

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

**Complaint no. :** 2815 of 2024  
**Date of filing complaint:** 11.06.2024  
**Date of Decision:** 21.11.2025

Sanjiv Anand

**Address:** - 8-B, 1<sup>st</sup> Floor, Block-5, Pocket-B,  
Ashok Vihar Phase- III, New Delhi - 110052

**Complainant**

Versus

Adani M2K Projects LLP

**Address:** Adani House, Plot no. 83,  
Sector- 32, Gurugram-122001

**Respondent**

**CORAM:**

Shri Arun Kumar

**Chairman**

**APPEARANCE:**

Sh. Sham Taneja  
Sh. Kalyan Kumar

Complainant  
Respondent

**ORDER**

1. The present complaint has been filed by the complainant/allottee under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made there under or to the allottee as per the agreement for sale executed inter se.

**A. Unit and project related details**

2. The particulars of unit details, 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	"Oyster Grande", Sector-102/102A, Gurugram
2.	Total area of the project	13.531 acres
3.	Nature of the project	Residential Group Housing colony
4.	DTCP license no.	29 & 30 of 2012 dated 10.04.2012 valud upto 09.04.2025
5.	Name of licensee	Aakarshan Estates Pvt. Ltd.
6.	Registered/not registered	Registered vide no. 37 of 2017 dated 10.08.2017
7.	Unit no.	B-1604, 16 <sup>th</sup> floor [pg. 60 of complaint]
8.	Area of the unit	1861 sq. ft. of super area [pg. 60 of complaint]
9.	Welcome Letter	15.03.2013 [pg. 59 of complaint]
10.	Provisional allotment letter	23.03.2013 (pg. 60 of complaint)
11.	Cancellation notice	18.11.2013 (pg. 62 of complaint)

12.	Email by complainant seeking time for payment	22.11.2013 (pg. 63 of complaint)
13.	Cancellation of provisional allotment by respondent due to non-payment	31.03.2014 [pg. 61 of complaint]
14.	Refund requested by complainant	05.02.2019 (pg. 65 of complaint)
15.	Refund request accepted by respondent	01.04.2019 (pg. 66 of complaint)
16.	Due date of possession	15.03.2016 (calculated as 3 years from the date of welcome letter)
17.	Total Sale consideration as alleged by both the parties	₹ 1,75,13,500/-
18.	Total amount paid by the complainant as per receipts annexed at pg. 55-58 of complaint	₹ 20,00,000/-
19.	Occupation certificate	20.12.2017 (page no. 108 of reply)
20.	Offer of possession	Not offered

### **B. Facts of the complaint**

3. The complainant has made the following submissions: -

1. That the complainant had booked a unit in the proposed Group housing complex 'Oyster Grande' being developed by Adani M2K Projects LLP by paying an amount of Rs.9,00,000/- on dated 24.01.2013 towards booking of the said unit bearing apartment no. B-1604 having a super area of 2579



- sq. ft. to the respondent and the same was acknowledged on dated 9th February 2013. Subsequently, a sum of Rs 11,00,000/- was paid through three cheques.
- II. That the respondent issued the 'provisional allotment letter' dated 23.03.2013 to the complainant providing the details of the project, confirming the booking for a total sale consideration of Rs1,75,13,500/- which included basic price, EDC, IDC, car parking charges. The said unit in the proposed residential complex was booked by the complainant, wherein an application amount of Rs.12.00 Lakhs has been treated as a 'booking amount' and thereby allotted the captioned unit B-1604 by the respondent under the 'construction-linked plan'.
  - III. That the salient terms and conditions for provisional allotment of an apartment in oyster grande contained several one-sided, unilateral and unfilled blank 'clauses' favoring the respondent, but the complainant had no other option but to sign this document under the undue influence.
  - IV. That at the time of booking the unit, the respondent assured the complainant that the unit would be delivered within the promised period of four years from the date of the allotment letter dated 23rd March 2013, that comes to by 22nd March 2017.
  - V. That despite regular persuasion and follow-up by the complainant, the respondent has failed to execute the builder buyer agreement which it assured to be done within one month of issuance of the allotment letter dated 23rd March 2013. In the meanwhile, at the demand of the respondent, the complainant was forced to pay another Rs.8,00,000/-.
  - VI. That the complainant approached several financial institutions to avail 'Housing Loan' facility against the proposed unit booked by him. However he was unable to avail 'Housing Loan' from any of the banks/financial



