

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

**Date of Order: 16.12.2025**

NAME OF THE BUILDER		<b>M/s Neo Developers Private Limited.</b>	
PROJECT NAME		<b>"Neo Square"</b>	
S. No.	Case No.	Case title	Attendance
1.	CR/495/2025	Sukriti David Cappel V/S Neo Developers Private Limited	Hemant Phogat (Complainant) E. Krishna Das and Venkat Rao (Respondent)
2.	CR/497/2025	Khushabu Kumari V/S Neo Developers Private Limited	Hemant Phogat (Complainant) E. Krishna Das and Venkat Rao (Respondent)
3.	CR/498/2025	Rohit Malik V/S Neo Developers Private Limited	Hemant Phogat (Complainant) E. Krishna Das and Venkat Rao (Respondent)
4.	CR/501/2025	Suman Malhotra and Rajive Malhotra V/S Neo Developers Private Limited	Hemant Phogat (Complainant) E. Krishna Das and Venkat Rao (Respondent)
5.	CR/510/2025	Rachna Verma and Ajay Verma and Somain Verma V/S NEO Developers Private Limited	Hemant Phogat (Complainant) E. Krishna Das and Venkat Rao (Respondent)
6.	CR/545/2025	Deepti Saran and Shailesh Saran V/S NEO Developers Private Limited	Hemant Phogat (Complainant) E. Krishna Das and Venkat Rao (Respondent)

<b>CORAM:</b>	
Shri Arun Kumar	<b>Chairman</b>
Shri Phool Singh Saini	<b>Member</b>

### ORDER

1. This order shall dispose of the aforesaid 6 complaints titled above filed before this Authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale/MOU executed inter se between parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "**Neo Square**" Sector 109, Gurugram being developed by the same respondent/promoter i.e., **M/s Neo Developers Pvt. Ltd.** The terms and conditions of the buyer's agreements/MoU and fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking valid offer of possession of the unit along with assured return, waiver of fit out charges and other reliefs.
3. The details of the complaints, reply status, unit no., date of agreement & MoU, AR clause, total sale consideration and total paid amount are given in the table below:

<b>Project Name and Location</b>	"Neo Square", Sector 109, Gurugram, Haryana
<b>Nature of the project</b>	Commercial Colony
<b>Project area</b>	3.08 acres
<b>Occupation certificate</b>	14.08.2024

S.no.	Complaint no./title/ date of filing complaint	Unit No. and Unit super area	Date of execution of BBA and MoU	Assured return clause in the MoU	Total sale consideration and Amount paid by the complainant
1.	CR/495/2025  Sukriti David Cappel V/S NEO Developers Private Limited  <b>DOF:</b> 05.02.2025  <b>RR:</b> NA	Unit no. - Priority Allotment serial no.79, 5 <sup>th</sup> floor or similar  And  600 Sq. ft.  (as per page no. 21 of complaint)	<b>BBA:</b> 06.04.2018 (as per page no. 18 of complaint)  <b>MOU:</b> 06.04.2018 (as per page no. 35 of complaint)	<b>Clause 04 of MoU</b> <i>"The company shall pay a monthly return of Rs.39,000/- on the total amount received with effect from 06.04.2018 before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottees to the Company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit. This shall be paid from the effective date."</i>  (As per pg. no. 37 of the Complaint)	<b>T.S.C:</b> Rs. 31,41,528/- (as per page no. 34 of complaint)  <b>A.P.:-</b> Rs. 30,06,528/- (as per page no. 45 of complaint)
2.	CR/497/2025  Khushabu Kumari V/S NEO Developers Private Limited  <b>DOF:</b> 05.02.2025  <b>RR:</b> NA	Unit no. - Priority Allotment serial no.86, 5 <sup>th</sup> floor or similar  And  300 Sq. ft.  (as per page no. 27 of complaint)	<b>BBA:</b> 06.04.2018 (as per page no. 24 of complaint)  <b>MOU:</b> 06.04.2018 (as per page no. 50 of complaint)	<b>Clause 04 of MoU</b> <i>"The company shall pay a monthly return of Rs.19,500/- on the total amount received with effect from 06.04.2020 before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottees to the Company in</i>	<b>T.S.C:</b> Rs. 15,84,204/- (as per page no. 42 of complaint)  <b>A.P.:-</b> Rs. 15,17,000/- (as per page no. 62 of reply)

