

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

Complaint no.: 3076 of 2025
Date of filing of complaint: 01.07.2025
Date of Order: 12.03.2026

Urmila Kumari Kadam

R/O: - B-301, Omstyam Apartments, Sector-4, Plot
No. 13, Dwarka, New Delhi - 110078

Complainant

Versus

Y.B Builders Pvt. Ltd

Office: 48, Basant Lok, Vasant Vihar, New Delhi -
110057

Respondent No. 1

Nimai Developers

Office:48, Basant Lok, Vasant Vihar, New Delhi -
110057

Respondent No. 2

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Vijesh Vohra (Advocate)
Shri Shushil Yadav (Advocate)

Complainant
Respondent No. 1 & 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



provision of the Act or the rules and regulations made there under or to the allottees as per the agreement for sale executed inter se.

A. Unit and project related details

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

S.N.	Particulars	Details
1.	Name of the project	"Nimai Palace" Sector - 114, Gurugram
2.	Project area	3.0125 Acres
3.	Nature of project	Commercial complex
4.	DTPC License no.	126 of 2012 dated 20.12.2012 Valid up to 19.12.2022
5.	Name of licensee	M/s YB Builders Private Limited
6.	RERA registered/not registered	Registered vide no. 07 of 2018 dated 13.07.2018
7.	Extension no. 07 of 2019 dated: 18.11.2019	Registration no. 07 of 2018 dated 13.07.2018 valid up to 30.09.2019 Further extended vide extension no. 07 of 2019 valid up to 30.09.2020 + six months covid-19 extension i.e., 31.03.2021.
8.	Project continuation- RC/REP/HARERA/GGM/07 of 2018/7(3)/2022/09 dated 28.09.2022	The registration of this project shall be valid for the period commencing from 01.04.2021 and ending on 31.03.2023 (completion date as declared by the promoter in REP-II).

9.	Unit no.	029 Ground Floor (Commercial Unit) (As mentioned in application form at page 15 as well as mentioned in demand letter, receipt & offer of possession dated 01.04.2023 at page no.27 of the reply)
10.	Unit measuring	549 sq. ft. (As mentioned in application form at page 15 as well as mentioned in demand letter, receipt & offer of possession dated 01.04.2023 at page no.27 of the reply)
11.	Revised unit area	561 sq. ft. (increased by 2.18%) (As per SoA dated 31.10.2025 at page no. 12 - 20 of the reply)
12.	Application form	09.12.2020 (Page no. 12 - 20 of the reply)
13.	Date of execution of flat buyer's agreement	Not yet executed
14.	Possession clause	N/A
15.	Due date of possession	11.06.2023 [11.12.20 22 ²³ + 6 months] <i>"Fortune Infrastructure and Ors. Vs. Trevor D'Lima and Ors. (12.03.2018-SC); MANU/SC/0253/2018 Hon'ble Apex Court observed that "a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of</i>

		<p>the amount paid by them, along with compensation. Although we are aware of the fact that <i>when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract</i>".</p> <p>In view of the above-mentioned reasoning, the date of application form dated 11.12.2019 ought to be taken as the date for calculating the due date of possession. Therefore, the due date for handing over the possession of the unit becomes to be 11.12.2022.</p> <p style="text-align: center;">Plus</p> <p><i>Grace period of 6 months is allowed as per HARERA notification no. 9/3-2020 dated 26.05.2020</i></p>
16.	Basic sale consideration	Rs.50,49,000/- (As per SoA dated 31.10.2025 at page no. 28 - 31 of the reply)
17.	Total sale consideration [BSP + IFMS + Car Parking + EDC/IDC + FFC/EEC]	Rs.67,37,923/- (As per SoA dated 31.10.2025 at page no. 28 - 31 of the reply)
18.	Total amount paid by the complainant	Rs.50,00,000/- (As per SoA dated 31.10.2025 at page no. 28 - 31 of the reply)
19.	Occupation certificate	10.02.2023 (In principle OC, as per document uploaded on Harera website) <p style="text-align: center;">And</p>