- institution because neither any builder buyer agreement was executed nor there was any construction progress at the site.
- VII. That the complainant was aghast to receive a demand notice dated 11th July 2013 from the respondent for the payment of the due installment of Rs.30,34,967/-, which was contested by the complainant since in the absence of BBA and no construction progress, he was not able to fulfill the unwarranted and illegal demand of installment payment. Even the EMI being paid in lieu of the personnel loan taken by the complainant for paying Rs.20.00 Lakhs was huge with exorbitant rate of interest.
- VIII. That the respondent without fulfilling its obligations to execute BBA and to keep pace with project construction activity adopted illegal and malicious intention to issue a 'cancellation notice' dated 18th November 2013 for default in payment of due installment amounting to Rs.30,34,967/-.
- IX. According to terms & conditions for provisional allotment of apartment as well as respondent's communication dated 18th November, 2013 the booking amount on application had been Rs 12.00 Lakhs only. Thus even on cancellation of unit by the promoter on account of default by the Allottee, the forfeiture amount cannot exceed Rs 12.00 Lakhs paid as a booking amount in the present case.
- X. That the respondent not only failed to adhere to the terms and conditions of booking/allotment but also illegally extracted money from the complainant by making false promises and statements at the time of booking.
- XI. That the complainant having dream of his own residential house in Gurugram, booked the unit in the hope that it will be delivered within 4 years from the date of provisional allotment letter dated 23rd March 2013.



- XII. That the payment plan was designed in such a way as to extract maximum payment from the complainant keeping all laws of the land including RERA Act at bay. Receipt of Rs.20.00 Lakhs without either executing the BBA or timely construction of the project in pace with the payment plan leaves little option with the gullible complainant, but to fall prey in the hands of these social predators.
- XIII. That during the project development phase, the complainant along with his wife visited the office of the respondent several times and requested them (i) to allow them to visit the site to know the construction status, (ii) to execute the 'builder buyer agreement' and/or (iii) to refund the deposited amount of Rs 20.00 lakhs but the respondent never obliged them on one or the other pretext with the sole intention to usurp his deposited amount.
- XIV. That on contesting the unit's cancellation notice dated 31st March 2014 by the complainant, the respondent assured him that they will refund the advanced money of Rs 20.00 Lakhs once the cancelled unit is allotted to another new allottee and also advised the complainant to look for another customer to whom the Unit B-1604 in the Project 'Oyster Grande' may be allotted. Also if the respondent finds another customer for allotment of this unit No. B-1604, they will refund the advance amount of Rs 20.00 Lakhs to the complainant.
- XV. That it came to the knowledge of the complaint in the year 2023 that the respondent has allotted the same apartment no. B-1604 in 'Oyster Grande' Project to Ms Priya Vatsyayan and Ms Daulat Premkumar on dated 27.08.2020 without refunding an amount of Rs 20.00 lakhs to the complainant.
- XVI. That the complainant was always trying to resolve the case peacefully by always discussing the matter with the respondent's team and under the

undue influence of the threat of not going to the Court/RERA with a fear of losing a huge amount of Rs 20.00 lakhs and therefore this process took so many years.

- XVII. That having failed in all his efforts to get the refund of Rs 20.00 Lakhs, the complainant lodged a police complaint dated 31st January, 2023 against the respondent represented through Mr Vipin Jain, and Rajeev Mahindru for the offenses of Cheating, Fraud, and Misappropriation. However the same got disposed of on 19.09.2023 without taking any action against the respondent.

**C. Relief sought by the complainant:**

4. The complainant in the present complaint have sought the following relief(s).
  - i. **Direct the respondent to refund a sum of Rs. 8,00,000/- paid by the complainant after forfeiting a booking amount of Rs. 12,00,000/- along with RERA's prescribed rate of interest from the due date of payment till the date of actual refund.**
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 the respondent**

6. The respondent has contested the complaint on the following grounds.
  - I. That the present complaint is barred by limitation since the unit booked by the complainant was booked by the complainant in the year 2012 and due to the constant defaults on behalf of the complainant to pay the demands as per the agreed payment plan/outstanding amounts for the unit booked, the unit was cancelled by the respondent vide cancellation letter dated 31.03.2014 followed by various reminders for payment of



the installments/outstanding amount. The present Complaint has been instituted by the complainant only in June, 2024. The Complainant after 10 years has filed the present complaint to reap benefits out of the pocket of the respondent, which clearly establishes that the present complaint filed is an afterthought.