				<p>accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit. This shall be paid from the effective date."</p> <p>(As per pg. no. 52 of the Complaint)</p>	
3.	<p>CR/498/2025</p> <p>Rohit Malik V/S NEO Developers Private Limited</p> <p><b>DOF:</b> 05.02.2025</p> <p><b>RR:</b> NA</p>	<p>Unit no. Virtual - 21 on 14<sup>th</sup> floor</p> <p>And 100 Sq. ft.</p> <p>(as per page no. 61 of complaint)</p>	<p><b>BBA:</b> 12.03.2018 (as per page 25 of complaint)</p> <p><b>MOU:</b> 12.03.2018 (as per page no. 51 of complaint)</p>	<p><b>Clause 04 of MoU</b> "The company shall pay a monthly return of Rs.6,500/- on the total amount received with effect from 12.03.2020 before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottees to the Company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit. This shall be paid from the effective date"</p> <p>(As per pg. no. 53 of the Complaint)</p>	<p><b>T.S.C.:</b> Rs.5,23,588/- (as per page no. 42 of complaint)</p> <p><b>A.P.:-</b> Rs.5,01,088/- (as per SOA at page no. 62 of complaint)</p>
4.	<p>CR/501/2025</p> <p>Suman Malhotra and Rajive Malhotra</p>	<p>Unit no. - Priority Allotment serial no.79, 3<sup>rd</sup> floor</p> <p>And 416 Sq. ft.</p>	<p><b>BBA:</b> 05.11.2018 (page 24 of complaint)</p> <p><b>MOU:</b> 05.11.2018</p>	<p><b>Clause 04 of MoU</b> "The company shall pay a monthly return of Rs.41,563/- on the total amount received with effect from 05.11.2018 before deduction of Tax at Source, cess or any</p>	<p><b>T.S.C.:</b> Rs. 24,23,200/- (as per page no. 42 of complaint)</p> <p><b>A.P.:-</b> Rs. 23,29,600/-</p>

	<p>V/S NEO Developers Private Limited</p> <p><b>DOF:</b> 06.02.2025</p> <p><b>RR:</b> NA</p>	(as per page no. 27 of complaint)	(as per page no. 51 of complaint)	<p><i>other levy which is due and payable by the Allottee(s) to the company and the balance sale consideration shall be payable by the Allottees to the company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit. This shall be paid from the effective date"</i></p> <p><i>(As per pg. no. 53 of the Complaint)</i></p>	(as per MOU at page no. 53 of complaint)
5.	<p>CR/510/2025</p> <p>Rachna Verma and Ajay Verma and Somain Verma V/S NEO Developers Private Limited</p> <p><b>DOF:</b> 06.02.2025</p> <p><b>RR:</b> NA</p>	<p>Unit no. - Priority no.76, 5<sup>th</sup> floor or similar</p> <p>And</p> <p>300 Sq. ft.</p> <p>(as per page no. 29 of complaint)</p>	<p><b>BBA:</b> 22.02.2018 (page 26 of complaint)</p> <p><b>MOU:</b> 22.02.2018 (as per page no. 45 of complaint)</p>	<p><b>Clause 04 of MoU</b></p> <p><i>"The company shall pay a monthly return of Rs.19,500/- on the total amount received with effect from 22.02.2018 before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottees to the Company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit. This shall be paid from the effective date"</i></p> <p><i>(As per the Complainant in CRA)</i></p>	<p><b>T.S.C.:</b> Rs.20,67,372/- (as per page no. 44 of complaint)</p> <p><b>A.P.:</b> - Rs. 20,00,000/- (as per SOA at page no. 56 of complaint)</p>

