

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

Complaint no. : 3127 of 2025
Date of complaint : 25.06.2025
Date of first hearing: 25.09.2025
Date of order : 05.02.2026

Jasmine Gupta and Gokul Gupta
R/o: S-17B, Windsor Court, DLF Phase 4,
Gurugram- 122009

Complainants

Versus

Heritage Max Realtech Private Limited
Regd. Office at: - K-1, Green Park Main, New
Delhi- 110016

Respondent

CORAM:
Phool Singh Saini

Member

APPEARANCE:
Mr. Salil Gupta (Husband and Father of complainants,
respectively)
Mr. Deepanshu Jain, Aishwarya Jain and Akshat Jain
(Advocates)

Complainants

Respondent

ORDER

1. The present complaint has been filed by the complainant(s) /allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made thereunder or to the allottees 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 complainants, 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 and location of the project	"Elevate" at Sector 59, Gurugram, Haryana
2.	Nature of the project	Group Housing Colony
3.	Project Area	8.91875 Acres
4.	Licensed Area	8.91875 Acres
5.	DTCP license no. and validity status	License No. 16 of 2008 dated 31.01.2008 valid upto 30.01.2025 License No. 28 of 2008 dated 17.02.2008 valid upto 16.02.2025 License No. 44 of 2011 dated 13.05.2011 valid upto 12.05.2029
	Name of licensee	16 of 2008- M/s Aspirant Builders Pvt Ltd and others 28 of 2008- M/s Hi-Energy Realtors Pvt Ltd and others 44 of 2011- M/s Bulls Realtors Pvt Ltd and others
6.	RERA Registered/ not registered	Registered Registered in 2 phases Vide 19 of 2019 dated 03.06.2019 (Phase 1) Vide 27 of 2021 dated 22.06.2021 (Phase 2)
	Validity Status	31.12.2024 (for phase 1) 31.01.2025 further extended upto 30.01.2026 vide extension no.06 of 2025 (for phase 2)
7.	Application Form and allotment letter executed with erstwhile allottee Mr. Amit Kaul	03.03.2021
8.	Unit no.	Unit no. A2302, 22 nd Floor including one covered car parking space



		(As per page no. 28 of complaint)
9.	Unit area admeasuring	1274 sq. ft. Carpet Area 2295 sq. ft. Super Area (As per page no.28 of complaint)
10.	Date of execution of builder buyer agreement with erstwhile allottee Mr. Amit Kaul	02.04.2021 (As per page no.21 of complaint)
11.	Agreement to Sell executed between the erstwhile allottee and complainant no.1 Mrs. Jasmine Gupta	25.09.2023 (As per page no.94 of reply)
12.	Tripartite agreement entered between the erstwhile allottee, complainant no.1 and the respondent for transfer of rights of erstwhile allottee in favor of complainant no.1	07.11.2023 (As per page no.100 of reply)
13.	Possession clause	<p>7. Possession of the Apartment</p> <p><i>"7.1, HMRPL shall offer possession of the Apartment with the specifications and amenities thereof mentioned in Schedule VI hereto and the REP Common areas which are part of the real estate project as mentioned in Schedule VIII hereto and handover possession of the Apartment to the Allottees who are ready and willing to take the possession in accordance with the Agreement on or before December 31, 2024. In the event the possession is delayed beyond the date as agreed hereinabove for any reason, HMRPL shall be entitled to extension as granted by the Authority for handover of possession and completion of construction of the Real Estate project."</i></p> <p>(Emphasis supplied)</p> <p>(As per page no.61 of reply)</p>
14.	Due date of possession	31.12.2024 (In terms of clause 7.1 of agreement at page no. 61 of reply)
15.	Total sale consideration	Rs.2,68,08,468/- (Erstwhile allottee and respondent- As per BBA at page no.53 of reply)
		Rs.3,67,20,000/-



