

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

**Complaint No:** 1477 of 2025  
**Order reserved on:** 22.01.2026  
**Order pronounced on:** 12.03.2026

Prachi Gupta

**Resident of:** First Floor, D-16, South City-2, Gurugram-122018.

**Complainant**

**Versus**

1. M/s Splendor Landbase Limited

**Registered office at:** - Unit no. 501-502, 5<sup>th</sup> Floor, Splendor Forum, 3, Jasola District Center, New Delhi- 110025

2. Gainers Realtors LLP

**Office at:** - Unit no. DCG4-1001, DLF Corporate Greens, Sector- 74A, Gurugram- 122004, Haryana

**Respondents**

**CORAM:**

Shri Phool Singh Saini

**Member**

**APPEARANCE:**

Shri Rishabh Jain, Advocate

Ms. Shriya Takkar, Advocate

Shri Sushil Yadav, Advocate

Complainant

Respondent no. 1

Respondent no. 2

**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 thereunder or to the allottees as per the agreement for sale executed *inter se*.

**A. Unit and project related details**

2. The particulars of the project, the details of 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	"Splendor Epitome", Sector-62, Gurugram
2.	Nature of project	Commercial colony
3.	Project area	3.35 acres
4.	RERA registered/not registered	Registered vide no. 22 of 2019 dated 26.03.2019 Valid up to 31.12.2023
5.	Unit no.	N.A
6.	Unit measuring	238 sq. ft. [As alleged by the complainant at page no. 17 of complaint]
7.	Booking amount paid by the complainant to the respondent no. 1	12.01.2024
8.	Allotment Letter	N.A
9.	Date of execution of flat buyer's agreement	N.A
10.	Possession clause	N.A
11.	Due date of possession	Cannot be ascertained
12.	Total sale consideration	Rs.59,50,000/- [As alleged by the complainant at page no. 17 of complaint]
14.	Total amount paid by the complainant	Rs.25,00,000/- [As alleged by the complainant at page no. 17 of complaint]
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered
17.	Refund request made by the complainant on	02.08.2024 (As per annexure-6, at page 46 of the complaint)

**B. Facts of the complaint:**

3. The complainant has made the following submissions: -

- A. That the respondent no.1 published very attractive colourful brochure, highlighting the commercial project '**Splendor Epitome**' situated in Sector 62, village Ullawas, Gurugram, Haryana. The respondent no.1 claimed to be one of the best and finest in construction and one of the leading real estate developers of the country, in order to lure prospective customers including the complainant to buy commercial unit in the project. There are fraudulent representations, incorrect and false statements in the brochure. The complainant invites attention of this Authority, Gurugram to Section 12 of the Act, 2016. The project was launched in 2019 with the promise to deliver the possession on time and huge funds were collected over the period by the respondent.
- B. That the complainant/allottee, was approached by the sale representatives of respondent no. 1 and Gainers Realtors LLP (Real Estate agent Company), i.e., respondent no.2, who made tall claims about the project 'Splendor Epitome by Splendor Landbase Limited' as the world class project. The complainant/allottee was invited to the sales office and was lavishly entertained and promises were made to her that the possession of her Unit would be handed over in time.
- C. That the complainant/allottee was impressed by their oral statements and representations and ultimately booked a Commercial Unit measuring around 238 square feet (carpet area) at the rate of Rs.25000/- per square feet at ground floor on 09.01.2024 in the project namely 'Splendor Epitome' in Tower B situated at Sector 62, village Ullawas, Gurugram, Haryana. The total cost of the commercial unit measuring around 238 square feet (carpet area) at the rate of Rs.25000/- per square feet at Ground floor is around Rs.59,50,000/-.