<b>6.</b>	CR/545/2025  Deepti Saran and Shailesh Saran V/S NEO Developers Private Limited  <b>DOF:</b> 06.02.2025  <b>RR:</b> NA	Unit no. - Priority Allotment serial no.72, 5 <sup>th</sup> floor or similar  And  300 Sq. ft. (as per page no. 27 of complaint)	<b>BBA:</b> 30.05.2018 (page 24 of complaint)  <b>MOU:</b> 30.05.2018 (as per page no. 15 of complaint)	<b>Clause 04 of MoU</b> <i>"The company shall pay a monthly return of Rs.19,500/- on the total amount received with effect from 30.05.2020 before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottees to the Company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit. This shall be paid from the effective date"</i>  <i>(As per pg. no. 53 of the Complaint)</i>	<b>T.S.C:</b> Rs. 16,70,764/- (as per page no. 42 of complaint)  <b>A.P.:-</b> Rs. 15,30,000/- (as per SOA at page no. 62 of complaint)
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**Reliefs sought by the complainant -**

1. Direct the respondent to pay monthly assured returns which are due from March 2019 until the commencement of first lease of the unit.
2. Direct the respondent to withdraw and waive off the demands made in demand & offer of possession letter dated 04.10.2024 and the letter dated 19.12.2024 on account of development charges, labour cess, FTTH charge and fitout charges and delayed interest imposed on these demands.
3. Direct the respondent not to charge anything which is not part of payment schedule.
4. Direct the respondent to offer the possession of the unit and execute sale deed/conveyance deed in favour of the complainant.

**Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:**

Abbreviation	Full form
DOF:	Date of filing of complaint
BBA:	Builder Buyer's Agreement
MOU:	Memorandum of Understanding

TSC:	Total Sale Consideration
AP:	Amount paid by the allottee/s
RR:	Reply received by the respondent

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the builder buyer's agreement/MoU executed between the parties in respect of subject unit for not handing over the possession by the due date, seeking the assured return, revoking illegal demands and respondent not doing conveyance deed in favour of the complainant.
5. The facts of all the complaints filed by the complainant-allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case ***CR/495/2025 titled as Sukriti David Cappel VS NEO Developers Private Limited.*** are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

**A. Project and unit related details.**

6. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

***CR/495/2025 titled as Sukriti David Cappel VS NEO Developers Private Limited.***

S. N.	Particulars	Details
1.	Name of the project	Neo Square, Sector-109, Gurugram
2.	Project area	2.71 acres
3.	Nature of the project	Commercial colony
4.	RERA Registered or not	Registered Vide no. 109 of 2017 dated 24.08.2017 valid upto 22.02.2024
5.	DTCP License no.	102 of 2008 dated 15.05.2008 valid upto 14.05.2025
6.	Unit no.	Commercial Floor, Priority no. 79, 5 <sup>th</sup> floor or similar (page no. 21 of complaint)

7.	Unit area admeasuring	600 sq. ft. (page no. 21 of complaint)
8.	Date of buyer's agreement	06.04.2018 (page no. 18 of complaint)
9.	Date of MoU	06.04.2018 (page no. 35 of complaint)
10.	Possession clause	3. <i>The company shall complete the construction of the said Building/Complex, within which the said space is located within 36 months from the date of execution of this Agreement or from the start of construction, whichever is later and apply for grant of completion/ Occupancy Certificate.</i> (As per MOU on page no. 37 of complaint)
11.	Date of start of construction	The Authority has decided the date of start of construction as 15.12.2015 which was agreed to be taken as date of start of construction for the same project in other matters. In CR/1329/2019 it was admitted by the respondent in his reply that the construction was started in the month of December 2015.
12.	Due date of possession	06.10.2021 (Calculated from date of agreement being later + 6 months on account of covid-19)
13.	Assured return Clause	<i>Clause 4 of MoU</i> <b>The Company shall pay a monthly assured return of Rs. 39,000/- on the total amount received with effect from 06<sup>th</sup> April 2018 before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee (s) to the Company and the balance sale consideration shall be payable by the Allottee(s) to the Company in accordance with Payment Schedule annexed as Annexure- 1. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit. This shall be paid from the effective date.</b>

