

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

Date of decision: - 10.10.2025

NAME OF THE BUILDER		ILD Millennium Private Limited	
PROJECT NAME		ILD Grand Centra Sector 37 C, Gurgaon, Haryana	
S. No.	Case No.	Case title	Appearance
1.	CR/446/2025	Ankur Gupta VS. M/S ILD Millenium Private Limited	Shri Gurbachan Singh Adv. (Complainant) Ms. Himani Advocate (respondent)
2.	CR/447/2025	Sandeep Mehndiratta and Priti Mehdiratta VS. M/S ILD Millennium Private Limited	Shri Gurbachan Singh Adv. (Complainant) Ms. Himani Advocate (respondent)
3.	CR/1843/2025	Pratibha and Manish Singhal VS. M/S ILD Millennium Private Limited	Shri Gurbachan Singh Adv. (Complainant) Ms. Himani Advocate (respondent)

CORAM:

Shri Arun Kumar

Chairman

ORDER

1. This order shall dispose of all three complaints titled above, filed before this Authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "*the Act*"), read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as "*the Rules*"). Since the core issues arising in all the complaints are similar in nature,

and the complainant(s) in the aforementioned matters are allottees of the same project, namely *ILD Grand Centra, Sector 37-C, Gurugram, Haryana*, being developed by the same respondent-promoter, i.e., *ILD Millennium Private Limited*, they are being adjudicated together. The terms and conditions of the Builder-Buyer Agreements executed between the parties are also substantially similar. The central issue involved in all these complaints pertains to the failure of the respondent-promoter to deliver possession of the units within the stipulated period as per the Builder-Buyer Agreements.

- The details of the complaints, reply status, unit no., date of allotment letter, date of agreement, due date of possession, offer of possession and relief sought are given in the table below:

Possession Clause 10: SCHEDULE FOR POSSESSION OF THE SAID UNIT <i>The developer shall endeavour to complete the construction of the said apartment within 36 months from the date of execution of agreement plus 6 months grace period.</i> Occupation certificate received on N/A Offer of Possession: N/A						
S r. N o	Complaint No./Date of filing/ Reply status	Unit no. and area	Date of execution of builder buyer's agreement	Due date of possessio n	Total sale considerat ion	Amount Paid up by the complainant
1	CR/446/2 025 DOF: 27.01.2025 RR: 05.09.2025	GCA- 505, 5 th floor Tower- GCA 1300 sq. ft.	Welcome letter dated 24.04.2015 Allotment letter dated 31.07.2015 BBA: 23.10.2015	23.04.2020	Rs. 71,21,000/ -	Rs. 21,75,409/- Cancellation letter dated: 23.12.2024
2.	CR/447/2 025 DOF: 27.01.2025	GCA-005, 5 th floor Tower- GCA	Welcome letter dated 13.10.2014 Allotment	01.06.2020	Rs. 69,55,900/-	Rs. 16,07,502/-

	RR: 05.09.2025	1300 sq. ft.	letter dated 14.10.2014 BBA: 01.12.2015			Cancellation letter dated: 23.12.2024
3.	CR/1843/ 2025 DOF: 27.01.2025 RR: 05.09.2025	GCA- 1206, 12 th floor Tower- GCA 1300 sq. ft.	Allotment letter dated 01.08.2016 BBA: 01.08.2016	01.02.2020	Rs. 69,55,900/-	Rs. 26,75,693/- Cancellation letter dated: 23.12.2024
Relief sought: Possession along with delay possession charges.						

3. The facts of all the complaints filed by the complainant(s)/allottee(s) are similar. Out of the above-mentioned case, the particulars of lead case **CR/446/2025** titled as Ankur Gupta VS. M/S ILD Millenium Private Limited are being taken into consideration for determining the rights of the allottee(s).