		(Erstwhile allottee and complainant no.1- additional amount of Rs.99,11,532/- was paid to erstwhile allottee not the respondent- As per agreement to sell at page no.95 of reply)
16.	Amount paid by the complainants	Rs.3,85,03,594/- (As pleaded by complainants at on page no. 7 of the complaint)
17.	Occupation Certificate	08.02.2024 (As per page no. 107 of reply)
18.	Offer of possession	04.04.2024 (As per page no. 110 of reply)
19.	Handover of Possession/Possession Certificate	25.10.2024 (As per page no. 112-115 of reply)
20.	Conveyance Deed executed between complainant no.1 and the respondent	06.11.2024 (As per page no. 122 of reply)
21.	Settlement Deed executed between complainant no.1 and the respondent	20.11.2024 (As per page no. 164 of reply)
22.	E-mail sent by complainant no.1 to Authority seeking withdrawal of complaint no. 5196 of 2024 filed before the Authority	22.11.2024 (As per page no. 169 of reply)
23.	Transfer deed entered between the complainant no.1 and complainant no.2	12.12.2024 (For transfer of 50% of share of the complainant no.1 to the complainant no.2) (As per page no. 170 of reply)

B. Facts of the complaint

3. The complainants have made the following submissions: -

- a) That M/s Heritage Max Pvt. Ltd. was granted HARERA Registration No. RC/REP/HARERA/ GGM/325/57/2019/19 dated 03.06.2019 for project Elevate -1 situated at Sector 59, Gurgaon.
- b) That unit no. A-2302 was allotted to Mr. Amit Kaul r/o C-35, Carlton Estate 4, DLF -5, Gurgaon vide allotment letter dated 03.03.2021 and an



agreement for sale was executed between builder and allottee on 02.04.2021.

- c) That the unit was transferred by the allottee to Mrs. Jasmine Gupta w/o Mr Salil Gupta r/o S- 17B, Windsor Court, DLF-4, Gurgaon. An agreement to sale was duly executed between the allottee and the transferee on 25.09.2023.
- d) That subsequently a duly registered tripartite agreement was executed between the builder, allottee and the transferee on 07.11.2023.
- e) That the agreement for sale between the builder and the allottee was endorsed in favour of the transferee on 01.12.2023. The occupation certificate in respect of the project was issued by the relevant authorities vide ZP-409-Vol-II/JD (RA)/204/4825 dated 08.02.2024.
- f) That the builder issued a Final Call Letter/Offer of Possession to the transferee in respect of the unit vide its Letter dated 04.04.2024 asking it to make the balance payment along with stamp duty of Rs.34,55,716/- within 30 days. The payments were made by the transferee on or before the stipulated date of 03.05.2024.
- g) That the conveyance deed in respect of the unit was duly executed in favour of the transferee on 06.11.2024. Cumulative payments of Rs. 3.85 crores have been made by the transferee to the builder and allottee.
- h) That the aforesaid payments were made by the transferee by withdrawal of Rs. 3 crores from the Employee Provident Fund (EPF) account of her husband. Balances in EPF earn a tax-free interest of 8.25%. The balance payment was made was made by premature encashment of deposits with Banks and Post Offices that also earn a sizeable rate of interest. Details for these sources can be shared if so required.
- i) An earlier reference was made by the transferee to RERA vide Complaint No. RERA-GRG-5196-2024 titled Jasmine Gupta Vs. Heritage Max



Realtech Pvt. Ltd. That complaint was withdrawn by the transferee vide letter dated 20.11.2024.

- j) That defects in the marble flooring of the Living-cum-Dining room were observed upon cleaning and polishing of the apartment. These relate to marble used from different lots/shades and those containing permanent stains. The defective marble flooring was reported to Elevate Helpdesk and then as advised escalated to Mr Dushyant Arora on 19.12.2024. He physically inspected the damaged marble and also took photographs. Further, photos of the damaged marble were shared with the builder over email on 28.12.2024.
- k) That there are several emails/whatsapp messages with the builder on the matter. The builder has agreed to replace the marble for the defects pointed out, e.g. 30.01.2025, 11.02.2025, 19.02.2025, 21.02.2025 and many others. Further reference can be made to Schedule VI and para no.7.1 of the agreement for sale. Adherence to sanctioned plans, layout plans and specifications as approved by the competent authorities is similarly provided under Section 14 of the RERA Act, 2017. A further reference can be made to Section 17 of the Act and Section 18 that provides for payment of compensation or interest to the allottee where the possession of the apartment is not completed in accordance with the agreement for sale. Section 19(4) of the RERA Act, 2016 is of a similar import.
- l) That the possession of the apartment was offered by the builder and duly taken by the transferee on 25.10.2024 after the final payment that was prematurely called for on 04.04.2024. It is quite likely that in a rush to complete the work to avoid further delays in handing over of possession, the builder used marble from different lots/shades and those containing permanent stains.



