

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

Complaint no.:
Date of decision:

1115 of 2025
12.11.2025

1. R Richa Bhriagu
 2. Navneet Kumar Sharma
- Both R/o:-** 2108, 1st Floor, Sector-46,
Gurugram-122013.

Complainants

Versus

1. M/s. Aawam Residency Private Limited
Registered Office at: SB/C/2L/Office/017A,
M3M Urban Complex, Gurugram-122102.
2. M/s. Adhikansh Realtors Private Limited
Registered Office at: SB/C/2L/Office/017A,
M3M Urban Complex, Gurugram-122102.

**Respondent
no.1**

**Respondent
no.2**

CORAM:

Ashok Sangwan

APPEARANCE:

Priyanka Agarwal (Advocate)

Shriya Takkar (Advocate)

Member

Complainants

Respondents

ORDER

1. The present complaint has been filed by the complainants/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 29 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 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 and delay period, if any, have been detailed in the following tabular form:

Sr. No.	Particulars	Details
1.	Name of the project	" M3M Soulitude"
2.	Location of the project	Sector-89, Village-hayatpur, Tehsil-Harsaru, Gurugram, Haryana.
3.	Nature of the project	Affordable Plotted Colony- Independent Floor
4.	DTCP license no.	License no. 32 of 2021 Dated 03.07.2021
5.	Registered/not registered	Registered Vide registration no. 69 of 2021
6.	Allotment letter	04.02.2022 (As on page no. 29 of complaint)
7.	Independent Floor Residence/unit No.	H-105/2, plot no.-H-105, Floor/Level Flat, on 2 nd (As on page no. 52 of complaint)

8.	Area	827.72 sq.ft [Carpet Area] 1499 sq.ft. [Super-Area] (As on page no.52 of complaint)
9.	Agreement For Sale	29.09.2022 (As on page no. 44 of complaint)
10.	Possession clause	Clause 7 POSSESSION OF THE FLOOR RESIDENCE 7.1 Schedule for possession of the Floor Residence:- (ii) Before the completion period i.e., 30.09.2025 or as may be further extended by the HRERA
11.	Due date of possession	30.09.2025
12.	Payment plan	i. Within 10 days of booking- Rs.10,15,197/- ii. Within 30 days of booking- Rs.30,45,593/- iii. On application of OC- Rs.50,75,988/- iv. On Notice of offer of possession-Rs.10,15,196/-
13.	Sale consideration	Rs.1,01,51,974/- (As on page no. 92 of compliant)
14.	Total amount paid by the complainant	Rs.40,60,790/-
15.	Reminders	04.09.2024

16.	Pre-Cancellation Notice	19.09.2024 (As on page no. 97 of reply)
17.	Cancellation letter	10.12.2024 (As on page no. 102 of reply)
18.	Refund cheque	01.03.2025 (As on page no. 106 of reply)

B. Facts of the complaint:

3. The complainant made the following submissions in the complaint.
 - I. That the residential floor project "M3M Soulitude" situated at Sector-89, District, Gurugram was launched by respondent, under the license no. 32 of 2021 dated 03.07.2021, issued by DTCP, Haryana, Chandigarh, situated at Sector - 103, Gurugram.
 - II. That the respondent painted a rosy picture of the project in its advertisements making tall claims. That the respondent Companies are the sister concerns/ associate companies of M3M India Limited, who has now become renowned for its fraudulent and corrupt mode of business practices. The project in question is the same which was recently in news for their sheer violations of the RE (R&D) Act, 2016, wherein they had advertised and marketed the project before obtaining RERA Registration and defrauding hundreds of allottees by collecting lakhs of rupees from them in the garb of brand name M3M.
 - III. That the respondents are habitual offenders and have started to use the same dirty tricks with everyone. The malafide conducts of the respondents can be assessed from the very fact that recently, in the month of November 2024, a joint complaint by the allottees of the project in question, i.e., "M3M SOULITUDE" was filed before the

Hon'ble Chairman, HRERA, Gurugram, wherein, hundreds of allottees were cheated by the respondent companies.

