

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

**Complaint no. :** 1827 of 2025  
**Date of Decision:** 27.01.2026

Vimla Devi  
**R/o:** D018/510, Chattarpur, South  
Delhi, New Delhi-110047.

**Complainant**

**Versus**

1. M/s Adhikaansh Realtors Private  
Limited.

**Office At:** 12A Floor, Tower-2, M3M  
International Financial Centre, Sector-  
66, Gurugram, Haryana.

**Respondent  
no.1**

2. M.s Aawam Residency Private  
Limited.

**Office At:** 41<sup>st</sup> Floor, Tower-1, M3M  
International Financial Centre, Sector-  
66, Gurugram, Haryana.

**Respondent  
no.2**

**CORAM:**

Shri Arun Kumar  
Shri Phool Singh Saini

**Chairman  
Member**

**APPEARANCE:**

Sushil Yadav  
Shriya Takkar & Meenal Khanna

Advocate for the complainants  
Advocates for the respondents

**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	"Smart World Gems 2"
2.	Location of the project	Sector-89, Gurugram
3.	Nature of the project	Affordable plotted colony
4.	DTCP license no. and validity status	102 of 2022 dated 27.07.2022
5.	Name of licensee	M/s Adhikansh Realtors Pvt. Ltd.
6.	RERA Registered/ not registered	<b>Registered</b> GGM/502/234/2021/70 dated 25.10.2021 valid up to 30/09/2025
7.	Plot and Floor no.	Unit no. N-39A, Plot No. N-39A, 1 <sup>st</sup> Floor, Type-3.5 BHK + 3T [As on page no. 21 of the complaint]
8.	Unit area admeasuring	1494 sq. ft. (Super Area) 859.28 sq. ft. (carpet area) [As on page no. 21 of the complaint]
9.	Allotment letter	15.11.2024 [As on page no. 35 of reply]



10.	Agreement For Sale	25.11.2024 [As on page no. 14 of complaint]
11.	Possession Clause	<b>7.Possession of the floor residence:</b> <b>7.1 Schedule for possession of floor residence..</b> <i>(ii) The Promoter assures to offer possession of the Independent Floor Residence along with right to use the undivided demarcated proportionate right to use terrace and basement area alongwith one car parking space as per agreed terms and conditions herein on or before the Completion Time Period i.e., 03.04.2027 or as may be further extended by the H-RERA unless there is delay due to Force Majeure Event, reasons beyond the control of the Promoter.....</i> [Emphasis Supplied] (As on page no. 30 of complaint)
12.	Due date of possession	03.04.2027 (As per possession clause on page no. 32 of complaint)
13.	Total sale consideration	Rs.1,00,27,944/- [As on page no. 36 of the reply]
14.	Amount paid by the complainant	Rs.40,00,000/- [As on page no. 54 of reply i.e. cancellation letter dated 15.02.2025]
15.	Reminders [Note: Demand was raised by the respondent on 16.11.2024 i.e., the second stage of payment i.e., On Start of Construction-Excavation of the project site (on signing of the Agreement For Sale)]	07.12.2024 (As on page no. 52 of complaint)



16.	Pre-cancellation Letter alongwith email	17.12.2024
17.	Cancellation	15.02.2025 [As on page no. 54 of reply]
18.	Refund paid by the respondent after cancellation and forfeited 10%	29.04.2025 [As on page no. 56 of reply]
19.	Occupation certificate /Completion certificate	Not obtained [Status checked from the website of TCP]
20.	Offer of possession	Not offered

**B. Facts of the complaint**

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

- I. That the respondents published advertisements in various leading newspapers about their upcoming project named "Smartworld/Smartworld Gems 2", located in Sector 89, Gurgaon, promising several advantages, such as world-class amenities and timely completion/execution of the project. Relying on the promises and undertakings made by the respondents in the aforementioned advertisements, the complainant booked a unit admeasuring 1,494 sq. ft. in the said project for a total sale consideration of Rs.1,00,27,944/-.
- II. That the complainant visited the respondents' office and upon the offer made by the respondents, initially booked a unit on 28.09.2021 by making a payment of Rs.2,00,000 (out of the total booking amount of Rs.8,50,000). The complainant opted for the 10-90 payment plan (10% upon booking and 90% upon possession) as offered by the respondents. The remaining payment of Rs.6,50,000 was transferred on 08.11.2021.



