

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

|                              |              |
|------------------------------|--------------|
| Complaint no. :              | 1829 of 2025 |
| Date of Filing of complaint: | 04.04.2025   |
| Date of Decision:            | 12.12.2025   |

Tarun Raghava  
R/o: Flat no. 1002, 10<sup>th</sup> Floor, Tower No. 17,  
Vipul Green, Sector-48, South City-II,  
Gurugram, Haryana

**Complainant**

Versus

NBCC India Limited  
Address: NBCC Bhawan, Lodhi Road, New  
Delhi-110003

**Respondent**

**CORAM:**  
Shri Arun Kumar

**Chairman**

**APPEARANCE:**

Sh. Gaurav Rawat  
Sh. PK Sachdeva

Advocate for the complainant  
Advocate for the respondent

**ORDER**

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under 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 complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

| S. No. | Particulars   | Details  |
|--------|---|--|
| 1.     | Name of the project                                 | "NBCC Green View", Sector 37D, Gurugram, Haryana                           |
| 2.     | Project area  | 18.031 acres   |
| 3.     | Nature of the project                               | Residential Group Housing  |
| 4.     | DTCP license no. and validity status                | 11 of 2009 dated 20.05.2019  |
|        | Name of licensee                                    | AS Realtech Pvt. Ltd. & 3 Ors.   |
|        | Name of Developer                                   | National Building Construction Corporation Limited                         |
| 5.     | RERA Registered/ not registered                     | Not registered   |
| 6.     | Allotment Letter to original allottee               | 02.11.2012<br>(Page 26 of complaint)                                       |
| 7.     | Sale agreement b/w original allottee and respondent | 12.02.2013<br>(page no. 31 of complaint)                                   |
| 8.     | Unit no.  | C-7.1, Prime Location, 7 <sup>th</sup> Floor<br>(Page 33 of the Complaint) |
| 9.     | Unit area admeasuring                               | 2117 sq. ft. (super area)<br>(Page 33 of the Complaint)                    |
| 10.    | Date of execution of buyer's agreement              | Not on record  |
| 11.    | Possession clause                                   | Not on record  |

|     |   |   |
|-----|---|---|
| 12. | Due date of possession  | Cannot be ascertained                           |
| 13. | Total sale consideration  | Rs.88,40,100/-<br>(As per page 59 of complaint) |
| 14. | Amount paid by the complainant  | Rs.88,40,100/-<br>(As per page 59 of complaint) |
| 15. | Occupation certificate /Completion certificate  | Not on record                                   |
| 16. | Offer of possession   | 05.10.2017<br>(page 27 of complaint)            |
| 17. | Possession Letter   | 24.03.2018<br>(Page 50 of complaint)            |
| 18. | Conveyance Deed   | 16.02.2018<br>(Page no. 56 of complaint)        |
| 19. | Offer letter by respondent for re purchase of unit @ 5100 per sq. ft.                                     | 02.02.2023<br>(page no. 81 of complaint)        |
| 20. | Offer letter by respondent for re purchase of unit @ refund of total amount along with interest @ 6% p.a. | 30.10.2023<br>(page no. 33 of complaint)        |
| 21. | Rejection letter by complainant for demolition.   | 26.08.2022<br>(page no. 93 of complaint)        |

**B. Facts of the complaint**

3. The complainant has made the following submissions in the complaint:
- I. That relying on various representations and assurances given by the Respondent the original allottee booked an apartment in the project by paying an amount of Rs.3,08,334/- towards the booking of the said apartment having super area measuring 2117 sq. ft. to the respondent and the same was acknowledged by the respondent.
  - II. That the respondent sent allotment letter dated 02.11.2012 to the original allottee Mr. Ajay Kapoor providing the details of the project, confirming that the allotment through draw of lots held on 17.10.2012 for the booking of the unit allotting an apartment/unit no. C7.1, having super area measuring 2117 sq. ft. in the aforesaid project of the developer for a total sale consideration of the unit i.e. Rs. 94,14,630/- other Specifications of the allotted unit and providing the time frame within which the next instalment was to be paid.
  - III. That on 12.02.2013 the original allottee sold the said apartment/unit to the present complainant at a premium of Rs.4,23,400/-. That the complainant paid an amount of Rs. 16,92,680/- to the original allottee (Rs. 12,69,280/- towards the already paid consideration and Rs. 4,23,400/- towards the premium) and the balance amount was to be paid to the respondent directly.
  - IV. That after many follow ups and repeated reminders respondent finally sent offer of possession letter dated 05.10.2017 to the complainant. Further, raising demand of Rs.6,99,906/- and the same was paid by the complainant in time bound manner and the possession was taken by the complainant after completing all the one-sided formalities as demanded by the respondent. Since, after handing over of the

