

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

Date of Decision:	14.11.2025
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NAME OF THE BUILDER		SV Housing Private Limited
S. No.	Case No.	Case title
1.	CR/3628/2024	Mahender Kumar and Anubhav VS. SV Housing Private Limited
2.	CR/3632/2024	Mahender Kumar and Anubhav VS. SV Housing Private Limited
3.	CR/3635/2024	Neelam Malik VS SV. Housing Private Limited
CORAM:		
Shri Arun Kumar		Chairman
APPEARANCE:		
Shri Vijay Pal Chauhan		Advocate for the complainant
Shri Avinash Kumar		Advocate for the respondent

ORDER

1. The above complaints have been filed by the complainants/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.
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, “83 metro street” at sector 83, Gurugram, Haryana being developed by the respondent/promoter i.e., SV Housing Private Limited. The issue involved in all cases pertains to failure on the part of the promoter to deliver timely possession of the units in question and the complainants are seeking possession and delay possession charges at prescribed rate of interest and other related reliefs.

3. The details of the complaints, reply status, 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:

Sr. No	CR no. /Case Title, and Date of filing of complaint	Unit No.	Date of execution of agreement for sale	Due date of possession, offer of possession	Total Consideration /	Total Amount paid by the complainants (In Rs.)
1.	CR/3628/2024 Mahender Kumar and Anubhav VS. SV Housing Private Limited CC filed on 20.08.2024 RR not received yet.	Virtual shop no. 001, A2 Area of the unit: 52.604 sq. mt.	20.12.2021 (page 24 of complaint)	September 2022 No OC No offer of possession	Rs. 13,30,541/- (As per SOA on page 87 of complaint)	Rs. 8,19,856/- (As per SOA on page 87 of complaint)
2.	CR/3632/2024 Mahender Kumar and Anubhav VS SV Housing Private Limited CC filed on 20.08.2024 RR not received yet.	Virtual shop no. 001, A3 Area of the unit: 75.962 sq. mt.	16.11.2021 (page 25 of complaint)	September 2022 No OC No offer of possession	Rs. 19,21,344/- (As per SOA on page 87 of complaint)	Rs. 11,83,897/- (As per SOA on page 87 of complaint)

3.	CR/3635/2024 Neelam Malik VS SV Housing Private Limited CC filed on 20.08.2024 RR not received yet.	Virtual shop no. 001, A19A Area of the unit: 16.95 sq. mt.	10.12.2020 (Page 22 of complaint)	September 2022 No OC No offer of possession	Rs. 46,48,035/- (As per SOA on page 88 of complaint)	Rs. 22,88,345/- (As per SOA on page 88 of complaint)
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Relief sought by the complainants:

- i. Direct the Respondent to hand over lawful and physical possession of Virtual Shop No. 001-A2 (Anchor Shop) in a fully developed project complete with all promised amenities and facilities and further direct the Respondent to execute and register the Conveyance Deed in favour of the Complainants.
- ii. Direct the Respondent to pay interest for delay in possession at the prescribed rate under the Real Estate (Regulation and Development) Act, 2016 from the due date of possession till the date of actual handing over of possession.
- iii. Direct the Respondent to pay the assured monthly rental @ ₹75 per sq. ft. per month on the super area in terms of the Agreement, along with arrears from the committed date till actual payment.

4. The aforesaid complaints were filed against the promoter on account of violation of the agreement to sell against allotment of units in the upcoming project of the respondent/builder and for not handing over the possession by the due date, seeking award of possession along with 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. Out of the above-mentioned cases, the particulars of case **CR/3628/2024** Mahender Kumar and Anubhav VS. SV Housing Private Limited are being taken into consideration as lead case for determining the rights of the allottee(s) qua delayed possession charges along with interest and others.

A. Unit and project related details

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

S. N.	Particulars	Details
1.	Name and location of the project	"83 metro street" at sector 83, Gurugram, Haryana
2.	Dtcp license no.	110 OF 2012 dated 26.10.2012 valid upto 25.10.2023
3.	RERA Registration NO.	337 of 2017 dated 27.10.2017 valid upto 30.03.2021 Lapsed project
4.	Unit No.	Virtual shop no. 001, A2
5.	Unit area admeasuring	52.604 sq. mt. (As per allotment letter)
6.	Allotment letter	22.10.2021 (page 81 of complaint)
7.	Builder Buyer agreement	20.12.2021 (PAGE 24 OF COMPLAINT)
8.	Possession clause	7. POSSESSION AND CONVEYANCE DEED: (a) Within 60 (sixty) days from the date

