms of the Said MOU, the payment of Rs.19,25,000/- out of total buy back consideration of Rs.49,67,448/- was duly made to the complainant during the period 24.07.2019 to 13.03.2024. Out of the said payment Rs.2,50,000/- were paid vide cheques to the complainant and Rs.16,75,000/- were paid in cash as the said third party buyer made cash payments against the said unit which were in turn paid to complainant, which were duly received by the complainant herself, against proper receipts.

g. That out of the total seven cash receipts issued in relation to the payments made to the complainant, five have been duly signed by her, while the remaining two, dated 14.09.2020 and 05.08.2021, bear the signatures of her son, one Mr. Aman Sharma, and one Mr. Brijesh, respectively, both having signed on her behalf under her authority. A consolidated tabular statement detailing these payments, along with the corresponding bank statement. It is further clarified that although the said MOU was executed between the complainant and the respondent, and the receipts have accordingly been issued in the name of the complainant, the actual payments under the said receipts were made by a third-party buyer. However, the complainant thereafter with malicious intent, instituted a false, frivolous and mischievous complaint before this Authority, in which the present complainant i.e., Mrs. Mamta Sharma has blatantly denied having received the agreed payments and has sought revival of extinguished rights. In para no. 33 of the said complaint, the complainant made blatant lie on oath by stating that the respondent company had not paid the refund amount to the complainant under the said MOU though the substantial payment has been made and the respondent is ready and willing to make the balance payment which is not accepted by the complainant.

h. These false claims, made despite the complainant having already received Rs.19,25,000/- (Rs.16,75,000/- in cash and Rs.2,50,000/- by cheque/pay order) with mutual understanding, reflects a calculated and fraudulent attempt to exploit legal proceedings to arm-twist the respondent company and derive wrongful gains. The present complaint has been filed with the sole motive to extract unlawful benefits from the respondent company i.e. to receive the buy-back amount under the Said MOU and also claim the unit by suppressing the material facts and receipts of the amount under the said MOU.

POST EXECUTION OF MOU DATED 24.07.2019, THE COMPLAINANT HAS NO RIGHT, TITLE OR INTEREST OVER THE UNIT:

i. That as per clause 5 of the MOU it has been agreed between the parties that upon execution of the MOU all documents including receipts, provisional allotment letter/space buyers' agreement executed between the parties in respect of the said unit shall be deemed to cancelled, invalid and unenforceable upon execution of the MOU. As per clause 7 of the said MOU, it was categorically agreed and acknowledged by the complainant that upon execution of the said MoU, the respondent would be entitled to use the said unit as the owner thereof and would have full authority to sell, transfer, alienate and/or let out the Said Unit, either wholly or in parts, without any objection, interference, or claim from the complainant. Accordingly, all rights, title, or interest of the complainant in the Said Unit stood extinguished upon the signing of the MoU.

j. From the above, it is absolutely clear that upon execution of the said Memorandum of Understanding (MoU), the unit in question stood cancelled in accordance with recital clause-C, and clause 5 read with clause 7 thereof. Consequently, third-party rights have lawfully been created in favour of the new allottee, as per the mutually agreed terms.

THE COMPLAINANT HAS NO LOCUS STANDI TO FILE THE PRESENT COMPLAINT:

- k. That upon execution of Memorandum of Understanding dated 24.07.2019, as per Clause 5 of the MOU, it was agreed between the parties that upon execution of the MOU all documents including receipts, provisional allotment letter/space buyer's agreement executed between the parties in respect of the said unit shall be deemed to cancelled, invalid and unenforceable. Further, As per clause 7 of the said MOU, it was categorically agreed and acknowledged by the complainant that upon execution of the said MoU, the respondent would be entitled to use the said unit as the owner thereof and would have full authority to sell, transfer, alienate and/or let out the said unit, either wholly or in parts, without any objection, interference, or claim from the complainant. Accordingly, all rights, title, or interest of the complainant in the said unit stood extinguished upon the signing of the MoU.
- l. That as per clause 8 of the MOU it has been agreed between the parties that in the event of breach of any terms of the MOU, the aggrieved party can only seek specific performance of the MOU. Thus, the complainant by no means can seek the possession of the said unit and other reliefs as claimed in the captioned complaint. It is also relevant to mention here that as per clause 11 of the MOU, it was agreed between that the parties that the MOU supersedes all prior oral or written agreements)/understandings /correspondence etc. between the parties in respect of the Said Unit, and records the entire and complete arrangements between the parties fully and finally.
- m. That upon execution of the Said MOU the complainant does not even fall under the definition of allottee as per section 2(d) of The Real Estate (Regulation and Development) Act, 2016 and thus, cannot file the complaint

under Section 31 of the RERA, 2016. The Section 2(d) of the RERA, 2016 is reproduced herein for the ready reference of this Hon'ble Authority:

"Section 2: Definitions

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

Thus, the complainant has no locus standi to file and maintain the present complaint. In light of the above, it is evident that allotment in favour of the complainants stood cancelled upon execution of MOU and the complainant does not fall under the definition of an 'Allottee' as per the Act, 2016, thus the complainant is not entitled to file the present complaint before this Authority, and the present complaint is liable to be dismissed *in limine*.