- IV. That it is after the intervention of the Authority that the respondent immediately settled the matters with the allottees as their other projects were pending approval for registration. The complainants are law-abiding citizens of India, who, were allured by the advertisement of the respondent and believing on the plain words of respondent in utter good faith the complainants were duped of their hard-earned monies which they have saved from bonafide resources by the respondent in the garb of running a builder construction company by using the moonshine reputation of the Brand Name "M3M".
- V. The complainants while searching for a unit was lured by such advertisements of company and calls from broker of the respondent for buying a residential unit in their project.
- VI. That the respondents had already acquired the proficiency to throw dust in the eyes of the law and the Authority and doing fraudulent activity of selling the project before getting RERA Registration in 2021. It is pertinent to mention that section 3 of the Real Estate (Regulation & Development) Act 2016, (hereinafter referred to as the Act), strictly bars the builder to advertise, sell and/or collect the money from buyers without registering the project before the Authority.
- VII. That Section 13 of the Act, 2016 specifically says that the promoter/builder cannot accept more than 10% of the Total sale Consideration without executing the Agreement to Sell, despite this fact, the respondent raised the demand and accepted the payment of

Rs. 40,60,790/- which is 40% of Total Sale Consideration till December 2021, before even issuing the Allotment Letter dated 04.02.2022, which is a clear violation of Section 13.

- VIII. In 2021, the respondent company, which are sister concerns/ associate companies of "M/s M3M India Private Limited" issued an advertisement announcing a Residential Floor Project "M3M Soulitude" at Sector- 89, District, Gurugram was launched by respondent, under the license no. 32. of 2021 dated 03.07.2021, issued by DTCP, Haryana, Chandigarh, situated at Sector-89, Gurugram, Haryana and thereby invited applications from prospective buyers for the purchase of unit in the said project.
- IX. That the respondents confirmed that the projects had got Building Plan Approval from the authority. Relying on various representations and assurances given by the respondent and on belief of such assurances, the allottees booked a 3BHK independent floor in the project.
- X. That the complainants were allotted a 3BHK independent residential floor bearing no. H-105/2, 2nd Floor, Block-Harmony; corresponding Plot no. as per Layout Plan-D-8; admeasuring carpet area 827.72 sq. ft. As per the Allotment Letter, the total sale consideration of the unit was Rs.1,01,51,974/- including BSP, IDC, EDC, Parking Charges, PLC & GST, out of which, the complainant has already paid a sum of Rs.40,60,790/ ,i.e.,40% of the Total sale Consideration.
- XI. That the Agreement for Sale was executed between the parties on 29.09.2022, after accepting 40% of the Total sale Consideration. It is pertinent to mention that the respondent has illegally tampered with the prescribed format of the Agreement to Sell, wherein they

- have illegally changed clause 9.3 to their own benefit. It specifically states that in case the allottee fails to make payments for two consecutive demands made by the promoter as per the payment plan, only then, the promoter can cancel the allotment and refund the money allottee about such termination at least thirty days prior to such termination.
- XII. However, the respondents have illegally tampered the aforesaid clause in their BBA Format, which was executed with the complainants to their own benefit, wherein the respondent has altered the Clause 9,3 (i) and gave themselves the right to terminate the allotment in case the allottee fails to make payments for any demand for the agreed instalment made by the promoter.
- XIII. That the complainant had opted for "Time Linked Plan", as per which, 4 instalments were fixed in the following manner:
- Within 10 days of Booking: 10% of Total Sale Value.*
 - Within 30 days of Booking (Subject to signing of BBA): 30% of the Total Sale Value.*
 - On Application of OC: 50% of Total Sale Value.*
 - On Notice of Offer of Possession: 10% of the Total Sale Value.*
- XIV. That the complainants had already paid the first 2 instalments, i.e., 40% of the Total Sale Value, by 02.02.2022, i.e., before the execution of Agreement for Sale, and was not liable to make any further payments till application of Occupation Certificate by the respondents.
- XV. That the respondent sent a Demand Letter dated 06.08.2024, raising the demand of third instalment, i.e., on application of Occupation Certificate, for the sum of Rs.50,75,987/-
- XVI. It is pertinent to mention that the project in question is still not complete and whether the respondent has applied for Occupation