- m) Therefore, the possession of the apartment should not have been offered on 25.10.2024 as the work was not complete in accordance with specifications as prescribed under the agreement for sale. The defects in the marble floor were noticed only after polishing and cleaning of the same and brought to the notice of the builder, who continues to be bound to rectify the defects during the "Defect Liability".
- n) That in the absence of replacement of defective marble flooring and compensation as described below for use defective marble, the apartment has been given on rent at much lower than the market rent w.e.f. 01.05.2025. Now it is impossible to replace the marble as this would involve the transferee or its tenant to shift out of the apartment until the marble replacement is carried out at the only entrance to the apartment. The apartment cannot be used until the defective marble is replaced, no maintenance charges or common area electricity or club usage and similar other charges should be levied for the starting from the date taking possession to the date of using the apartment. Since the said charges have been collected in advance, their effective commencement should be extended accordingly by this duration.
- o) Since the apartment could not be used until the work is completed, there is loss of rent @ 1,20,000 p.m. from the of taking possession to the date of using the apartment. This needs to be compensated. There is permanent diminution in the value of the apartment and its rental value due to use of defective marble at the only entrance to the apartment.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
- I. Claim for Compensation u/s 19 of the RERA Act for delay in possession i.e., giving possession of an unusable apartment on payment of Rs. 3.85



crores w.e.f. 26.10.2024 to 30.04.2025 for 6 months @ 10.85% p.a. to the tune of Rs.20,88,625/-.

- II. Replacement of defective marble to the tune of Rs.3,00,000/-
 - III. Loss of Rent @ Rs.1,20,000/- p.m. for 6 months w.e.f. 26.10.2024 to 30.04.2025 to the tune of Rs. 6,00,000/-.
 - IV. Deferment of maintenance charges, common area electricity, club usage and similar charges @ Rs.20,000/- p.m. for 6 months w.e.f. 26.10.2024 to 30.04.2025 to the tune of Rs.1,20,000/-.
 - V. Compensation for causing permanent diminution in the value of the apartment, its rental and mental harassment to the tune of Rs. 10,00,000/-.
5. On the date of hearing, the Authority explained to the respondent/promoter about the contraventions 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 vide its reply dated 27.11.2025: -
- a) That the respondent respectfully submits that the above alleged reliefs as sought by the complainants cannot be sought before this Authority in view of the judgment of the Hon'ble Supreme Court in '*Newtech Promoters and Developers Pvt. Ltd v. State of UP*' bearing *Civil Appeal No(s), 6745 6749 of 2021* whereby the Hon'ble Supreme Court has held that the jurisdiction in relation to the adjudication of complaints in relation to the payment of compensation vests with the Adjudicating Officer and not with this Authority. Admittedly, in the captioned complaint, the complainants are allegedly seeking compensation, therefore this Authority does not have jurisdiction to entertain the



- captioned complaint. In view of the same, the captioned complaint is liable to be dismissed/rejected on this ground alone.
- b) That the respondent is developing a group housing residential complex under the name and style of "Elevate", situated Sector 59, Gurugram, Haryana. The one Mr. Amit Kaul (Erstwhile Allottee) on his own free will and consent had approached the respondent and submitted an application form dated 03.03.2021 for booking of the unit in the said project.
- c) That vide allotment letter dated 03.03.2021 the erstwhile allottee was allotted 'Unit No. A2302, in the said project having carpet area of 1274 sq. feet and super area of 2295 sq. feet along with exclusive balconies having an aggregate area of 230 sq. ft. at total sale price of Rs. 2,68,08,468/-.
- d) That thereafter an Agreement to Sale dated 02.04.2021 registered on 04.06.2021 with the office of Sub-Registrar Wazirabad bearing Vasika no. 2106 was executed between the erstwhile allottee and the respondent. Pertinently, the agreement to sale illustrated the rights and liabilities of the erstwhile allottee and respondent.
- e) Subsequently, erstwhile allottee sold the unit to complainant no. 1 i.e. Mrs. Jasmine Gupta vide Agreement to Seli dated 25.09.2023 for a total sale consideration of Rs.3,67,20,000/-. The additional amount of INR 99,11,532/- paid by the complainant no. 1 towards the said unit was paid to the erstwhile allottee and as such the respondent only received an amount of Rs.2,68,08,468/- as agreed under the agreement to sale dated 02.04.2021.
- f) Thereafter, the erstwhile allottee and the complainant no. 1 approached the respondent for transferring the rights of the erstwhile allottee in the said unit in favour of the complainant no. 1. Accordingly, a tripartite agreement was entered into between the erstwhile allottee, complainant