THE PARTIES ARE BOUND BY THE TERMS OF MOU DATED 24.07.2019:

- n. The said MOU dated 24.07.2019 was duly acknowledged by the parties after properly understanding each and every clause contained in the Memorandum of Understanding dated 24.07.2019. It was the complainant was neither forced nor influenced by the answering respondent to sign the said agreement. It was the complainant who after understanding the clauses, signed the MOU in his complete senses.
- o. That the complainant has not approached this Authority with clean hands. It is submitted that the complainant is attempting to raise non-issues in order to acquire benefits for which the complainant is not entitled in the least.
- p. That the Hon'ble Supreme Court has already held in a plethora of judgments that once a preliminary issue is raised by a party before the Forum, it is the duty of the Forum/Court to decide the said preliminary issue at the most preliminary or first stage rather than proceed with the case. It is a well

settled law that the issue of jurisdiction must be decided by the Forums and Authorities at the very initial stage as the issue of jurisdiction goes to the root of the matter and such a plea need not be in writing and can be taken orally as well. The Authorities established under the Act, 2016 are bound to decide these issues, as they go to the root of the maintainability of the present complaint before this Authority, even prior to considering the merits of the case.

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 these undisputed documents and submissions made by both the parties.

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 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 completed 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 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.

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 complainant at a later stage.

F. Maintainability of complaint.

12. The complainant booked a unit in the project of the respondent namely, "Splendor Epitome", situated at Sector-62, Gurugram. The complainant has annexed a copy of application for provisional registration of commercial space (Annexure C-1) which was signed by the complainant only and paid an amount of Rs.5,00,000/- to the respondent.
13. It is also an undisputed fact that neither any allotment letter was issued by the respondent in favour of the complainant, nor any builder buyer agreement was executed between the parties. Thus, the transaction between the parties never progressed beyond the stage of an application for provisional registration of commercial space and did not culminate into allotment of any plot, apartment or building.
14. The respondent has filed the application for dismissal of complaint on 30.07.2025 and also during proceeding dated 23.12.2025, the counsel for the respondent brought to the notice of the Authority that in the year 2019, the complainant herself expressed inability to proceed with the said provisional allotment. The respondent and the complainant entered into a Memorandum of Understanding dated 24.07.2019, under which the respondent company agreed to buy back the said unit. Further, as per clause C of the said MOU, the

complainant herein showing her inability to continue with the allotment of the said unit for her *bonafide* needs and requirements and requested for refund of amount paid by her and to surrender, transfer and convey all her rights, titles and interests in the Said Unit and in respect of all the documents issued by the respondent herein in favour of the complainant unto the respondent and the applicant/respondent has agreed to acquire the same and accordingly the said MOU was executed.

15. The respondent company agreed to buy back the said unit for mutually agreed consideration i.e. Rs.49,67,448/- being composite of [Rs.4,87,448/- (amount paid by the Complainant) + Rs.44,80,000/- (profit)]. Further, the respondent company agreed to buy back the said unit at such huge profit for the reason that, at the relevant time, it was approached by a third-party buyer namely Mr. Amarpreet Singh who was interested in purchasing the said unit.
16. In terms of the said MOU, the payment of Rs.19,25,000/- out of total buy back consideration of Rs. 49,67,448/- was duly made to the complainant during the period 24.07.2019 to 13.03.2024. Out of the said payment Rs.2,50,000/- were paid vide cheques to the complainant and Rs.16,75,000/- were paid in cash as the said third party buyer made cash payments against the said unit which were in turn paid to complainant, which were duly received by the complainant herself, against proper receipts. Further, upon execution of the said MOU the complainant does not even fall under the definition of allottee as per section 2(d) of The Real Estate (Regulation and Development) Act, 2016 and thus, cannot file the complaint under section 31 of the RERA Act, 2016.
17. On the other hand, the counsel for the complainant stated that the respondent company shall pay the amount due to the complainant in 7 installments. As per MoU the respondent was liable to make payment of Rs.45,67,448/- in 7 installments in monthly basis starting from October 2019 to April 2020, however, the respondent did not abide by the terms of MoU and thus the same

cannot be relied upon by the respondent to seek dismissal of the present complaint.

