

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

Complaint no. : 4341 of 2023
First date of hearing: 05.01.2024
Order reserved on: 31.10.2025
Order pronounced on: 28.11.2025

Shipra Godhwani D/o Mr. Sudhir Chandra
Address: House No. -M39, Greater Kailash,
First Floor, South Delhi, Delhi-110048

Complainant

Versus

Splendor Buildwell Pvt. Ltd
Address: Splendor forum, 5th floor, Plot-3, Jasola
District Centre, New Delhi-110025

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Shri Rakesh Sharma
Ms. Shriya Takkar

Advocate for the complainant
Advocate for the respondent

ORDER

1. The present complaint dated 27.09.2023 has been filed by the complainant 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 thereunder or to the allottee as per the agreement for sale executed inter se.

A. Project and unit 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, delay period, if any, have been detailed in the following tabular form:

S.No.	Particulars	Details
1.	Name of the project	"Splendor Spectrum One", Sector-58, Gurgaon
2.	Nature of the project	Commercial Space
3.	RERA registered/not registered	Registered vide registration no. 376 of 2017 dated 07.12.2017
	Validity status	31.12.2018
4.	DTPC License no.	82 of 2010 dated 12.10.2010
	Validity status	29.05.2020
	Licensed area	6.775 acres
	Name of licensee	M/s Ishayu Builders and Developers Pvt Ltd
5.	Date of application form/booking	11.04.2012 [Page 22 of complaint]
6.	Date of MOU	13.04.2012 [Page 11 of complaint]
7.	Unit No./Office Space	NA
8.	Area admeasuring	1500 sq. ft. (super area) [Page 13 of complaint]

9.	Assured return clause	<p>2. <u>That the Developer will pay Rs. 60/- (Rupees Sixty Only) per sq. ft. per month on 1500 sq. ft. as an assured return to the Intending Allottee from 14th April 2012 till the completion of the Said Project. Thereafter, the Developer shall pay Rs. 50/- (Rupees Fifty Only) per sq. ft. per month on 1500 sq. ft. as assured rental till the Said Unit is leased out to the prospective Lessee(s).</u></p> <p>[Page 14 of complaint]</p>
10.	Total sale consideration	<p>Rs. 40,50,000/-</p> <p>[As per clause 2 of MOU, page 13 of complaint and as admitted by respondent, page 4 of reply]</p>
11.	Total amount paid by the complainant	<p>Rs. 40,50,000/-</p> <p>[As per clause 3 of MOU, page 13 of complaint]</p>
12.	Occupation certificate	<p>06.09.2019</p> <p>[Page 86 of reply]</p>
13.	Offer of possession	<p>25.02.2021</p> <p>[Page 88 of reply]</p>
14.	Request by respondent to take possession	<p>30.03.2021</p> <p>[Page 90 of reply]</p>
15.	Pre- cancellation notice on	<p>12.08.2023</p> <p>[Page 93 of reply]</p>

		[Providing 15 days of time to make payment otherwise unit would be cancelled without further notice]
16.	Notice for cancellation on	13.10.2023 [Page 95 of reply]
17.	Assured return paid by the respondent to complainant w.e.f. 14.04.2012 till 30.06.2018	Rs. 69,81,000/- [As stated by the respondent, page 4 of reply]
18.	Maximum liability clause 40.	<i>That in no event and under no circumstances the maximum liability of the developer on any account whatsoever shall exceed the amount received by the developer from the intending allottee pursuant to the present document nor the entitlement of the intending allottee on all the accounts together including refund/ interest/ damages etc. shall exceed the amount paid by the intending allottee to the developer.</i>
19.	Third Party rights already executed, and CD executed on	21.10.2023 [Page 11 of the rejoinder filed by the respondent]

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:

- I. The respondent/builder launched a commercial project titled "*Spectrum One*" located at Sector-58, Gurugram, Haryana. Upon learning about the project, the complainant booked one office

space therein. The complainant booked an office unit having a super area of 1500 sq. ft. at the rate of Rs. 2,700/- per sq. ft. The respondent executed a Memorandum of Understanding (MOU) dated 13.04.2012 in favour of the complainant confirming the booking.

