

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

Complaint no. :	560 of 2024
Date of filing of complaint:	13.02.2024
Date of Order:	04.12.2025

Satbir Singh

Complainant

R/o: B-802, Sarve Satyam Apartments,
Plot No. 12, Sector-4, Dwarka, New Delhi-
110075

Versus

M/s Metro Education and Welfare Pvt. Ltd.
Regd. office at: 6th Floor, M3M Tee Point, North
Block, Sector-65, Gurugram-122101

Respondent

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Sh. Nipun Rao (Advocate)

Complainant

Ms. Shriya Takkar and Ms. Meenal Khanna
(Advocates)

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 provision of the Act or the rules and regulations made there under or to the allottee 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 complainant, date of proposed handing over the possession and delay period, if any, have been detailed in the following tabular form:

S. No.	Particulars	Details
1.	Name and location of the project	"M3M Crown Phase-1", Sector 111, Gurugram
2.	Nature of the project	Residential
3.	Project area	11.6025 acres
4.	DTCP license no.	213 of 2022 dated 27.12.2022 valid up to 26.12.2027
5.	Name of licensee	Metro Education and Welfare Pvt. Ltd. and 2 others
6.	RERA Registered/ not registered	31 of 2023 dated 02.02.2023 valid up to 31.01.2028
7.	Unit no.	CN TW-11-0501, 5 th Floor & Tower-11 (As per page no. 35 of the complaint)
8.	Unit area admeasuring	1605 sq. ft. (Super area) 945 sq. ft. (Carpet Area) (As per page no. 35 of the complaint)
9.	Allotment letter	05.03.2023 (As per page no. 23 of the complaint)
10.	Date of agreement for sale	04.05.2023 (As per page no. 31 of the complaint)
11.	Possession clause	7. POSSESSION OF THE APARTMENT <i>7.1 Schedule for possession of the said Apartment:</i> <i>(i) The developer agrees and understands that timely delivery of possession of the apartment along with right to use car parking (if applicable) to the allottee and the common areas to the association of allottee or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the agreement.</i> (As per page no. 44 of the complaint)
12.	Due date of possession	31.01.2028 (As per RERA registration)



13.	Total sale consideration	Rs.2,15,71,200/- (As per payment plan on page no. 16 of the complaint)
14.	Amount paid by the complainant	Rs.14,78,560/- (Rs.10,78,560 as per customer ledger dated 29.12.2023 on page no. 92 of the complaint and Rs.4,00,000/- through RTGS on page no. 93 of the complaint)
15.	Occupation Certificate	Not obtained
16.	Offer of possession	Not offered
17.	Demand letter	05.03.2023, 13.06.2023 & 27.10.2023 (As per page no. 71, 125 and 128 of the reply)
18.	Pre-cancellation notice	10.07.2023 & 23.11.2023 (As per page no. 78 & 79 of the complaint)
19.	Cancellation notice	08.12.2023 (As per page no. 81 of the complaint)
20.	Refund of the paid-up amount of Rs.14,78,560/- through RTGS	21.02.2024 (As per page no. 134 of the reply)

B. Facts of the complaint:

3. That the complainant has made following submissions:
 - I. That the complainant, Mr. Satbir Singh is respectable and law-abiding citizen and is residing at B-802, Sarve Satyam Apartments, Plot No. 12, Sector-4, Dwarka, New Delhi.
 - II. That somewhere around 2023, the respondent gave advertisement in various leading newspapers about their forthcoming project of residential units by name of "M3M Crown Phase-1" in sector 111, Gurgaon promising various advantages, like world class amenities and timely completion/execution of the project, with one gold coin, 26 white gold, and 26 months free maintenance along with two parking space etc.