14.	Basic sale consideration	Rs. 31,41,528/- (as per payment plan on page no. 34 of complaint) Rs. 35,87,818/- (as per SOA on page no. 45 of complaint)
15.	Amount paid by the complainant	Rs. 30,06,528/- (as per SOA on page no. 45 of complaint)
16.	Occupation certificate	14.08.2024 (As per DTCP site)
17.	Offer of possession	04.10.2024 (page no. 43 of complaint)
18.	Letter for possession of office space subject to payment of fit out charges (unit leased to the tenant)	19.12.2024 (page no. 46 of complaint)
19.	Reminders for payment	27.11.2024, 27.12.2024 (Page no. 47-48 of complaint)
20.	Email by complainant regarding unfair charges	11.01.2025 (page no. 49 of complaint)

### B. Facts of the complaint.

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

- i. That, after going through the advertisement published by respondent in the newspapers and as per the brochure /prospectus provided by it, the complainant had booked a commercial space in the area designated for food court and entertainment space bearing priority no. 79, on fifth floor, having its super area 600 sq. ft. and covered area of 300 sq. ft. in the upcoming project of the respondent named "NEO SQUARE" situated in sector-109, Dwarka expressway, Gurugram for a total basic sale consideration of Rs. 24,00,000/- and total sale price of Rs. 31,41,528/-, which includes the GST, IFMS, IDC, EDC and the Complainant had paid a sum of Rs. 30,06,258/- including EDC/ IDC of Rs. 2,84,400/- and GST to the tune of Rs. 3,22,128/-.

- ii. The buyer's agreement and memorandum of understanding were executed between the respondent and the complainant on 06.04.2018.
- iii. That the complainant has abided by all the terms of mou and builder buyer agreement dated 06.04.2018 and has made all the payments/ installments in a timely manner, as and when demanded by the respondent and there are no dues pending in respect of the unit as per the (annexure-1) payment schedule of the builder buyer's agreement.
- iv. That, as per clause-3 of the mou dated 06.04.2018, the respondent was/is under legal obligation to complete the construction of the project within 36 months from the date of execution of mou but the respondent has failed to complete the project and handover the possession of the unit within the committed time period and the respondent has delayed the project.
- v. That, as per clause 4 of the mou dt. 06.04.2018, the respondent was/is under legal obligation and was bound to pay the monthly assured return of Rs. 39,000/-on the total amount receipt w.e.f. 06.04.2018 until the commencement of first lease on the said unit.
- vi. That the respondent/ developer has failed to honour its own commitment of paying the monthly assured returns and has stopped paying the monthly assured returns which are due since march, 2019. The complainant has been communicating with the respondent/ developer and has made several requests in respect of the payment of the assured returns but the respondent/ developer has not paid any heed to the just and genuine demands of the complainant and has been lingering on the demands of the complainant on one pretext or the other.
- vii. That the respondent in contravention to the terms of Builder Buyer Agreement and MOU dated 06.04.2018 has raised unlawful demands via demand notice and offer of possession letter dated 04.10.2024. The demands

raised by the respondent in the said demand notice and offer of possession letter on account of development charges to the tune of Rs. 4,24,800/-, FTTH charges to the tune of Rs. 6,490/- and labour cess to the tune of Rs. 15,000/- are not part and parcel of the payment schedule (annexure-1) of the buyers agreement and these demands are being raised illegally and in an arbitrary manner by the respondent with the sole intention to extort more money from the complainant.