- Certificate or not, is still a mystery, as no document on record was produced by the respondent to show their bonafide that the application has been made to the concerned department.
- XVII. That the respondent has made it a tactic to raise the demand which is due at the time of "application of OC" without providing any information to the allottees, that merely submitting an incomplete application before the concerned authority for grant of Occupation Certificate which might get rejected afterwards is not a valid application. The allottee has every right to know whether all the requisite documents and NOCs were obtained before making such application to the concerned department.
- XVIII. That the respondent sent a reminder letter dated 04.09.2024, with additional interest of Rs.14,589/-. The respondent sent payment reminder email dated 25.09.2024 to the complainant to which, the complainant responded on 28.09.2024, stating that they are not in the country and will be back on 03.10.2024. The complainant made it very clear that he has every intention to make the complete payment with interest once they reach India.
- XIX. The respondent sent an email dated 28.09.2024, informing the complainant to come on 4th October to make payments. The complainant sent an email dated 08.10.2024, informing that the complainant had visited the respondent's office on Saturday (05.10.2024). However the office was closed and then again on Monday, (07.10.2024), however, there was no one from the Customer Relationship Team to assist the complainant and thus, again requested for a date to visit their offices.

- XX. That the complainants were shocked to receive the Cancellation Letter dated 10.12.2024 from the respondent despite multiple attempts to co-ordinate and make the payments.
- XXI. That the complainants wrote several emails seeking clarification from the respondent as to how their allotment was terminated despite being clearly communicated that the complainants have every intention to make payments and even the interest, the delay was only on account of the fact that the complainants were Out of India.
- XXII. That the project in question, i.e. "M3M Soulitude" has garnered the attention of several high-end buyers, causing a steep hike in the rates of the project, the aforesaid Builders/Promoters are attempting to ditch the old allottees in order to sell their units to new buyers at much higher premium rates.
- XXIII. That the respondent despite having made multiple tall representations to the complainants, the respondent has chosen deliberately and contemptuously not to act and fulfil the promises and have given a cold shoulder to the grievances raised by the cheated allottees.

C. Relief sought by the complainant:

4. The complainant has filed the present compliant for seeking following reliefs:
- i. Direct the respondent to provide the proof of application of Occupation Certificate for the project in question.
 - ii. Set aside the Cancellation letter dated 10.12.2024.
 - iii. Restrain the respondent from creating third party rights in the said unit and maintain Status Quo till the final disposal of the complaint.

- iv. Direct the respondents to raise demand in accordance with the Payment Plan.
 - v. Hand over possession of the said unit with the amenities and specifications as promised in all completeness without delay and not to hold delivery of the possession.
 - vi. Direct the respondent to get the Conveyance Deed executed after receipt of Occupation Certificate and not to charge anything which not agreed upon.
 - vii. Suspend the RERA registration of the project for sheer violations of the provisions of the Act, 2016.
 - viii. Impose stay on further sale of the project in question.
 - ix. Freeze the bank accounts of the respondents immediately.
 - x. Form a high end committee, to audit all the allottee related documents executed by the respondent companies, as well as the entire "M3M Group" for tampering with the HRERA prescribed BBA Format.
 - xi. Direct the respondents to furnish the record of all the allottees of the project in question along with documents executed with the said allottees.
 - xii. Appoint a Local Commissioner for structural audit of the project in question.
5. On the date of hearing, the Authority explained to the respondent /promoter about the contravention 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 respondent:

6. The respondent has contested the present complaint on the following grounds:
- I. That the complainants after making independent enquiries and only after being fully satisfied about the project approached the respondent through their broker M/s. Jaguar Landbase applied for booking an independent floor residence in the project 'M3M Soulitude', an Affordable Plotted Colony being developed under DDJAY scheme by the respondents situated in Sector-89 Gurugram vide Application Form. The complainants had signed and submitted the Application form after duly understanding all the clauses stipulated therein and paid part booking amount towards the same.
 - II. That in due consideration of the complainants' commitment to make timely payments, independent floor bearing no. H-105/2 in the project was allotted to the complainants vide allotment letter dated 04.02.2022. The cost of the independent floor for an area admeasuring 827.72 sq. ft. carpet area was Rs.1,01,51,974/- plus taxes and other charges. The complainants collected the copy of the Buyers Agreement for execution at their end from the office of the respondent and had opted for a time linked payment plan.
 - III. That as per the payment plan opted by the complainants, the respondent vide letter dated 04.02.2022 raised the demand due within 10 days of booking. The respondent in accordance with the payment plan raised the demand vide letter dated 04.02.2022 to the tune of Rs.30,45,592/- which was due within 30 days of booking payable on or before 02.03.2022.
 - IV. That on 04.02.2022, the respondent sent copies of other related documents vide cover letter and requested the complainants to execute the same. The respondent again vide cover letter dated 21.02.2022