- D. That the booking of the commercial unit in the above project was executed via the real estate agent company i.e., Gainers Realtors LLP, as respondent no. 2, having address Unit No. DCG4-1001, DLF Corporate Greens, Sector 74A, Gurugram – 122004, Haryana. The respondent no. 2 was represented by Ms. Bharti Chaudhary (Partner), Ms Krishna Chaudhary (Partner) and Mr Mohit Sharma having contact no. 9711231005.
- E. On the direction of the respondent no.2, the complainant/allottee also filed an application form while booking the commercial unit measuring around 238 square feet at the rate of Rs.25000/- per sq. ft. at ground floor in the project 'Splendor Epitome' in Tower B. But the copy of the application form was not provided by the respondent no.1 to the complainant/allottee.
- F. That the complainant/allottee paid an amount of Rs.25,00,000/- via cheque no. 000764 dated 09.01.2024, drawn by ICICI bank in favour of Splendor Landbase Limited – Epitome Collection account for the commercial unit measuring around 238 sq. ft. (carpet area) at the rate of Rs.25000/- per sq. ft. at Ground Floor in the project of the respondent no.1.
- G. That the above-mentioned cheque no. 000764 was debited from the bank account of the complainant/allottee and the amount of Rs.25,00,000/- was credited into the bank account of the respondent no.1 on 12.01.2024. An amount of Rs.25,00,000/- paid by the complainant/allottee via cheque was credited into the bank account of respondent no.1, i.e., Splendor Landbase Limited – Epitome Collection account in account no. 919020017382653 of the Axis Bank Limited, having its IFSC/RTGS No. UTIB0001148 and branch address at ground floor and basement, plot no.51, pocket-1, Jasola, New Delhi – 110025. This bank account detail is also mentioned in the form REP-1, Part-D, submitted by respondent no. 1 while applying for the registration certificate for the project from before this Authority.

- H. Thereafter, the complainant has approached various times to the respondent no. 1 for signing the builder buyer agreement but all went in vain. Under Section 13(1) of the Act, 2016, the promoter is restricted from accepting more than 10% of the unit's cost as an advance payment or application fee from the allottee without first entering into a written agreement for sale.
- I. That the respondent no. 1 has failed to fulfil the initial requirements, namely the execution of the builder buyer agreement and the issuance of the allotment letter in favour of the complainant/allottee even though the complainant/allottee has already paid more than 10% of the total sale consideration of the unit. Consequently, the respondent no. 1 is liable to refund the amount received for the unit, along with interest at a prescribed rate, as the allottee has opted to withdraw from the project. The liability is without prejudice to any other remedies available to the allottee.
- J. That non-compliance of the mandate contained in Section 13(1) read with Section 18(1) of the Act on the part of the respondent no. 1 is established. As such, the complainant/allottee is entitled to refund of the entire amount paid at the prescribed rate of interest, as prescribed under Rule 15 of the Rules, 2017 from the date of payment till the actual date of refund of the amount within the timelines provided in Rule 16 of the Haryana Rules 2017.
- K. That the complainant/allottee approached various times seeking refund of paid amount of Rs.25,00,000/- with interest from the respondent no.1, as neither was the builder buyer agreement signed nor was the allotment letter issued to the complainant/allottee. The complainant/allottee wrote a letter on 02.08.2024 requesting to the respondent no.1 for the refund of paid amount of Rs.25,00,000/-. The letter dated 02.08.2024 was sent to the respondent no.1 on 05.08.2024 via Indian Postal Services.

- L. That the complainant/allottee sent various emails seeking refund of deposited amount to the respondent no.1. The relevant part of the email sent on 02.08.2024 to the respondent no.1 by the complainant/allottee is reproduced as follows-

*"Most humbly, your kind attention is requested towards my cheque No. 000764 dated 09-Jan-24 drawn on ICICI Bank in favour of Splendor Landbase Ltd. - Epitome Collection A/c, of amount INR 25 Lacs, which subsequently was encashed on 12-Jan-24. The cheque was presented through your channel partners M/s Gainers (Gurgaon). I request you to please refund my chequed amount in two weeks from now i.e. by 16-Aug.24. Amount can be refunded in the same account as was used for the deposited cheque."*

- M. Further, the complainant/allottee also sent another email seeking refund of deposited amount to the respondent no. 1 on 22.08.2024. The relevant part of the email sent on 22.08.2024 to the respondent No.1 by the complainant/allottee is reproduced as follows-

*"Please refer attached request letter for refund of my amount deposited in Splendor Epitome account. This was taken by your channel partner M/s Gainers. I have tweeted you also, just to expedite the case. As per M/s Gainers they have requested M/s Splendor multiple times but there is no positivity from your side."*

