

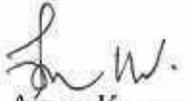


HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी. डब्ल्यू. सी. विधाम गृह, सिविल लाईन, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY		8
Day and Date	Tuesday and 13.01.2026	
Complaint No.	CR/3642/2024 Case titled as Bhagwati Prashad Kukreti and Vibha Kukreti VS M3M India Private Limited & Port Your Property India Private Limited	
Complainant	Bhagwati Prashad Kukreti and Vibha Kukreti	
Represented through	None	
Respondent	M3M India Private Limited & Port Your Property India Private Limited	
Respondent Represented through	Ms. Shriya Takkar and Ms. Meenal Khanna Advocates for R1	
Last date of hearing	23.12.2025	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings		
Order pronounced.		
The present complaint is dismissed being not maintainable.		
Detailed order will follow. Matter stands disposed of.		
 Arun Kumar Chairman 13.01.2026		

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

Date of decision: 13.01.2026

NAME OF THE BUILDER		M/s M3M India Private Limited & Port Your Property Trust
S. No.	Case No.	Case title
1.	3641-2024	Bhagwati Prasad Kukreti & Vineeta Kukreti Vs M/s. M3M India Pvt. Ltd. & Port Your Property Trust
2.	3642-2024	Bhagwati Prasad Kukreti & Vineeta Kukreti Vs M/s. M3M India Pvt. Ltd. & Port Your Property Trust

CORAM:

Shri Arun Kumar

Chairman**APPEARANCE:**

Sh. Chaitanya Singhal (Advocate)

Complainants

Sh. Shriya Takkar and Ms. Meenal Khanna
(Advocates)

Respondent no. 1

Ms. Neelam Preet (Advocate)

Respondent no.2

ORDER

1. This order shall dispose of the aforesaid 2 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 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 developed by the same respondent/promoter i.e., **M/s. M3M India Pvt. Ltd. & Port Your Property Trust**. The fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to pay assured return, to revoke the termination of expression of interest (EOI), execute builder buyer agreement, assured return, conveyance deed and other reliefs.

3. The details of the complaints, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

S.N	CR NO.	Unit no. and area	Date of Booking/allotment	Date of buyer agreement	Due date	OC/Offer of possession, amount paid ,	Termination of EOI Dated	Relief
1	3641-2024	Unit no.- NA Area: 2398 sq. ft. (super area) [As per Cost sheet at pg.28 of complain t]	Booking - 22.02.2021 Allotment- NA	NA	NA	OC- Not obtained OP not offered A.P: Rs. 1,15,00,000 /- [As per P-2 Payment Receipt/ Provisional Acknowledgment]	09.01.2024 [Pg.36 of complaint]	1. Direct the respondent to revoke termination letter of EOI dated 09.01.2024. 2. Direct the respondent to pay Assured Return 3. Direct the respondent to execute builder buyer agreement. 4. Direct the respondent to Execute conveyance deed. 5. Initiate proceedings against respondent under section 59,63 and

DOF:
05.08.2024

	Reply Status 1 20.12.202 4 WA by R2 06.01.202 6							other relevant provision of RERA Act, 2016 for non-registration of project, marketing and sales of project prior to registration.
2	3649-2024 Bhagwati Prasad Kukreti & Vinceta Kukreti Vs M/s. M3M India Pvt. Ltd. & Port Your Property Trust DOF: 05.08.202 4 Reply Status 1 18.12.202 4 WA by R2 06.01.202 6	Unit no.- Area: 2398 sq. ft. (super area) [As per Cost sheet at pg.28 of complaint]	Booking - 22.02.2021 Allotment- NA	NA	NA	OC- Not obtained OP: not offered A.P: Rs. 21,00,000/- [As per P-2 Payment Receipt/ Provisional Acknowledgment]	09.01.2024 [Pg.48 of reply]	1. Direct the respondent to revoke termination letter dated 09.01.2024. 2. Direct the respondent to pay Assured Return 3. Direct the respondent to execute builder buyer agreement. 4. Direct the respondent to Execute conveyance deed. 5. Initiate proceedings against respondent under section 59,63 and other relevant provision of RERA Act, 2016 for non-registration of project, marketing and sales of project prior to registration

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

Abbreviations Full form

DOF- Date of filing complaint

Reply Status 1- Reply filed by the first respondent

OC-Occupation Certificate

WA by R2-Written Arguments filed by the respondent no. 2

OP-Offer of possession

AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter not handing over the possession by the due date, seeking delayed possession charges and other reliefs.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter /respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of both the complaints filed by the complainant-allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case **CR/3641/2024 Bhagwati Prasad Kukreti & Vineeta Kukreti Vs M/s. M3M India Pvt. Ltd. & Port Your Property Trust** 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.