- dispatched the triplicate copies of the Buyers Agreement for due execution at the complainant's end.
- V. In view of the booking and commitment to make timely payments, the respondent vide Acknowledgement letter dated 05.04.2022 offered the complainants a discount/rebate per month to provide the complainants, the comfort of the respondent's commitment to deliver the unit on time. As per the terms of the letter, the respondent shall pay Rs.29,006/- per month as discount/rebate from the completion of 2nd milestone of payment plan till the date of filing of application for grant of Occupation Certificate and the same shall be accumulated and adjusted from the final demand due on notice of offer of possession.
- VI. Further, it was agreed that the respondent shall pay a monthly sum of Rs.30,000/- towards rebate /discount which shall start from the date of taking actual physical possession of the Independent Floor Residence till 12 months from the date of physical handover. However, it was clearly stated in Clause 5 read with Clause 7 and Clause 16 of the acknowledgment letter that the discount/rebate shall be given to the complainants only on making all payments in a timely manner within the timelines mentioned in the demand notices. Thus, the pre-requisite for availing the discount/ rebate amount was that the allottee should make payments on all the demands within the time stipulated in the demand letters.
- VII. Thereafter the Buyers Agreement was executed between the parties on 29.09.2022 and the same was duly registered. The respondent applied for the grant of Occupation Certificate, since, the complainants were as facing financial difficulties therefore, to accommodate them the respondent raised the demand due on application of Occupation

Certificate on a later stage. The respondent raised the demand due on application of Occupation Certificate vide demand letter dated 06.08.2024 raised the demand due on application of OC to the tune of Rs.50,75,988/- and requested the complainants to pay the same on or before 26.08.2024.

- VIII. That the complainants failed to make the payment of the outstanding dues raised vide the demand letter dated 06.08.2024 and reminder dated 28.08.2024, the respondent sent another reminder vide letter dated 04.09.2024 to make good the payment of the outstanding dues along with delayed interest within 7 days from the date of notice. The reminder was thus, the second notice of default.
- IX. That the complainants did not come forward to make good the due amounts therefore, the respondent sent the third reminder vide email dated 11.09.2024 requesting the complainants to pay the outstanding dues along with delayed interest. However, the complainants failed to make the payment of the due amounts.
- X. Since, the complainants did not pay any heed to the demand letter dated 06.08.2024, reminders dated 28.08.2024, 04.09.2024, 11.09.2024 therefore, the respondent issued another reminder dated 25.09.2024 requesting the complainants to deposit their pending dues along with interest, but to no avail. The complainants were defaulters, therefore the respondent vide emails dated 11.09.2024 and 25.09.2024 informed that the benefits of rebate/discount are null and void.
- XI. The complainants failed to make the payment of the dues and continued to breach the terms of the Buyers Agreement despite various reminders, the respondent left with no other alternative issued a pre-cancellation letter dated 19.09.2024 calling upon the complainants to make the

payment of the outstanding dues within 07 days from the date of the notice, failing which the respondent shall be constrained to cancel the booking/allotment of the unit.