A. Unit and project related details

4. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. No.	Heads	Information
1.	Name and location of the project	ILD Grand Centra Sector 37 C, Gurgaon, Haryana
2.	Nature of the project	Residential group housing project
3.	Project area	15.4829 acres
4.	DTCP license no.	13 of 2008 dated 31.01.2008
5.	Name of license holder	M/s Jubilant Malls Pvt. Ltd. and 3 others
6.	RERA Registered/ registered	Registered For 64621.108 sq mtrs for towers



		2,6 and 7 vide no. 60 of 2017 issued on 17.08.2017 up to 16.08.2018
7.	Apartment no.	GCA-505, 5 th floor Tower-GCA
8.	Unit measuring	1300 sq. ft.
9.	Welcome letter dated	24.04.2015
10.	Allotment letter dated	31.07.2015
11.	Date of builder buyer agreement	23.10.2015
12.	Possession clause	<u>10. SCHEDULE FOR POSSESSION</u> Subject to the timely grant and continued validity of all requisite approvals, sanctions, permissions, certificates, licences, No Objection Certificates, permission to operate, and the grant of the full Occupation Certificate by the competent authorities; and further subject to the Buyer having duly complied with all obligations under the terms and conditions of this Agreement; and also subject to all allottees in the project making timely payments including, but not limited to, the total sale consideration, stamp duty, statutory charges, fees, levies, taxes, and any increase therein, as well as escalation charges, deposits, and additional charges as may be demanded by the Developer; and further subject to the Buyer having completed all formalities and documentation as prescribed by the Developer from time to time, the Developer shall endeavour to complete the

		construction of the said Apartment within a period of forty-eight (48) months from the date of execution of this Agreement, with an additional grace period of six (6) months."
13.	Due date of possession	23.04.2020 [Grace period is allowed]
14.	Total consideration	Rs. 71,21,000/-
15.	Total amount paid by the complainant	Rs. 21,75,409/-
16.	OC received	N/A
17.	Offer of possession	N/A

B. Facts of the complaint:

5. The complainant has made the following submissions: -

- a. That in the year 2015, the Complainant was in search of a residential accommodation in Gurugram, Haryana, for better living conditions and environment. During this period, the agents and representatives of the Respondent induced and persuaded the Complainant to purchase a residential unit in a Group Housing Complex namely "*ILD Grand Centra*", situated at Sector-37C, Gurugram, Haryana (under License No. 13 of 2008). The Respondent assured that the construction of the project would be completed within a period of 36 months from the date of booking.
- b. That the Respondent is a company registered under the Companies Act, 1956, and presented a very rosy picture of its credentials, representing that it was managed by highly qualified

professionals committed to quality construction, timely delivery, and customer satisfaction. The Complainant also met the Directors of the Respondent Company, who showed layout plans and approvals, assuring that the project had all necessary sanctions and that possession would be handed over within 36 months.

- c. That relying upon the said representations and assurances, the Complainant agreed to purchase a residential unit in the said project under the Flexi Payment Plan and made an advance payment of ₹4,00,000/-. The said payment was duly acknowledged by the Respondent vide receipt No. 3056 dated 22.04.2015.
- d. That a Booking Application Form was executed containing the terms and conditions of allotment, including allotment of a unit admeasuring 1300 sq. ft., bearing Unit No. GCA-505 on the 5th Floor. At the time of booking, it was reiterated that construction was in full swing and possession would be delivered within 36 months.
- e. That the Respondent issued a Welcome Letter dated 24.04.2015, informing the Complainant of tentative allotment of Flat No. GCA-505, 5th Floor, Tower GCA, measuring 1300 sq. ft., and acknowledging receipt of ₹4,00,000/- towards booking.
- f. That the Respondent further assured execution of the Builder Buyer Agreement within one month from the date of booking, citing non-availability of the authorized signatory. That the Respondent issued a demand letter dated 10.06.2015, demanding a sum of ₹3,24,678/-, which was duly paid by the Complainant.

The Respondent acknowledged the same vide receipt No. 3169 dated 25.06.2015.