7. 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/3641/2024 Bhagwati Prasad Kukreti & Vineeta Kukreti Vs M/s. M3M India Pvt. Ltd. & Port Your Property Trust

S. N.	Particulars	Details	
1.	Name of the project	Merlin Icon, Sector 67, Gurugram,	
2.	RERA Registered	Un-Registered	
3.	Unit no.	Old Unit in Lucknow, Uttar Pradesh - KD-12 and KD-13	New Unit in Gurugram.- N.A.

4.	Unit area admeasuring	1900 sq. ft. And 2000 sq. ft. respectively [As per Comfort letter at page 33 of complaint]	2398 sq. Yds. (As per Cost Sheet at page no. 28 of the complaint)
5.	Date receipt/provisional acknowledgment	of	Un-dated (page 27 of complaint)
6.	Allotment letter		NA
7.	Date of execution of plot buyer's agreement		N.A.
8.	Comfort letter in relation to credit amount against old property		26.04.2022 [Pg. 33 of complaint]
9.	Possession clause		N.A.
10.	Due date of possession		N.A.
11.	Basic price of the plot		N.A.
12.	Amount paid by the complainants		Rs.1,15,00,000/- [As per receipt information at page no. 28 of the complaint]
13.	Total Sale consideration		NA
14.	OC/CC		Not obtained
15.	Offer of possession		Not offered

B. Facts of the complaint.

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

- i. That the project under issue is M3M Merlin located in Sector 67, Gurugram, Haryana. The respondent has advertised on their official website <https://www.m3mindia.com/projects/merlin/> that their project "M3M Merlin" includes 11 standalone towers for which O.C is received, however in

- reality the 11th tower is not present.
- ii. That the project's photos displayed on the website are either doctored or taken from different projects to create a false impression of the development's progress and quality. The advertisements on the website contain incorrect details regarding the project's no. of towers, completion date, available facilities, and quality of construction. Those prospective buyers including complainant, have been misled into believing that the project offers high-quality amenities and timely possession, which is not the case. Based on the misleading information provided by the respondent builder, the complainant decided to invest in the project. This decision was heavily influenced by the false representations made on the official website that their project consists of 11 towers. The respondent's project is not RERA Registered, and the respondent had done marketing of their project and received huge sum from allottees including the complainants towards apartment's sale price. The discrepancy between what was advertised and what is being present on project site has caused significant financial loss and mental distress to the complainant
- iii. That based upon the above said misleading information provided by the respondent, the complainant on 22.02.2021 booked a residential flat measuring 2398 sq. ft in Respondent's project M3M Merlin, 11th tower located in Sector- 67, Gurugram, Haryana paid a sum of Rs. 1, 15, 00,000/- as 100% advance towards purchase of said unit. The respondent had issued payment receipt to the complainants.
- iv. That even till date the respondent had failed to execute the builder buyers agreement with the complainant even after a lapse of 3.5 years and after receiving 100% entire sales consideration from the complainant in the year

2021. it is default entirely on the part of the respondent in not executing the builder buyer agreement even after receiving more than 100% payment towards the total cost of unit and therefore the respondent had violated Section 13(1) of the Rera Act, 2016.
- v. That instead of executing builder buyers' agreement the respondent on 25.02.2021 had given a document titled "cost sheet" in which details of booking were mentioned. As per the cost sheet the respondent had allotted unit bearing no. 2002 located on 20th floor in project "m3m merlin" located in Sector 67 Gurugram having a super area of 2398 sq. ft for a basic sale price of Rs. 9,500/- per sq. ft. which comes to rupees 2, 27, 81,000/-. The total sale consideration (T.S.C) of the unit including I.F.M.S charges of Rs. 100/- per sq. ft. was Rs. 9,600/- per sq. ft. i.e. Rs. 2, 30, 20,800/-.
- vi. That the complainant had booked the said unit under respondent's scheme namely "port your property scheme" wherein the respondent had purchased an old property of complainant for Rs. 65, 00,000/- after doing property survey & valuation. That the respondent had given a "Comfort Letter" in relation to the credit amount against old property note to the tune of Rs. 65, 00,000/- to be adjusted in the sale price of the booked flat in "Merlin Icon".
- vii. That the respondent had agreed to pay an "assured return" of Rs. 1, 15,000/- @ 12% P.A. on Rs. 1,15,00,000/- paid by the complainant. The respondent had also agreed to pay "Assured Return" of Rs. 65,000/- per month @ 12% P.A. on old property buyback value of Rs. 65, 00,000/- till the "application of occupation certificate". Thus, the respondent had agreed to pay "Assured Return" of Rs. 1, 80,000/- per month {Rs. 1, 15,000 + Rs. 65, 000} to the complainant till the "application of occupation certificate". That as per the "cost sheet" the respondent had to adjust the accumulated amount of assured