- XII. Despite the issuance of the aforesaid pre-cancellation, the complainants continued to breach the terms of the Buyers Agreement and failed to make the payment of the outstanding dues. The Respondent Company vide email dated 28.09.2024 again requested the complainants to make the payment of the outstanding dues along with delayed interest to revoke pre-cancellation, but to no avail. Further the respondent vide emails dated 08.10.2024 and 04.12.2024 again gave opportunities to the complainants to come forward and make the payment of the outstanding dues, but to no avail.
- XIII. That the complainants continued to breach the terms of the Buyers Agreement duly executed between the parties and failed to make the payment of the pending dues. As a consequence of the same, the respondent left with no other alternative, cancelled the allotment of the complainants vide cancellation letter dated 10.12.2024 after following the due process. The respondent again vide emails dated 16.12.2024, 17.12.2024 and 20.12.2024 intimated to the complainants that the unit stands cancelled.
- XIV. The respondent had refunded the amount deposited by the complainants to the tune of Rs.30,93,936/- post deductions of earnest money to the complainants vide cheques bearing no. 002843 and 002844 drawn on ICICI Bank dated 20.02.2025 for an amount of Rs.15,46,968/- each in favour of complainant no.1 and complainant no.2 respectively vide cover letter dated 01.03.2025. However, the complainant did not accept the

aforesaid cheques. The respondent is not liable to pay any interest on the refundable amount beyond 01.03.2025.

- XV. Pursuant to cancellation of the unit, the respondent re-allotted it to Mr. Rakesh Kumar Kothari on 10.03.2025 and thus, the complainants have no privity of contract with the respondent and have no right, title or interest in the unit in question and neither is the allottee of the same and therefore the complaint is infructuous. Thus, the present complaint is liable to be dismissed at the outset.
- XVI. The respondent had refunded the amount deposited by the complainants of Rs.30,93,936/- post deductions of earnest money to the complainants, for an amount of Rs.15,46,968/- each in favour of complainant no.1 and complainant no.2 respectively vide cover letter dated 01.03.2025. However, the complainant did not accept the aforesaid cheques. The respondent is not liable to pay any interest on the refundable amount beyond 01.03.2025.
- XVII. Despite adverse circumstances like NGT orders, COVID 19 pandemic, the respondent completed the construction and applied for grant of Occupation Certificate and the same was received on 29.07.2024. The Buyer's Agreement dated 29.09.2022 was executed between the parties and the same was duly registered. The parties as such are bound by the terms and conditions mentioned in the said Buyer's Agreement.
- XVIII. That the respondent raised the demand due on "application of Occupation Certificate" vide demand letter dated 06.08.2024 to the tune of Rs.50,75,988/- and requested the complainants to pay the same on or before 26.08.2024. The complainants failed to make pay the pending dues within the prescribed time limit therefore, the respondent vide email dated 28.08.2024 requested the complainants to come forward and

make the payment of the pending dues along with interest accrued. The complainants failed to make the payment of the outstanding dues raised vide the demand letter dated 06.08.2024 and reminder dated 28.08.2024, the respondent sent another reminder letter dated 04.09.2024 to make the payment of the outstanding dues along with interest within 7 days from the date of notice. The said reminder letter was shared with the complainants vide email dated 07.09.2024. The respondent sent the third reminder vide email dated 11.09.2024 requesting the complainants to pay the outstanding dues along with delayed interest. Since, the complainants did not pay any heed to the demand letter dated 06.08.2024, reminders dated 28.08.2024, 04.09.2024, 11.09.2024 therefore, the respondent issued another reminder dated 25.09.2024 requesting the complainants to deposit their pending dues along with interest, but to no avail.

- XIX. The complainants did not pay any heed to the demand letter dated 06.08.2024, reminders dated 28.08.2024, 04.09.2024, 11.09.2024 therefore, the respondent issued another reminder dated 25.09.2024 requesting the complainants to deposit their pending dues along with interest. Ultimately, the respondent issued pre-cancellation dated 19.09.2024 calling upon the complainants to make the payment of the outstanding dues within 07 days from the date of the notice, failing which the respondent shall be constrained to cancel the booking/allotment of the unit.
- XX. Despite the issuance of the aforesaid pre-cancellation, the complainants continued to breach the terms of the Buyers Agreement and failed to make the payment of the outstanding dues. The respondent vide email dated 28.09.2024 again requested the complainants to make the payment

of the outstanding dues along with delayed interest to revoke pre-cancellation, but to no avail. Further the respondent vide emails dated 08.10.2024 and 04.12.2024 again gave opportunities to the complainants to come forward and make the payment of the outstanding dues. Thus, the complainants were in default of their contractual obligations as well as obligations under Sec 19(6) , 19(7) of the Act, 2016.