		12.04.2023 [For Ground + 9 Floors] (As per document uploaded at HARERA website)
20.	Offer of possession	01.04.2023 (As per page no.27 of the reply)

B. Facts of the complaint:

3. The complainants have made the following submissions:
- i. The complainant applied for and was allotted commercial unit no. 029, admeasuring 549 sq. ft., in the said project for a total consideration of Rs.57,02,565/-. Against the said consideration, the complainant has already made a payment of Rs.50,00,000/-.
 - ii. Despite the substantial payment made by the complainant, no builder-buyer agreement has been executed till date. This is a violation of section 13 of the Real Estate (Regulation and Development) Act, 2016, which mandates execution of an agreement for sale upon receipt of more than 10% of the sale consideration.
 - iii. The respondents had promised possession of the said commercial unit by Q4 of 2020. However, the same was not delivered until 2023, and even then, the project remained partially incomplete and lacked essential amenities. No explanation or revised possession schedule was communicated to the complainant.
 - iv. The respondents also gave assurance of leasing the said unit on behalf of the complainant and had appointed lighthouse retail & mall management company as leasing partner. However, despite repeated reminders and

follow-ups, no lease arrangement was made. The respondents have failed to act upon their stated commitment.

- v. That under section 18(1) of the RERA Act, the promoter is liable to pay interest for the period of delay in possession. In this case, possession was delayed by over three years, entitling the complainant to compensation.
- vi. The complainant elects to retain the unit but seeks compensation for delayed possession. The interest claimed is at 16% per annum on Rs.50,00,000/- from 01.01.2021 (allowing a grace period after promised possession) till actual possession. The estimated interest/compensation comes to approximately Rs.24,00,000/-, subject to final computation. The delay has also caused loss of rental income, opportunity cost, and mental agony.
- vii. This Hon'ble Authority has jurisdiction under section 31 of the RERA Act, as the project is located in Gurugram, Haryana and the respondents are based within this jurisdiction.

C. Relief sought by the complainants

4. The complainants has sought following reliefs:
 - i. Direct the respondents to provide a firm and written date of completion and handover, with all functional amenities and operational readiness.
 - ii. Award compensation @16% per annum on Rs.50,00,000/-, from 01.01.2021 until actual possession, in accordance with Section 18 of the RERA Act.
 - iii. Direct the respondents to fulfill the leasing commitment, or pay damages for breach thereof.
 - iv. Reimburse litigation costs, incidental expenses, and mental harassment caused due to delay and non-compliance.

D. Reply by the respondent no.1& 2:

5. The respondents contested the complaint on the following grounds:
- I. That the respondent developers had conceived and planned a commercial project under the name of Nimai Place various facilities and amenities on land situated in Sector 114 Gurugram, Haryana. The respondent developer has obtained license no. 33 of 2011 dated 16.04.2011 from the DGTCP/DTCP under the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 and the rules made there under for using the land for construction and development of the commercial project thereon in a planned and phased manner over a period of time by obtaining necessary sanctions, permissions and approvals from the concerned authorities for the development of the commercial project.
 - II. That the complainant after conducting her own due diligence applied for booking of shop in the said project vide application form. The complainant had also duly signed and understood the indicative terms and conditions of the allotment along with the application form. All the terms and conditions including the cost of the shop, size/super area of the shop, timeline for possession etc. The complainant paid only an amount of Rs.50,00,000/- towards the unit in question.
 - III. That the respondent developer allotted unit no. 029 on Ground floor having area of 549 sq. ft. vide application form dated 11.12.2019 and the same was further increased to 561 sq. ft. The total sale consideration of the unit is Rs.67,37,923/- and the total amount paid by the complainant is Rs.50,00,000/-. The payment plan for the said unit was time link lan and the complainant has deliberately and intentionally failed to make the payment according to the plan.