- N. That the complainant/allottee also sent an email on 16.12.2024 seeking refund of her deposited amount but all went in vain. The complainant has spoken and met various times to the representatives of the Respondent No.2, seeking refund of the deposit amount of Rs.25,00,000/- with interest but all went in vain. Mr Mohit Sharma, the representative of Respondent No.2, assured to the complainant various times that the amount of Rs.25,00,000/- would be refunded soon, but all went in futile.
- O. That the complainant has approached the respondents on various occasions but the respondent no. 1 didn't bother to respond to the complainant. All the acts of the respondents are arbitrary, illegal and unlawful and totally in their own interest, thereby the respondent no.1 violated Section 19 of the Act, 2016.

- P. That the respondent no. 1 has, in an unfair manner siphoned of funds meant for the project and utilised same for its own benefit for no cost. The respondent no. 1 being builder, promoter, colonizer and developer whenever in need of funds from bankers or investors ordinarily has to pay a heavy interest per annum. However, in the present scenario, the respondent no. 1 utilised funds collected from the complainant and other buyers for its own good and utilised it in other projects, being developed by the respondent no.1.
- Q. That the complainant has lost confidence and in fact has got no trust left in the respondents, as the respondents have deliberately and wilfully indulged in undue enrichment, by cheating the complainant beside being guilty of indulging in unfair trade practices and deficiency in services and then remaining non responsive to the requisitions of the complainant. The complainant being aggrieved person has filed a complaint under Section 31 of the Act, 2016 read with Rule 28 of the Rules, 2017 at HARERA, Gurugram for violation or contravention of provisions of the Act and Rules as mentioned therein.
- R. In the given premise and circumstances, it is submitted that the respondents/sellers/builders/promoters/owners are habitual of making false promises and have deceptive behaviour. The respondents have earned enough monies by duping the innocent complainant and other such buyers through unfair trade practices and deficiencies in services and have caused the complainant enough pain, mental torture, agony, harassment, stress, anxiety, financial loss and injury.
- S. The complainant/allottee hereby seeks to redress the various forms of legal omissions and illegal commissions perpetuated by the respondents/sellers /builders/promoters, which amount to unfair trade practices, breach of contract and are actionable under the Act, 2016. In the

present circumstances, the complainant has been left with no other option but approach and seek justice before this Authority at Gurugram, Haryana.

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

4. The complainant has sought following relief:
  - i. To direct the respondent no. 1 to handover actual possession of the unit of the complainant, and the complainant is ready to pay all the legitimate payment to the respondent no.1.
  - ii. OR ALTERNATIVE Direct the respondent no. 1 to refund the entire paid-up amount along with prescribed rate of interest
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.

**D. Reply by the respondent no. 1**

6. The respondent no. 1 has filed the reply and contested the complaint on the following grounds: -
  - a. That without prejudice to the aforementioned contentions, it is stated that the complainant has approached this Authority with unclean hands and has tried to mislead the Authority by making incorrect and false averments and stating untrue and/or incomplete facts and, as such, is guilty of *suppressio veri suggestio falsi*.
  - b. That the complainant has suppressed and/or misstated the facts, and, as such, the complaint apart from being wholly misconceived, is rather an abuse of the process of law. The complainant has miserably failed to place on record any document to substantiate her allegations that she was ever allotted any unit in the subject commercial project i.e., Splendor Epitome, Sector 62, Gurugram. She has even failed to place on record any document to substantiate that she had even submitted application form for booking of unit in the subject project. Moreso, no payment receipt issued by the

respondent no.1 to substantiate that the complainant has made payment against booking/allotment of unit in the subject project has been placed on record.