- III. That believing the false assurances and misleading representations of the respondent, the complainant purchased the unit bearing no. CN TW-11-0501, Tower-11, 5th floor along with a parking space at the total cost of Rs.2,15,71,200/- admeasuring 945 sq. ft. of carpet area in the project M3M Crown Phase-1, located at Village Chauma, Sector-111, Gurugram and further assured with great honesty and loyalty that they will provide the possession of the said unit before the desired time along with a gold coin, 26 white golds and 26 months of free maintenance of the said unit with the 5:95 subvention payment plan.
- IV. That on 05.03.2023 the complainant allotted the said unit and issued a welcome letter and the allotment letter mentioning the details of the unit and further assured the complainant that the builder buyer's agreement would be executed within 10 days of the allotment. The complainant made a payment of Rs.10,78,560/- against the said unit which is very evident from the receipt dated 20.04.2023 and 29.05.2023.
- V. That, after receiving the 5% amount of the total sale consideration of the unit as agreed by them earlier, the respondent companies executed the builder buyer's agreement with the complainant on dated 04.05.2023. At the time of execution of the said BBA, the respondent company further assured that they would also help in processing of the loan formalities and will supply all the necessary documents as and when demanded by the bank officials.
- VI. That as agreed between the parties the rest of the payments were to be made by the banks as the said property is purchased under 5:95 subvention payment plan but despite that a payment of Rs.53,92,800/- was demanded on 13.06.2023 which is very evident from the statement of account dated 14.06.2023, following to it they also send a



pre-cancellation notice dated 10.07.2023 stating to pay the due amount otherwise they will cancel the said unit in question.

- VII. That the complainant contacted the respondent companies as to why the said pre-cancellation notice was issued against him but the respondent companies in a very fraudulent manner asked the complainant to ignore the demand made and the pre-cancellation letter dated 10.07.2023.
- VIII. That thereafter in the month of August, 2023 the complainant was shocked to know that the respondent companies along with their directors were charged under the Enforcement Directorate case and were sent to jail for the misact conducted by them. Thereafter the complainant visited the office of the respondent company where he was asked to hold on with his quires till the situation gets normal.
- IX. That on 02.11.2023, the complainant received a demand through email asking to make the payment before 16.11.2023. Then the complainant on 17.11.2023 visited the office of the respondent and informed the respondent companies that the loan against the said property would be sanctioned by early December 2023 under the same 5:95 subvention payment plan by Bank of Maharashtra and if in any case the Bank of Maharashtra would not sanction then IIFL is also a backup plan of action.
- X. That soon after a week on 23.11.2023, the complainant again got served a pre-cancellation notice stating the due amount of Rs.75,68,187/- is not paid by the complainant till now.
- XI. That on 25.11.2023, the complaint inquired about the same through an email and informed that IDFC and ICICI bank have taken a back seat after the sanctioning of the loan against the said unit as these banks could not feel the respondent companies reliable anymore and these

banks are asking for the requisite documents which the respondent companies are not providing to them. The complainant further informed that he is still attempting and making many efforts from other banks too i.e., Bank of Maharashtra, Central Bank of India and IIFL.

- XII. That further out of nowhere on dated 08.12.2023, the respondent company issued cancellation letter against the said unit stating the reason of the cancellation is default in making the payments. In response to that, the complainant, send an email dated 08.12.2023 and informed the respondent companies that the loan is in process under Bank of Maharashtra and will be sanctioned in 3-4 days.
- XIII. That on dated 12.12.2023 the loan was sanctioned by Bank of Maharashtra of Rs. 1,61,78,000/- and the same was communicated to the respondent company through an email.
- XIV. That on 14.12.2023 the complainant visited the office of the respondent company and upon the discussion it was held that the respondent company is at fault, and they are giving time to pay the payment and further setting aside the cancellation letter dated 08.12.2023. The complainant also asked the clarification regarding the opted payment plan i.e., 5:95 as no bank was in a position to disburse the loan amount at this payment plan.
- XV. That again, on 20.12.2023 the complainant was shocked to know that even after sharing the loan sanction letter with the respondent persons, they are deliberately and intentionally with an ill motive and ill design emailing regarding the cancellation again.
- XVI. That on 28.12.2023 the complainant also got a loan sanction from IIFL amounting to Rs.1,67,14,041/- against the said unit and the same was shared with the respondent.