XXI. However, the complainants continued to breach the terms of the Buyers Agreement and failed to make the payment of the pending dues. As a consequence of the same, the respondent left with no other alternative, cancelled the allotment vide cancellation letter dated 10.12.2024. Post cancellation of allotment, the complainants have no right, title or interest over the unit in question nor have any privity of contract with the respondent.

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

E.1 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;

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 complainants at a later stage.
10. Further, the Authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357*** and reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like

'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

11. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the Authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Findings on the relief sought by the complainant

- F.I Direct the respondent to provide the proof of application of Occupation Certificate for the project in question.**
- F.II Set aside the Cancellation letter dated 10.12.2024.**
- F.III Restrain the respondent from creating third party rights in the said unit and maintain Status Quo till the final disposal of the complaint.**
- F.IV Direct the respondents to raise demand in accordance with the Payment Plan.**
- F.V Hand over possession of the said unit with the amenities and specifications as promised in all completeness without delay and not to hold delivery of the possession.**
- F.VI Direct the respondent to get the Conveyance Deed executed after receipt of Occupation Certificate and not to charge anything which not agreed upon.**
- F.VII Suspend the RERA registration of the project for sheer violations of the provisions of the Act, 2016.**
- F.VIII Impose stay on further sale of the project in question.**

- F.IX Freeze the bank accounts of the respondents immediately.**
- F.X Form a high end committee, to audit all the allottee related documents executed by the respondent companies, as well as the entire "M3M Group" for tampering with the HRERA prescribed BBA Format.**
- F.XI Direct the respondents to furnish the record of all the allottees of the project in question along with documents executed with the said allottees.**
- F.XII Appoint a Local Commissioner for structural audit of the project in question.**

12. The abovesaid reliefs are being dealt together. In the present complaint, the complainants intends to continue with the project and are seeking setting aside of the Cancellation dated 10.12.2024.
13. In the present case, the complainants have submitted that the unit bearing no. H-105/2, 2nd floor, Block-Harmony admeasuring 827.72 sq.ft. was allotted to the complainants through an allotment letter dated 04.02.2022. The Agreement For Sale was executed between the complainants and the respondent on 29.09.2022. As per clause 7.1 of the Agreement For Sale dated 29.09.2022, the due date for possession was 30.09.2025. The complainants had opted for "Time Linked Payment Plan". As per the said payment plan, the instalments were to be made in the following manner:
- i. *Within 10 days of Booking: 10% of Total Sale Value.*
 - ii. *Within 30 days of booking (Subject to signing of BBA) : 30% of the Total Sale Value.*
 - iii. *On application of OC: 50% of Total Sale Value.*
 - iv. *On Notice of Offer of Possession : 10% of the Total Sale Value.*
14. Further, the complainants have already paid the first two instalments i.e., 40% of the Total Sale Value, by 02.02.2022, i.e., before the execution of Agreement for Sale, and was not liable to make any further payments till application of Occupation Certificate. The respondent sent a Demand Letter dated 06.08.2024, raising the 3rd

instalment, i.e., on application of Occupation Certificate for an amount of Rs.50,75,987/-. There is nothing on record to show that the respondent has made the said application to the concerned department or not. The respondent cancelled the unit via Cancellation Letter dated 10.12.2024.

15. The respondent submitted that the Buyer's Agreement was executed between the complainants and respondent on 29.09.2022 and the same was duly registered. The respondent raised the demand due on application of Occupation Certificate vide demand letter dated 06.08.2024 and raised the demand to the tune of Rs.50,75,988/- and requested the complainants to pay the same on or before 26.08.2024. Vide email dated 28.08.2024, the respondent requested the complainants to come forward and make the payments. Another reminders dated 04.09.2024, 11.09.2024, 25.09.2024 were issued by the respondent to the complainants. Thereafter, the respondent issued a pre-cancellation letter on 19.09.2024 to the complainants and the same was also sent vide email dated 21.09.2024. Vide email dated 28.09.2024 again, the respondent requested the complainants to make the payment of the outstanding dues along with delayed interest. Further, vide emails dated 08.10.2024 and 04.12.2024 again gave opportunities to the complainants to make the payment of the outstanding dues. Left with no other option, the respondent cancelled the allotment of the complainants vide Cancellation letter dated 10.12.2024 and the same was duly sent to the complainants vide email dated 11.12.2024. Again vide emails dated 16.12.2024, 17.12.2024 and 20.12.2024 intimated to the complainants that the unit stands cancelled. The respondent refunded the amount of Rs.30,93,936/- post