return on the "demand due on application of occupation certificate" & "demand due on offer of possession". Further the respondent had promised to deliver possession within a period of three (3) years in completion of project and grant of occupation certificate.

- viii. That as per the "cost sheet" the net amount payable by complainant after adjustment of accumulated "assured return" of Rs.1,80,000/- per month for a period of 36 months in making "application of o.c" and after taking old property credit note {Rs. 65,00,000/- }was Rs. 1, 00, 40,800/-.
- ix. That the respondent started construction of 11th tower in the year 2021, however till date the construction is not complete. The respondent is not able to obtain occupation certificate neither have offered possession of unit to the complainant. That the construction of the said tower is at halt. The respondent has failed to provide the construction updates to the complainant. Neither the details of construction updates are available on the website of Rera since the respondent had not registered its project with RERA which contravenes the provision of Section 3 & Section 59(1) of Rera Act, 2016.
- x. That the complainant visited the construction site recently and learnt that only 5 floors have been constructed till date. That the respondent had neither executed builder buyer agreement nor given any intimation regarding completion of construction of unit nor given/ intimated receipt of occupation certificate (O.C) from the concerned DTCP district town and country planning department Haryana. The respondent had not offered possession of unit to the Complainant till date and neither executed Conveyance deed of the unit had been executed till date.
- xi. That on 16.05.2022 the respondent sent a letter requesting to handover original old property documents under "port your property scheme" viz a viz

allotment letter, builder buyer agreement, payment receipts etc. and to sign & execute some documents like- agreement to sell, surrender cum release agreement, general power of attorney, and indemnity bond). The complainants had visited the office of respondent to do the same. The respondent said that their project's Merlin Icon is awaiting Rera Project registration License under process and licensee is yet to be received. The respondent told to handover the original documents once rera registration is received and told the complainants to wait for some time.

xii. That on 09.01.2024 the respondent sent "termination letter" to the complainant terminating the unit of the complainant. the "termination letter" is unilateral cancellation which has caused significant distress and financial uncertainty to the complainant. The cancellation letter of the booked unit was sent without any prior notice or valid reason. The respondent had stated in their letter that the respondent had given reminders and follow up's to the complainant to visit their sales gallery to complete the documentation formalities and conclude the transaction. That the complainants had not received any letter or reminder from the respondent to visit their sales gallery in that regard. The respondent in order to escape and get rid of avoid their contractual liability and to terminate the contract sent the aforesaid "cancellation notice" to the complainant. The respondent had already taken 100% sale consideration from the complainant at the time of initial booking in 2021 and failed to construct and deliver the possession of unit even till date. The said termination letter is liable to be set aside and quashed. This shows the malafide intention of the respondent to get escape from its contractual obligations.

xiii. That the booking of the unit was made in the year 2021, after coming into force

of the RERA Act, 2016 and as per the Rera Act, after coming into force the respondent can charge only on the carpet area of the unit and not on the super area of the unit. In the present case, the respondent has charged the complainant on the super area i.e. 2398 sq. ft which is against the provisions of the Act, 2016 and Rules 2017 made thereof

