

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA
REAL ESTATE REGULATORY AUTHORITY, GURUGRAM.**

Complaint No. 4675-2023

Date of Decision: 27.11.2025

Kumar Manglam Dalmia (Through GPA Holder Nivedita Dalmia), R/o
H. No. 2/84, Vijay Khand- 2, Gomti Nagar, Lucknow, Uttar Pradesh-
226010.

Complainant

Versus

M/s Chintels India Private Limited (Formerly known as Chintels India
Ltd.), Registered Office: A-11, Kailash Colony, New Delhi- 110048,
Corporate Office: Chintels Corporate Park, near Chintels Chowk,
Sector-114, Gurugram-122017.

Respondent

APPEARANCE

For Complainant:

Mr. Sukhbir Yadav, Advocate.

For Respondent:

Mr. Shubham Dayma, Advocate.

ORDER

1. This is a complaint filed by Mr. Kumar Manglam Dalmia,
through GPA Nivedita Dalmia, (allottee) under section 31 read with
sections 71 & 72 of The Real Estate (Regulation and Development), Act
2016 (referred as "Act of 2016"), against M/s. Chintels India Private
Limited (promoter).

2. The respondent/promoter developed and sold flats in a
project, namely Chintels Paradiso' located at Sector 109, Gurugram.

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Said project is comprising 9 towers in total and was constructed in two phases i.e. Phase no.1 and Phase no.2. Towers-D, E, F, G and H are in Phase I while Phase II comprises towers A, B, C and J. On 10.02.2022, a portion of flat No. 603 in Tower D of Phase I of this project collapsed. Consequently, five floors of said tower fell on earth. It resulted in unfortunate death of two women residing therein. Vide order dated 12.02.2022, Deputy Commissioner, Gurugram, constituted a committee to enquire about the incident. The Enquiry Committee gave its report. Relevant portion of which is reproduced as under: -

"Since signs of corrosion of reinforcement are visible in all the towers of the project, the committee reiterates that the remaining towers (towers A, B, C, D, E, F, G, H and J) be vacated until the completion of the ongoing investigations in the interest of the safety of the residents."

3. The complainant has mentioned about, another committee constituted by The District Magistrate vide order dated 24.02.2022 headed by Additional Deputy Commissioner, Gurugram, to ensure re-location of effected families and their well beings. This committee gave following report: -

"Keeping in view of the fact that residents have pointed out structural defects in Tower E, F, G and H and also in about 100 flats, the Committee shall monitor/supervise shifting of families residing in these towers till finalization of report of structural audit".

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4. Services of IIT, Delhi, were also solicited by the Committee, on 24.02.2022. A team of IIT experts conducted structural audit of all nine towers of said project. This team found as: -

*".....Due to the widespread presence of chlorides in the structure and lack of chlorides in the air to which the buildings are exposed, it can be deducted that chlorides were present in the concrete at the time of production.....
.....that although the source of these chlorides is difficult to ascertain, they could have been present in any of the components of concrete, including water, sand, coarse aggregates, cement or chemical admixtures....."
".....The need to frequently repair structures, as has been reported by the residents, also appears to have been caused by corrosion of steel reinforcements due to the presence of these chlorides. A poor quality of concrete has also played a role in the deterioration. Repair of these structures for usage is not technically nor economically feasible....."*

5. Some residents of this project approached Apex Court of India by filing Writ Petition (Civil) No. 273 of 2022 titled as **"Manoj Singh and others vs Chintel India Pvt Ltd & Ors"**. While deciding said petition, Hon'ble Judges referred communication done by District Town Planner on 21.06.2023, where allottees in Towers D, E and F of said project were given two options, i.e. Option No. I & Option II. As per Option No. 1, the occupants will vacate the concerned building and to them the builder will pay Rs.6500/- per sq. feet (super area) plus cost of interior as may be finalized by committee plus actual stamp duty plus shifting charges and also rent till full and final payment of the flat

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to the occupants. Option No. II required the builder to reconstruct the project at the same site, subject to occupants vacating the premises.

6. Taking this matter as an extraordinary case, their lordships disposed it off, while making following observations: -

"15. In the present petition, 188 flat owners have joined together, and these writ petitioners are spread across both phase I and Phase II towers. Since Towers -A, B, C and J in Phase II are not declared unsafe, the concern of the 188 persons who have filed the purchased flats in the towers in phase I. Of these, 31 persons have settled with the builder, and they have been paid their dues either option I or option II.