- III. That the complainant was shocked and surprised to learn that the respondents had returned the entire paid amount without providing any prior notice or intimation.
- IV. That the complainant made several efforts and followed up with the respondents to ascertain the reason for the return of the aforementioned amount, but the respondents failed to provide any response. Eventually, the complainant visited the respondents' office, where the respondents presented a non-negotiable offer—the complainant was compelled to switch to the 90-10 payment plan. Despite repeatedly requesting the respondents to allow her to continue with the 10-90 plan, as it would be difficult for her to adopt the new plan, the respondents remained indifferent to her pleas. Left with no alternative, the complainant was forced to accept the 90-10 payment plan. The complainant subsequently made payments totaling Rs.40,00,000 to the respondents through different cheques issued on various dates.
- V. That an "Agreement for Sale" was executed on 25.11.2024, pursuant to which the respondents allotted a unit/flat no. N-39A, Plot No. 39, Type 3.5 BHK + 3T, located on the 1st floor, having a super area of 1,494 sq. ft., to the complainant. As per Clause 7.1(ii) of the Agreement, the respondents agreed to deliver possession of the flat on or before 03.04.2027. To make the remaining 90% payment, the complainant applied for a loan with "Bajaj Housing Finance Limited" and obtained a loan sanction letter for Rs.50,00,000 from the said bank on 20.01.2025.
- VI. That the complainant shared the loan sanction letter with the respondents; however, the respondents refused to accept it, insisting



that the complainant must obtain a loan sanction letter for the entire remaining amount of the unit. It is pertinent to mention that the complainant was ready and willing to pay 90% of the unit's price as per the agreed payment plan. However, the respondents unreasonably demanded the remaining 10% amount, which was only due at the time of possession.

- VII. On 15.02.2025, the respondents issued a cancellation letter to the complainant, stating that out of the total amount paid, Rs.10,52,934 was forfeited. It is noteworthy that the respondents never issued any prior notice or pre-cancellation letter to the complainant.
- VIII. Due to the respondents' wrongful actions, the complainant has suffered disruption in her living arrangements, mental anguish, and financial losses, which could have been avoided if the respondents had accepted the payment.
- IX. That the complainant made several requests through telephonic calls and personal visits to the respondents' office, seeking possession of the flat and revocation of the cancellation letter. However, the respondents flatly refused to comply.

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

4. The complainant is seeking the following relief(s).
- i. Interest for every month of delay at prescribed rate i.e MCLR+2% @9.30%.
  - ii. Declare cancellation letter dated 15.02.2025 of respondent null and void.
  - iii. Direct respondent to revoke the cancellation letter dated 15.02.2025.
  - iv. Direct the respondent to handover the physical possession of the said unit to complainant.



**D. Reply by the respondents.**

5. The respondent have contested the complaint on the following grounds.

- I. That upon enquiry from the Associate Company M/s. Suposhaa Realcon Pvt. Ltd. it transpired that the complainant had earlier expressed her interest for purchase of a ready to move in unit in one of the properties acquired by the Associate Company and paid an amount of Rs.2,00,000/- towards the confirmation of EOI. Since, the complainant did not come forward to complete the booking formalities and finalize the unit therefore, the Associate Company cancelled the expression of interest. As far as the amount of Rs.2,00,000/- is concerned the same was also refunded on 16.10.2024 by the Associate Company.
- II. That the complainant approached the respondent no. 1 and expressed her interest to book a unit in project i.e. 'Smartworld Gems', Sector 89 Gurugram and on her own free will, paid an amount of Rs.6,50,000/-. The complainant was well aware about her duty to come forward to select the unit, confirm booking, complete all booking formalities, including but not limited to depositing 10% of sales consideration and execute all requisite documents. The respondent no. 1 cannot be held liable for the wilful default of the complainant.
- III. Since, the complainant failed to complete all booking formalities including but to limited to depositing 10% of sales consideration and execute all requisite documents as a result of which the said booking could not crystalize into allotment. Thus, no unit was ever allotted to the complainant, hence there is no privity of contract entitling the complainant to file and maintain the instant complaint. Without prejudice to its rights, the respondent no. 1 being a customer-oriented



Company, to bring closure to the matter refunded the entire amount deposited by the complainants to the tune of Rs.6,50,000/- on 15.10.2024.

- IV. That after conducting requisite market research and making her independent enquiries approached respondent no. 1 for booking of an independent floor in the project being developed by the respondent no.1 i.e. 'Smartworld Gems 2', Sector 89 Gurugram and paid an amount of Rs.13,50,000/- in two instalments of Rs.3,50,000/- and Rs.10,00,000/- on 14.11.2024 which was duly acknowledged by respondent no. 1. The complainant duly signed the Application Form after reading and understanding each and all conditions stated therein.
- V. That in due consideration of the complainant's commitments to make timely payments, the complainant was allotted unit bearing no. N-39A on 1<sup>st</sup> floor vide allotment letter dated 15.11.2024. The cost of the independent floor was Rs.1,00,27,944/- plus other charges. The complainant on her own free will and volition had opted for the specific payment plan of 90:10. Thereafter, respondent no. 1 as per the payment plan opted by the complainant, raised a demand vide letter dated 16.11.2024 which was due on start of the construction. The said demand was payable on or before 05.12.2024.
- VI. That after constant follow ups with the complainant, the complainant executed the Buyers Agreement on 25.11.2024. Upon the complainant's failure to pay the due amount within the prescribed time limit stated in the demand letter, respondent no. 1 issued reminder letter dated 07.12.2024 requesting the complainant to pay a