- XVII. That on 29.12.2023 the complainant again visited the office of the respondent company and asked about the issue regarding the same but they in order to cheat, harass and extort more money asked the complainant to pay an amount of Rs.4,00,000/- against the said unit otherwise they would finally terminate the unit. Having no other option the complainant paid an additional amount of Rs.4,00,000/- as asked by the respondent on 30.12.2023.
- XVIII. That on 04.01.2024 the complainant was shocked to know from these company officials that despite receiving an additional amount of Rs.4,00,000/- the unit in question was cancelled.
- XIX. That thereafter from then till now the complainant made many requests by visiting the offices of the respondent companies and by sending emails to inquire about the aforesaid misconduct and fraudulent act of theirs, to which the representatives of the respondent company gave no reply. The complainant was completely taken aback by the said submission of the respondent persons. That, despite constant follow-ups and repeated request of the complainant, to resolve the issue and revive the unit but, the respondent companies never paid any heed to the complainant and deliberately ignored the complainant and there was always an unended demand from the respondent side to extort more money from the complainant. Thus, it is very arbitrary on the part of the respondent person to send the letter of cancellation of the above-mentioned unit.
- XX. That that the main rationale of the respondent behind the cancellation letter was that the respondent wants to sell the above said unit at a higher rate to some other buyer, as the price paid by the complainant's as per the BBA dated 04.05.2023 was low as compared to prices of the units in that area as of today. That the respondent company is an

experienced company in the business of making residential apartments, this deliberate act of cheating its customer and at the same time, committing a gross misconduct of non-compliance of the rule is nothing short of criminal.

- XXI. That the respondent simply duped the complainant of his hard-earned money and life savings. The aforesaid arbitrary and unlawful acts on the part of respondent have resulted into extreme kind of financial hardship, mental distress, pain, and agony to the complainant.
- XXII. That the present complaint has been filed in order to seek a direction to the respondent to set aside letter of cancellation send by the respondent dated 08.12.2023 and to get the registration of conveyance deed in favour of the complainant.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- Direct the respondent to set aside the letter of cancellation dated 08.12.2023 and restrain the respondent from charging any penalty from complainant.
 - Direct the respondent not to cancel the allotment of the unit.
 - Direct the respondent to handover the possession of the unit.
 - Direct the respondent to pay delayed possession charges along with prescribed rate of interest.
 - Direct the respondent to register the conveyance deed, in accordance with Section 17 of the Act of 2016.
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 has neither any cause of action nor any locus standi to maintain the present complaint against the respondent, especially when the complainant actually defaulted in making the payment as per the payment plan opted by him and is now seeking the complete modification of the terms and conditions of the understanding between the parties.
 - II. The respondent wants to bring to the kind knowledge of this Hon'ble Regulatory Authority that the complainant has not approached this Hon'ble Regulatory Authority with clean hands and is guilty of suppression of material facts absolutely relevant for just and proper adjudication of this complaint. It is submitted that after making independent enquiries and only after being fully satisfied with the quality of projects being developed by M/s. M3M India Pvt. Ltd. and its associate companies, the complainant through his broker M/s. Land Star Real Estate One Solution expressed his interest towards booking of a unit in one of its projects and paid an amount of Rs. 9,95,200/- (Rs. 50,000/- on 24.01.2023 and Rs. 9,45,200/- on 10.02.2023) towards an expression of interest. That thereafter, vide Application Form, the complainant expressed his interest in booking a residential unit in project "M3M Crown Phase 1", Sector 111, Village Chauma, Gurgaon Manesar Urban Complex, Gurgaon, a mixed- land use project being developed by the Respondent herein under a brand license agreement with M/s. M3M India Pvt. Ltd., and further requested that the payment made towards expression of interest be transferred towards the said Application Form.
 - III. That in due consideration of the part booking amount paid by the complainant and his commitment to make timely payments and on