II. As per **Clause 5** of the MOU, the respondent was obligated to pay *assured returns of Rs. 60/- per sq. ft. per month* from 14.04.2012 until completion of the project. Thereafter, the respondent was further liable to pay *Rs. 50/- per sq. ft. per month* as assured rental until the unit was leased to a prospective lessee. The respondent undertook to complete the project within **36 months**, a timeline which has not been honoured. Despite contractual obligations, the respondent has:

- failed to complete the project within the stipulated period;
- failed to deliver possession of the unit;
- failed to lease out the unit;
- failed to pay assured returns after November 2018.

III. The *complainant* repeatedly requested the respondent to resume payment of assured returns and hand over possession of the allotted office space, but the respondent has failed to comply. The complainant invested substantial hard-earned money based on the respondent's representations and promises. However, despite more than ten years having passed since execution of the MOU, the respondent has neither completed the project nor delivered possession nor honoured the financial commitments.

- IV. The respondent stopped payment of assured returns from November 2018 in violation of the MOU dated 13.04.2012. The failure to deliver possession for over a decade constitutes a serious breach of contract, resulting in ongoing financial loss to the complainant. The conduct of the respondent amounts to gross deficiency of service, unfair trade practices, and arbitrary behaviour. The prolonged breach of contractual terms has caused severe harassment, mental agony, financial stress, and hardship to the complainant and her family. The respondent's actions are monopolistic in nature and reflect a deliberate intention to mislead, delay, and deny lawful benefits that were contractually assured.
- V. The cause of action first arose when the respondent failed to complete the project within 36 months as agreed. It further continued when the respondent stopped paying assured returns from November 2018. The cause of action is ongoing as the respondent has still neither delivered possession nor complied with its contractual obligations.

C. The complainant is seeking the following relief:

4. The complainant has sought following relief(s):
- i. Direct the respondent to pay the assured returns payable under the Memorandum of Understanding dated 13.04.2012 from November 2018 onwards, along with any applicable interest, until possession is lawfully handed over.
 - ii. Direct the respondent to allot and hand over the actual physical possession of the office space in question to the complainant

without further delay, and to execute the conveyance deed in favour of the complainant in accordance with law.

- iii. Restrain the respondent from charging any maintenance charges or any other charges in respect of the said office space until the actual physical possession is handed over to the complainant.

D. Reply filed by the respondent.

5. The respondent had contested the complaint on the following grounds:

- I. That the Complainant applied for provisional allotment of an office space in the Respondent's IT Park project "Spectrum One." A Memorandum of Understanding (MOU) dated 13.04.2012 was executed for provisional allotment of 1,500 sq. ft. on an investment return plan. The basic sale consideration of Rs. 40,50,000/- was duly paid by the Complainant, subject to additional statutory charges including EDC/IDC, EEC, IFMS, Power Backup, Service Tax, VAT and other applicable dues.
- II. Initially, project development rights were held by M/s Splendor Landbase Ltd. until 15.10.2012. Thereafter, all rights and obligations vested in the Respondent, Splendor Buildwell Pvt. Ltd., which was duly conveyed to the Complainant through letters dated 04.10.2012 and 27.10.2012. The Complainant thereafter dealt exclusively with the Respondent and received assured returns from the Respondent for more than six years.
- III. In accordance with Clauses 7, 8, and 9 of the MOU, the Respondent raised a demand of Rs. 7,33,999/- vide letter dated 01.10.2018 towards EDC, IDC and VAT. Despite clear contractual obligations and the stipulation that time was of the essence under Clause 4, the Complainant failed to make the payment.