sum of Rs.76,75,150/- along with delayed interest. The reminder letter dated 07.12.2024 was sent to the complainant through courier.

VII. Despite receipt of the above, the complainant failed to make the requisite payment. Consequently, respondent no. 1 issued a pre-cancellation letter dated 17.12.2024, calling upon the complainant to clear the outstanding dues along with applicable interest within seven (7) days from receipt of the said notice, failing which the allotment/booking was liable to be cancelled. This pre-cancellation letter was also served to the complainant vide email dated 17.12.2024 apart from being dispatched on her address through courier.

VIII. In lieu of the above-mentioned demand, reminder and pre-cancellation notice the complainant made part payment of only Rs.26,50,000/- on 06.01.2025. The complainant even after the issuance of the abovementioned pre-cancellation letter and various reminders failed to take advantage of this opportunity and continued to breach the terms of the Buyers Agreement. As a consequence of the same respondent no. 1 was constrained to terminate the allotment of the complainant vide cancellation letter dated 15.02.2025 and forfeit the amount as per Clause 9.3 of the Buyers Agreement.

IX. That the complainant had made paid a total amount of Rs.40,00,000/- against the total dues of Rs.90,25,150/- and towards the Total Consideration value of Rs,1,00,27,944/- plus other charges. That the respondent no. 1 being a customer-oriented Company, refunded an amount of Rs.29,97,206/- on 29.04.2025 post deductions of 10% of sales consideration as earnest money in accordance with Clause 9.3 of the Buyers Agreement. The aforesaid refund amount was duly accepted by the complainant without any protest or demur. Thus, the



cancellation of allotment has been duly accepted by the Complainant. Thus, nothing survives in the present matter, the complaint is liable to be dismissed.

- X. That the complainant is a defaulter and has defaulted in making timely payments despite repeated requests therefore the respondent no. 1 was constrained to cancel the allotment of the unit vide cancellation letter dated 15.02.2025. The unit being cancelled there is no privity of contract between the parties and the complainant has no right, title or interest in the unit in question and neither is the allottee of the same. In furtherance of the cancellation of the subject unit, the respondent has allotted the same to a third party. Thus, the present complaint is infructuous.
- XI. That the complainant had made a total payment of Rs.40,00,000/- against the total consideration of Rs.1,00,27,944/- plus other charges. That without prejudice to its rights, being a customer-oriented Company, to bring closure to the matter, respondent no. 1 refunded an amount of Rs.29,97,206/- on 29.04.2025 vide RTGS post deduction of earnest money being 10% of the sale consideration. Thus, nothing survives in the present matter, the complaint is infructuous and is liable to be dismissed.
- XII. That the alleged pre-sanction letter dated 20.01.2025 for the home loan annexed at page nos. 48-50 is merely an in principle sanction letter however, there is no documentary evidence on record to substantiate the alleged claim that the alleged sanction letter was shared with the respondent no. 1. It was clearly mentioned that the final approval on the same is applicable only after fulfilling all the conditions of the scheme and completion of necessary formalities.



- XIII. That the respondent no. 1 vide demand letter 16.11.2024 raised the demand due on start of excavation, which was duly served upon the complainant through courier and email. Upon the complainant's failure to pay the due amounts stated in the demand letter, a reminder letter dated 07.12.2024 was issued, once again, specifically calling upon the complainant to remit the outstanding dues of Rs.76,75,150/- immediately. Despite receipt of both the demand and the reminder, the complainant failed to make the requisite payment. Consequently, respondent no. 1 issued a pre-cancellation notice dated 17.12.2024, granting seven days to clear the outstanding dues along with applicable interest, failing which the allotment/booking would stand cancelled.
- XIV. That the complainant even after the issuance of the abovementioned demand letter, reminder letter, pre-cancellation notice failed to take advantage of this opportunity and continued to breach the terms of the Buyers Agreement. As a consequence of the same, respondent No. 1 was constrained to terminate the allotment of the complainant vide cancellation letter dated 15.02.2025 and forfeit the amount as per terms of the Buyers Agreement. That the complainant had deposited total amount of Rs.40,00,000/- against the unit in question.
- XV. That respondent no. 1 without prejudice to its rights, being a customer- oriented company, refunded the amount of Rs.29,97,206/- to the complainant vide RTGS on 29.04.2025 post deduction of earnest money being 10% of sale consideration as per the terms of the Buyers Agreement. The aforesaid refund amount was duly accepted by the complainant without any protest or demur. Thus, the

cancellation of allotment has been duly accepted by the complainant. Thus, nothing survives in the present matter.