- g. That the Complainant thereafter paid ₹7,056/- towards TDS, which was acknowledged vide receipt No. 1732 dated 25.07.2016. That the Respondent issued a Provisional Allotment Letter dated 31.07.2015, provisionally allotting Flat No. 505, admeasuring 1300 sq. ft., in Tower GCA, 5th Floor, ILD Grand Centra, Sector-37C, Gurugram. That another demand letter dated 03.09.2015 was issued for ₹3,62,407/-, which was paid by the Complainant through RTGS and acknowledged vide receipt No. 3277 dated 21.09.2015. That upon persistent follow-up, the Respondent executed an Apartment Buyer Agreement dated 23.10.2015, which contained highly one-sided terms. Shockingly, the Complainant discovered that the land was in the name of sister concerns of the Respondent, namely *M/s Jubilant Malls Pvt. Ltd.*, *M/s ALM Infotech City Pvt. Ltd.*, and *M/s Goldman Malls Pvt. Ltd.* Further, the possession period was unilaterally increased from 36 months to 48 months. Upon objection, the Respondent threatened cancellation of booking and forfeiture of amounts paid.
- h. That the Complainant further paid ₹3,528/- towards TDS, acknowledged vide receipt No. 1702 dated 15.12.2015. That the malafide intentions of the Respondent are evident from the fact that the total amount paid by the Complainant was not correctly reflected in the Apartment Buyer Agreement. That to induce the Complainant to continue with the booking, the Respondent facilitated a housing loan. Accordingly, HDFC Bank Ltd. disbursed a sum of ₹10,77,740/- vide Demand Draft No. 489216 dated

30.06.2016, much prior to achievement of corresponding construction milestones. The same was acknowledged vide receipt No. 3755 dated 15.07.2016. The Complainant has been regularly servicing the said loan.

- i. That despite receiving substantial amounts, the Respondent failed to complete construction of the project. That the Complainant repeatedly followed up with the Respondent and even visited the project site, only to find negligible construction progress. On raising concerns, the Respondent's officials gave vague assurances and threatened cancellation and forfeiture. That despite repeated emails and follow-ups, no satisfactory response was received, while the Complainant continued paying EMIs to the bank. That in June 2024, the Respondent assured the Complainant that construction was ongoing and nearing completion.
- j. That to the utter shock of the Complainant, the Respondent issued a letter dated 23.12.2024, informing cancellation of the booking/allotment of Unit No. GCA-505, citing lack of funding and scrapping of the project. That the said cancellation is illegal, arbitrary, and violative of the provisions of the RERA Act. The Complainant is not interested in refund; however, even otherwise, the Respondent has not offered any interest on the amounts received.
- k. That upon scrutiny, it is evident that payments made by the Complainant have not been properly accounted for, clearly demonstrating unfair trade practices and malafide intent. That the Complainant has paid a total sum of ₹21,75,409/-, yet

possession has not been delivered. The Complainant has suffered huge financial and mental loss due to the Respondent's conduct. That it has further come to the Complainant's knowledge that the Respondent is deliberately cancelling bookings without surrendering RERA registration, with the intent to redevelop the project with another builder and sell units at higher prices.

- I. That the Complainant is entitled to compensation as per law and seeks interest @ 18% per annum on the amounts paid from 22.04.2015 till actual realization, being the same rate levied by the Respondent on delayed payments by allottees.

C. Relief sought by the complainant:

6. The complainant has sought following relief(s):
 - a. Direct the Respondent to handover the unit/ apartment bearing number GCA-505, 5th Floor in Tower GCA along with One Covered Car Parking in the residential project "Grand Centra", Sector - 37C, Gurugram, Haryana.
 - b. Order the Respondent to pay the interest @ 18 % from March, 2018 to the Complainant to the delay in handing over of the possession of the said Unit;
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 based on these undisputed documents and submission made by the complainant.