- c. That the complaint filed by the complainant is baseless, vexatious and is not tenable in the eyes of law therefore the complaint deserves to be dismissed at the very threshold. The complaint is liable to be dismissed in view of the preliminary objections set out hereinafter. Since the preliminary objections are of a jurisdictional nature which goes to the root of the matter, and as per the settled law, the same should be decided in the first instance. It is only after deciding the question relating to maintainability of the complaint that the matter is to be proceeded with further. The following preliminary and jurisdictional objections are being raised for dismissal of the complaint.
- d. That a bare perusal of the complaint would show that the affidavit attached to the complaint suffers from fundamental procedural defects which render it legally untenable and inadmissible. It is submitted that the affidavit is not in the prescribed format as required under the applicable rules of procedure. A valid affidavit must be properly structured, include the requisite declarations, and comply with the formal requirements set forth by the relevant procedural laws or court rules.
- e. That the affidavit attached to the complaint is not signed by the complainant, which alone invalidates it as an affidavit. Additionally, it is not duly notarized by the Notary Public or attested by Oath Commissioner. It is a well- established legal principle that an affidavit, to have any evidentiary value, must be signed by the deponent and sworn before and notarized by a notary public or a person duly authorised to administer oaths. In the absence of both the deponent's signature and proper notarization, the affidavit lacks authenticity and cannot be treated as a

valid piece of evidence. Courts and quasi-judicial bodies have consistently held that affidavits lacking signatures or proper attestation are devoid of legal sanctity and are liable to be rejected.

- f. It is submitted that as per the settled law laid down by the Hon'ble Supreme Court, improperly verified and an unsigned affidavit without even having the notary seal of the Notary Public is bad in law and cannot be admitted in evidence. In *AKK Nambiar v. Union of India*, reported in AIR 1970 SC 652 the Hon'ble Supreme Court has laid down that "if affidavits are not properly verified it cannot be admitted in evidence". The Supreme Court has laid down the importance of verification by "stating that the test of genuineness and authenticity of allegations that the test of genuineness and authenticity of allegations and also to make the deponent responsible for allegations contained in verifications and in the absence of proper verification affidavits could not be admitted in evidence". That further, the Hon'ble Delhi High Court vide judgment dated 01.01.2019 in O.M.P (Comm) 97/2019 titled as *Oil and Natural Gas Corporation Ltd. vs. Joint Venture of M/s Sai Rama Engineering Enterprises and M/s Megha Engineering & Infrastructure Ltd.* has held that: "The Statement of Truth accompanying a petition or an application is sworn by the deponent who states on oath that the contents of the accompanying petition have been drafted under his instructions and are true and correct to his knowledge or belief. Surely, this affidavit must be signed after the petition is made and the attestation must also be done on the affidavit when the petition is filed..... The petition needs to be signed by the Advocate as well as the party before the same is filed as this would indicate that both have read the petition and there is authenticity attached to the pages filed in the Registry. If these basic documents are not annexed or the signatures



as required are absent, one can only term the documents which are filed as a bunch of papers.”

- g. Thus, the absence of complainant’s signature and improperly verified affidavit without the notary of the Notary public or attestation by the Oath Commissioner makes the complaint defective and therefore, the complaint should be dismissed at the outset.
- h. That the present complaint has been filed with malafide intentions to falsely project the existence of contractual rights and obligations where none ever came into existence, as no cause of action for the relief sought has been made out in the present complaint. Although an amount deposited by the complainant came to be credited into the account of respondent no. 1, the same was transmitted entirely through respondent no. 2, and mere credit of funds does not amount to acceptance of booking or conferment of any right.
- i. That the complainant voluntarily unilaterally tendered a sum of Rs.25,00,000/- through cheque on her own free will and volition. This payment was transmitted through respondent no. 2 i.e., her broker, and mere credit of funds does not amount to acceptance of booking or conferment of any right upon the complainant. The said fact is evident from the cheque appended at page no. 38 of the complaint. That the respondent no. 1 neither invited nor accepted any booking from the complainant, nor did it receive any formal application from the complainant. That the said payment was transmitted through respondent no. 2, and mere credit of funds does not amount to acceptance of booking or conferment of any right whatsoever, contractual or statutory.
- j. That no unit was ever allotted to the complainant, and the complainant has no privity of contract with the respondent no.1. That no application form was ever submitted to respondent no. 1, no allotment letter was issued,