- II. That the complainant has approached this Hon'ble Authority with malafide intention as the complainant is well aware about the statutory period of limitation of 3 years with respect to filing of complaint which per se commences in 2016, therefore in that event the complainant begin to run out of limitation period in the year 2017 itself.
- III. That Article 113 of Limitation Act, 1963, provides that where there is no specific period of limitation period then in that case limitation shall commence from when the right accrues and till 3 years. In the present case the complainant was well aware that the said unit booked by the complainant has been cancelled by the respondent vide cancellation letter dated 31.03.2014, however the complainant choose to file the present complaint after more than 10 years.
- IV. That the respondent vide said cancellation requested the complainant to collect the balance sum due after forfeiture of the applicable charges in terms of the clause 15 of the allotment. The complainant has duly agreed in terms of clause 12 of the provisional allotment that 15 % of the total consideration and other charges be treated as earnest money to ensure the fulfillment of the terms and conditions.
- V. This Hon'ble Authority in the matter titled as "Shipra Gupta Versus Vatika Soverign Park Ltd. & Anr." bearing Complaint No.763 of 2020, held that where the complainant has not challenged the cancellation of the unit for more than a period of five years then the complaint is barred by limitation and the complaint was dismissed as not maintainable. Similar

ratio was passed by this Hon'ble Authority in matter titled as "Jattan Tanwar Versus Emaar India Limited" bearing complaint no. 2186 of 2023.

- VI. That in 2012, the complainant approached the respondent and applied for an apartment in the respondent's project named "Oyster Grande," located in sector-102/102A in Gurugram, Haryana vide application form dated 10.12.2012.
- VII. That the respondent has sent welcome letter dated 15.3.2013 along with the provisional allotment letter. Accordingly, the complainant was provisionally allotted apartment bearing no.B-1604, 16th Floor, 3 BHK + study + servant room, bearing tentative area of 1861 sq. ft.
- VIII. That clause 39 of the application form stipulates that the respondent shall endeavour to complete the construction of the said apartment within 48 months from the date of execution of the agreement or from the commencement of construction, whichever is later, with a grace period of 6 months. That completion of the construction is subject to timely payment by the complainant which has been agreed to by the complainant at the time of signing the application form.
- IX. That the respondent vide letter dated 18.11.2013 sent final notice for payment of the outstanding amount of Rs.30,34,967/- by 03.12.2013 failing which the allotment shall be cancelled as per the terms and conditions mentioned in the application form.
- X. That the respondent vide letter dated 31.03.2014 sent an intimation of the cancellation of the said apartment followed by various reminders. The respondent further requested the complainant to collect the amount after forfeiture of the applicable charges in terms of the allotment.
- XI. That in view of the clauses of the allotment letter as mentioned above even though the complainant was aware that timely payment of

installment was of the essence, the complainant failed to make timely payments according to the terms and conditions agreed by the complainant.

- XII. That the complainant had not made complete payment towards the said apartment despite the fact that the respondent had issued various reminder letters/final opportunity letters to the complainant for making the balance payment with respect to the said apartment, however the same was of no avail as the complainant paid no heed to any of the aforementioned reminder/final opportunity letters. The complainant has till date paid an amount of Rs.20,00,000/- towards the consideration of the said apartment out of the total sale consideration of Rs.1,75,13,500/-.
- XIII. That since the complainant failed to reply to any of the afore-mentioned reminder letters, the respondent was constrained to issue a cancellation letter to the complainant, thereby cancelling the provisional allotment said apartment of the complainant.
- XIV. That the said project of the respondent was complete and ready for possession and handover since July, 2017. The project was completed in time and all the amenities and facilities are being provided by the respondent as they have been proposed at the time of making the booking of the said apartment.
- XV. Further, the complainant as per its own whims and fancies had stopped making any payment as agreed, therefore the respondent was well within the rights to cancel the said apartment of the complainant, to forfeit the amounts as per the terms and conditions of the said agreement and further sell the said unit as per the terms.
- XVI. That as per Section 19(6) of the Real Estate (Regulation and Development) Act, 2016, the Allottee is liable to make payments in the manner as specified in the said agreement and shall pay the same within

the time. However, it is pertinent to mention here that the complainant has willfully failed to comply with the same as can be seen from various reminders followed by the cancellation letter. Further, as per Section 19(7) of the Act, if the Allottee fails to make timely due payments, the Allottee shall be liable to pay delayed payment interest for the same.

7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the complainant.