deductions of earnest money to the complainants vide cheque bearing no. 002843 and 002844 drawn on ICICI Bank dated 20.02.2025 for an amount of Rs.15,46,968/- each in favour of complaint no.1 and complainant no.2 respectively. However, the complainants did not accept the aforesaid cheques and thus, the respondent is not liable to pay any interest on the refundable amount beyond 01.03.2025. Pursuant to cancellation of the unit, the respondent re-allotted it to Mr. Rakesh Kumar Kothari on 10.03.2025.

16. The Authority observes that the Allotment Letter dated 04.02.2022 was issued in the favor of the complainants and unit bearing no. H-105/2, Type-3BHK, Block-Harmony, Floor-2, admeasuring 827.72 sq.ft. of Carpet Area for a total sale consideration of Rs.96,68,548/-. The Agreement For Sale was executed between the parties on 29.09.2022. As per the Payment Plan, the complainants had to make the payment in 4 stages i.e.,
- Within 10 days of booking-10% of TCV.*
 - Within 30 days of booking (Subject to signing of Builder Buyer Agreement)-30% of TCV.*
 - On Application of OC-50% of TCV.*
 - On Notice Of Offer of Possession-10% of TCV.*
17. The respondent had issued demand letters and the payments were made by the complainants in respect of the first two stages of the Payment Plan i.e, "Within 10 Days of Booking" and "Within 30 Days of Booking" and the respondent has issued the receipts dated 01.12.2021 and 02.02.2022 respectively. The demand was issued against the third instalment i.e., "On Application of OC" on 06.08.2024 and called upon the complainants to make the payment on or before 26.08.2024. Thereafter, the respondent issued "Reminder-I/Demand II" on 04.09.2024, and sent reminder letters through Emails dated

07.09.2024, 11.09.2024, 25.09.2024. The respondent had sent a "Pre Cancellation Letter" to the complainants on 19.09.2024 and a period of 7 days was granted to the complainants to make the payment of the outstanding dues. Finally, on 10.12.2024, the respondent sent a "Cancellation Notice" to the complainants, cancelling their allotment in the project and sent an email regarding the same to the complainants on 11.12.2024.

18. The Authority is of the view that as per the *Rule 47(1) of the Punjab Schedule Roads and Controlled Area Restriction of Unregulated Development Rules 1965 of Act No. 1 of 1963*, M/s. Adhikaansh Realtors Private Limited has applied for the issuance of the Occupation Certificate through Vaibhav Vashist, Architect. COA Regd No. CA/2007/41326 under the self certification policy as per DTCP Memo No. Misc-2484-DS/2022/34493-94 Dated 16.11.2022, on 29.07.2024 and the third milestone for raising the demand from the complainants i.e. "On Application of the Occupation Certificate" commenced on this very date i.e., 29.07.2024. Thus, proper process has been followed by the respondent in cancelling the allotment of the complainant's unit and ample opportunities have been granted to the complainants by the respondent for making the payment of the outstanding dues. The cancellation dated 10.12.2024 is upheld.
19. In this case, refund can only be granted after certain deductions as prescribed under the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, which provides as under: -

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts

and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment/plot/building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer"

20. Thus, keeping in view the aforesaid factual and legal provisions, the respondents are liable to refund the paid-up amount of Rs.40,60,791/- after deducting 10% of the sale consideration being earnest money along with an interest @10.85% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of cancellation i.e., 10.12.2024 till the date of actual refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

G. Directions of the Authority:

21. 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) of the Act.
- i. The respondents are directed to refund the paid-up amount of Rs.40,60,791/-, after deducting 10% of the sale consideration being earnest money along with interest on such balance amount at the rate of 10.85% as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, from 10.12.2024 till its actual realization.

ii. 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.

22. Complaint stands disposed of.

23. File be consigned to the registry.

Dated: 12.11.2025



(Ashok Sangwan)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram

