

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

Complaint no. :	3245 of 2024
Order reserved on:	31.10.2025
Order pronounced on:	21.11.2025

Vikrant Vikram Singh
R/O: 65, 1st Floor, Kalu Sarai,
Hauz Khas, New Delhi - 110016

Complainant

Versus

M/s Apricus Hills Pvt. Ltd.
Regd. office: 2017-IF, Gali No. 9, Chuna
Mandi, Pahar Ganj, Delhi Central, Delhi -
110055

Respondent

CORAM:
Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Vijay Pratap Singh
Sh. Abhimanyu Singh

Advocate for the complainant
Advocate for the 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:

Sr. No.	Particulars	Details
1.	Name of the project	Yashika 104, Sector 104, Gurugram, Haryana
2.	Total area of the project	5.0375 acres
3.	Nature of the project	Affordable group housing
4.	DTCP license no.	101 of 2021 dated 28.12.2021 valid upto 07.12.2026
5.	HRERA registered/ not registered	Registered vide no. 44 of 2022 dated 25.05.2022 Valid till 06.01.2027
6.	Allotment Letter	02.09.2022 (page no. 25 of complaint)
7.	Builder buyer agreement	03.02.2023 (page no. 26 of complaint)
8.	Date of approval of building plans	04.03.2022 (as per project details)
9.	Date of environment clearance	15.03.2022 (as per project details)
10.	Unit no.	807, 8 th floor, Tower T1 [page no. 34 of complaint]



11.	Unit measuring (super area)	638.198 sq. ft. (carpet area) 151.77 sq. ft. (balcony area) (Page no. 34 of complaint)
12.	Possession clause	7. Possession of the apartment 7.1 The Allottee understands and agrees that the Promoter contemplates to complete the construction within 48 months from the date of sanction of Building Plans or date of receipt of all clearances, sanctions, approvals including Environment clearance whichever is later or as per agreed terms and condition unless there is delay due to force majeure, court orders, Government policy/guidelines, decisions affecting the regular development of the real estate project.
13.	Possession clause as per affordable Housing policy, 2013	1(iv) "All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."
14.	Due date of possession	15.03.2026 (Note: Due date to be calculated 4 years from the date of environment clearance i.e., 15.03.2022, being later)
15.	Total sale consideration	Rs. 27,80,431/- (as per TSC at page 36 of complaint)
16.	Total amount paid by the complainant	Rs. 23,90,770/- (as alleged by complainant)

17.	Reminder letters	03.06.2024, 14.06.2024
18.	Pre cancellation letter	21.06.2024
19.	Cancellation letter	12.07.2024 (Page no. 12 of reply)
20.	Publication in newspaper	13.07.2024 (page no. 13 of reply)
21.	Amount refunded by respondent	Rs. 20,76,680/-
22.	Occupation certificate	Not received
23.	Offer of Possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:
 - I. That the respondent made advertisement in the newspaper & through freelance real estate agents with regard to the location, specification and amenities and time of completion of the project under the name "affordable group housing colony " commonly known as "YASHIKA 104" floated under Haryana Government's Affordable Housing Policy, located at sector 104, Gurgaon, Haryana. The complainant applied for the flat through website of TCP Haryana vide application bearing no. 57814 having carpet area of 638.19 sq. ft. and balcony area of 151 sq. ft.
 - II. That the draw of the said project was held wherein the complainant was allotted flat no T1 -807 at 8th floor at tower 1.
 - III. That while the construction at the site is slow, the respondent has been raising demand letters ahead of the stipulated time as given in the BBA. The complainant has paid till 3rd instalment i.e. 37.5% of the

total demand. As for 4th instalment i.e., 1/3rd slab of the super structure which is 4.5 slabs given 14 floors in the building need to be constructed. However as on 13th Jun 2024 only 2.5 slabs have been constructed at the project site. The respondent with only 2.5 slabs constructed in Tower - 1 has already raised 5th demand for 2/3rd slab of super structure as well which was to be raised on 9.5 slabs being constructed.

IV. Hence the 4th & 5th demands raised by the respondent are illegal and should be stopped. Cancellation letter raised by the respondent basis non-payment of 4th & 5th instalments should be set aside.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s).
 - (i) Direct the builder to not cancel my allotment and raise demands as per the BBA and actual construction on the site.
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. That the complainant applied for a unit in the project on 31.08.2022 and the respondent allotted unit no. T1-807 in tower -T on through a transparent process by way of draw of lots.
 - II. That the total sale consideration of the allotted unit to the complainant stands at Rs. 27,80,423/-. However, the amount paid by the complainant is Rs.10,53,680/- which is only 30% of the total sale consideration. The complainant has defaulted in making a payment of

approximately Rs. 7,02,059/- as per various demand letters because of which the respondent was forced to cancel the said unit.

- III. That the construction at the project sites is at full swing and the same has been communicated to the complainant various times. The complainant has failed to make timely instalment/payments as per the agreed schedule. This non-compliance resulted in a breach of contract, leaving the respondent with no option but to cancel the allotment under clause 5 of the Affordable Housing Policy, 2013.
- IV. That the respondent at various dates on 20.11.2023, 17.05.2024, 03.06.2024, 14.06.2024 and 21.06.2024 sent reminders to the complainant allottee. Despite giving ample opportunities to the complainant, he failed to make the payment of the pending instalments and this left with the respondent with no other option but to cancel the unit as this was causing a lot of financial constraints for the respondent company.
- V. Despite these efforts, the complainant failed to fulfil payment obligations, leading to the cancellation of the unit. A cancellation notice was subsequently published in a widely circulated newspaper i.e., *Danik Bhaskar* on 13.07.2024.
- VI. That the total sale consideration of the unit T1-807 allotted to the complainant was Rs.27,80,432/- and the complainant has paid only Rs.10,53,680/- leaving pending instalments.
- VII. The complainant's assertion that the slow construction progress in tower T1 excuses his payment default is unsustainable in light of the legal principle that an allottee cannot withhold payment merely on the pretext of incomplete construction when the developer is diligently pursuing project completion. The construction in the said tower is

almost complete and the process of finishing is going on. Moreover, out of 7 towers in the project, 3 are already complete, however the respondent has not raised the final demands from the allottees whose units are almost complete.

- VIII. That the cancellation is neither arbitrary nor illegal but a necessary step to ensure the financial viability and timely completion of the project. Despite repeated reminders and request for the due instalments, the complainant has failed to pay the pending instalment, citing baseless allegations that construction in tower T1 has not been carried out adequately.
- IX. That the complainant's failure to make the full payment at this stage demonstrates a pattern of non-compliance which persisted throughout the transaction.
- X. That the complainant alleges that demands raised by the respondent were excessive and premature. However, this is factually incorrect. All demands were in line with the construction-linked payment plan approved under the Affordable Housing Policy, 2013.
- XI. That the complainant's dissatisfaction arises not from any deficiency on the part of the respondent but from their own failure to adhere to contractual obligations.
- XII. That the respondent has already refunded the amount of Rs. 20,76,680/- by way of RTGS paid by the complainant after deducting the requisite amount as per the Haryana affordable housing policy and the details of which are mentioned hearing. Therefore, it is prayed before the honourable authority that the present complaint be dismissed in the interest of justice.

7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

8. The authority has complete territorial and 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, 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

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 complainant at a later stage.

F. Findings on the relief sought by the complainant:

(i) Direct the builder to not cancel my allotment and raise demands as per the BBA and actual construction on the site.

12. In the present complaint, the complainant booked a unit in the project of respondent namely, Yashika, situated at sector 104, Gurugram. The complainant was allotted a unit bearing no. 807, 8th floor in Tower T1 admeasuring 638.198 sq. ft. of carpet area and 151.77 sq. ft. of balcony area vide allotment letter dated 02.09.2022. The apartment buyer's agreement was executed between the parties on 03.02.2023. As per the buyer's agreement dated 03.02.2023 the total sale consideration of the unit was Rs. 27,80,431/- and the complainant has made a payment of Rs. 23,90,770/- against the same in all. As per possession clause of the affordable housing policy, 2013 the possession of the subject nit was to be handed over within a period of 4 years from date of approval of building plans or grant of environment clearance, whichever is later. The date of approval of building plan is 04.03.2022 and the environment clearance was obtained on 15.03.2022. The due date of possession is calculated from the date of environment clearance being later which comes out to be 15.03.2026.
13. The complainant in the present matter has averred that the respondent has cancelled the unit of the complainant and seeking restoration of the