no. 1 and respondent company on 07.11.2023 which was duly registered with the office sub-registrar on 07.11.2023 as Vasika No. 15119. It is pertinent to mention herein that while executing the Tripartite Agreement, the complainant no. 1 agreed to abide by the terms and conditions as illustrated in agreement including but not limited to date of handing over possession of the unit i.e. 31.12.2024.

- g) That the respondent after completing the construction of the project approached the requisite authorities for obtaining the occupancy certificate with respect to the project which was subsequently granted on 08.02.2024 vide Memo bearing no. ZP-409-Vol-II/JD(RA)/2024/4825. Subsequent to the receipt of the occupancy certificate, the respondent offered possession of the unit to the complainant no. 1 vide final call letter dated 04.04.2024. The complainants started raising unwarranted disputes with respect to deficiency in the unit.
- h) When the respondent refused to kneel before the illegal demands, the complainant no. 1 filed a complaint before this Authority bearing RERA-GRG-5196-2024 titled as Jasmine Gupta & Anr. Versus Heritage Max Realtech Pvt. Ltd. seeking the following reliefs:

Particulars of Relief Sought	Amount Sought
Claim for compensation U/s 19(10) of the RERA Act for delay in possession on payment of 3.85 Crore w.e.f 08.04.2024 for 6.5 months @ 10.85% p.a.	INR 22,62,888
Claim for compensation for prematurely calling of final instalment of Rs 34.55 Lacs- computed as interest w.e.f. 04.04.2024 for 6.5 months @ 10.85% p.a.	INR 1,97,218
Loss of Rent @ 1,50,000 PM for 6 months	INR 9,00,000
Mental harassment as RERA may determine	
Total	INR 33,60,106

- i) That the respondent in order to avoid any conflict with the complainant no. 1, requested the complainant no. 1 to amicable settle the issue and further despite there being no deficiency in the Unit, carried out



- necessary rectification in the unit as per the satisfaction of the complainant no. 1. The complainant no. 1 after satisfying herself with all the rectification carried out by the respondent in the said unit took the physical possession of the unit on 25.10.2025 from the respondent. Pertinently, the complainant no. 1 while taking physical possession of the unit not only inspected the unit but also issued specific letters to the respondent acknowledging the completion of the unit to her satisfaction.
- j) That the respondent executed the conveyance deed dated 06.11.2024 in favor of the complainant no. 1 which was duly registered with the Office of Sub-Registrar on 06.11.2025 as Vasika No. 15012. Pertinently, the complainant no. 1 while executing the conveyance deed specifically acknowledged the fact that the possession of the unit has been handed over to her as per satisfaction and further the complainant no. 1 does not have any claim against the respondent.
- k) Despite the specific understanding between the complainant no. 1 and the respondent that the complainant no. 1 would withdraw the complaints filed against the respondent, the complainant no. 1 on one aspect or the other tried to delay the said withdrawal with ulterior motive best known to her. Consequently, the respondent requested the complainant no. 1 to execute a formal Settlement Agreement recording the terms and conditions in writing. Accordingly, a Settlement Agreement dated 20.11.2024 was executed between the complainant no. 1 and respondent wherein the complainant no. 1 acknowledged the fact that all the grievances raised by her had been resolved and further agreed to withdraw all the complaints filed against the respondent.
- l) In pursuance of the Settlement Agreement, the complainant no. 1 issued an email dated 22.11.2024 to this Authority seeking withdrawal of the Complaint bearing RERA-GRG-5196-2024 titled as Jasmine Gupta & Anr.-