**E. Jurisdiction of the authority**

8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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**

10. 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.*

11. 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 the relief sought by the complainant.**

- i. **Direct the respondent to refund a sum of Rs. 8,00,000/- paid by the complainant after forfeiting a booking amount of Rs. 12,00,000/- along with RERA's prescribed rate of interest from the due date of payment till the date of actual refund.**

**Maintainability of complaint**

12. That in the present complaint, the complainant had applied for and booked a residential unit in the project of the respondent, namely "Oyster Grande", situated at Sector-102/102A, Gurugram. Pursuant thereto, a welcome letter dated 15.03.2013 was issued by the respondent, followed by a provisional allotment letter dated 23.03.2013. The total sale consideration of the said unit was fixed at Rs. 1,75,13,500/-, out of which the complainant had paid a sum of Rs. 20,00,000/- to the respondent.
13. That upon consideration of the documents available on record and the submissions advanced by both the parties with respect to the alleged contravention of the provisions of the Act, the Authority has observed that subsequent to the issuance of the provisional allotment letter dated

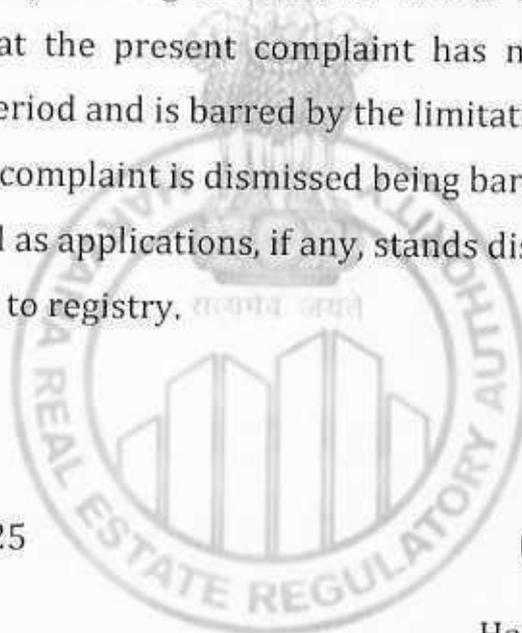
23.03.2013, the respondent raised demands towards the outstanding dues payable by the complainant. However, the complainant failed to clear the said demands. Consequently, the respondent issued a notice of cancellation dated 18.11.2013.

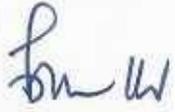
14. That thereafter, the complainant, vide email dated 22.11.2013, sought time from the respondent for making payment of the outstanding amount. Despite the said request, the complainant again failed to make the requisite payment. In view of the continued default on the part of the complainant, the respondent proceeded to cancel the allotment of the unit vide cancellation dated 31.03.2014. The respondent subsequently obtained the occupation certificate in respect of the project/unit in question on 20.12.2017.
15. The complainant in the present matter seeking refund of the amount paid by him and the respondent objects that the matter is barred by limitation. The Authority is cognizant of the view that the law of limitation does not strictly apply to the Real Estate Regulation and Development Authority Act of 2016. However, the Authority under section 38 of the Act of 2016, is to be guided by the principle of natural justice. It is universally accepted maxim and the law assists those who are vigilant, not those who sleep over their rights. Therefore, to avoid opportunistic and frivolous litigation a reasonable period of time needs to be arrived at for a litigant to agitate his right. This Authority of the view that three years is a reasonable time period for a litigant to initiate litigation to press his rights under normal circumstances.
16. It is also observed that the Hon'ble Supreme Court in its order dated 10.01.2022 in **MA NO.21 of 2022 of Suo Moto Writ Petition Civil No.3 of 2020** have held that the period from 15.03.2020 to 28.02.2022 shall stand

excluded for purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

17. In the present matter the cause of action arose on 31.03.2014 when the allotted unit was cancelled by the respondent. The complainant has filed the present complaint on 11.06.2024 which is 10 years 2 months and 11 days from the date of cause of action. The complaint has not been filed within a reasonable period of time nor have the complainant explained any grounds for the delay in filing the same. In view of the above, the Authority is of the view that the present complaint has not been filed within a reasonable time period and is barred by the limitation.
18. Consequently, the complaint is dismissed being barred by limitation.
19. Complaint as well as applications, if any, stands disposed off accordingly.
20. File be consigned to registry.

Dated: 21.11.2025



  
**(Arun Kumar)**  
Chairman

Haryana Real Estate  
Regulatory Authority,  
Gurugram

**HARERA**  
**GURUGRAM**