- and no builder buyer agreement/agreement for sale was executed at any stage. The respondent cannot be held liable for the complainant's failure to complete any booking formalities or bring about a concluded transaction, and by way of the present complaint, the complainant is trying to take advantage of her own wrongful acts.
- k. Although, an amount of Rs. 25,00,000/- deposited by the complainant was credited into the account of respondent no.1, the said amount was transmitted entirely through respondent no. 2, and mere credit of funds does not amount to acceptance of booking or conferment of any right whatsoever, or create any contractual, statutory, or equitable obligation between the parties. No payment receipt has been issued by the respondent no.1 to the effect that the complainant has made payment against booking/allotment of unit in the subject project.
- l. That the complainant is not entitled to any relief as the complainant has approached the Authority with unclean hands and has suppressed material facts. That the complainant is not entitled to any relief whatsoever. That no unit was ever allotted to the complainant, no application form was submitted by the complainant, no payment receipt was issued by the respondent no.1. Hence, the present complaint filed by the complainant is wholly misconceived and illusory and unsustainable based on the averments made hereinabove, hence the complaint at the very outset needs to be dismissed with costs.
- m. Further, it is absolutely clear that no unit was ever allotted to the complainant owing to the complete absence of any accepted application, allotment, or concluded transaction, and therefore, the complainant has no privity of contract with the answering respondent. The complainant does not fall under the definition of allottee as defined under Sec 2(d) of the Act, 2016.

- n. That the complainant is neither an 'allottee', nor, an 'aggrieved person', falling within the purview of the provisions of Act 2016. The complaint of the complainant, therefore, is not maintainable under Act 2016. In absence of an allottee-promoter relationship, the jurisdictional threshold under Section 31 of the Act itself is not met, rendering the present proceedings without jurisdiction.
- o. That no allotment letter was ever issued to the complainant, no payment receipt was issued by the respondent no.1, no application was accepted by respondent no.1, and no communication of allotment or confirmation ever emanated from respondent no.1. The mere deposit of money—initiated entirely through respondent no.2 —does not constitute acceptance of booking nor confer the status of an allottee. Accordingly, the complainant is neither an "allottee" nor an "aggrieved person" under the Act, and the present complaint is not maintainable against respondent no.1.
- p. That since no unit was ever allotted by respondent no.1 to the complainant, no contractual or statutory obligation under Sections 2(k), 11, 12, 13, 18, 19, 31, 32, 34, 35, 36, 37, 38 or 63 or any provisions of the of RERA the Act can arise. These provisions presuppose the existence of an allotment, agreement for sale, or promoter- allottee relationship, none of which exist in the present matter.
- q. That the complainant on her own free will and volition through respondent no. 2 transmitted the amount into the account of respondent no. 1 and mere credit of funds does not amount to acceptance of booking or conferment of any right whatsoever upon the complainant. That in view of the aforesaid submissions, it is humbly submitted that the complainant had no right, interest, claim or concern of any nature whatsoever in respect of any unit in the project as no allotment was ever made in her favour and no space buyer agreement or any other contractual instrument was ever

executed between the parties. The Complainant does not fall within the definition of an "allottee" under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016, as the statutory status of allottee arises only upon issuance of an allotment by the promoter, which indisputably never occurred in the present case. In absence of an allotment, the complainant has no locus to invoke the jurisdiction of this Authority, and the present complaint is liable to be dismissed on this ground alone. It is submitted that the complaint is infructuous and misconceived, as no enforceable right ever accrued in favour of the complainant against respondent no.1.

- r. That the complainant has deliberately concealed the fact that the payment of Rs.25,00,000/- was transmitted entirely through respondent no. 2 and merely came to be credited into the account of respondent no.1, but mere deposit of funds does not amount to acceptance of booking. That no application form was ever submitted to respondent no.1, no allotment letter was issued, and no buyers agreement ("BBA") was executed at any stage. Thus, the booking not having been fructified into allotment having remained at a preliminary and non-binding stage, and the booking request having been cancelled there is no privity of contract between the parties and now at this belated stage is seeking reliefs which she is not entitled to.
- s. That the alleged emails and communications annexed with the complaint are denied and disputed in toto. Respondent no.1 has neither issued nor received the alleged communications, nor does any such correspondence evidence acceptance of booking or allotment. None of the alleged correspondence emanates from respondent no.1, nor does any of it bear the respondent letterhead, authorized signature, or authentication. The complainant is put to strict proof of all such allegations.