16. For those, who are willing to exercise option I even now, the builder, according to Mr. Nadkarni, is prepared to accommodate them in the same terms as was given to those, who have exercised the option-I.

17. For the remaining who want the builder to re-build the project at the same site as part of option II, the concerned buildings must necessarily have to be vacated by all the occupants including the ten remaining occupants. After the concerned towers are vacated, the builder is prepared to re-construct the towers at the same site after securing requisite permission from the authorities. As was stated earlier, from commencement of re-construction until the project gets completed, the builder must pay the affected flat buyers reasonable rent for their alternate accommodation. The rate of rent can be decided by the committee headed by the provisional commissioner, Gurugram".

7. According to complainant, in November 2011 Ms. Archana Yadav (original allottee) believing in the representation of the respondent booked a residential flat bearing no. 703 in Tower- H

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having super area of 2050 sq. ft. in its project by the name of "Chintels Paradiso", Sector 109, Gurugram, for a total sale consideration of Rs.1,00,38,750/- (one crore thirty-eight thousand seven hundred fifty) under construction link payment plan. On 11.04.2012 a pre-printed, unilateral, arbitrary Flat Buyer Agreement/Buyer's Agreement was executed between them. The respondent was obliged to hand over possession of said unit within a period of 36 months with an additional grace period of 6 months from the date of start of construction of the particular tower. Present complainant purchased said unit from Ms. Archana Yadav. The respondent endorsed the name of complainant in its record and informed the latter through endorsement letter Annexure-P6. A fresh allotment letter was issued in favour of complainant on 19.05.2012.

8. That on 22.02.2017 respondent sent letter of offer of the possession along with a demand of Rs.9,55,153/-. In March 2017, he (complainant) visited the project site and found that his flat was still under construction and there were cracks on the wall and seepage in the walls of bathrooms. The paint work and wooden work were incomplete. He informed the project management team to rectify the defects and to complete the pending work but the respondent kept on lingering the matter on one pretext or the other. After long follow-up,

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on 30.04.2019 he paid Rs.7,11,228/- under protest. He kept on making payments as per demands raised by the respondent. He paid a total sum of Rs.1,01,32,854/- i.e. more than 100% of sale consideration. Despite all this, respondent failed to hand over physical possession of flat as per specifications given in the brochure and BBA.

9. On 10.02.2022 the apprehension of the complainant became true and roof slabs of Tower D collapsed causing unfortunate death of two women in that accident. Tower-H in which his flat is situated, was also declared unfit for habitation.

10. Facts described above, did not remain in dispute between the parties, during deliberations.

11. Learned counsel for respondent raised only two objections i.e. No. (i) a complaint filed by the present complainant seeking refund of the amount has already been dismissed by the ^{Haryana} Real Estate Regulatory Authority, Gurgaon (Authority) and hence present complaint is not maintainable having been hit by the principle of "constructive res-judicata", No. (ii) this Forum (Adjudicating Officer) has no jurisdiction to entertain present complaint as after receipt of OC, his client i.e. respondent had already offered possession of said unit to allottee/complainant but the latter failed to take possession. The allottee was offered for execution of conveyance deed after

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payment of amount due but the allottee neither paid the remaining dues nor opted to get conveyance deed executed.

12. There is no denial that present complainant approached the Authority, Gurugram, with a prayer for refund of amount paid by him. The Authority declined that relief vide order dated 25.07.2023. Copy of such an order is put on record. Referring M/s Newtech Promoters and Developers Pvt. Ltd. vs. State of U.P. and Ors. Civil Appeal Nos. 6745- 6749 of 2021, the Authority opined that present complainant was entitled to claim compensation under sections 12, 14, 18 and 19 of the Act of 2016 and the Adjudicating Officer has exclusive jurisdiction to deal with complaints seeking compensation.

13. When the Authority did not decide the complaint on merits, rather declined the relief stating that Adjudicating Officer had power to decide the compensation. Only complying with said order, complainant has approached this forum. In this way, present complaint is not barred being hit by res-judicata.