		<i>of issuance of Occupation Certificate by the / concerned Authorities, the Company shall offer the possession of the Unit/ Virtual Space to the Allottee. Subject to Force Majeure and fulfilment by the Allottee of all the terms and conditions of this Agreement including but not limited to timely payment by the Allottee of the Total Sale Value payable in accordance with Payment Plan, along with stamp duty, registration and incidental charges and other charges in connection thereto due and payable by the Allottee and also subject to the Allottee having complied with all formalities or documentation as prescribed by the Company, the Company shall offer the possession of the Unit/ Virtual Space to the Allottee on or before SEPTEMBER,2022</i>
9.	Due date of possession	September,2022
10.	Total sale consideration	Rs. 13,30,541/- (As per SOA on page 87 of complaint)
11.	Amount paid by the complainant	Rs. 8,19,856/- (As per SOA on page 87 of complaint)
12.	Final demand letter and notice of possession	24.05.2024 (Page 83 of reply)
13.	Occupation certificate	Not obtained
14.	Offer of possession	Not offered

B. Facts of the complaint.

8. The complainants have made the following submissions in the complaint:

- I. That, being impressed by advertisements issued by the Respondent through various modes of communication including newspapers and pamphlets, the Complainants came to know that the Respondent is developing a commercial complex namely "**83 Metro Street**" on land admeasuring **4.20 acres** situated in the revenue estate of Village Sihi, Sector-83, Tehsil Manesar, District Gurugram (hereinafter referred to as the "*Project*" / *project land*). The Respondent obtained License No. 110/2012 dated 26.10.2012 from the Director, Town & Country Planning, Haryana, Chandigarh. The revised building plan was sanctioned vide Memo No. ZP-875/AD(RA)2019/26441 dated 25.10.2019.
- II. That the Complainants, relying upon representations and assurances made by the Respondent, booked a virtual shop/unit in the said project on 21.10.2021 by paying ₹1,00,000 through online transaction (Cheque No. 129414856690 drawn on ICICI Bank). It was assured that the unit carried a rental plan. The Complainants were allotted Virtual Anchor Shop/Space/Unit No. 001-A2, and an additional amount of ₹2,00,000 was collected in cash as PLC charges for which no receipt was issued.
- III. That the Complainants paid a total amount of ₹9,69,856 towards the said virtual shop/anchor space as per the payment plan contained in *Annexure V* of the Agreement. The Respondent assured monthly rental as per *Annexure VI* of the Agreement; however, no assured rental has

been paid till date. That the Complainants have paid ₹9,69,856 towards the entire sale consideration of the said shop.

- IV. That a one-sided Commercial Unit/Space Buyer Agreement dated 20.12.2021 was executed by the Respondent in favour of the Complainants (hereinafter referred to as the "Agreement"). The terms and conditions were heavily biased in favour of the Respondent. That as per Clause 7(a) of the Agreement, possession was to be delivered on or before September 2022, i.e., within 60 days from issuance of the Occupation Certificate.
- V. That the Respondent failed to pay assured monthly rental from September 2022 onwards as committed under Clause 14(B) of the Agreement (*First Lease Guarantee*). Despite repeated follow-ups, the Respondent has not paid the dues. As on date, an amount of ₹2,93,923 plus applicable interest remains outstanding. That the Complainants have regularly complied with payment demands and paid ₹9,69,856 (including taxes), duly acknowledged by receipts issued by the Respondent.
- VI. That the Respondent failed to deliver possession of Virtual Shop No. 001-A2 by the due date. The Complainants sought delay penalty and compensation; however, their grievance has not been redressed. That due to the Respondent's non-performance, the Complainants have suffered mental agony, harassment, and financial hardship. That the sequence of events demonstrates mala fide intent on the part of the Respondent, amounting to breach of contractual obligations. The

Complainants are entitled to relief under Sections 31, 18, and 19 of the Real Estate (Regulation and Development) Act, 2016.

- VII. That grave prejudice will be caused to the Complainants if the present complaint is not allowed. That the Respondent's acts constitute unfair trade practices and deficiency in service, making them liable to compensate the Complainants.
- VIII. That the Respondent's conduct amounts to breach of contract, unfair trade practice, and prima facie fraud, attracting liability under the provisions of the RERA Act. That the Complainants do not wish to withdraw from the project. Due to violation of statutory obligations under the RERA Act, the Respondent is liable to pay interest at the prescribed rate for every month of delay till handing over possession.

C. Relief sought by the complainants:

9. The complainants have sought following relief(s).
- I. Direct the Respondent to hand over lawful and physical possession of Virtual Shop No. 001-A2 (Anchor Shop) in a fully developed project complete with all promised amenities and facilities and further direct the Respondent to execute and register the Conveyance Deed in favour of the Complainants.
- ii. Direct the Respondent to pay interest for delay in possession at the prescribed rate under the Real Estate (Regulation and Development) Act, 2016 from the due date of possession till the date of actual handing over of possession.