7. The respondent no. 2 has filed the application for order 1 rule X (ii) read with section 151 of the Civil Procedure Code, 1908 for deletion of its name as no



cause of action arises against the respondent no. 2 and the complainant herein. The presence of respondent no. 2, as a party to the complaint is wholly unnecessary and improperly joined. Respondent no. 2 continuance on the array of parties serves no purpose for the effective and complete adjudication of the real questions and disputes involved in the present complaint, which are essentially between the complainant and respondent no. 1. Further, the complainant no relief claimed against the respondent no. 2.

**E. Written submission filed by both the parties**

8. The complainant and respondent no. 1 have filed the written submissions on 16.02.2026 and 19.02.2026 respectively which are taken on record. The additional facts apart from the complaint and reply has been stated by the parties in written submissions are mentioned below: -

**E. I Written submissions by the complaint: -**

i. That the contention raised by the respondent no. 1 in the captioned matter is related to the fact that the complainant does not fall within the definition of 'allottee' as mentioned under Section 2(d) of the Real Estate (Regulation & Development) Act, 2016. The 'allottee' means a person to whom an apartment has been sold. It is pertinent to state that in the captioned matter the respondent no. 1 has demanded and collected a sum of Rs.25,00,000/- towards allotment of a commercial apartment. It is a case of implied acceptance which cannot be denied by the respondent no. 1/promoter. The Section 8 of the Indian Contract Act, 1872 is quoted below for ready reference:

***"Section 8. Acceptance by performing conditions, or receiving consideration. -***

***Performance of the conditions of a proposal, or the acceptance of any consideration for a reciprocal promise which may be offered with a proposal, is an acceptance of the proposal.***

ii. In the instant case, the complainant/allottee has paid Rs.25,00,000/- via cheque no. 000764 dated 09.01.2024 to the respondent no. 1/developer/promoter, viz., Splendor Landbase Limited. The said amount of Rs.25,00,000/- has been deposited in the dedicated Master Bank Account (A/c No. 919020017382653) for the project 'Splendor Epitome' of the respondent no. 1. The cheque was issued in name of 'Splendor Landbase

Limited - Epitome Collection Account' and the said amount was credited on 12.01.2024 into the said dedicated Master Bank Account bearing no. 919020017382653 maintained in the Axis Bank Limited, (IFSC No. UTIB0001148) branch address at Ground Floor and Basement, Plot No. 51, Pocket-1, Jasola, New Delhi-110025.

- iii. That the Haryana Real Estate Regulatory Authority, Gurugram has issued registration certificate wherein the project related bank account details. As per directions notified by this Authority vide notification dated 10th May, 2019 – The Haryana Real Estate Regulatory Authority, Gurugram Real Estate Bank Accounts for the Registered Projects Directions, 2019 – the builders/promoter has to deposit 100% receivables only from the allottees in the Master Account. Therefore, the amount deposited in the master account is the money received from allottees. Hence, in the captioned matter the Respondent No. 1/Promoter/Developer has accepted the payment in the master account towards allotment of the commercial Unit. It is pertinent to state that at the time of registration of the project, the Promoter files an affidavit as per the aforesaid Directions-2019, wherein the similar undertaking is given that:

*"Master Account – in this account only the amount realized from the allottees of the real estate project from time to time shall be deposited."*

- iv. Thus, the respondent/developer cannot take/receive any payment from anybody except the allottee/buyer into the master bank account opened for receiving the payments for the units sold in the said project. The complainant/allottee paid Rs.25,00,000/- and the respondent no. 1/developer received Rs.25,00,000/- in the Master Bank Account of the project. This clearly establishes that the complainant/allottee is a genuine and legal buyer of a commercial unit in the project 'Splendor Epitome'.
- v. Since the acceptance of a huge amount of Rs.25,00,000/- into the dedicated master bank account by the respondent no. 1/developer no action has been initiated to refund/return the said amount, which as quoted above as per Section 8 of the Indian Contract Act, 1872 is acceptance by receiving consideration. Therefore, the complainant does fall within the definition of allottee as per Section 2(d) of the Act, 2016.
- vi. Moreover, the respondent no. 1/promoter/developer files quarterly progress reports after the end of every quarter, which are available in public domain. As per the Quarter Progress Report (QPR) filed by the respondent no. 1/promoter/developer for quarter ending 31.03.2024, the