- IV. That the respondent called the complainant on various occasions to execute builder buyer's agreement for the unit in question but the complainant never came forward to execute the builder buyer's agreement for the unit in question.
- V. That from the month of June 2022, the complainant failed to make the payment of installment of the unit in question to the respondent. The respondent has also sent the demand notice to the complainant and requested to make the payment of installment but even than the complainant failed to make the payments of installments timely.
- VI. That the complainant has failed to make timely payment and at every installment the respondent herein had to request the complainant to provide the same. Despite serving several reminders the complainant failed to make timely payment for the respective unit. And, on account of not receiving payment, the respondent was bound to issue payment reminders.
- VII. That the respondent after making all the efforts to communicate with the complainant and also requested the complainant to make payment but the complainant put all the request of the respondent to her deaf ears and fails to make payment and even to communicate with the respondent.
- VIII. That the respondent was committed to complete the project in time therefore, the respondent herein applied for the occupation certificate before the DTCP. However, the DTCP vide letter dated 10.02.2023, granted the occupation certificate to the respondent. The major amount of time was taken by the DTCP in issuing the occupation certificate for the said project which was purely beyond the control of the respondent.



- IX. That after receiving the occupation certificate from the competent authority, the respondent sent the offer of possession dated 01.04.2023 to the complainant. The complainant even fails to take the possession of the unit and clearing all the dues and installment of unit in question.
- X. That at the time of booking of the unit complainant promised to pay all the installments of the unit as per the demand of the respondent but the complainant failed to do the same. That due to the delay payment on part of the complainant, the respondent had to take loan to complete the project.
- XI. That due to the impact of COVID-19, the continuation of progress of the project was significantly impacted, necessitating the implementation of force majeure. Consequently, the respondent encountered difficulties in the construction of the project due to the complete lockdown and there was shortage of labour and building material.
- XII. That the business of construction is labour intensive and shortage of labour and material due to the pandemic and reasons beyond the control of the respondent had led to slowdown of construction, thereby affecting the pace and schedule of construction of the project and thereby its expected handover dates.
- XIII. That the respondent has already spent enormous amount of money towards the due construction and development for which occupation certificate has been obtained including the tower in which the unit of the complainant is situated and the same being ready for occupation. The complainant has severely committed defaults in making payment of the consideration amount in accordance with the agreed payment plan. Therefore, it is the respondent who after having spent enormous sums of

money (including funds borrowed from banks and financial institutions and other entities) has been unable to realize the proceeds of the unit from the complainant and the legitimate dues of the respondent have been withheld by the complainant and therefore, on account of such breaches and defaults of the complainant it is the respondent who is entitled to claim compensation from the complainant.

- XIV. That in the present case, possession of the unit has already been offered by the respondent. Thus, the complainant is liable to pay the outstanding dues along with the interest on the payments due. The complainant has defaulted in taking timely possession of the unit are thus also liable to pay holding charges.
- XV. That the complainant has breached her obligations and has also breached the obligation cast upon her in terms of Section 19(10) of the Act, whereby the complainant was under obligation to take the possession within the prescribed period upon receipt of the notice of offer of possession or as per BBA. The complainant however, has failed to clear the dues and take the physical possession of the unit and also complete all the formalities for the due conveyance, transfer and grant of rights, title and interest in the said unit in her favour.
- XVI. That considering the above facts, the complainant has defaulted in the obligation cast upon him and thus the respondent is entitled to seek the remedy as provided under the Act.
6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

7. The respondent has raised a preliminary submission/objection the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below:

E.I Territorial jurisdiction

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

E.II Subject matter jurisdiction

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)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee 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 promoter, the allottee and the real estate agents under this Act and the rules and regulations made thereunder.

8. 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. Finding on objections raised by the respondent:

F.I Objection regarding delay due to covid -19.

9. The respondent-promoter raised a contention that the construction of the project was delayed due to outbreak of Covid-19 pandemic which further led to shortage of labour. In the present case, due date of possession is calculated from the date of signing application form i.e., 11.12.2019 according to *Fortune Infrastructure and Ors. Vs. Trevor D'Lima and Ors. (12.03.2018-SC); MANU/SC/0253/2018*. Therefore, the due date for handing over the possession of the unit becomes to be 11.12.2022. *Further as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due date on or after 25.03.2020*. The authority put reliance judgment of Hon'ble Delhi High Court in case titled as *M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I) (Comm.) no. 88/ 2020 and I.As 3696-3697/2020* dated 29.05.2020 which has observed that:

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself."