- viii. That it is further worthwhile to mention here that the respondent/ developer vide letter dated 19.12.2024 has raised another demand on account of fitout charges to the tune of Rs. 17,70,000/- which is again not a part of payment schedule or the buyer's agreement dated 06.04.2018.
- ix. That the complainant has been trying to reach out to the respondent to enquire and get clarity upon the demands raised by the respondent but despite of his several communications, the respondent has not provided any satisfactory reply to the complainant and has refused to withdraw these demands and is further threatening the complainant to pay the charges as mentioned in the demand/ reminder letter dated 27.11.2024 and 27.12.2024 or they will cancel and terminate the allotment of her unit/ space.
- x. That upon receiving of the said demand letter, the complainant contacted the respondent/ developer via telephonic calls and emails and has enquired about the authenticity of the above said demands and with a further request to waive of these demands and provide possession of her unit as the charges raised in these demands are not part and parcel of the payment schedule/ annexure-1 of the buyers agreement dated 06.04.2018. The complainant further requested the respondent/ developer to adjust the demands raised in respect of IFMS in the pending assured returns and to offer possession of her unit as no dues are

pending on the part of the complainant as per the payment plan of the buyers agreement.

- xi. That, till today the complainant has not received any satisfactory reply from the respondent regarding payment of assured returns as well as the waiver off the unlawful demands made via offer of possession and demand letter dated 04.10.2024 and letter dated 19.12.2024 and therefore, the complainant is suffering from harassment and is going through a lot of mental and financial agony.
- xii. That, till today the complainant has not received any satisfactory reply from the respondent regarding payment of assured returns and for withdrawal of the unlawful demands vide letter dated 04.12.2024 as well as offer of possession of their unit/space and therefore, the complainant is suffering from harassment and are going through a lot of mental and financial agony.
- xiii. The cause of action accrued in favour of the complainant and against the respondent, when complainant had booked the said unit and it further arose when respondent failed/neglected to pay the assured returns and further threaten the complainant to cancel the allotment of her unit by raising unlawful demands in contravention to the terms of builder's buyer agreement dated 06.04.2018. The cause of action is continuing and is still subsisting on day-to-day basis.

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

8. The complainant has sought the following relief(s):

- 1) To direct the respondent to pay the monthly assured returns which are due from March, 2019 until the commencement of first lease of the unit.
- 2) To direct the respondent to withdraw and waive off the demands made in demand & offer of possession letter dated 04.10.2024 and the letter dated 19.12.2024 on account of Development Charges, Labour Cess, FTTH

charge and FITOUT charges and delayed interest imposed on these demands.

- 3) To direct the respondent not to charge anything which is not the part of Payment Schedule (Annexure-1) of Buyers Agreement dated 06.04.2018.
- 4) To direct the respondent to offer the possession of the unit and execute sale deed/ conveyance deed in favour of the complainant as entire payment has been made by the complainant towards the basic sale price in respect of the unit/ space.

9. The respondent-promoter were given various opportunity for filing of reply, the respondent has failed to comply with the orders of the authority. It shows that the respondent is intentionally delaying the procedure of the court by avoiding filing of the written reply. Therefore, vide proceeding dated 19.08.2025, the respondent proceeded ex-parte. In view of the above, the respondent is hereby proceeded ex-parte. Subsequently, the Authority is deciding the complaint on the basis of these undisputed documents available on record and submissions made by the complainant.

#### **D. Jurisdiction of the Authority**

10. 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**

11. 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**

12. 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.*

13. 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.**

- I. To direct the respondent to pay the monthly assured returns which are due from March, 2019 until the commencement of first lease of the unit.**

**E.1 Assured Returns**

14. The complainant is seeking unpaid assured returns on monthly basis as per the terms of the MoU dated 06.04.2018 at the rate mentioned therein. It is pleaded that the respondent has not complied with the terms and conditions of the said MoU.