- xiv. That in accordance with the provisions of the RERA Act, necessary penal action is liable to be taken against the respondent, and direction may kindly be passed to the respondent to charge on the carpet area instead of the super area of the unit.
- xv. The respondents have completely failed to honour their promises and have not provided the services as promised and agreed through the brochure, allotment Letter and the different advertisements released from time to time. Further, such acts of the respondents are also illegal and against the spirit of RERA Act, 2016 and HRERA Rules, 2017. It is abundantly clear that the respondents have played a fraud upon the complainant and have cheated them fraudulently and dishonestly with a false promise that they would complete the construction over the project site within stipulated period and shall be paying the monthly assured amount. The respondents have further malafidely failed to implement the contents of the documents shared with the complainant. Hence, the complainant being aggrieved by the offending misconduct, fraudulent activities, deficiency and failure in service of the respondents is filing the present complaint.
- xvi. That the project of the respondent is Rera un-registered project. That the respondent had violated various provisions of Rera Act 2016 in terms of sale of apartment/ buildings without obtaining rera registration certificate. That the respondent had neither executed builder buyer agreement nor given any

intimation regarding completion of construction of unit nor given/ intimated receipt of occupation certificate from the concerned DTCP district town and country planning department Haryana. The respondent had not offered possession of unit to the complainant till date and neither executed conveyance deed of the unit had been executed till date ever after receiving 100% sale consideration at the time of booking.

C. Relief sought by the complainant

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

- I. Direct the respondents to revoke the termination of EOI dated 09.01.2024.
- II. Direct the respondents to pay assured return.
- III. Direct the respondents to execute builder buyer agreement.
- IV. Direct the respondents to execute the conveyance deed in favour of the complainants.
- V. Initiate proceedings against respondent under section 59,63 and other relevant provision of RERA Act, 2016 for non-registration of project, marketing and sales of project prior to registration.

10. 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 no. 1.

11. The respondent no. 1 has contested the complaint on the following grounds:

- i. That the complainants are not allottees of the respondent and thus have no locus standi to approach the Authority. It is submitted that the complainants through their broker M/s. Chaahat Homes had expressed their interest to seek priority allotment of multiple residential apartments/commercial units/commercial plots/office spaces in the projects of Respondent

- Company M/s. M3M India Pvt. Ltd. wherein construction has been completed, and occupation certificate(s) has already been granted.
- ii. That the complainant herein along with the expression of interest also tendered a sum of Rs. 1,15,00,000/- towards the confirmation of their EOI. It is submitted that the complainants had signed and submitted the EOI after duly understanding all the clauses stipulated under the EOI. The perusal of the aforementioned clause of the EOI clearly states that the EOI did not constitute allotment of any specific unit in any project of the Respondent Company.
 - iii. That as per Section 31 of RERA Act, 2016 only an 'allottee' can approach the Authority. It is submitted that in the present case the Complainants did not come forward to select the unit despite repeated requests.
 - iv. That the document "Expression of interest" is specifically not termed as agreement to sell or any right is being created on any particular unit. The expression of interest was in any case subject to selection of unit by prospective buyer and further subject to availability and its allotment of the unit by respondent company. It is matter of record and an admitted position that there has not been any allotment of any unit to the complainants.
 - v. Thereafter the respondent post discussions with the complainants as per their request had given them an option of selecting multiple ready to move in units or a unit in one of its project where occupation certificate was about to be applied and the project was at the stage of final completion. Accordingly, the respondent issued acknowledgment letter to freeze the tentative price with the complainant, wherein again it was clearly stated that the allotment of the units is subject to final selection of the units and completion of the booking formalities by the complainants. Needless to add

that neither any units were selected by the complainants nor ever allotted to them by the respondent.

- vi. That the complainants neither came forward to select the units nor complete the booking formalities, as a consequence of the same, the respondent was constrained to cancel the expression of interest vide letter dated 09.01.2024.
- vii. That the respondent company to close the matter and without prejudice to its rights vide cover letter dated 09.12.2024 sent refund cheques post TDS deductions for the amount deposited by the complainant and one Ms. Vibha Kukreti. The details of the cheques are stated hereinbelow for ready refence:
 - a) Cheque bearing no. 006509 dated 08.10.2024 drawn on ICICI bank to the tune of Rs. 53,55,263/- in the name of Complainant No.1.
 - b) Cheque bearing no. 006510 dated 08.10.2024 drawn on ICICI bank to the tune of Rs. 57,50,000/- in the name of Complainant No.2.