being assured by the complainant to adhere by the terms of Application Form, the respondent company allotted residential unit bearing no. CN TW 11-0501, Tower 11, 5th Floor, having carpet area of 945 sq. ft., for a total consideration value of Rs. 2,15,71,200/- plus other charges, vide allotment letter dated 05.03.2023 in Project "M3M Crown Phase 1", Sector 111, Village Chauma, Gurgaon Manesar Urban Complex, Gurgaon. That the Complainant on his own free will and volition had opted for construction linked payment plan. That the respondent company as per the terms of allotment letter and payment plan opted by the complainant, raised a demand of Rs. 10,78,560/- vide demand letter dated 05.03.2023. It is pertinent to mention here that the amount paid towards the expression of interest i.e. Rs. 9,95,200/- was transferred towards the unit provisionally allotted to the Complainant i.e. unit bearing no. CN TW 11-0501 and thus, the Complainant was requested to only pay a sum of Rs. 83,360/- towards demand note dated 05.03.2023.

- IV. That the respondent company in furtherance of allotment letter sent copies of agreement for sale vide cover letter dated 14.03.2023 to the Complainant for due execution at his end. That the Agreement for Sale was duly signed and registered before sub-registrar, Gurugram vide vasika no. 1469 dated 04.05.2023.
- V. That since the complainant did not come forward to clear the outstanding dues raised vide demand letter, the respondent company was constrained to issue pre-cancellation notice dated 23.05.2023.
- VI. That thereafter, the complainant belatedly made payment of Rs. 83,360/- towards the outstanding dues on 29.05.2023 and the same was duly acknowledged by the respondent company vide receipt.



- VII. That the respondent company as per the payment plan opted by the complainant raised the demand vide demand letter dated 13.06.2023 for an amount of Rs. 53,92,800/- upon reaching the milestone of 'commencement of excavation'. Since the complainant did not come forward to make payment of outstanding dues, thus the respondent company was constrained to issue pre-cancellation notice dated 10.07.2023, but to no avail.
- VIII. That subsequently, as per the payment plan opted by the complainant, the respondent company raised demand of Rs. 75,49,920/- vide demand note dated 27.10.2023 upon reaching the milestone of 'commencement of PCC'. The said demand included the previous outstanding dues to the tune of Rs. 53,92,800/-. However, the complainant once again failed to come forward to make payment of the outstanding dues despite repeated notices, requests and follow ups.
- IX. That the complainant is a chronic defaulter who, time and again failed to make payment of outstanding dues, thus, the Respondent Company was constrained to issue a pre-cancellation notice dated 23.11.2023, but to no avail. That despite repeated reminders/notices and follow ups the complainant willingly continued defaulting in making payment of outstanding dues and breaching the terms of the Agreement for Sale.
- X. That since the complainant continued breaching the terms of Agreement for Sale by defaulting in making payment of outstanding dues despite repeated notices and requests the respondent company left with no other alternative issued a cancellation notice dated 08.12.2023, cancelling the allotment of unit bearing no. CN TW 11-0501 to the complainant. That the respondent company vide email dated 08.12.2023 informed the complainant that timely payment of dues as per payment schedule was critical essence of the arrangement



and that the complainant failed to make payment of dues as per schedule of payment despite various reminders and communications thus, the allotment of unit to him stands terminated.

- XI. Thereafter, the complainant approached the respondent and requested to reinstate the unit. The respondent company being a customer-oriented company agreed to the request of the complainant, subject to the Complainant clearing his pending dues. The respondent company, on the assurance given by the complainant, acceded to the said request of the complainant.
- XII. That vide email dated 14.12.2023 the respondent company in good faith, granted opportunity by providing two days' time to the complainant to clear outstanding dues amounting to Rs.75,49,950/- in order to retain the unit.
- XIII. However, despite all the leverages given, the complainant instead of clearing his dues and depositing Rs.75,49,950/-, just deposited Rs.4,00,000/-, hence, the cancellation remained in force and the same was duly informed to the complainant. The cancellation was done strictly in accordance with the terms and conditions of Agreement for Sale after giving him more than ample opportunities to clear his defaults.
- XIV. That the respondent company was constrained to cancel the unit on account of non-payment of demands raised by the respondent. it is submitted that the respondent has incurred various losses/damages on account of the breach of the terms of the Agreement for Sale by the complainant, which the complainant is liable to pay as per the terms of Agreement. That the complainant had made a total payment of Rs. 14,78,560/- i.e., 6.85% which is much less than 10% of the total



consideration of the allotted unit i.e., Rs. 2,15,71,200/- plus other charges.;