10. Therefore, the Authority is hereby granting an extension of 6 months in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. Hence, completion date of the aforesaid project in which the subject unit is situated after an extension of 6 months comes out to be 11.06.2023.

G. Findings on the relief sought by the complainants:

G.I Direct the respondents to the respondents to provide a firm and written date of completion and handover, with all functional amenities and operational readiness.

11. The complainant has sought a direction to the respondent to provide a firm and written date of completion and handover of the unit along with all functional amenities and operational readiness. In this regard, the Authority observes from the record that the occupation certificate for the project was granted by the competent authority on 10.02.2023 (in principle) and subsequently on 12.04.2023 for Ground + 9 Floors. Further, the respondent has placed on record that an offer of possession dated 01.04.2023 was issued to the complainant in respect of the unit in question.
12. In view of the occupation certificate having already been obtained and possession having been offered, the Authority is of the considered view that the relief sought by the complainant for directing the respondent to provide a firm date of completion and handover does not survive for adjudication. However, the respondent shall remain bound to hand over possession of the unit to the complainant in accordance with law after completion of all necessary formalities and payment of the outstanding dues, if any, by the complainant.

G.II Direct the respondents to Award compensation @16% per annum on Rs.50,00,000/-, from 01.01.2021 until actual possession, in accordance with Section 18 of the RERA Act.

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

“Section 18: - Return of amount and compensation

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

.....



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

(Emphasis supplied)

14. The Authority observes that in the present case no builder buyer's agreement/agreement for sale has been executed between the parties. Therefore, the contractual date of possession cannot be determined from any such agreement. However, the completion timeline of the project, as declared explained in para 9 & 10 of this order is 11.06.2023.
15. The Authority further observes that the occupation certificate for the project was granted on 10.02.2023 (in principle) and thereafter on 12.04.2023 for Ground + 9 Floors and the respondent issued the offer of possession to the complainant on 01.04.2023.
16. In these circumstances, the Authority finds that the possession of the unit was offered around the period of completion of the project and no substantial delay beyond the declared completion timeline is made out from the record.
17. In view of the above facts and circumstances, the Authority does not find sufficient grounds to grant compensation for delay in possession as claimed by the complainant. Accordingly, the relief sought in this regard is declined.

G.III Direct the respondents to fulfill the leasing commitment, or pay damages for breach thereof.

18. The Authority observes that the complainant has not placed on record any executed agreement, contractual clause or legally binding document which establishes that the respondent had undertaken a binding obligation to lease out the unit on behalf of the complainant. Any promotional representation or assurance, if made, does not by itself create an enforceable contractual obligation unless incorporated in the agreement for sale or any other legally binding document.



19. In absence of any such contractual stipulation or documentary evidence, the Authority is of the view that the said relief cannot be granted in the present proceedings under the Act. Accordingly, the relief sought by the complainant in this regard is rejected.

G.IV Direct the respondents to reimburse litigation costs, incidental expenses, and mental harassment caused due to delay and non-compliance.

20. The Authority observes that the possession of the unit has already been offered by the respondent after obtaining the occupation certificate and the complainant has also been found to have outstanding dues towards the total sale consideration of the unit. The complainant is seeking above mentioned relief w.r.t. compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as **M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)**, has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72.

H. Directions of the Authority:

21. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The complainant is directed to pay outstanding dues. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the



promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

- ii. The respondents are directed to hand over physical possession of the subject unit to the complainant/allottee within 30 days, upon payment of outstanding dues, if any.
- iii. The respondents are directed to execute the conveyance deed registered in favour of the complainant within 90 days as per section 17 of the Act, upon payment of requisite stamp duty charges and administrative charges as per norms of the state government.
- iv. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow

22. Complaint stands disposed of.

23. File be consigned to registry.

Dated: 12.03.2026



(Phool Singh Saini)
Member

Haryana Real Estate Regulatory
Authority, Gurugram