The aforesaid cover letter along with cheques was sent to the complainant through courier dated 09.12.2024 and the same was duly delivered to them on 11.12.2024

- viii. That the entire complaint filed by the complainants is based on conjectures and surmises. It is stated that no unit was ever allotted to the complainants by the answering respondent. Thus, the complainants do not fall under the definition of allottee and as such have no locus standi to approach this Hon'ble Court.
- ix. That the complainants in the terms of the EOI are not even eligible for any refund, let alone the interest/compensation. It is submitted that in accordance with the terms of the EOI, the money paid by the complainants was to be forfeited by the respondent. However, the respondent as a goodwill

gesture and to close the matter offered refund of the amount deposited. However, the complainants with a mala fide intent and to attain unlawful and wrongful benefits refused to accept the refund of the amount.

- x. That the EOI was just an expression of interest and did not create any privity of contract qua any particular unit. Therefore, upon its cancellation the complainants have neither any cause of action nor any locus standi to file and maintain the instant complaint against the respondent.
- xi. That the complainants herein do not fall under the definition of "allottee" as provided under Section 2 (d) of the Real Estate (Regulation & Development Act, 2016) read with HRERA Rules and Regulations
- xii. That despite repeated reminders the complainants did not come forward to select the unit and complete the booking formalities as a consequence of the same, no unit was ever allotted to the complainants and the respondent company cancelled the booking. Thus, the present complaint is infructuous. Thus, the complainants have no locus standi to approach Authority. Therefore, the present complaint is liable to be dismissed on this ground alone.
- xiii. That the complainants have also filed a complaint before the hon'ble adjudicating officer in complaint no. 3651/2024 titled as: "Bhagwati Prasad Kukreti & Anr. vs. M3M India Pvt. Ltd." and the above-mentioned complaint is pending adjudication and is listed for hearing on 24.02.2025 for further proceedings. It is relevant to mention here that the complainants in the aforesaid complaint bearing no. 3651/2024 before the Adjudicating Officer have allegedly claimed reliefs qua price difference due to inflation in the price of the unit along with other reliefs. The complainants before this hon'ble authority are seeking revocation of termination letter, assured return, execution of the buyers agreement and the execution of the conveyance deed

before the Authority. It is imperative to mention here that the complainants are seeking contradictory reliefs in the complaints filed by them. It can be inferred from the above chain of events that the complainants are indulging in the practice of forum hunting with the motive to unjustly enrich themselves and to harass the answering respondent. Thus, the complainants are not entitled to any relief whatsoever and the present complaint merits outright dismissal.

- xiv. All other averments made in the complaint were denied too.
- xv. 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. Written arguments on behalf of respondent no. 2:

12. The respondent no. 2 has contested the complaint on the following grounds:

- i. That the complainants never wanted to proceed with the scheme and thus the property was never ported:
- ii. That Port Your Property Pvt. Ltd. is a separate legal entity i.e. a company incorporated under the laws of India, which has settled a contributory determinate trust called PYP Trust under the provisions of Indian Trusts Act, 1882. This trust was constituted vide Deed of Trust dated 01.02.2021 having Honble Justice Kripa Shankar Gupta (Retd.); Mr. A.K. Sinha and Mr. P.K. Gupta as trustees. The object of the trust is to give benefit to the beneficiaries under the terms of this deed and the names of the beneficiaries were detailed in this schedule attached to the trust deed. The trust inter-alia was to provide a platform for porting units, of bona fide buyers, entangled in litigation and/or where the handing over of possession has been delayed, so as to enable such buyers to port his/her/their current

units in lieu of new property/units and provide necessary assistance for realizing the value of such units. The trust could undertake litigation in relation to the old unit and further hold the old unit for the benefit of the relevant beneficiary. The trust could sell/dispose of the old unit to maximize the interest of the relevant beneficiary and pass on the sale proceeds to the relevant beneficiary etc. The respondent no. 1 was also one of the initial beneficiaries of this trust. The trust being a lawfully constituted trust in accordance with law

- iii. . That pursuant to the scheme floated by respondent, the complainants vide expression of interest dated 10.03.2021 had expressed his intention to sell residential unit nos. KD-12 and KD-13 (hereinafter referred to as old property being developed by Defence Sehkari Awas and Kalyan Samiti to the respondent no. 2).
- iv. That the complainants approached respondent no. 2 for sale of the unit in the project being developed by Defence Sekari Awas and Kalyan Samiti and in turn, it was agreed that the complainant would be entitled to certain benefits. Vide letter dated 26.04.2022, it was communicated to the complainants that they shall be granted certain benefits and that the benefits were subject certain terms and conditions. Relevant portion of letter dated 26.04.2022 is reproduced hereinbelow for ready reference:

However, the aforesaid Credit/Discount Amount shall be given to you subject to the following conditions:

1. Execution of all the documents by you in terms of the Scheme; and
2. Fulfilment of all the terms and conditions by you, mentioned under the letter for Acceptance of EOI; and
3. Compliance with the terms of the Scheme; and
4. Finalization of exact amount of the Credit/Discount, by the Company.