respondent no. 1/promoter/developer has shown that a total of Rs.272.51 lakh has been received during the quarter, wherein Rs.272.43 lakh has been received from allottees and balance Rs.8,000/- has been contributed by the promoter/his associates. Therefore, the sum of Rs.25,00,000/- paid by the allottee/complainant is towards allotment of a commercial unit in the said project even as per the QPR filed by the respondent no. 1/developer/promoter. Further, the respondent no. 1/developer/promoter in its application for dismissal of the complaint has failed to justify as to how and why a huge sum of Rs.25,00,000/- was collected by it from the complainant/allottee.

- vii. That the complainant/allottee also filed an application form while booking commercial unit measuring around 238 sq. ft. (carpet area) at the rate of Rs.25,000/- per sq. ft. at Ground Floor, Tower B in the project of the respondent company'. But the copy of the application form was not provided by the respondent no. 1/developer to the complainant/allottee. The complainant/allottee approached various times to the respondent no. 1/developer for signing the builder buyer agreement but all went in vain.

#### **E. II Written submissions by the respondent no. 1**

- i. That the complainant voluntarily unilaterally tendered a sum of Rs.25,00,000/- through cheque on her own free will and volition. This payment was transmitted through respondent no. 2 i.e., her broker, and mere credit of funds does not amount to acceptance of booking or conferment of any right, whatsoever upon the complainant whatsoever, contractual or statutory. The said fact is evident from the cheque appended at page no. 38 of the complaint. The respondent no. 1 neither invited nor accepted any booking from the complainant, nor did it receive any formal application from the complainant. It is thus absolutely clear that no unit was ever allotted to the complainant, and the complainant has no privity of contract with the respondent no.1. That no application form was ever submitted to respondent no. 1, no allotment letter was issued, and no builder buyer agreement/ agreement for sale was executed at any stage. That the respondent cannot be held liable for the complainant's failure to complete any booking formalities or bring about a concluded transaction, and by way of the present complaint, the complainant is trying to take advantage of her own wrongful acts.

- ii. Although an amount of Rs.25,00,000/- deposited by the complainant was credited into the account of respondent no.1, the said amount was transmitted entirely through respondent no. 2, and mere credit of funds does not amount to acceptance of booking or conferment of any right whatsoever, or create any contractual, statutory, or equitable obligation between the parties. No payment receipt has been issued by the respondent no.1 to the effect that the complainant has made payment against booking/allotment of unit in the subject project.
- iii. That the complainant is not entitled to any relief as the complainant has approached the Authority with unclean hands and has suppressed material facts. That the complainant is not entitled to any relief whatsoever. That no unit was ever allotted to the complainant, no application form was submitted by the complainant, no payment receipt was issued by the respondent no.1. Hence, the present complaint filed by the complainant is wholly misconceived and illusionary and unsustainable based on the averments made hereinabove, hence the complaint at the very outset needs to be dismissed with costs.
- iv. That no unit was ever allotted to the complainant owing to the complete absence of any accepted application, allotment, or concluded transaction, and therefore, the complainant has no privity of contract with the respondent. The complainant does not fall under the definition of allottee as defined under Section 2(d) of the Act, 2016.
- v. That the complainant has no right, interest, claim or concern of any nature whatsoever in respect of any unit in the project as no allotment was ever made as no application was ever accepted and no allotment was ever made by respondent no. 1 in her favour and no buyers agreement or any other contractual instrument was ever executed between the parties. The complainant does not fall within the definition of an "allottee" under Section 2(d) of the Act, 2016, as the statutory status of allottee arises only upon issuance of an allotment by the promoter, which indisputably never occurred in the present case. In absence of an allotment, the complainant has no locus to invoke the jurisdiction of this Authority, and the present complaint is liable to be dismissed on this ground alone. The complaint is infructuous and misconceived, as no enforceable right ever accrued in favour of the complainant against respondent no.1.