- IV. Under the MOU, assured returns were contractually payable until completion of the project. The Respondent completed construction, applied for OC in November 2018, and the OC was granted on 06.09.2019. The Complainant was duly informed. The Respondent paid assured returns amounting to Rs. 69,81,000/- for the period 14.04.2012 to 30.06.2018, which is significantly higher than the principal amount paid by the Complainant. The Complainant voluntarily waived the assured return from 01.07.2018 to 31.10.2018.
- V. Vide letter dated 25.02.2021, the Respondent called upon the Complainant to clear outstanding dues and take possession of Unit Nos. 403B and 404 and execute the conveyance deed. Despite reminders dated 25.02.2021 and 30.03.2021, the Complainant failed to clear dues and take possession, amounting to continued breach of reciprocal contractual obligations.
- VI. Due to persistent non-payment, the Respondent issued a pre-cancellation notice dated 12.08.2023, followed by cancellation vide letter dated 13.10.2023. The Complainant concealed these notices from the Authority. Under Clause 10, the Respondent had first charge over the unit for all dues. The Complainant was in arrears of Rs. 35,11,163/- plus IFMS of Rs. 1,50,000/- at the time of termination.
- VII. Under Clause 40 of the MOU, the maximum liability of the developer cannot exceed the amount received, and the allottee's entitlement—including refund, interest, or damages—cannot exceed the amount paid. The Complainant deposited Rs. 40,50,000/- but received Rs. 69,81,000/- as assured returns. Hence, no further amount is payable under any law.

VIII. The cause of action, if any, arose in November 2018 upon application for OC. The present complaint filed nearly five years thereafter is barred by limitation. Further, the MOU and allotment stood cancelled prior to the filing of the complaint. The Complainant, having no subsisting right, title, or interest, is not entitled to seek enforcement Of a cancelled contract. The complaint is frivolous, baseless, and motivated, intended to unjustly enrich the Complainant despite her admitted defaults. The Respondent reserves its right to initiate proceedings for recovery of Rs. 29,31,000/- arising due to the Complainant's breaches.

IX. In light of the above submissions, it is respectfully prayed that the complaint be dismissed in limine as not maintainable and devoid of merit.

6. 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

7. The authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below:

E.I Territorial jurisdiction

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana 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

9. Section 11(4)(a) of the Act provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

- (a) *be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

10. So, in view of the provisions of the Act of 2016 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

F. Findings on the relief sought by the complainant.

- F.I** Direct the respondent to pay the assured returns payable under the Memorandum of Understanding dated 13.04.2012 from November 2018 onwards, along with any applicable interest, until possession is lawfully handed over.

F.II Direct the respondent to allot and hand over the actual physical possession of the office space in question to the complainant without further delay, and to execute the conveyance deed in favour of the complainant in accordance with law.

F.III Restrain the respondent from charging any maintenance charges or any other charges in respect of the said office space until the actual physical possession is handed over to the complainant.

11. The complainant entered into a Memorandum of Understanding (MOU) dated 13.04.2012 with the respondent for allotment of a commercial unit admeasuring 1500 sq. ft. in the project titled "**Splendor Spectrum One**", **Sector-58, Gurgaon** for a basic sale price of Rs. 40,50,000/-, which the complainant has paid in full. Clause 4 of the MOU provided that the respondent would pay assured returns @ Rs. 60/- per sq. ft. per month from 14.04.2012 until completion of the project and thereafter @ Rs. 50/- per sq. ft. per month until the unit was leased out.
12. The respondent obtained the Occupation Certificate (OC) on 06.09.2019 and issued an offer of possession on 25.02.2021, followed by a reminder dated 30.03.2021 calling upon the complainant to clear outstanding dues and execute necessary documents. Earlier, vide letter dated 01.10.2018, the respondent raised a demand of Rs. 7,33,999/- towards EDC, IDC and VAT in terms of Clause 7 of the MOU. The complainant did not clear the said dues. Clauses 7, 8, and 9 of the Memorandum of Understanding (MOU) are reproduced hereunder for ready reference:

7. *That over and above total basic consideration as mentioned in clause (2) hereinabove, the Intending Allottee shall pay, in proportion to the area to be allotted to him/her/it, all present and future additional tax, levies, municipal rates and taxes, ground rent, penalties, or any taxes and charges with respect to the Said Unit or the Project and assessments, outgoings, (including but not limited to development levies, external*

development charges, internal development charges, parking space charges, service tax, value added tax or any other applicable Tax, etc., which may be applicable or that may be imposed by or payable to any statutory / local / central Government authority or body in respect of the Said Unit or the Project and shall be payable immediately on demand. Failure of the Intending Allottee to pay such charges on demand may be dealt with by the Developer in an appropriate manner.

