

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

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| Complaint no. | 5129 of 2024 |
| Date of filing | 23.10.2024 |
| Date of first hearing | 21.05.2025 |
| Date of decision | 03.12.2025 |

Rajiv Yadav

R/o:- H.No. VPO- Khatiwash (113), Jhajjar,
Haryana- 124103

Complainant

Versus

**M/s Savyasachi Infrastructure Pvt. Ltd.
and M/s Sharma Confectioners Pvt. Ltd.
through its Managing Director and other
Directors Mrs. Asha Kaushik**

**Regd. office at: - 251-252, Space Edge
Building, Tower B, Sector-47, Sohna Road,
Gurugram- 122001, Haryana**

Respondent

CORAM:

Shri Ashok Sangwan

Member

APPEARANCE:

Sh. Gaurav Rawat (Advocate)
None

**Complainant
Respondent**

ORDER

1. This 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 thereunder or to the allottee as per the allotment letter.

A. Project and plot 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:

| Sr. No. | Particulars | Details |
|----------------|---|--|
| 1. | Name of the project | "Amaya Greens", Sector 3, Gurugram |
| 2. | Project area | 9.0375 acres |
| 3. | Nature of the project | Affordable Plotted Housing Colony under Deen Dayal Jan Awaas Yojna |
| 4. | DTCP license no. and validity status | 37 of 2017 dated 28.06.2017 valid upto 27.06.2022 |
| 5. | Name of licensee | Sharma Confectioners Pvt. Ltd. |
| 6. | RERA Registered/ not registered | 212 of 2017 dated 18.09.2017 valid upto 16.03.2023 (including 6 months grace period of COVID) |
| 7. | Completion Certificate | 11.01.2021 (Taken from already decided complaint case no. 7497 of 2022 decided on 30.01.2024) |
| 8. | Plot no. (Complainant's unit falls under the licensed area) | Plot No. C-30 (Allotment Letter at page 26 of the complaint) |
| 9. | Unit area admeasuring | 107.35 sq. yards (Allotment Letter at page 26 of the complaint) |
| 10. | Date of execution of builder buyer agreement | Not Executed |
| 12. | Due date of possession | 01.03.2022 (Deemed to be three years from the date of allotment in terms of Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018 plus further grace period of 6 months is allowed in lieu of Covid-19) |
| 13. | Basic Sale Price | Rs. 18,24,950/- (Allotment Letter at page 26 of the complaint) |

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| 14. | Amount paid by the complainants | Cannot be ascertained |
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B. Facts of the complaint

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

- That in 2017, the respondents issued an advertisement announcing a Deen Dayal Jan Awaas Yojna "Amaya Greens" at Sector -3, Farukh Nagar, Gurugram, under license no. 37 of 2017 dated 24.06.2017, issued by DTCP, Haryana and thereby invited applications from prospective buyers for the purchase of unit in the said project. The respondents confirmed that the project had got building plan approval from the authority.
- Relying on various representations and assurances given by the respondents and on belief of such assurances, complainant booked a plot in the project by paying an amount of Rs.50,000/- towards the said plot no. C-30, in Sector-3, Gurugram, having super area admeasuring 107.35 sq. yards. to the respondent and the same was acknowledged by the respondent.
- That the respondents confirming the booking of the said plot to the complainant, confirming booking of unit dated 01.09.2018, allotting a plot no.B-33 measuring 124.99 sq. yards in the said project for a total sale consideration of Rs.18,24,950/- which includes basic price, EDC and IDC, car parking charges and other specifications of the allotted unit.
- That at the time of purchasing the said plot, assurance was made to the complainant that agreement will be executed in 2 months but till date respondents have failed to execute the buyer's agreement and also failed to handover the possession of the unit even after a delay of more than 4 years.