All the actions shall be completed/documents to be submitted in a timely manner by you as may be requisitioned by the Company from time to time

- v. That the cover letter dated 16.05.2022 was sent by respondent no. 2 in accordance with the understanding between the parties. Vide cover letter dated 16.05.2022, the respondent requested the complainants to submit the original documents pertaining to the Old Property and also requested the complainants to submit the following documents for porting the property:
1. Agreement to sell
 2. Surrender Cum Release Agreement
 3. General power of attorney
 4. Indemnity bond
- vi. That it is submitted that the complainants herein neither returned the duly executed agreement to sell and other relevant documents nor deposited the original documents relating to old property with the respondent herein to enable it to proceed with the transaction of porting the property. Therefore, it was absolutely clear that the complainants never wanted to proceed with the same and thus the property was never ported under the scheme.
- vii. That no relief has been claimed against the answering respondent and thus, the present complaint is liable to be dismissed against the respondent no. 2. The present complaint has been filed by the complainants to take cover up their own defaults. The entire complaint under reply has been based on nothing more than conjectures and surmises and scandalous statements which have not been backed by an iota of evidence to substantiate the claims. The complainants have miserably failed to bring to the notice of the

Hon'ble Authority any averment or document worth its salt which could form a basis for the Hon'ble Authority to consider the complaint under reply which is totally devoid of any merit in law.

- viii. The respondent no.2 was not privy to the understanding between complainants and respondent no.1.

F. Jurisdiction of the authority

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

F.I Territorial jurisdiction.

14. 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.

F.II Subject matter jurisdiction.

15. 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.

16. 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.

G. Findings on the relief sought by the complainants

- G.I. Direct the respondent to revoke "termination letter" dated 09.01.2024 being illegal.**
- G. II. Direct the respondent to pay monthly assured return @ 12% per annum till the completion of building after receipt of valid O.C.**
- G.III. Direct the respondent to execute builder buyer agreement in respect of the unit in question in favour of the complainant.**
- G. IV. Direct the respondent d to carry out the title registration / execution of conveyance deed of the unit.**
- G.V. Initiate proceedings against respondent under section 59,63 and other relevant provision of RERA Act, 2016 for non-registration of project, marketing and sales of project prior to registration.**

17. The above-mentioned reliefs no. G. I, G. II, G.III, G.IV& G.V as sought by the complainant is being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected.

18. On 22.02.2021, the complainant paid a sum of Rs.1,15,00,000/- towards an expression of interest to book a residential flat and the same acknowledged by the respondent. On 25.02.2021, the respondent had issued a document titled "cost sheet". As per the cost sheet, the respondent had allotted unit having super area of 2398 sq. ft. for a basic consideration of Rs.2,27,81,000/.

19. The complainant states that he had booked the said unit under respondent's scheme 'Port Your Property Scheme' wherein the respondent had purchased an old

property of complainant for Rs. 65,00,000/- after doing property survey and valuation. The respondent had given a comfort letter in relation to the credit amount against old property note to the tune of Rs. 65,00,000/- to be adjusted in the sale price of the booked flat in "merlin Icon". The complainant further states that the respondent also agreed to pay assured return of Rs. 1,15,000/- @ 12% P.A. on Rs. 1,15,00,000/- paid by the complainant. The respondent had also agreed to pay assured return of Rs. 65,000/- per month @ 12% p.a. on old property buyback value of Rs. Rs.65,00,000/-. Till date no construction has been completed. On 16.05.2022, the respondent requested to handover the original old property documents. The respondent told the complainant that their Merlin Icon is awaiting Rera Project registration License under process and licensee is yet to be received. On, 09.01.2024, the respondent sent termination letter to the complainant.