possession complainant started residing in it as he has bought the apartment/unit his own purpose only. Further after many requests the conveyance deed was executed in favour of the complainant on 16.02.2018.

- V. That on 03.10.2021, respondent arbitrarily without providing any kind of reasonable justification and time to the complainant sent notice to vacate and again on dated 13.10.2021, thereby stating to vacate the said apartment on or before 10.11.2021. In the above said notice respondent failed to mention the rate of compensation and other things payable to the complainant as the complainant are the one who has invested his life time earnings in the said project.
- VI. That possession was denied by the builder in the name of health and safety and evicted forcefully through DDMA Act. No relief was provided to the apartment owner even after paying in full all the amounts to builder. That the builder had handed over possession of the unit after several requests by the allottee, and even after multiple reminders conveyance deed was executed on 16.02.2018. The respondent builder failed to respond to the emails and letters of the complainant allottee and left with no other choice the allottee has approached the Hon'ble Authority with a request for refund of money paid to NBCC along with interest from each date of payment and to compensate the complainant allottee for damages and mental agony.
- VII. That the respondent on 25.11.2021 sent a letter to the complainant to pay rentals @12.50/- per sq. ft. to the homebuyers residing in the society for a period of 6 months and mentioned that NBCC shall not be responsible if the homebuyers retain the possession. That the proposal of rentals had all other one sided conditions and was stopped

after 03 month extension by respondent for pressurizing buyback at respondent conditions.

- VIII. That respondent on 27.07.2022, after delay of almost 10 months sent offer letter for refund of money paid to the respondent in lieu of the cancellation of re-conveyance of flat. In the above-mentioned letter respondent categorically mentioned that they have decided to refund only the amount paid without any interest or compensation to the complainant to which complainant raised objection to the aforesaid act of the respondent and wrote several emails but till date respondent failed to provide satisfactory response to the same.
- IX. That in lieu of cancellation of allotment, NBCC has decided to pay the total payment for the unit along with interest @6% p.a. on the total receipts shall be refunded. The same shall be reckoned from the date of receipt of each payment made until 18-08-2023. Or total refund of the amount of Rs. 1,52,53,451/-.
- X. That the complainant requested for the withdrawal of the same. That thereafter complainant sent several reminders to the respondent's company but they were never able to give any satisfactory response regarding the aforesaid issues raised by the complainant.
- XI. That the complainant contacted the respondent on several occasions and was regularly in touch with the respondent. The respondent was never able to give any satisfactory response to the complainant regarding the status of the above mentioned raised query and was never definite about the refund of the amount alongwith interest and compensation.
- XII. That the complainant continuously asking the respondent company about the status of the refund, time by which the refund alongwith

interest and compensation is expected to be refunded and the penalty amount that respondent is liable to pay till the date of realization but respondent was never able to give any satisfactory response to the complainant.

- XIII. That the respondent have completely failed to honour their promises and have not provided the services as promised and agreed through the brochure, agreement and the different advertisements released from time to time. Further, such acts of the respondent is also illegal and against the spirit of RERA Act, 2016 and HRERA Rules, 2017.
- XIV. That the respondent have played a fraud upon the complainant and have cheated them fraudulently and dishonestly. Hence, the complainant being aggrieved by the offending misconduct, fraudulent activities, deficiency and failure in service of the respondent is filing the present complaint.
- XV. That the complainant has suffered a loss and damage in as much as they had deposited the money in the hope of getting the said unit. They have not only been deprived of the possession of the said Unit but the prospective return they could have got if they had invested in fixed deposit in bank. Therefore, the compensation in such cases would necessarily have to be higher than what is agreed in the agreement.
- XVI. That the respondent is guilty of deficiency in service within the purview of provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017. The complainant has suffered on account of deficiency in service by the respondent and as such the respondent is fully liable to cure the deficiency as per the provisions of the Real Estate (Regulation and

Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017.