18. Upon careful consideration of the documents placed on record, the Authority observes that the present complaint is not maintainable for the following reasons: *Firstly*, it emerges that the parties have already arrived at a Memorandum of understanding in respect of the subject unit. A Memorandum of understanding dated 24.07.2019 has been executed between the parties, whereby the allotment of the complainant's unit stood terminated and the dispute was settled for a total amount of Rs.44,80,000/- . The relevant clauses of the settlement agreement, for ready reference, are reproduced as under: -

3. *The Developer shall pay the total amount paid by the intending Allottee/Applicant as mentioned in Recital Clause B above along with the compensation of Rs.44,80,000/- out of the above amount, the Developer has paid Rs.1,00,000/- vide cheque no. 001595 dated 24th July 2019 drawn on HDFC Bank & Rs.30,00,000/- to the intending Allottee/Applicant upon the execution of this MoU, the receipt of which the Intending Allottee hereby acknowledges and confirms.*

The balance amount shall be paid within a period of 2 to 9 months from the date of this MoU as per schedule of payment agreed between the parties here under: -

Sl. No.	Particulars	Amount Rs.
01	October 2019	6,50,000/-
02	November 2019	6,50,000/-
03	December 2019	6,50,000/-
04	January 2020	6,50,000/-
05	February 2020	6,50,000/-
06	March 2020	6,50,000/-
07	April 2020	6,67,448/-

19. From a bare perusal of the aforesaid clauses, it is evident that the parties consciously and voluntarily entered into the Memorandum of understanding dated 24.07.2019, wherein the unit was terminated and the complainant accepted a sum of Rs.44,80,000/- towards full and final settlement of all rights, claims, benefits, and obligations arising out of the said unit.

20. The principal issue that arises for consideration is whether, in the presence of a duly executed Memorandum of understanding dated 24.07.2019, the dispute between the parties survives for adjudication by the Authority or not? The relevant clauses of the settlement agreement categorically stipulate that the cancellation of the unit and the payment of the settlement amount were in full satisfaction of the allottee, thereby extinguishing all subsisting disputes between the parties.
21. It is well settled principle that when parties voluntarily enter into a settlement and act upon the same, such settlement is binding in nature and operates as a bar to any subsequent claims arising from the same cause of action. In the present case, the complainant has neither pleaded nor demonstrated that the settlement agreement was vitiated by fraud, coercion, undue influence, or misrepresentation. In the absence of any such averment, the Memorandum of understanding dated 24.07.2019 remains valid and enforceable in law.
22. Once the parties have consciously resolved their disputes through a settlement, the Authority cannot reopen or re-adjudicate the settled issues, nor can it modify or rewrite the contractual terms agreed upon between the parties. Any interference with such settlement, in the absence of proven illegality, would amount to substituting judicial wisdom in place of the parties contractual autonomy, which is impermissible in law.
23. The jurisdiction of the Authority under the Act is limited to adjudicating disputes arising out of subsisting allotments and statutory violations, and not to unsettling concluded contracts which have attained finality by mutual consent.
24. Secondly, it is necessary to determine whether the complainants fall within the definition of allottee or not under the Real Estate (Regulation and Development) Act, 2016. Section 2(d) of the RERA Act, 2016 defines an "allottee" as under:

“...the person to whom a plot, apartment or building...has been allotted, sold...or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment... but does not include a person to whom such plot...is given on rent.”

25. As per Section 2(d) of the RERA Act, 2016, an “allottee” means a person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the promoter. In the present case, admittedly no allotment of any unit was ever made in favour of the complainants. Mere an application for provisional registration of commercial space signed by the complainant only and make the payment of booking amount, in the absence of an allotment letter or builder buyer agreement, does not confer the status of an allottee upon the complainant.
26. This Authority further observes that for a legally enforceable contract to come into existence, there must be consensus *ad-idem* on essential terms such as identification of the unit, consideration, payment schedule, rights and obligations of the parties which are ordinarily crystallized through an allotment letter and a builder buyer agreement. In the absence of such documents, no concluded contract for sale came into existence between the parties.
27. Since no concluded contract was formed and no allotment was made, the dispute raised by the complainants essentially relates to refund of money paid pursuant to an application for provisional registration of commercial space, which is a matter falling outside the scope and jurisdiction of this Authority under the RERA Act, 2016.
28. In the light of the above stated facts and applying aforesaid principles, the Authority is of the view that the present complaint is not maintainable as the complainant do not fall within the definition of “allottee” as defined under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016. Consequently, the present complaint is not maintainable under the provisions

of the Act and is accordingly dismissed with liberty to the complainants to avail appropriate remedies in accordance with law before the competent forum.

29. Complaint as well as applications, if any, stand disposed off accordingly.
30. Files be consigned to the registry.



(Phool Singh Saini)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 23.12.2025



(Arun Kumar)
Chairman



HARERA
GURUGRAM