D. Reply by the respondent:

8. The Respondent has contested the present complaint on the following grounds:
 - a. That the Respondent is a Company known under the name and style of "ILD MILLENNIUM PRIVATE LIMITED," and duly

incorporated on 13.09.2006, under the Companies Act, 1956, having its registered address at B-418, F/F New Friends Colony, New Delhi, Delhi, India, 110065.

- b. That the Respondent had proposed a project namely, "Grand Centra", situated at New Gurgaon, Sector-37 C (hereinafter referred to as "Project"). That initially the project was to be developed by the Respondent herein, and was to be an FDI-funded Project. The Project was registered with the Haryana Real Estate Regulatory Authority, and a Registration Certificate "Regd. No. 62 of 2017" for the Project was duly issued to the Respondent on 17.08.2017. Thereafter, the Respondent was duly granted Licence No. 13 of 2008 for the development of the concerned Project, under the Haryana Development & Regulation of Urban Areas Act.
- c. That the Complainant approached the Respondent, expressing his interest in booking a unit in the Project previously being developed by the Respondent. That the Complainant, after performing his own due diligence and being completely satisfied with the then status of the Project, expressed his interest in getting an allotment and submitted an Application/Booking.
- d. That it is categorical to note that at the time of booking of the unit, the Respondent in its good faith had duly informed about the progress of the Project to the Complainant, and the same can be confirmed from clause 3 of the Application/Booking form.
- e. Subsequently, the Respondent issued a Welcome Letter dated 24.04.2015 to the Complainant, and subsequently, he was issued

a Provisional Allotment Letter dated 31.07.2015, whereby the Complainant was tentatively allotted a Unit bearing No. GCA-505 in Tower - GCA, admeasuring 1300 sq. ft. (hereinafter referred to as the "Unit").

- f. That the Respondent mutually entered into an Apartment Buyer Agreement (hereinafter referred to as the '**Agreement**') with the Complainant on 23.10.2015 for the sale of the Unit in the proposed Project. That the Agreement was executed after full disclosure of all Project details, terms, and conditions, and was duly accepted and signed by the Complainant. That the Agreement encapsulated the rights and obligations of the Parties. Furthermore, the Complainant was well aware and had expressly acknowledged that, under certain circumstances, the then developer had the right to transfer or assign its rights pertaining to the development, marketing, sale, or any other activity concerning the Project to a third party.
- g. That as per the Agreement executed between the Parties, the Complainant had made certain payments towards the consideration for the Unit. That as per the Complainant's ledger account, a total sum of Rs. 22,09,676/- has been received from the Complainant in respect of the said Unit. It is submitted that the Project herein was attached by the Hon'ble High Court of Delhi, in the matter titled "*Assets Care & Reconstruction Enterprise Limited v. International Developers Pvt. Ltd. & Ors.*" Bearing No. OMP (ENF.) (COMM.) 122 of 2022, a brief list of dates and events pertaining to the above-mentioned matter is described hereinunder, for the perusal of this Authority

- h. It is submitted that due to acute financial distress, lack of requisite funding, the Respondent was constrained to discontinue the development of the Project. Consequently, all rights pertaining to development, marketing, and associated interests in the Project were duly transferred to a third-party. That in this regard, the Directorate of Town and Country Planning, Haryana, vide the Letter dated 26.12.2023, approved the assignment of development and marketing rights in favour of a third-party.
- i. That the Respondent had also categorically mentioned in the allotment letter that developer, i.e. the Respondent herein reserves the absolute right to assign, transfer, or otherwise convey all rights, title, interest, and obligations pertaining to the Project, whether wholly or in part, to any third party, at its sole discretion. The said allotment letter further affirms that in the event of such assignment or transfer. That the relevant clause of the allotment letter is stated hereinunder:

"23. THAT if for any reason the Developer is not in a position to allot the Apartment applied for or abandons the Project, the Developer may consider allotment of an alternative property or refund of the amount deposited by the intending Allottee(s) along with simple interest @ 9% p.a. However, the Developer shall not be liable to pay to the intending Allottee(s) any other charge or damages or compensation on any count whatsoever.