20. On the contrary, the respondent states that the complainants had expressed their interest to book multiple units to seek priority allotment of multiple residential apartments/commercial units/commercial plots/office spaces in the projects of respondent M/s. M3M India Pvt. Ltd. wherein construction has been completed and Occupation Certificate(s) has already been granted. The complainants herein along with the expression of interest also tendered a sum of Rs. 1,15,00,000/- towards the confirmation of their EOI. It is submitted that the complainants had signed and submitted the EOI after duly understanding all the clauses stipulated under the EOI. It is matter of record and an admitted position that there has not been any allotment of any unit to the complainants and therefore they do not fall under the ambit of an allottee. Thereafter the respondent post discussions with the complainants as per their request had given them an option of selecting multiple ready to move in units or a unit in one of its projects where occupation certificate was about to be applied and the project was at the stage of

final completion. Accordingly, the respondent issued acknowledgment letter to freeze the tentative price with the complainant, wherein again it was clearly stated that the allotment of the units is subject to final selection of the units and completion of the booking formalities by the complainants. Needless to add that neither any units were selected by the complainants nor ever allotted to them by the respondent. Further, the complainants neither came forward to select the units nor complete the booking formalities, as a consequence of the same, the respondent was constrained to cancel the Expression of Interest vide letter dated 09.01.2024.

21. The respondent to close the matter and without prejudice to its rights vide cover letter dated 09.12.2024 sent refund cheques post TDS deductions for the amount deposited by the complainant and one Ms. Vibha Kukreti. The details of the cheques are stated hereinbelow for ready refence:

1. Cheque bearing no. 006509 dated 08.10.2024 drawn on ICICI bank to the tune of Rs. 53,55,263/- in the name of Complainant No.1.
2. Cheque bearing no. 006510 dated 08.10.2024 drawn on ICICI bank to the tune of Rs. 57,50,000/- in the name of Complainant No.2.

22. The aforesaid cover letter along with cheques was sent to the complainant through courier dated 09.12.2024 and the same was duly delivered to them on 11.12.2024.

23. The Authority is of the view that the cost sheet placed on record does not mention any unit number, tower, allocation particulars or any name of the project. In the absence of a defined allotment, the complainants cannot be treated as an 'allottee' within the meaning of Section 2(d) of the Act. A mere expression of interest or cost sheet without crystallization of rights in a specific unit, does not confer the status of an allottee. However, before examining the merits of the case, it

is necessary to determine whether the complainants fall within the definition of allottee or not under the Real Estate (Regulation and Development) Act, 2016. Section 2(d) of the RERA Act, 2016 defines an "allottee" as under:

"...the person to whom a plot, apartment or building...has been allotted, sold...or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment... but does not include a person to whom such plot...is given on rent."

24. As per Section 2(d) of the RERA Act, 2016, an "allottee" means a person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the promoter. In the present case, admittedly no allotment of any unit was ever made in favour of the complainants. Mere cost sheet or expression of interest and payment of a booking amount, in the absence of an allotment letter or agreement for sale, does not confer the status of an allottee upon the complainants.

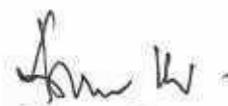
25. This Authority further observes that for a legally enforceable contract to come into existence, there must be consensus ad idem on essential terms such as identification of the unit, consideration, payment schedule, rights and obligations of the parties which are ordinarily crystallized through an allotment letter and agreement for sale. In the absence of such documents, no concluded contract for sale came into existence between the parties.

26. Since no concluded contract was formed and no allotment was ever made, the dispute raised by the complainants relating to port your property scheme, payment of pending assured return, or adjusting the amount paid for the old unit falls outside the scope and jurisdiction of this Authority under the RERA Act, 2016.

27. Moreover, Section 29 of the Indian Contract Act, 1872, provides that agreements whose meaning is not certain, or cannot be made certain, are void and therefore not legally enforceable. This Authority further observes that for a legally enforceable contract to come into existence, there must be consensus ad idem on

essential terms such as identification of the unit, consideration, payment schedule, rights and obligations of the parties which are ordinarily crystallized through an allotment letter and agreement for sale.

28. In view of the above facts and circumstances, this Authority holds that the complainant does not fall within the definition of "allottee" as defined under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016. Consequently, the present complaint is not maintainable under the provisions of the Act and is accordingly dismissed with liberty to the complainant to seek appropriate remedies before the appropriate forum in accordance with law.
29. This decision shall mutatis-mutandis apply to cases mentioned in para 3 of this order.
30. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
31. Files be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 13.01.2026