Versus-Heritage Max Realtech Pvt. Ltd. Thereafter, complainant no. 1 transferred 50% of her share in the said unit to complainant no. 2 through a transfer deed dated 12.12.2024 which was duly registered with the office of Sub-Registrar on 12.12.2024 bearing Vasika No. 17621.

m) The alleged ground raised by the complainants in the captioned complaint for seeking the reliefs is that the marble installed in the living area of the unit is defective due to which the complainants were forced to lease out the Unit at a lesser rate. In this regard, the respondent respectfully submit that the alleged defect has been pointed out by the complainants only in the month of December 2024 i.e. almost after 2 months from the date of handing over of possession by the respondent which clearly shows that the complainants have filed the captioned complaint with the sole motive to enrich itself at the cost of the respondent.

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 submission made by the parties.

E. Findings on the maintainability of the complaint.

8. The factual matrix of the case reveals that the respondent is developing a group housing residential project under the name and style of "Elevate" situated at Sector 59, Gurugram, Haryana, over a total licensed area of 8.91875 acres, duly registered under the Real Estate (Regulation and Development) Act, 2016 in two phases. Unit No. A-2302, admeasuring 1274 sq. ft. carpet area and 2295 sq. ft. super area, along with one covered car parking space, was initially allotted to Mr. Amit Kaul on 03.03.2021, and a builder buyer agreement dated 02.04.2021 was executed between the said allottee(Mr. Amit Kaul) and the respondent, stipulating the due date of

possession as 31.12.2024. Subsequently, the erstwhile allottee transferred his rights in the said unit to complainant no. 1 vide Agreement to Sell dated 25.09.2023, followed by execution of a tri-partite agreement dated 07.11.2023, whereby complainant no. 1 agreed to be bound by the terms and conditions of the original builder buyer agreement, including the stipulated possession date. The respondent obtained the occupation certificate on 08.02.2024 and offered possession of the unit on 04.04.2024, i.e., prior to the expiry of due date of possession. Physical possession was also handed over to complainant no. 1 on 25.10.2024, and a conveyance deed was executed and registered on 06.11.2024. Thereafter, a Settlement Agreement dated 20.11.2024 was executed between the parties, recording that all disputes stood amicably resolved and that no claims remained outstanding. Pursuant thereto, complainant no. 1 addressed an e-mail dated 22.11.2024 to this Authority seeking withdrawal of the earlier complaint no.5196 of 2024 filed in respect of the subject unit.

9. The Authority observes that the present complaint has been filed by the complainants despite the execution of a Settlement Agreement dated 20.11.2024 between the parties, whereby all disputes arising out of the subject unit stood amicably resolved. Perusal of documents placed on record and submissions made by both the parties reveals that physical possession of the unit was handed over and accepted by the complainants on 25.10.2024 without any protest. Further, the Conveyance Deed was executed and duly registered on 06.11.2024 and the complainants acknowledged satisfaction regarding the condition and completion of the unit. Thereafter, a Settlement Agreement dated 20.11.2024 was executed recording full and final settlement of all claims.
10. It is a settled proposition of law that once parties have voluntarily entered into a lawful settlement and have acted upon the same, the principle of

accord and satisfaction applies, extinguishing all prior claims covered under such settlement. The sanctity of contracts and finality of settlements cannot be permitted to be defeated by re-agitating concluded issue. The jurisdiction of this Authority under the Real Estate (Regulation and Development) Act, 2016 is regulatory in nature and cannot be invoked to reopen disputes that stand settled by mutual agreement.

11. Thus, the present complaint, being founded on issues already settled and acknowledged in writing by the complainants, is not maintainable before this Authority. Any grievance arising out of alleged non-compliance or breach of the settlement agreement constitutes a separate cause of action. The appropriate remedy, if any, lies before a competent forum in accordance with law.
12. In view of the above, the present complaint filed before the Authority is held to be **not maintainable** and is accordingly **dismissed**.
13. File be consigned to the registry.


(Phool Singh Saini)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 05.02.2026