26. THAT the Developer has the right to sell, transfer, assign all its rights in the Project or any part thereof either in part or full including the rights, responsibilities, obligations in favour of any third Party (ies) and under that eventuality, the Allottee(s) shall be directly responsible to such third Party (ies) / entity (ies) as the case may be."

- j. It is of utmost importance to submit here that, owing to unforeseen and unfortunate circumstances, the Unit initially allotted to the Complainant was duly and lawfully cancelled in accordance with the terms and conditions of the allotment. The Respondent, acting in a *bonafide* manner, duly informed the Complainant that any and all amounts paid and invested by the Complainant in respect of the said Unit shall be refunded in accordance with the applicable provisions. The relevant portion of the Cancellation Letter dated 23.12.2024 is reiterated below:

*"This is with reference to your booking of Flat/Apartment No. GCA-505 in Tower GCA in the residential project "Grand Centra", Sector - 37C, Gurugram, Haryana, we would like to inform you that **due to financial stress and lack of funding the project Grand Centra has been scrapped.***

Kindly note that in view of the above facts the booking/allotment of the aforesaid apartment has been cancelled with immediate effect. The invested amount including the disbursed home loan/own contribution will be refunded /settled with you and the concerned bank/financial institute as the case may be in accordance with the executed Tripartite Loan Agreement /agreed terms and conditions.

Therefore, you are kindly requested to get in touch with our team at ermcrid.co.in immediately for the final settlement/resolution."

- k. It is submitted that the Respondent has acted at all times in good faith and without any intent to defraud or mislead the Complainant or any of the other allottees. However, the Complainant has filed the present Complainant against the Respondent, whereby he has deliberately failed to disclose the

true and complete facts of the matter and is *malafidely* attempting to portray the Respondent in a negative light before this Hon'ble Authority. That the Complainant has raised meritless and false allegations against the Respondent herein, thereby wasting the time and resources of the Hon'ble Authority, and without any cause, dragging the Respondent into litigation.

- l. It is further submitted that the Complainant has been unnecessarily harassing the Respondent, despite the Respondent having approached the Complainant in good faith with a *bonafide* request for a refund of the amount paid by him to the Respondent. That the Complainant has been acting *malafidely*, and is attempting to unjustly enrich himself by taking wrongful advantage of provisions of the Act that were enacted for the protection of innocent homebuyers. The Complainant's conduct is a clear attempt to exploit the situation and manipulate the provision of the Act to claim the amount beyond what is genuinely due to him. That the present Complaint is liable to be dismissed on this ground.
- m. It is submitted that the Respondent has duly complied with the mandate of Section 15 of the RERA, 2016, whereby the erstwhile Promoter of a project is required to procure two-third consent from the allottees of the project being transferred. It would not be out of place to mention that **the change of developer for the concerned Project has been approved by the DTCP, Haryana vide memo no LC-1387-II-JE(SK)-2024/11643-48 dated 09.04.2024.** Furthermore, the promoter had also applied for the

registration of the Project as per the directions of the Hon'ble Delhi High Court order dated 18.10.2023.

- n. That the Respondent had duly complied with the direction issued by the Hon'ble Authority and has fulfilled all the mandatory requirements for the valid and absolute transfer of the development and the marketing rights, etc., of the Project to a third party. It is pertinent to note that the Hon'ble Authority has also approved the proposed plan for the transfer of such rights in favour of a third party for the concerned Project vide order dated 22.07.2024.
- o. That till date, the Respondent has duly settled approximately ninety per cent of the claims raised by the allottees, pertaining to the allotment in the concerned Project. These settlements have been carried out in good faith and in accordance with the contractual obligations between the Parties. The Respondent has taken consistent and *bonafide* measures to address grievances, resolve disputes amicably. That the Respondent remains committed to fulfilling its obligations toward the remaining allottees. Accordingly, as on the present date, the Respondent is no longer the promoter/developer of the Project. Therefore, no issue remains to be adjudicated by this Hon'ble Authority insofar as the Respondent is concerned. Hence, the present complaint is liable to be dismissed.
- p. That upon the transfer of development and marketing rights in the Project, the Respondent herein no longer stands in the capacity of a promoter, and has no right to create any right, title or interest in favour of anyone. Thus, the Respondent does not

have the capacity to either complete the Project or give valid possession of a unit in the Project to the Complainant.

- q. That in such circumstances are governed by the Doctrine of frustration, and according to the said doctrine, when a contract becomes impossible to perform due to the happening of some unforeseen circumstances which were beyond the control or calculation of the parties involved, the law cannot compel its performance. When such a contract becomes entirely impossible without the fault of the parties, the contract gets dissolved by this doctrine. This doctrine is based on the maxim '*Lex non cogit ad impossibilia*'. The maxim essentially means that "law does not compel the impossible". The following are the requisites for the application of this doctrine:
- a. When an event or incident occurs that the parties were unable to contemplate when the contract was formed.
 - b. None of the parties are at fault for the occurrence of the event.
 - c. The contract if performed would turn out different from what the parties agreed to initially.
- r. That Section 65 of the Indian Contract Act provides that once an agreement is discovered to be void, or when it subsequently becomes void, any party who has received any benefit under the agreement is bound to restore such benefit or compensate for it to the person who provided the benefit.:

65. Obligation of person who has received advantage under void agreement, or contract that becomes void.-When an agreement is discovered to be void, or when a contract becomes void, any person who has received any advantage under such

agreement or contract is bound to restore it, or to make compensation for it to the person from whom he received it.

- s. That without prejudice to the rights of the Respondent, and in the light of the practical impossibility of the present situation, no possession could be handed over to the Complainant herein, and thus, the Respondent requests the Authority's intervention to direct the Complainant to accept the refund of the amount paid by him.
- t. Accordingly, as on the present date, the Respondent is no longer the promoter/developer of the Project; thus, the present Complaint is liable to be dismissed on this ground as well.

E. Jurisdiction of the Authority:

- 9. 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

- 10. 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

11. 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.

12. 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 handover the unit/ apartment bearing number GCA-505, 5th Floor in Tower GCA along with One Covered Car Parking in the residential project "Grand Centra", Sector - 37C, Gurugram, Haryana.
- F.II** Direct the Respondent to pay the interest @ 18 % from March, 2018 to the Complainant to the delay in handing over of the possession of the said Unit.
13. That the complainant states that the Complainant, in the year 2015, book a residential unit in the project "ILD Grand Centra", Sector-37C,

Gurugram, on the assurance that construction would be completed and possession delivered within 36 months from the date of booking. Relying upon the representations made by the Respondent regarding its credentials, approvals, and timely delivery, the Complainant booked Unit No. GCA-505, 5th Floor, admeasuring 1300 sq. ft., and made payments from time to time.

14. The Respondent issued booking confirmation, provisional allotment, and raised multiple demands, all of which were duly paid by the Complainant. In total, the Complainant has paid ₹21,75,409/-, including amounts disbursed through a housing loan from HDFC Bank Ltd., which the Complainant continues to service regularly.
15. Despite repeated assurances, the Respondent failed to execute the Apartment Buyer Agreement in a timely manner and, upon execution, unilaterally altered material terms, including extending the possession period from 36 months to 48 months, and threatened cancellation and forfeiture upon objection. Even after receiving substantial consideration, the Respondent failed to complete the construction of the project. The Complainant made repeated follow-ups and site visits, only to find negligible progress, while being met with vague assurances and threats.
16. As late as June 2024, the Respondent assured that the project would be completed shortly. However, to the utter shock of the Complainant, the Respondent vide letter dated 23.12.2024 illegally cancelled the allotment citing lack of funds and scrapping of the project. The Respondent has neither delivered possession nor offered lawful compensation or interest, despite retaining the Complainant's money for several years. The conduct of the Respondent clearly establishes

deficiency in service, unfair trade practices, and malafide intent, causing severe financial loss and mental agony to the Complainant.