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

4. In view of the facts mentioned above, the complainant prays for the following relief:
  - i. Direct the respondent to refund the amount of Rs. 1,00,61,397/- paid by the complainant to the respondent along with interest till date of its realization.

**D. Reply by the respondent.**

5. The respondent has contested the complaint on the following grounds.
  - I. That NBCC (India) Limited had developed a residential complex named "NBCC Green View Apartments" at Sector 37-D, Gurugram. The project was completed in 2016 and the letter for possession was issued on 05.10.2017. Further the possession certificate was issued on 24.03.2018.
  - II. That the respondent had appointed IIT Delhi ("IITD") as a consultant in December 2020 for the assessment of structural condition of the project. IITD vide a report dated 02.02.2021 suggested that certain repairs were required to be made in the towers of the project. These repairs were accordingly undertaken by the contractor engaged in the project namely M/s Rama.Civil India Construction Pvt. Ltd.
  - III. That vide its follow up report dated 06.10.2021, IITD advised vacating the flats within a period of two months in the interest of the resident's safety.
  - IV. That in view of the same, respondent being a responsible Central Public Sector Enterprise ("CPSE") desirous of having the said complex vacated in order to prevent any risk to occupants, put up notices at conspicuous

- places in and around the project site on 03.10.2021 requesting occupants to vacate the complex by 10.11.2021 and to contact NBCC helpdesk at the site for further information.
- V. That in view of the same, respondent put up another notice dated 18.11.2021 at the site requesting occupants to vacate the complex by 23.11.2021 and to contact opposite party help desk at the site for further information.
- VI. That the respondent further communicated to the resident allottees vide email dated 25.11.2021 & 18.12.2021 its offer for providing interim rentals @Rs12.50 per square feet in line with the size of their respective flat(s) for vacating the premises and assistance with respect to arranging transport/packers and movers. In this regard, several resident allottees of the towers availed of the interim rentals and vacated their dwelling units.
- VII. That further the District Magistrate cum Chairperson of District Disaster Management Authority, Gurugram ("DDMA") vide order dated 17.02.2022 also directed the residents to evacuate the premises for safety considerations and directed the respondent to provide alternative/ suitable premises for accommodation to the willing residents within 48 hours of the passing of the said order or to provide rent for similar accommodation along with shifting charges of the entire households of the residents. As on date, the respondent has complied with the aforesaid directions of DDMA and all residents have vacated their dwelling units.
- VIII. That, in view of the IITD Report, the opposite party in the meantime also appointed an external committee of experts from IIT Roorkee and Central Building Research Institute, Roorkee to conduct an in-depth

examination of the issues in the project and to review the report submitted by IITD for more clarity on the issue. The report of the external committee of experts has been received in March 2022. On 17.03.2022 CSIR-CBRI & IIT-Roorkee committee in its report recommended dismantling, demolition of structures.

- IX. That vide offer letter dated 27.07.2022 the respondent amongst others had offered to re-purchase the property in question and agreed to refund the cost of the flat along with other incidental expenses subject to terms and conditions contained therein ("**1<sup>st</sup> Offer**"). It is pertinent to state that this offer was not accepted by the Complainant.
- X. That it is pertinent to mention that the complainant is fully aware of the fact that the respondent has been taking reasonable steps to resolve the grievances of all the allottees of NBCC Green View Apartment, Sector 37-D, Gurugram.
- XI. That respondent thereafter issued a 2<sup>nd</sup> offer letter dated 02.02.2023 to the complainant. As per the new offer, respondent agreed to re-convey the complainant's unit at the rate of Rs. 5,100/- per sq. ft. as a "One-Time Full and Final Settlement" including all costs paid by the complainant. The PLC paid, if any, shall be refunded at the actual and stamp duty paid by the original allottees shall also be refunded as one time full and final settlement
- XII. That subsequently the respondent made a new offer dated 30.10.2023 to refund the total payment with simple interest 6% p.a. on the total receipts (excluding stamp duty and registration charges). Further, the same was to be reckoned from the date of receipt of each payment made until 18.08.2023 and the stamp duty and registration charges to be also refundable at actual as paid by the original allottee. The last date for

accepting the refund offer (with interest) and reimbursement of cost of interior work (if applicable) was provided to be 31.12.2023. It is pertinent to state that this offer was also not accepted by the complainant.