9. 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 submissions made by both the parties.

**F. Jurisdiction of the Authority**

10. 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**

11. 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 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 completed territorial jurisdiction to deal with the present complaint.

**F. II Subject matter jurisdiction**

12. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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.*

13. 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. Maintainability of complaint.**

14. The factual matrix of the present case reveals that the complainant booked a commercial space for an area admeasuring 238 sq. ft. at the rate of Rs.25,000/- per sq. ft. at ground floor on 09.01.2024 in the project of the respondent no. 1 namely, "Splendor Epitome", situated at Sector-62, Gurugram. The complainant has paid an amount of Rs.25,00,000/- to the respondent no. 1 via cheque no. 000764 dated 09.01.2024, drawn by ICICI bank in favour of respondent no. 1 for the total sale consideration of Rs.59,00,000/-. However, despite accepting a substantial amount from the complainant, the respondent no. 1 had not issued any receipt to the complainant till date.
15. The Authority observes that it is an admitted fact that neither any allotment letter was issued by the respondent in favour of the complainant, nor any builder buyer agreement was executed between the parties. Thus, the transaction between the parties never culminated into allotment of any plot, apartment or building. Further, the respondent no. 1 has filed the application for dismissal of complaint on 04.12.2025 and also during proceeding dated 04.12.2025, the counsel for the respondent no. 1 brought to the notice of the Authority that the complainant does not fall under the definition of allottee as per clause 2(d) of the Act, 2016. Further, submitted that neither any allotment has been issued by the respondent no. 1 nor any buyer's agreement has been executed between the parties till date and hence, the present complaint be dismissed. On the other hand, the counsel for the complainant stated that the complainant has paid an amount of Rs.25,00,000/- to the Escrow account of the project of the respondent no. 1 and only an allottee can deposit amount in the escrow account of the respondent/promoter, thus, she is an allottee.

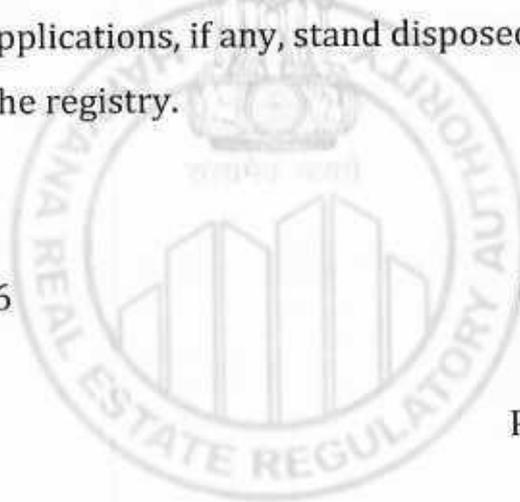


16. The Authority observes that as per section 19(4) the right to claim refund accrues to the allottee and the promoter is liable under section 18(1) on failure of the promoter to complete or unable to give possession of the unit in accordance with the terms of the agreement for sale or duly completed by the date specified therein. But in the present case, in the absence of any allotment, the complainant cannot be treated as an 'allottee' within the meaning of Section 2(d) of the Act. 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."*
17. 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. Merely making payment of booking amount, does not confer the status of an allottee upon the complainant, especially in the absence of an allotment letter or a duly executed builder buyer agreement.
18. 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 a builder buyer agreement. In the absence of such documents, no concluded contract for sale came into existence between the parties.
19. Since no concluded contract was formed and no allotment was made, the dispute raised by the complainants essentially relates to refund of money paid

pursuant to an application for provisional registration of commercial space, which is a matter falling outside the scope and jurisdiction of this Authority under the RERA Act, 2016.

20. In the light of the above stated facts and applying aforesaid principles, the Authority is of the view that the present complaint is not maintainable as the complainant do 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 avail appropriate remedies in accordance with law before the competent forum.
21. Complaint as well as applications, if any, stand disposed off accordingly.
22. Files be consigned to the registry.

Dated: 12.03.2026



  
**(Phool Singh Saini)**  
**Member**  
Haryana Real Estate  
Regulatory Authority,  
Gurugram

**HARERA**  
GURUGRAM