17. The plea of the Respondent that the project could not be completed due to financial distress and lack of funding, and that the development rights were thereafter assigned to a third party with the approval of the Directorate of Town and Country Planning, Haryana, cannot be accepted as a valid defence. Financial difficulty or paucity of funds is a commercial risk inherent to real estate development and does not constitute an unforeseen or unavoidable circumstance beyond the control of the Respondent. The doctrine of frustration is applicable only where performance of a contract becomes impossible due to events wholly beyond the contemplation and control of the parties. Mere transfer or assignment of development and marketing rights, even if approved by a competent authority, does not absolve the Respondent of its statutory obligations towards existing allottees under the Act. The maxim *lex non cogit ad impossibilia* has no application in the present case, as the impossibility pleaded by the Respondent is self-induced and arises out of its own financial mismanagement. Accordingly, the plea of frustration is rejected.
18. Upon careful consideration of the pleadings, material placed on record, and submissions of the parties, this Authority observes that the Complainant had originally approached this Authority seeking possession of the allotted unit along with interest for delayed delivery. However, during the course of proceedings, it has unequivocally emerged from the Respondent's own pleadings and admissions that the Respondent has discontinued its business operations in respect of



the project and is no longer in a position to complete the construction or hand over possession of the unit.

19. The Respondent has admitted that due to acute financial distress and lack of requisite funding, the development of the project has been discontinued and the development and marketing rights have been assigned to a third party. In such circumstances, this Authority finds that the relief of possession, as sought by the Complainant, has become **incapable of being granted**, not due to any fault of the Complainant, but solely on account of the Respondent's inability and failure to perform its statutory and contractual obligations.
20. The contention of the Respondent that the project could not be completed due to financial hardship is untenable. Financial incapacity or business failure is a risk squarely borne by the promoter and does not constitute a valid ground to deny relief to an allottee under the Real Estate (Regulation and Development) Act, 2016. The Act casts a statutory duty upon the promoter either to complete the project and hand over possession or, in the event of failure or discontinuance of business, to refund the amounts received along with interest.
21. In the present case, since the Respondent has admittedly discontinued the project and is incapable of delivering possession, the Complainant cannot be compelled to wait indefinitely for an uncertain outcome. This situation squarely attracts the provisions of Section 18(1)(a) of the Act, which mandates that where the promoter fails to complete or is unable to give possession due to discontinuance of its business, the allottee shall be entitled to withdraw from the project and claim refund of the entire amount paid along with interest and



compensation. The relevant portion of section 18 is reproduced below:

"Section 18: Return of amount & compensation:

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

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

*(b) due to discontinuance of his business as a developer on account of **suspension or revocation of the registration under this Act or for any other reason,***

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:....."

22. This Authority further holds that the transfer or assignment of development rights to a third party does not extinguish or dilute the Respondent's liability towards the Complainant, particularly in the absence of any consent or novation of contract by the Complainant. The statutory obligation under Section 18 of the Act continues to subsist against the Respondent-promoter.
23. Accordingly, this Authority concludes that although the Complainant sought possession of the allotted unit, the same is no longer feasible or legally enforceable in the facts and circumstances of the present case, and the only appropriate and lawful relief that can be granted is refund the paid-up amount of Rs. 21,75,409/- received by it along with interest at the rate of 10.85% p.a. as prescribed under rule 15 of the

Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization.

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 promoter as per the function entrusted to the authority under section 34(f):
- i. The respondent/promoter is directed to refund the amount i.e., Rs. 21,75,409/- received by it along with interest at the rate of 10.85% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realisation of the amount.
 - 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.
25. This decision shall mutatis mutandis apply to cases mentioned in para 2 of this order wherein details of paid-up amount is mentioned in each of the complaints.
26. Complaint stands disposed of.
27. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 10.10.2025