- XV. That without prejudice to its rights, being a customer-oriented company, to bring closure to the matter the respondent company refunded entire amount paid by the complainant without any deductions i.e., Rs.14,78,560/-, as full and final settlement of all the dues of the complainant vide RTGS on 21.02.2024, even though the respondent was entitled to deduct the entire amount deposited by the complainant being less than 10% of sale consideration. Thus, nothing survives in the present matter, the complaint is infructuous and is liable to be dismissed.
- XVI. That the complainant is a defaulter and has defaulted in making timely payments and therefore the respondent was constrained to cancel the allotment of the unit vide cancellation letter dated 08.12.2023. That in furtherance of the cancellation of the subject unit, the respondent company has allotted the unit to Saroon Kumar vide allotment letter dated 05.05.2024. That the unit being cancelled there is no privity of contract between the parties and the complainant has no right, title or interest in the unit in question and neither is the allottee of the same and therefore the complaint is infructuous.
- XVII. That the terms of agreement were entered into between the parties on 04.05.2023 and, as such, the parties are bound by the terms and conditions mentioned in the said Agreement. The said agreement was duly acknowledged by the complainant after properly understanding each and every clause contained in the agreement. The complainant was neither forced nor influenced by the respondent to sign the said agreement. It was the complainant who after understanding the



clauses signed the said buyer's agreement in complete senses and free will.

- XVIII. The complainant has suppressed many material facts, which are extremely relevant and crucial for the proper and just adjudication of the present dispute. For the reason the complainant has with mala-fide intent, suppressed material facts from this Hon'ble Authority, which tantamount to playing fraud upon this Hon'ble Authority, that the complainant do not deserve any relief and the present complaint merits dismissal on this count itself.
- XIX. That the complainant also maliciously filed a Police Complaint bearing no. 00013227102240086 dated 12.02.2024 pertaining to the same subject matter, with intent to defame the respondent company and pressure the respondent company to succumb to the malicious intent and illegal demands of the complainant. That the respondent company has duly filed reply dated 26.02.2024 to the said Police Complaint stating the true facts of the matter. That the complainant has filed the present infructuous and frivolous complaint with the sole motive to unjustly enrich himself at the cost of the respondent company. That the complainant is a chronic defaulter who failed to make timely payment of demands despite repeated reminders and notices and the Complainant is trying to take advantage of his own wrongs.
- XX. That as per the clauses of the Buyer's Agreement which is binding between the complainant and the respondent company, both have agreed upon their respective obligations and consequences in case of breach of any of the conditions specified therein. In view of the above, the captioned complaint is not maintainable in law and is liable to be dismissed in limine. It is a well settled proposition of law that the Courts cannot travel beyond what is provided in the



agreement/contract and generate altogether a new contract; the responsibility of the Court is to interpret appropriately the existing Contract and decide the rights and liabilities of the parties within the four corners of the contract.

- XXI. That the complainant has failed to fulfil his obligations stated in the terms of the Buyers Agreement executed between the parties and is trying to take the benefit of his own wrong for not making payment of pending dues despite repeated reminders and follow ups. That as per the Buyers Agreement, the complainant was under an obligation to make payments in a timely manner as and when demanded by the respondent as per the payment plan opted by him, the complainant failed to make timely payments and is a habitual defaulter who has been served with 3 Pre-cancellation letters by the respondent. Hence, being fully aware about the payment plan, the complainant failed to make timely payments and therefore is a defaulter. That under Section 19(6) RERA states that the complainant is responsible to make necessary payments in the manner and within time as specified in the Agreement and in case of default the complainant is liable to pay interest for delay under Section 19(7) of RERA.
- XXII. That the complainant has defaulted in making payment on time contrary to the agreed terms. It is submitted that various reminders were issued and follow-ups were made with the complainant for complying with his obligations under the terms of allotment and to make further payments. Even after repeated reminders, complainant did not come forward and comply with his obligations to make payments. Hence, complainant is not entitled to get any reliefs from the Hon'ble Authority.