- e) During the period the complainant went to the office of respondent several times and requested them to allow them to visit the site further enquiring as to when the respondents will get buyers agreement executed but it was never allowed saying that they do not permit any buyer to visit the site during construction period. The complainant already paid a sum of Rs.3,30,000/- towards the said unit against total sale consideration of Rs.18,24,950/-.
- f) That allotment of the unit was made on 01.09.2018, after coming into force of the RERA Act,2016 and as per the Act, after coming into force of the Act the respondent can charge only on the carpet of the unit not on the super area of the unit. In the present case, respondent has received more than 10% of the total sale consideration without executing the BBA which is against the provisions of the RERA Act,2016 and the Rules, 2017 made thereof. Hence, in accordance with the provisions of the RERA Act, necessary penal action to be taken against the respondent and direction may kindly be passed to the respondent to charge on the carpet area instead of the super area of the unit.
- g) That the respondent has collected approximately Rs.3,30,000/- till date without executing the builder buyer agreement.
- h) That the payment plan was designed in such a way to extract maximum payment from the buyers viz a viz or done/completed. The complainant approached the respondent and asked about the status of construction and also raised objections towards non-completion of the project. It is pertinent to state herein that such arbitrary and illegal practices have been prevalent amongst builders before the advent of RERA, wherein the payment/demands/ etc. have not been transparent

and demands were being raised without sufficient justifications and maximum payment was extracted just raising structure leaving all amenities/finishing/facilities/common area/road and other things promised in the brochure, which counts to almost 50% of the total project work.

- i) That the respondent is guilty of deficiency in service within the purview of provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017. The complainant has suffered on account of deficiency in service by the respondent and as such the respondent is fully liable to cure the deficiency as per the provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017.
- ii) That the clauses of allotment letter are totally unjust, arbitrary and amounts to unfair trade practice as held by the Hon'ble NCDRC in the case titled as Shri Satish Kumar Pandey & Anr. v/s M.s Unitech Ltd. (14.07.2015) as also in the judgment of Hon'ble Supreme Court in Neelkamal Realtors Suburban Pvt Ltd Vs. UOI and ors. (W.P 2737 of 2017).
- iii) That as per Section 18 of the RERA Act. 2016, the promoter is liable to pay delay possession charges to the allottees of a unit, building or project for a delay or failure in handing over of such possession as per the terms and agreement of the sale.
- iv) That the project in question is ongoing as defined under Rule 2(o) of the Rules, ibid and does not fall in any of the exception provided under the Rules.

m) That the complainant after losing all the hope from the respondents, having his dreams shattered of owning a flat and having basic necessary facilities in the vicinity of "Amaya Greens" project and also losing considerable amount, are constrained to approach this Hon'ble Authority for redressal of their grievance.

C. Relief sought by the complainant

4. The complainant herein is seeking following relief(s):
 - I. Direct the respondent to pay the interest on the total amount paid by complainant at the prescribed rate of interest as per RERA, from due date of possession till the handing over of possession.
 - II. Direct the respondent to hand over the symbolic and constructive possession of said unit in question with all amenities and specifications as promised, in all completeness without any further delay.
 - III. Restrain the respondent from raising fresh demand(s) for payment under any head, as the complainant had already made payment as per the payment plan.
 - IV. Direct the respondent not to charge anything irrelevant which has not been agreed to between the parties like labour cess, electrification charges, maintenance charges etc, which in any case is not payable by the complainant.
 - V. Direct the respondent to provide exact layout plan of the unit.
 - VI. Direct the respondent to execute a builder buyer agreement in respect of the unit in question in favour of the complainant.
 - VII. Direct the respondent not to force the complainant to sign any indemnity-cum-undertaking indemnifying the builder from anything legal as a pre-condition for signing the conveyance deed.
5. The Authority issued a notice dated 23.10.2024 to the respondent by speed post and also sent it to the provided email addresses, savyasachi@gmail.com, sdas1953@gmail.com, rawatgaurav6464@gmail.com. Delivery reports have been placed on record. The respondents failed to appear before the Authority on 21.05.2025, 02.07.2025, 27.08.2025 and

08.10.2025. Further, even during the further hearings dated 26.11.2025, none appeared on behalf of the respondent. Neither reply was filed within the stipulated period in order dated 27.08.2025 nor cost of Rs.10,000/- paid on behalf of respondents to the complainant. Since none has appeared on behalf of the respondents despite being given sufficient opportunities, in view of the same, the defense of the respondents was struck off and respondents are proceeded ex-parte vide order dated 26.11.2025.