- XIII. That respondent had also sent a proposal dated 19.03.2024 for reconstruction of the project to all allottees. As per clause 7.3 of the said proposal, the respondent shall endeavor to complete reconstruction within 3 years from the date of receipt of the consent to establish the project from the relevant regulatory authorities. Furthermore, as per clause 7.5 of the said proposal, the respondent also undertook to pay all the allottees accepting the offer an amount of Rs. 15/- per square feet per month as rent for alternate accommodation by 10<sup>th</sup> of every month and in case of delay in completing the proposed reconstruction, respondent would also extend payment of the rental amount.
- XIV. That as per clause 6 read with clause 7.10 of the offer for reconstruction, respondent upon the completion of the proposed reconstruction shall deliver & handover the possession of reconstructed flat & respondent shall undertake the proposed reconstruction at its own expenses & shall not take any consideration for the reconstruction of the flats. That reconstruction offer was also not accepted by the complainant.
- XV. That consumer complaint no. CC/1128/2017, titled as "*Narinder Singh Arneja & Ors. v. NBCC (India) Ltd. & Ors.*" was filed by home buyers in which complainant was also party to consumer complaint & his name was deleted by order dated 26-11-2022 by Hon'ble NCDRC of the same project at National Consumer Dispute Redressal Commission. That, the consumer complaint was disposed of by the Hon'ble National Consumer Disputes Redressal Commission ("**Commission**") vide Judgment dated

March 5, 2024, that *"complaint is partly allowed. The Opposite Party is directed to refund entire amount deposited by the amount deposited by the complainants with interest @9% per annum from the date of respective deposit till the date of refund and pay each set of allottee Rs.10/- lacs as exemplary damage, within two months from the date of this order. It shall be open to opposite party-1 to satisfy the bank loan of the allottee first and refund balance amount to the allottee. All the allottees shall return their conveyance deed (if not deposited in bank for taking loan) within a period of 15 days. All the allottees shall sign application form in order to enable OP-1 to get stamp duty refunded, if required by OP-1. All the allottees will give affidavit, giving details of the bank from where loan was taken and encumbrance on the flat was created within 15 days. This judgment is not applicable to those allottees who have settled their dispute.*

XVI. That subsequently a review application was filed by respondent seeking clarification/modification in the judgment dated 05.03.2024 passed in CC/1128/2017 whereby vide order dated 16.04.2024 the Hon'ble Commission clarified that *"As the complaint was filed in the representative capacity and the application under Section 12 (1) (c) of Consumer Protection Act, 1986 was also allowed, the judgment shall be applicable to all the allottees except those who had settled their dispute. ...."*

XVII. That in compliance of the Judgement dated March 5, 2024, respondent proceeded to refund the amounts to all allottees who had not accepted any offers of the respondent including the complainant in accordance with the Judgement dated March 5, 2024, along with interest and shared the list of requested documents, which included acceptance-cum-

undertaking-cum-declaration memorandum etc, with the complainant vide email dated May 3, 2024. Hence as per the letter issued to allottees, the interest was fixed up to 03.05.2024. That till date complainant himself has not accepted judgment of NCDRC rather filed present complaint in order to drag the respondent into litigation without any reason. The complainant cannot further claim of interest due to failure to accept letter date 03.05.2024. On refund amount as interest was fixed up to 03.05.2024.

XVIII. That an appeal bearing Civil Appeal No.8443 Of 2024 titled Prashant Kumar & Anr V. National Buildings Construction Corporation & Ors was preferred by Homebuyers against the Judgement of the Hon'ble Commission dated March 5, 2024 before the Hon'ble Supreme Court wherein vide order dated 05.08.2024 while dismissing appeal against Judgment/Order dated 05.03.2024, passed by Hon'ble National Consumer Disputes Redressal Commission, New Delhi in Consumer complaint no. 1128 of 2017 the Hon'ble Supreme Court stated as follows:

*"3. We are of the opinion that the National Consumer Disputes Redressal Commission has not committed any error in law or fact.*

*4. In this view of the matter, the Civil Appeal is dismissed.*

*5. Pending application(s), if any, shall stand disposed "*

XIX. Thus vide order dated 05.08.2024 of the Hon'ble Supreme Court, the issue of refund to allottees has attained finality and is also binding on the complainant.