XXIII. That the captioned complaint is frivolous, vague and vexatious in nature. The captioned complaint has been made to injure and damage the interest, goodwill and reputation of the Respondent and the said Project / Complex and therefore, the instant complaint is liable to be dismissed in *limine*. That the Complainant is not entitled to any reliefs as claimed herein since this Hon'ble Authority has no jurisdiction to entertain the present complaint.

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 submission made by the parties.

E. Jurisdiction of the authority:

8. The respondent has raised a preliminary submission/objection the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. 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

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



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)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee 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 promoter, the allottee and the real estate agents under this Act and the rules and regulations made thereunder.

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

F. Findings on relief sought by the complainant:

F.I Direct the respondent to set aside the letter of cancellation dated 08.12.2023 and restrain the respondent from charging any penalty from complainant.

F.II Direct the respondent not to cancel the allotment of the unit.

10. In the present complaint, the complainant was allotted a unit in the project "M3M Crown Phase-1, Sector-111, Gurugram vide allotment letter dated 05.03.2023. The agreement for sale was executed between the parties on 04.05.2023 and the complainant started paying the sale consideration and paid an amount of Rs.10,78,560/- at the time of booking against the sale consideration of Rs.2,15,71,200/-.
11. As per email dated 08.02.2024 on page no. 9 of the complaint, the respondent has offered 5:95 subvention scheme payment plan. The complainant has agreed with the 5:95 payment plan and opted payment plan, 5% of the sale consideration i.e., Rs.10,78,560/- has to be paid within 15 days of booking and as per the customer ledger dated



- 14.06.2023 issued by the respondent the same has been paid by the complainant on 05.03.2023 itself. After that on 13.06.2023, the respondent has raised a demand of Rs.53,92,800/- due on commencement of excavation but the same has been reversed on 31.08.2023. After that on 27.10.2023, the respondent has raised two demands of Rs.53,92,800/- and Rs.21,57,120/- due on commencement of excavation and commencement of PCC respectively but the complainant did not pay the same.
12. The Authority has observed that an agreement for sale dated 04.05.2023 has been executed between the parties and a construction linked payment plan was annexed with the buyer's agreement annexed at page no. 75 of the complaint, the above-mentioned demands due on commencement of excavation and commencement of PCC are to be raised separately but the same was raised on the same date i.e., 27.10.2023, it shows the respondent has not followed the agreed payment plan. Thereafter, the respondent has issued a pre-cancellation letter dated 23.11.2023 for payment of outstanding dues and finally terminated the unit on 08.12.2023. Now, the question arises before the Authority whether the cancellation issued by the respondent is valid or not?
13. The counsel for the complainant vide proceedings of the day dated 30.10.2025 draws attention of the Authority the respondent has violated the terms and conditions of the agreement for sale while cancelling the unit and did not give the 90 days' time to pay the outstanding dues.
14. The Authority has observed that as per clause 10.3 of the buyer's agreement for sale, if the allottee continues for a period beyond 90 days after the notice received from the developer in this regard, the

developer may terminate the agreement and cancel the allotment of the unit. In the present complaint, the last demand which was not paid by the complainant has raised on 27.10.2023 and the unit was cancelled on 08.12.2023 which means the unit was cancelled within 42 days from the date of last unpaid demand. It clearly depicts that the respondent has not abide the terms and conditions of the agreement for sale as well as the provisions of the Rules, 2017. Further, the Authority also observed that at the time of booking, the respondent company has offered 5:95 subvention scheme payment plan annexed at page no. 9 of the complaint but as per the RERA registration certificate no. 31 of 2023 dated 02.02.2023 granted by the Authority for the project in question as per condition no. 2(xii) *"There shall not be any subvention scheme/assured returned scheme for the registered project without prior approval of the Authority"*. Hence, the respondent has violated the terms and conditions mentioned in the registration certificate granted by the Authority.