- iii. Direct the Respondent to pay the assured monthly rental @ ₹75 per sq. ft. per month on the super area in terms of the Agreement, along with arrears from the committed date till actual payment.
10. The present complaint is filed on 20.08.2024 and was registered as Complaint No. 3628 of 2024. The notice sent to the Respondent through email was duly served on 21.08.2024. The notice sent to the Respondent through post was also duly served. As per the Registry, the Complainants sent a copy of the complaint along with annexures via speed post as well as email, and the tracking report for the same was submitted along with the complaint. Despite proper service of notice, counsel for the Respondents appeared before this Authority on 14.11.2025, namely Shri Avinash Kumar, Advocate for Respondent.
11. However, no written reply has been filed by the Respondents till date. The Authority observes that the matter has been listed on five occasions before this forum. Despite repeated indulgence and adequate opportunities granted, the respondent has not filed its reply within the stipulated or extended timelines. The respondent has been afforded ample opportunity to present its defence, including extensions subject to costs, yet has chosen not to comply with the directions issued by this Authority.
12. In view of the foregoing, this Authority is of the considered opinion that sufficient opportunity has already been afforded to the respondent to file its reply and present its case. No further indulgence is warranted. Accordingly, the matter is now being proceeded with ex-parte and decided on merits based on the material available on record.

13. Copies of all the relevant documents have been filed and placed on 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. Jurisdiction of the authority

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

E.I Territorial jurisdiction

15. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

16. 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.

17. 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 complainants at a later stage.

F. Findings on the relief sought by the complainants.

F.I Direct the Respondent to hand over lawful and physical possession of Virtual Shop No. 001-A2 (Anchor Shop) in a fully developed project complete with all promised amenities and facilities and further direct the Respondent to execute and register the Conveyance Deed in favour of the Complainants.

F.II Direct the Respondent to pay interest for delay in possession at the prescribed rate under the Real Estate (Regulation and Development) Act, 2016 from the due date of possession till the date of actual handing over of possession.

iii. Direct the Respondent to pay the assured monthly rental @ ₹75 per sq. ft. per month on the super area in terms of the Agreement, along with arrears from the committed date till actual payment.

18. In the present complaint, the complainants intend to continue with the project and are seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under:

"Section 18: - Return of amount and compensation

*18(1). If the promoter fails to complete or is unable to give possession of
an apartment, plot, or building, —*

.....

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

19. The complainants submit that they are entitled to assured monthly rental in terms of the Builder Buyer Agreement. It is pleaded that the respondent has failed to comply with the terms and conditions of the agreement (Annexure VI at page 73 of the complaint).
20. Reliance is placed on the decision in **CR/8001/2022 titled as Gaurav Kaushik and Anr. v. Vatika Ltd.**, wherein the Authority held that where payment of assured returns forms an integral part of the Builder Buyer Agreement—whether incorporated in the agreement itself or through an addendum, memorandum of understanding, or terms and conditions of allotment—the builder is liable to pay the assured returns as agreed between the parties.
21. It was further held that the provisions of the Real Estate (Regulation and Development) Act, 2016 (as applicable in 2019) do not create any bar on the payment of assured returns even after the Act came into force, as such payments are protected under Section 2(4)(l)(iii) of the Act.
22. The amount was received by the builder as an advance deposit towards allotment of an immovable property, with possession to be offered within a stipulated period. Since the sale consideration was taken in advance, the builder assured payment of a specified amount as assured returns for a defined period. The Real Estate (Regulation and Development) Act, 2016 does not contain any provision for re-writing or altering contractual obligations between the parties, as held by the Hon'ble Bombay High Court in **Neelkamal Realtors Suburban Private Limited v. Union of India**. Therefore, the respondent/builder cannot contend that there was no contractual obligation to pay assured returns after the Act of 2016 came into

force, nor can it seek to avoid liability on the ground of execution of a new agreement. Upon failure to fulfill the assured return commitment, the allottee has the right to approach the Authority by filing a complaint for redressal of grievances.

23. The builder is liable to pay the assured returns as agreed and cannot escape liability by denying such obligation. The agreement governs the builder-buyer relationship, and the stipulation regarding assured returns arises out of the same contractual relationship embodied in the original agreement for sale. Hence, the assured return clause forms an integral part of the binding contractual framework between the promoter and the allottee.
24. It is undisputed that the respondent is a real estate developer and had obtained Registration No. 337 of 2017 under the Real Estate (Regulation and Development) Act, 2016 for the project in question. The amount paid by the complainants constitutes a regulated deposit accepted by the builder towards transfer of immovable property to the allottee. In view of the above facts and the binding terms of the Builder Buyer Agreement, the respondent is liable to pay assured returns to the complainants/allottees in accordance with the contractual stipulations.