XX. That complainant vide email dated 14-05.2024 informed to respondent that correspondence made by respondent was not justified. The complainant has expressed its unwillingness to accept the judgment

passed by the Commissions which was also confirmed by Hon'ble Supreme Court of India thereby attaining finality.

- XXI. That in view of these submissions it is not open to the complainant to approach this Hon'ble Authority for the same cause of action adjudicated earlier by the Hon'ble Apex Court and hence the complaint is hit by Res judicata and deserves to be dismissed outrightly.
- XXII. That the present complaint is barred by limitation also. As the offer letter for possession of the unit was given on 10.10.2017 as annexed with complaint. The eviction was done on 18.11.2021 as per the own submission of the complainant. However, the complaint has been filed in 2025. Hence, it is time barred and ought to be rejected on this ground

#### **E. Jurisdiction of the authority**

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

##### **E. I Territorial jurisdiction**

7. 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**

8. 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.

9. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

**F. Findings on the relief sought by complainant:**

- i. **Direct the respondent to refund the amount of Rs. 1,00,61,397/- paid by the complainant to the respondent along with interest till date of its realization.**
10. The complainant has approached this Authority seeking refund of the amount paid towards purchase of a residential unit in the project of the respondent namely NBCC Green View, Sector-37D, Gurugram.
11. The said unit was initially allotted by the respondent to the original allottee vide allotment letter dated 02.11.2012 whereby unit no. C-7.1 on the 7th floor was allotted in favour of the said allottee. Subsequently, the original allottee transferred the said unit in favour of the present complainant vide agreement to sell dated 12.03.2013.
12. It has been brought on record that the total sale consideration of the said unit was Rs. 88,40,100/- out of which the complainant has paid the entire sale consideration to the respondent. Thereafter, the

respondent offered possession of the unit to the complainant on 05.10.2017 and the complainant took possession of the unit on 24.03.2018. It is further not in dispute that a conveyance deed was executed on 16.02.2018 in respect of the said unit.

13. Subsequently, in December 2020, the respondent appointed IIT Delhi for assessment of the structural condition of the project. IIT Delhi, vide its report dated 06.10.2021 opined that the structure of the building was unsafe and required to be vacated within a period of two months. Consequent thereto, the respondent offered refund of the amount to the allottees along with interest @ 6% per annum on the total receipts.
14. However, the home buyers of the said project did not agree to the said offer and approached the National Consumer Disputes Redressal Commission (NCDRC) by filing Consumer Complaint No. CC/1128/2017. The NCDRC, vide order dated 05.03.2024, directed the respondent to refund the entire amount deposited by the complainant along with interest @9% per annum from the date of respective deposits till the date of refund.
15. Aggrieved by the said order, certain home buyers preferred Civil Appeal No. 8443 of 2024 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court, vide order dated 05.08.2024, dismissed the said appeal and upheld the findings of the NCDRC, observing as under:  
*"We are of the opinion that the NCDRC has not committed any error in law or fact.  
In this view of the matter, the Civil Appeal is dismissed.  
Pending application(s), if any, shall stand disposed of."*
16. In view of the aforesaid, it is evident that the order passed by the NCDRC directing refund of the deposited amount along with interest



@9% per annum has been affirmed by the Hon'ble Supreme Court of India, and the same has attained finality.

17. This Authority is of the considered view that once the matter has been adjudicated by the Hon'ble Supreme Court of India, which is the highest court of the land, this Authority cannot take a view contrary to or beyond the directions issued by the Hon'ble Supreme Court. Accordingly, the relief in the present matter is required to be governed by the directions already issued by the NCDRC as affirmed by the Hon'ble Supreme Court.
18. Therefore, the respondent shall refund the amount to the complainant in terms of the order passed by the NCDRC dated 05.03.2024, as affirmed by the Hon'ble Supreme Court vide order dated 05.08.2024, i.e., refund of the entire deposited amount along with interest @9% per annum from the respective dates of deposit till the date of refund.
19. Complaint as well as applications, if any, stands disposed off accordingly.
20. File be consigned to registry.