15. The money was taken by the builder as a deposit in advance against allotment of immovable property and its possession was to be offered within a certain period. However, in view of taking sale consideration by way of advance, the builder promised certain amount by way of assured returns for a certain period. So, on

his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of his grievances by way of filing a complaint.

16. The promoter is liable to pay that amount as agreed upon and can't take a plea that it is not liable to pay the amount of assured return. Moreover, an agreement defines the builder/buyer relationship. So, it can be said that the agreement for assured returns between the promoter and allottee arises out of the same relationship and is marked by the addendum agreement.
17. It is not disputed that the respondent is a real estate developer, and it had obtained registration under the Act of 2016 for the project in question. However, the project in which the advance has been received by the developer from the allottee is an ongoing project as per section 3(1) of the Act of 2016 and, the same would fall within the jurisdiction of the authority for giving the desired relief to the complainant besides initiating penal proceedings. So, the amount paid by the complainant to the builder is a regulated deposit accepted by the later from the former against the immovable property to be transferred to the allottee later on.
18. In the present complaint, the assured return was payable as per clause 4 of the MoU dated 06.04.2018, which is reproduced below for the ready reference:

**Clause 4**

***"The Company shall pay a monthly assured return of Rs.39,000/- on the total amount received with effect from 06.04.2018 before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottee(s) to the Company in accordance with Payment Schedule annexed as Annexure- I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit. This shall be paid from the effective date."***

Thus, as per the abovementioned clause the assured return was payable @Rs.39,000/- per month w.e.f. 06.04.2018, till the commencement of first lease.

19. In the present complaint, as per clause 4 of the MoU dated 06.04.2018, the amount on account of assured return was payable from 06.04.2018 up to the commencement of first lease. The occupation/completion certificate of the project in question has been obtained by the respondent on 14.08.2024. However, the subject unit has not been put on valid lease by the respondent till date. Therefore, considering the facts of the present case, the respondent is directed to pay assured return to the complainant at the agreed rate i.e., @Rs.39,000/- per month from the effective date i.e. 06.04.2018 till the commencement of the first lease on the said unit as per the memorandum of understanding dated 06.04.2018, after deducting the amount already paid on account of assured returns to the complainant.

- II. **To direct the respondent to withdraw and waive off the demands made in demand & offer of possession letter dated 04.10.2024 and the letter dated 19.12.2024 on account of Development Charges, Labour Cess, FTTH charge and FITOUT charges and delayed interest imposed on these demands.**
- III. **To direct the respondent not to charge anything which is not the part of Payment Schedule (Annexure-1) of Buyers Agreement dated 06.04.2018.**

20. The complainant has further sought relief regarding the waiver of various charges, penalties, rates, and other demands which, according to them, do not form part of either the Buyers' Agreement dated 06.04.2018 or the MoU executed on the same date. The impugned demand notice and offer of possession dated 04.10.2024 reflects components such as IFMS, development charges, FTTH charges, interest amount on dues and labour cess, which have been objected to by the complainant. The Authority of the view that:

- **Labour cess**

Labour cess is levied @ 1% on the cost of construction incurred by an employer as per the provisions of sections 3(1) and 3(3) of the Building and

Other Construction Workers' Welfare Cess Act, 1996 read with Notification No. S.O 2899 dated 26.09.1996. It is levied and collected on the cost of construction incurred by employers including contractors under specific conditions. Moreover, this issue has already been dealt with by the authority in complaint bearing no.962 of 2019 titled as "**Mr. Sumit Kumar Gupta and Anr. Vs Sepset Properties Private Limited**" wherein it was held that since labour cess is to be paid by the respondent, as such no labour cess should be charged by the respondent. The authority is of the view that the allottee is neither an employer nor a contractor and labour cess is not a tax but a fee. Thus, the demand of labour cess raised upon the complainant is completely arbitrary and the complainant cannot be made liable to pay any labour cess to the respondent and it is the respondent builder who is solely responsible for the disbursement of said amount.