unit allotted to him. The complainant has stated that the cancellation of the unit is invalid as the unit was booked under the construction linked payment plan and the respondent had raised demands which were not in accordance with the actual stage of construction. The complainant has also filed Quarterly Progress Report(QPR) and states that respondent has failed to complete the 1/3rd superstructure of tower 1 therefore the demand raised by respondent is illegal.

14. The plea of the respondent is otherwise and stated that the demand were raised as per payment plan and the complainant has made payment of Rs. 23,90,770/-. However, various reminder letters were issued followed by pre cancellation letter dated 21.06.2024 but despite repeated follow ups the complainant failed to act further and comply with their contractual obligations and therefore the unit of the complainant was finally terminated vide letter dated 12.07.2024.

Now the question before the authority is whether the cancellation issued vide letter dated 12.07.2024 is valid or not.

15. On consideration of documents available on record and submissions made by both the parties, the authority is of the view that the complainant booked a unit under an Affordable Group Housing Policy, 2013. The clause 5(iii)(i) of the Affordable Group Housing Policy, 2013 is relevant and reproduced hereunder for ready reference:

"If any successful applicant fails to deposit the installments 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 installments 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".

16. The Authority observes that clause 5(iii)(i) of the Affordable Housing Policy, 2013 provides that if an applicant fails to remit the installment within the prescribed time period, a reminder may be issued to the applicant, requiring payment of the outstanding installment within fifteen (15) days from the date of issuance of such notice. If the allottee fails to make the payment within the specified period, the list of defaulters may then be published in a regional Hindi newspaper. If the allottee continue to default, the allotment may be cancelled within fifteen (15) days thereafter.
17. In the instant case, the demand for the payment was raised on 20.11.2023 and thereafter, reminders for the payment were sent by the respondent on 03.06.2024, 14.06.2024 followed by pre cancellation letter dated 21.06.2024. Thereafter respondent cancelled the unit vide letter dated 12.07.2024 and the publication of the defaulters list in the newspaper was published on 13.07.2024. The Affordable Housing Policy, 2013 clearly states that "*within 15 days from the date of publication of such notice failing which allotment may be cancelled*". Therefore, publication in newspaper is to be published 15 days prior to the date of cancellation and not afterwards. Moreover, post cancellation of the unit, the respondent has refunded an amount of Rs. 20,76,680/- after deduction of Rs. 3,14,090/- which is also illegal as per the clause 5(iii)(i) of the Affordable Housing Policy, 2013. Moreover, QPR dated 31.12.2023 also shows that Super Structure of Tower T1 to T7 was complete only upto 22%. Seeing, various

illegalities on part of the respondent in this particular case, the Authority is of view that the respondent should not be allowed to get unfair advantage of its own wrong. In view of the above, the said cancellation is bad in law and is hereby set aside.

18. The respondent-promoter is directed not to create third party rights. In case the respondent has already created third party rights on the unit in question, then the respondent/promoter shall offer possession of a similarly located unit/flat of same size and specifications at same rate as per the buyer's agreement dated 03.02.2023 in the said project to the complainant.

G. Directions of the authority

19. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- i. The cancellation of the allotted unit is set aside.
 - ii. The respondent is directed to restore the subject unit to its original position in favour of the complainant.
 - iii. The respondent-promoter is directed not to create third party rights. In case the respondent has already created third party rights on the unit in question, then the respondent/promoter shall offer possession of a similarly located unit/flat of same size and specifications at same rate as per the buyer's agreement dated 03.02.2023 in the said project to the complainant.
 - iv. 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.

20. Complaint as well as applications, if any, stands disposed off accordingly.
21. File be consigned to registry.


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 21.11.2025



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