14. Proviso added to Section 11(4)(a) of Act of 2016, tells the responsibility of promoter with respect to structural defect or any other defect for such period as is referred to sub-section 3 of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are

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executed. Admittedly, no conveyance deed of unit in question had been executed till present complaint was filed. Even if present complainant did not receive possession of his unit, as stated earlier, the complainant pointed out certain structural defects to the respondent but latter failed to remove those defects and ultimately the building collapsed due to those structural defects, as pointed out by the Committee of IIT experts. In such a circumstance, the allottee/complainant was well within his rights not to take possession of such unit, which was not completed as per building norms/builder's buyer agreement. I find no force in second objection raised on behalf of respondent.

15. When promoter/respondent failed to complete the unit as per agreement despite receiving amount more than the amount of sale consideration, same used money paid by the complainant and hence liable to compensate the allottee/complainant.

16. The complainant has sought following reliefs: -

- i. To grant a refund of Rs.1,01,32,854/- the amount paid by the complainant to the respondent, along with compensatory interest @ 12% per month from the date of each deposit.
- ii. To grant compensation on account of opportunity loss of Rs.1,06,06,700/- on account of loss due to the market value of the property.
- iii. To grant the compensation of Rs.10,00,000/- for causing mental agony.

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iv. To grant a compensation of Rs.1,00,000/- for travel expenses and loss of work as the complainant had to appear before the hon'ble authority (for complaint and execution) for about 20 times on their working days. (Justification: Per day traveling cost and loss of work is Rs.5,000/- per day).

v. To grant the litigation cost of Rs.2,00,000/-.

vi. That the respondent used the money deposited by the complainant for a long period of time and deprived the complainant from his own hard-earned money, therefore, this Hon'ble Court may please to direct the respondent to pay compensatory interest on the paid amount.

vii. The complainant is also entitled to any other relief to which he is found entitled by this Court of Adjudicating Officer.

17. The complainant has put on file copy of some sale deeds related to similar units in adjoining area to show as how prices of residential units have been increased in Gurugram.

18. As stated earlier, the Supreme Court while deciding writ petition filed by some of the allottees gave two options to the allottees, well described above. The Committee appointed by the Distt. Magistrate, Gurugram to determine the valuation of flats of Tower G & H of Chintels Paradiso, Sector-109, Gurugram gave report, copy of which has been put on file. The Committee, apart from other flats observed valuation of flat belonging to the complainant i.e. flat no. 703 Tower H, as Rs.17051397/-. The valuation of stamp duty at rate 7% is stated to be Rs.1193597.79. Admittedly, the complainant neither took

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possession nor got conveyance deed executed and hence there is no question of paying stamp duty. In this way, following the report given by the Committee, in my opinion, complainant is entitled for compensation by way of refund of Rs.17051397/- as assessed by the Committee. Same is allowed to be paid by the respondent.

19. Complainant sought a sum of Rs.10 lacs for mental agony. Apparently, when respondent despite receiving the amount more than total sale consideration did not complete the unit as per building norms or according to BBA, there remained structural defects in the building, which has been declared as unfit for human dwelling. All this caused mental agony and pain to the allottee/complainant. Rs.10 lacs appears to be excessive. Complainant is allowed a sum of Rs.2 lacs on this count.

20. Complainant has prayed for litigation cost of Rs.2 lacs. No court fee is required to be paid for filing a complaint before the Authority. However, it is apparent that complainant engaged a counsel to contest this complaint. Same is allowed a sum of Rs.50,000/- as litigation cost.

21. When complainant has already been allowed compensation for refund of amount as assessed by the Committee, which includes appreciation in the prices, I find no reason to allow

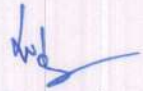
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further compensation in the name of loss due to market value. Similarly, when complainant has been allowed litigation cost, no reason to grant compensation in the name of travelling expenses or loss of work. Trite it to mention here that personal appearance of complainant was never sought by this forum.

22. Respondent is directed to pay the amounts of compensation mentioned above along with interest at rate 10.85% per annum from the date the committee appointed by the Distt. Magistrate assessed valuation of flat belonging to complainant, till realisation of amount. Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 provides that "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%. At this time, the highest marginal cost of lending rate of State Bank of India is stated to be 8.85% per annum.

23. Complaint is thus disposed of. File be consigned to record room.

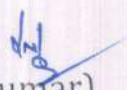
Announced in open court today i.e. on **27.11.2025**.


(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory
Authority, Gurugram.

Present: Mr. Sukhbir Yadav, Advocate for complainant.
Mr. Shubham Dayma, Advocate for respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
27.11.2025