However now, the proposition before it is as to whether the allottee who is getting/entitled for assured return even after expiry of due date of possession, can claim both the assured return as well as delayed possession charges?

25. To answer the above proposition, it is worthwhile to consider that the assured return is payable to the allottees on account of provisions in the builder buyer agreement. The assured return in this case is payable as per BBA dated 20.12.2021. The promoter committed to pay assured returns at the rate of ₹75/- per sq. ft. of the super area per month, which is reasonable

and binding in the prevailing circumstances. The relevant clause, forming part of Annexure VI to the agreement, is reproduced below for ready reference:

ANNEXURE VI

As far as possible, the prospective lease between the parties shall have the following terms:

- a) Monthly settled lease rent/fee @ ₹75/- on the super area per month.
- b) Tenure of the lease to be for a maximum period of 9 years.
- c) Lock-in period to be for a minimum period of three years.

26. A perusal of the above clause clearly establishes that payment of lease rent/assured return at the agreed rate is an integral part of the contractual arrangement between the parties. The respondent/promoter, having voluntarily incorporated the said terms in the BBA, is bound to honor the same and cannot resile from its contractual commitment.
27. If the assured return payable under the Builder Buyer Agreement dated 20.12.2021 is compared with the delayed possession charges payable under the proviso to Section 18(1) of the Real Estate (Regulation and Development) Act, 2016, it is evident that the assured return is more beneficial to the allottee. In the present case, the assured return works out to ₹11,750/- per month, whereas the delayed possession charges are approximately ₹7,412/- per month.
28. By way of assured return, the promoter expressly assured the allottee that he would be entitled to receive a fixed and specific amount in terms of Annexure VI of the Builder Buyer Agreement. The object underlying the grant of delayed possession charges after the due date of possession is to compensate the allottee for the continued retention and use of his funds by the promoter beyond the promised timeline.
29. That very purpose stands fulfilled—and in fact more effectively so—through the payment of assured returns after the due date of possession. The assured

return operates as a contractual safeguard to protect the financial interests of the allottee, whose money continues to remain invested with and utilized by the promoter. Therefore, the allottee is entitled to receive either the assured return or the delayed possession charges, whichever is higher, so as to adequately secure his contractual and statutory rights.

30. Accordingly, the Authority holds that in cases where the assured return stipulated in the Builder Buyer Agreement is reasonable and comparable to the delayed possession charges payable under Section 18 of the Real Estate (Regulation and Development) Act, 2016, and where such assured return is payable even after the due date of possession, the allottees shall be entitled to receive either the assured return or the delayed possession charges, whichever is higher. This entitlement shall be without prejudice to any other remedy available to the allottee under the Act, including the right to seek compensation or any other appropriate relief in accordance with law.
31. Upon consideration of the documents available on record and the submissions advanced by the parties, it is observed that the complainant has sought payment of the monthly assured rental along with applicable interest. As per the Builder Buyer Agreement dated 20.12.2021, the promoter had expressly agreed to pay to the complainant/allottee a sum of ₹75/- per sq. ft. of the super area per month as the settled monthly lease rent/fee.
32. In the present complaint, OC for the block in which unit of complainant is situated has not been received by the promoter. The Authority is of the view that the construction is deemed to be complete on receipt of occupation certificate from the concerned authority by the respondent promoter for the said project. Therefore, considering the facts of the present case, the respondent is directed to pay the amount of assured return as per the terms of agreement dated 20.12.2021.

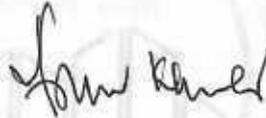
33. The respondent is directed to pay the outstanding accrued assured return amount at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainant and failing which that amount would be payable with interest @ 8.85% p.a. till the date of actual realization.
34. In view of the fact that the present matter pertains to virtual possession, the relief seeking physical possession is hereby declined. The Authority hereby directs the respondent to execute the conveyance deed in favor of the complainant within 3 months after obtaining the occupation certificate from the competent Authorities.

G. Directions of the authority:

35. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoters as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:
- i. The respondent is hereby directed to pay the amount of assured monthly rental to the complainant in terms of Annexure VI of the Builder Buyer Agreement dated 20.12.2021, in accordance with the agreed rate and conditions stipulated therein.
 - ii. The respondent 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, from the complainants and failing which that amount would be payable with interest @8.85% p.a. till the date of actual realization.
 - iii. As the present case pertains to virtual possession, the relief seeking physical possession is hereby declined. However, the respondent-promoter is directed to execute the registered conveyance deed in

favour of the complainant-allottee within a period of three months from the date of receipt of the Occupation Certificate from the competent authority.

- iv. The respondent shall not charge anything from the complainant which is not part of the buyer's agreement.
36. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
37. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
38. Files be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 14.11.2025

HARERA
GURUGRAM