- **Development charges**

The undertaking to pay the development charges was comprehensively set out in the buyer agreement in clause 11. The said clause of the agreement is reproduced hereunder: -

**Clause 11**

*"That the Allottee agrees to pay all taxes, charges. Levies, cesses, applicable as on dated under any name or category heading and or levied in future on the land and or the said complex and/or the said space at all times, these would be including but not limited to GST. **Development charges**, Stamp Duties, Registration Charges, Electrical Energy Charges, EDC Cess, IDC Cess, BOW Cess, Registration Fee, Administrative Charges, Property Tax, Fire Fighting Tax and the like. **These shall be paid on demand** and in case of delay. these shall be payable with interest by the Allottee"*

In light of the aforementioned facts, the Authority is of the view that the said demand for development charges is valid since these charges are payable to various departments for obtaining service connections from the concerned departments including security deposit for sanction and release of such connections in the name of the allottee and are payable by the allottee. Hence,

the respondent is justified in charging the said amount. In case instead of paying individually for the unit if the builder has paid composite payment in respect of the development charges, then the promoter will be entitled to recover the actual charges paid to the concerned department from the allottee on pro-rata basis i.e. depending upon the area of the unit allotted to the complainant viz- à-viz the total area of the particular project. The complainant will also be entitled to get proof of all such payment to the concerned department along with a computation proportionate to the allotted unit, before making payment under the aforesaid head.

- **FTTH Charges**

The Authority further observes that clause 11, as discussed hereinabove, does not contain any stipulation regarding levy or recovery of FTTH charges from the complainant. In the absence of any specific contractual consent or agreed term between the parties, such charges cannot be imposed by the respondent. Accordingly, the respondent is directed to raise demands strictly in accordance with the terms mutually agreed under the executed agreement and MoU.

- **Interest on delay penalty**

The Authority has perused the offer of possession letter dated 04.10.2024, wherein an amount of Rs.2,750/- has been levied towards interest on delayed payment. Upon examination of the MoU on record, it is noticed that the complainant has already paid a sum of Rs.30,06,528/-, which is more than the basic sale consideration of Rs.24,00,000/- as reflected in the payment plan annexed with the MoU. The Authority further observes that the total basic sale consideration of the said unit is Rs.31,41,528/-, as expressly stipulated in the payment schedule of the MoU executed between the parties. Further, as per the statement of account cum demand 04.10.2024, it is reflected that an

amount of Rs.30,06,528/- has already been paid by the complainant, which stands duly acknowledged and accepted by the respondent as the same is issued by the respondent. However, the same statement of account records the total sale consideration of the unit as Rs.35,87,818/-. Hence, in terms of the MoU, it is stipulated that the complainant is liable to pay the outstanding amount towards IFMS, EDC/IDC, registration charges, stamp duty, and other applicable charges at the time of issuance of the offer of possession. It is evident from the record that the offer of possession of the said unit was issued to the complainant on 04.10.2024. In view of the provisions of Section 19(7) of the Act, 2016, an allottee is under a statutory obligation to make timely payment of all charges as agreed under the MoU. Accordingly, the complainant is liable to pay the remaining applicable charges, as agreed between the parties, along with interest, if any, on delayed payment attributable to the allottees

21. The respondent shall not charge anything from the complainant which is not part of the MoU or buyers' agreement dated 06.04.2018.
22. It is pertinent to note that prior to the filing of the present complaint, demand towards fit-out charges had been raised by the respondent dated 19.12.2024, wherein the demand for fit-out charges of Rs.17,70,000/-, which is on record. Vide proceedings dated 16.12.2025 the counsel for the respondent states that as per the clause 7 of the MoU executed between the parties the complainant has agreed to pay such charges. The said clause is reiterated below for ready reference:

*Clause 7(d)*

***"That the Allottee(s) further agrees and understands that in case the tenant desires any infrastructural changes in form of separate sewage arrangement or the gas pipeline or any other change which involves expense on the part of allottee(s), then in that event the same shall be paid by the Allottee, strictly within the period of 15 days from the day of written notification by the company on the registered e-mail address of the allottee(s). In case the allottee(s) fails to come forward to tender the payment as demanded by the Company then in that event the company shall bear the same from its own pocket and deduct the same from the rental payable***

*to the allottee(s) with monthly interest of 2%. The allottee(s) shall not register any protest towards the deductions from the rental. The rent shall be paid to the allottee(s) in the above mentioned arrangement defined at clause 7(b) after the expense incurred by the company along with the monthly interest of 2% is recovered by the company from the rent received."*

23. Upon understanding of the said clause, it is clear that Clause 7(d) of the MoU do mention about the allottee being responsible for certain additional charges, such as when a tenant requires like a separate sewage arrangement, gas pipeline, or other infrastructural changes. However, the clause has been worded in very broad terms and does not define any extent for determining such charges. This creates a grey area. Also, the complainant should have taken note of this clause while executing the MoU, as it reflects an understanding between the parties that such additional charges may arise. The clause also refers to expenses for infrastructural changes, which may fall within the scope of fit out charges. However, the respondent cannot use the clause terms to impose demands in an excessive manner.

24. Therefore, if the respondent seeks to levy fit out charges, it must first provide a proper justification of demands by showing that the work was required for making the unit fit for lease. The fit out charges should be supported with proper details, including a break-up of expenditure and certification or report from an authorized architect, engineer or other competent professional confirming both the necessity and reasonableness of the work carried out. Only after such justification is provided respondent can charge from the complainant under the MoU.

**IV. To direct the respondent to offer the possession of the unit and execute sale deed/ conveyance deed in favour of the complainant as entire payment has been made by the complainant towards the basic sale price in respect of the unit/ space.**

25. As per Section 11(4)(f) and Section 17(1) of the Act, 2016 the promoter is under obligation to get the conveyance deed executed in favour of the complainant. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
26. The occupation/completion certificate has already been obtained by the respondent on 14.08.2024. Therefore, the respondent/promoter is directed to handover the possession of the unit to the complainant/allottee in terms of the MoU as well as buyer's agreement executed between them on payment of outstanding dues if any, within 60 days.

**F. Directions of the Authority**

27. Hence, the Authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- I. The respondent/promoter is directed to pay the assured return to the complainant at the agreed rate of @Rs.39,000/-per month from the effective date in clause 4 of the MoU i.e., 06.04.2018 till the commencement of the first lease on the concerned unit after deducting the amount already paid on account of assured return to the complainant if any.
  - II. The respondent/promoter is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, failing which that amount would be payable with interest @8.80% p.a. till the date of actual realization.
  - III. The respondent shall not charge anything from the complainant which is not part of the MoU or buyers' agreement dated 06.04.2018.

- IV. The respondent is directed to recover development charges as per clause 11 of the BBA only on an actual and pro-rata basis, strictly supported by documentary proof of payments.
- V. The respondent is directed to supply a copy of the updated statement of account after adjusting Assured Returns within a period of 30 days to the complainant.
- VI. The complainant is directed to pay outstanding dues, if any, after adjustment of Assured Returns within a period of 60 days from the date of receipt of updated statement of account.
- VII. The respondent is directed to get the conveyance deed executed within a period of three months after depositing necessary payment of stamp duty and registration charges as per applicable local laws from the date of this order.
28. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
29. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
30. Files be consigned to registry.



**Phool Singh Saini**  
(Member)



**Arun Kumar**  
(Chairman)

Haryana Real Estate Regulatory Authority, Gurugram

**Dated: 16.12.2025**