8. *That basic sale consideration and other charges (as defined in Annexure - I attached) in respect of the Said Unit, have been made keeping in view the normal practice/conventions and standards and the statutory requirements as existing today. Should at any time such normal practices/conventions/standards and /or statutory requirements be altered or otherwise and/or it becomes necessary to provide for any further equipment's/ installations etc. to the Said Unit or the Project, then the cost of such provisions/installations and changed statutory requirements as also changed normal practices/conventions/standards and fresh charges, levies, cess, duties or taxes shall be proportionately charged on pro-rata basis in respect of the Said Unit to which the Intending Allottee(s) hereby undertake to never have any objection in any circumstances whatsoever. Similarly, the maintenance of all equipment's/ facilities will form part of the maintenance charges which may be enhanced on pro-rata basis at the sole discretion of the Maintenance Agency of the Project to which again the Intending Allottee shall never have any objection to whatsoever.*
9. *That the Intending Allottee agrees to abide by the terms and conditions imposed by the concerned Government or Local Authorities. Any charges demanded or levied by any Local/Government Body/Authorities towards vacant land tax, property tax or any other taxes, levies or charges to the Said Unit or the Project, after the date of execution of this MOU and during the course of construction of the Project and thereafter shall be borne by the Intending Allottee, irrespective of the fact that the Intending Allottee(s) has not yet commenced enjoying any of its envisaged benefits, actual or notional in nature from the Said Unit. Such charges, taxes and levies shall be payable immediately on demand to the Developer or its nominated agency and will be levied and demanded on pro-rata basis. However, if assessment of the property tax is not made separately for each unit of the Project by the concerned Government Authorities, then in that event the Intending Allottee shall pay its proportionate share to the Developer on the basis of the super/covered area of the Said Unit including open terraces and open space that form the total area space occupied by the Intending Allottee or the annual rental value (notional/actual) as the case may be.*

13. The respondent again issued several reminders and ultimately served a pre-cancellation notice on 12.08.2023, followed by a cancellation letter

dated 13.10.2023, on account of non-payment of dues. The respondent has placed on record that a sum of Rs. 69,81,000/- has been paid to the complainant towards assured returns for a period of six years, i.e., from 14.04.2012 to 30.06.2018, which is in excess of the complainant's entitlement of Rs. 40,50,000/- as per the MOU.

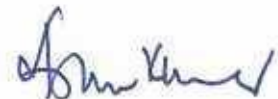
14. Clauses 40 of the Memorandum of Understanding (MOU) is reproduced hereunder for ready reference:

40. That in no event and under no circumstances the maximum liability of the developer on any account whatsoever shall exceed the amount received by the developer from the intending allottee pursuant to the present document nor the entitlement of the intending allottee on all the accounts together including refund/ interest/ damages etc. shall exceed the amount paid by the intending allottee to the developer.

In view of **Clause 40** of the said MOU, the complainant is, by no stretch of imagination or under any interpretation of law, entitled to claim any further amount from the respondent. The respondent has fully discharged its obligation to pay the assured returns. It is also pertinent to note that the complainant has not challenged the termination of the MOU.

15. The record shows that the respondent issued multiple reminders dated 01.10.2018 and 30.03.2021, followed by a pre-cancellation notice dated 12.08.2023. The Occupation Certificate for the project was granted on 06.09.2019, and possession was offered to the complainant on 25.02.2021. Even after the offer of possession, the complainant failed to clear the dues demanded under Clauses 7, 8, and 9 of the MOU. No payment was made, nor was there any response to the respondent's communications. The complainant has, therefore, failed to comply with the contractual obligations stipulated under the MOU/Builder Buyer Agreement.

16. In view of the foregoing, the cancellation of the unit by the respondent is valid and in accordance with the terms of the MOU dated 13.04.2012. The complainant has already received Rs. 69,81,000/- as assured returns, which is significantly higher than the amount paid towards the unit (Rs. 40,50,000/-). Therefore, no amount is payable to the complainant upon termination. In light of the above, the complaint is not maintainable, and the reliefs sought are declined.
24. Complaint as well as applications, if any, stands disposed off accordingly.
25. File be consigned to registry.



Arun Kuamr
(Chairman)

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 28.11.2025