XVI. That the complainant despite issuance of repeated requests and notices i.e. demand letter dated 16.11.2024, reminder dated 07.12.2024, pre-cancellation notice dated 17.12.2024, failed to clear her pending dues as a consequence of the same, respondent no. 1 was constrained to terminate the allotment of the complainant vide cancellation letter dated 15.02.2025. Post cancellation of allotment, the complainant has no right, title or interest over the unit in question and neither has any privity of contract with the respondents. The refund amount was duly accepted by the complainant without any protest or demur. Thus, the cancellation of allotment has been duly accepted by the complainant.

6. 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**

7. The Authority observes that it has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

8. 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**

9. 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;*

10. 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 objections raised by respondent**

### **F.I Objection regarding the complaint is liable to be dismissed due to non-existence of any cause of action in the favour of the complainant.**

11. The respondents have submitted that the present complaint is liable to be dismissed as the respondent no. 1 had refunded an amount of Rs.29,97,206/- on 29.04.2025 vide RTGS post deduction of earnest money being 10% of the sale consideration. Thus, nothing survives in the present matter, as there is no cause of action in favour of the complainant and against the respondent. Thus, the complaint is infructuous and is liable to be dismissed.



12. In the present complaint, the complainant is seeking possession of the unit allotted to her alongwith delayed possession charges and setting aside of the Cancellation dated 15.02.2025.
13. The Authority after considering all the documents on record observes that the respondent issued a Welcome Letter dated 15.11.2024 in favour of the complainant and the complainant was allotted an Independent Floor Residence bearing no. N-39A in Block-N-39 on 1<sup>st</sup> Floor admeasuring 859.28 sq.ft of Carpet Area, 1494 sq.ft of Super Area and 144.81sq.ft of Balcony Area in the project namely "Smartworld Gems 2" situated at Sector-89, Gurugram, Haryana, being developed by respondent no. 1 i.e., M/s. Adhikaansh Realtors Private Limited. The Total Sale Consideration of the unit was Rs.1,00,27,944/- and the complainant paid an amount of Rs.40,00,000/- out of the same.
14. Thereafter, the Agreement For Sale was executed on 25.11.2024. The respondent raised the demand due on the stage of "Start of Excavation" vide demand letter dated 16.11.2024. The complainant failed to make the payment of the outstanding dues. The respondent sent a reminder on 07.12.2024 to the complainant calling upon her to remit the outstanding dues of Rs.76,75,150/-. Consequently, respondent no.1 issued a Pre-Cancellation Letter on 17.12.2024. Despite several opportunities, the complainant failed to make the payment of the outstanding dues. As a consequence, the respondent terminated the allotment of the complainant vide Cancellation Letter dated 15.02.2025. After deducting the Earnest Money being 10% of the sale consideration, the respondent no.1 refunded the amount of Rs.29,97,206/- to the complainant vide RTGS on 29.04.2025. Presently, the unit has been cancelled and there is no privity of contract between the parties and the



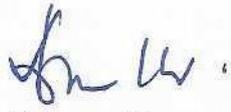
complainant has no right, title in the unit in question and is neither an allottee of the same. In furtherance of the cancellation of the subject unit, the respondent has allotted the same to a third party.

15. The Authority is of the view that the complainant had paid a total amount of Rs.40,00,000/- towards the Total Consideration value of Rs,1,00,27,944/- plus other charges. The unit of the complainant was cancelled on 15.02.2025 due to non-payment of the outstanding dues and the same has been dealt above in para no. 14. The respondent no. 1, refunded an amount of Rs.29,97,206/- on 29.04.2025 i.e., post deductions of 10% of sale consideration as earnest money in accordance with Clause 9.3 of the Buyers Agreement.
16. In view of the aforesaid facts and circumstances, the present complaint is devoid of merit.
17. Accordingly, the Authority is of the view that no relief whatsoever is made out in favour of the complainants and against the respondents in the present complaint. The complaint is, therefore, dismissed.
18. File be consigned to registry.

  
(Phool Singh Saini)  
Member

**HARERA**  
**GURUGRAM**

Haryana Real Estate Regulatory Authority, Gurugram

  
(Arun Kumar)  
Chairman

Dated:27.01.2026