D. Jurisdiction of the authority

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

D.I Territorial jurisdiction

7. 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.

D.II Subject matter jurisdiction

8. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11.....

(4) The promoter shall-

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

may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;
Section 34-Functions of the Authority:

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

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.
- E. **Findings on the relief sought by the complainant.**
 - E.I Direct the respondent to pay the interest on the total amount paid by complainant at the prescribed rate of interest as per RERA, from due date of possession till the handing over of possession.
 - E.II Direct the respondent to hand over the symbolic and constructive possession of said unit in question with all amenities and specifications as promised, in all completeness without any further delay.
 - E.III Restrain the respondent from raising fresh demand(s) for payment under any head, as the complainant had already made payment as per the payment plan.
 - E.IV Direct the respondent not to charge anything irrelevant which has not been agreed to between the parties like labour cess, electrification charges, maintenance charges etc, which in any case is not payable by the complainant.
 - E.V Direct the respondent to provide exact layout plan of the unit.
 - E.VI Direct the respondent to execute a builder buyer agreement in respect of the unit in question in favor of the complainant.
 - E.VII Direct the respondent not to force the complainant to sign any indemnity-cum-undertaking indemnifying the builder from anything legal as a pre-condition for signing the conveyance deed.
10. Perusal of the case file and the submissions made by the complainant raises certain issues that warrant consideration in the present complaint, as outlined below:

A. Discrepancy in date on the Allotment Letter:

11. The complainant has placed on record an allotment letter dated 01.09.2018, which purportedly bears the signature of the complainant dated 01.09.2020. This two-year discrepancy between the date of issuance of the document and the date of signature of the complainant remains wholly unexplained. In the absence of any clarification or supporting document, the allotment letter cannot be treated as a reliable or authentic document.

B. Absence of Proof of Payment

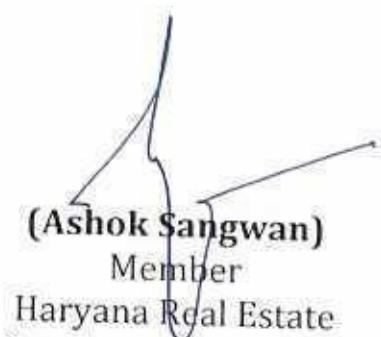
12. The complainant pleaded that he paid a sum of Rs.3,30,000/- to the respondents at the time of allotment. However, no receipt, bank statement, transaction detail, or any contemporaneous record has been produced or placed on record to substantiate the same. Although an account statement has been placed on record, it merely reflects cash withdrawals from the complainant's personal account and does not indicate any payment made to the respondents towards the alleged allotment. Since no proof of payment has been furnished, the complainant has failed to establish an essential element of consideration, which is fundamental to sustaining the claim of allotment.

C. Possession Letter Without Signature of the Complainant

13. The possession letter dated 02.04.2021 also does not bear the signature of the complainant. A possession letter that is unsigned by the complainant, cannot be deemed to have been accepted, acknowledged or acted upon. In the present case, the absence of the complainant's signature on this document further weakens the complainant's position and fails to establish any act or omission on the part of the respondents amounting to violation.

14. In view of the foregoing findings, the **complaint is hereby dismissed**, as the complainant has failed to substantiate his claims with credible and undisputed documentary proofs.
15. File be consigned to registry.

Dated: 03.12.2025


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