15. On consideration of the email as well as WhatsApp conversation dated 30.12.2023 between the complainant and the respondent, the respondent has assured the revival of the unit of the complainant if the complainant pays an some part payment and the complainant has transferred an amount of Rs.4,00,000/- through RTGS on 30.12.2023 which makes the total amount paid by the complainant to the respondent an amount of Rs.14,78,560/-.
16. On consideration of all the documents placed on record and submissions made by the parties, the Authority is of the view the cancellation of the unit dated 08.12.2023 is not valid. Thus, the cancellation letter dated 08.12.2023 is invalid and the respondent is directed to reinstate the allotment of the unit of the complainant. In



case the allotted unit of the complainant is not available, the respondent is directed to allot an alternative unit of equivalent dimensions within the same project and at the original price agreed with the complainant followed by execution of agreement for sale between the parties.

F.III Direct the respondent to provide the possession of the unit.

F.IV Direct the respondent to make the payment of delay possession of Rs.17,93,564/- for the period from as per Act of 2016.

17. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.

18. In the present complaint, the complainants intend to continue with the project and are seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

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."

(Emphasis supplied)

19. The due date of possession of the apartment as per clause 7.1 of the agreement for sale dated 04.05.2023, is 31.01.2028.

20. Section 18 of the Act of 2016 talks about the delay possession charges to be paid to the allottee in case of failure of the promoter to complete or unable to give the possession of the unit within the stipulated period. In the present complaint, the due date of possession is not yet lapsed so the complainant is not entitled to delay possession charges unless the respondent fails to obtain the occupation certificate till 31.01.2028. Hence, no case of delayed possession charges is made out but the respondent is under an obligation to handover the unit on or before due date i.e., 31.01.2028 on payment of outstanding dues by the complainant as per the agreed payment plan.



21. Thus, the Authority hereby directs the respondent to handover the possession of the unit on or before due date of possession i.e., 31.01.2028 on payment of the sale consideration as per the agreed payment plan by the complainant.

F.V Direct the respondent to register the conveyance deed, in accordance with Section 17 of the Act of 2016.

22. As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.

23. The occupation certificate is yet to be obtained by the respondent. Thus, the respondent is directed to handover the possession of the unit after obtaining occupation certificate and get the conveyance deed executed in terms of section 17 of the Act of 2016.

G. Directions of the Authority:

24. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoters as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:

- i. Cancellation dated 08.12.2023 is bad in eyes of law and hence set-aside and the respondent is directed to reinstate the unit of the complainant within 30 days of this order. In case the allotted unit of the complainant is not available, the respondent is directed to allot an alternative unit of equivalent dimensions within the same project and at the original price agreed with the complainant followed by execution of agreement for sale between the parties.
- ii. The respondent is directed to issue a revised statement of account showing the due amount as per agreed payment plan within a period



of 30 days from the date of this order. The complainant is directed to pay outstanding dues next 30 days after issuance of the revised statement of account.

- iii. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- iv. The respondent is obligated to hand over the possession of the unit to the complainant after obtaining of occupation certificate/CC/part CC from the competent authority as per obligations under Section 11(4) (b) read with Section 17 of the Act, 2016 and thereafter, the complainant is obligated to take the possession within 2 months as per Section 19 (10) of the Act, 2016.
- v. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement. The respondent is also not entitled to claim holding charges from the complainant/allottee at any point of time even after being part of the buyer's agreement as per law settled by **Hon'ble Supreme Court in Civil Appeal Nos. 3864-3889/2020** decided on **14.12.2020**.

25. Complaint stands disposed of.

26. File be consigned to the registry.


(Phool Singh Saini)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 04.12.2025