

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

Date of order: 16.12.2025

Name of the promoter		M/s Vatika Limited - R1 M/s Lincoln Developers Private Limited - R2
Project name		"Vatika Professional Power Point", Sector-66, Gurugram
S. No.	Case No.	Case title
1.	CR/45842024	Anil Kumar Siddana V/s M/s Vatika Limited - R1 M/s Lincoln Developers Private Limited - R2
2.	CR/4585/2024	Anil Kumar Siddana V/s M/s Vatika Limited - R1 M/s Lincoln Developers Private Limited - R2
3.	CR/4699/2024	Anil Kumar Siddana V/s M/s Vatika Limited - R1 M/s Lincoln Developers Private Limited - R2

CORAM:

Shri Arun Kumar

Chairman

Shri Phool Singh Saini

Member**APPEARANCE:**

Shri Anshul Yadav (Advocate)

Complainant

Shri Dhruv Dutt Sharma (Advocate)

Respondents

ORDER

1. This order shall dispose of the aforesaid complaints titled above filed before this Authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with Rule 28

of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as “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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

- The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, “*Vatika Professional Point*”, situated at Sector-66, Gurugram being developed by the same respondents/promoters i.e., M/s Vatika Limited and M/s Lincoln Developers Private Limited. The terms and conditions of the buyer’s agreements and fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question or putting them on lease till date, seeking refund along of the paid-up amount along with interest and other reliefs.
- The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project name and location	“Vatika Professional Point”, Sector - 66, Gurugram, Haryana
Nature of the project	Commercial colony
Project area	2.11 acres
DTCP license no. and other details	57 of 2008 dated 19.03.2008
RERA Registered/ not registered	Un-registered
Possession clause [As per BBA]	Not Available
Occupation certificate	29.10.2013 (As per document provided by the respondents in its reply)



Sr. No.	Complaint No., Case Title, and Date of filing of complaint	Unit no. & size	Date of Allotment letter/ BBA	Total Sale Consideration / Total Amount paid by the complainant(s)	Due date of possession, Offer of possession
1.	CR/4584/2024 Anil Kumar Siddana V/s M/s Vatika Limited - R1 M/s Lincoln Developers Private Limited - R2 DOF: 04.10.2024 RR: 01.05.2025	1106A 360 sq. ft. (super area) in Vatika Professional Point (As per Clause-E at page 6 of additional documents filed by the complainant on 09.10.2025)	AL: 04.01.2021 (As per page 2-3 of additional documents filed by the complainant on 09.10.2025) BBA: 24.02.2021 (As per page 5 of additional documents filed by the complainant on 09.10.2025)	TSC: Rs.21,59,827/- (As per allotment letter at page 2 & Clause-1.2 of BBA at page 7 of additional documents filed by the complainant on 09.10.2025) AP: Rs.21,59,827/- (as mentioned in clause 1.7 of buyer's agreement dated 24.02.2021)	Due date of possession: Cannot be ascertained OOP: Not Offered
2.	CR/4585/2024 Anil Kumar Siddana V/s M/s Vatika Limited - R1 M/s Lincoln Developers Private Limited - R2 DOF: 04.10.2024 RR: 01.05.2025	1401A, 14 th Floor, 405 sq. ft. (super area) in "Vatika Professional Point" (Current unit) (as per allotment letter dated 04.01.2021 at page 28 and Para E of BBA at page 32 of complaint)	AL: 04.01.2021 (As per page 28 of the complainant) BBA: 24.02.2021 (As per page 31 of the complainant)	TSC: Rs.24,29,805/- (as mentioned in allotment letter dated 04.01.2021 at page 28 and clause 1.2 of BBA at page 33 of complaint) AP: Rs.24,29,805/- (as mentioned in clause 1.7 of buyer's agreement dated 24.02.2021)	Due date of possession: Cannot be ascertained OOP: Not Offered
3.	CR/4699/2024 Anil Kumar Siddana V/s M/s Vatika Limited - R1 M/s Lincoln Developers Private Limited - R2 DOF: 04.10.2024	1130 500 sq. ft. (super area) in Vatika Professional Point (As per Clause-E at page 6 of additional documents filed by the complainant)	AL: 04.01.2021 (As per page 2-3 of additional documents filed by the complainant on 09.10.2025) BBA: 24.02.2021 (As per page 5 of additional documents filed by the complainant)	TSC: Rs.29,99,760/- (As per allotment letter at page 2 & Clause-1.2 of BBA at page 7 of additional documents filed by the complainant on 09.10.2025) AP: Rs.29,99,760/-	Due date of possession: Cannot be ascertained OOP: Not Offered

	RR: 01.05.2025	on 09.10.2025)	complainant on 09.10.2025)	(as mentioned in clause 1.7 of buyer's agreement dated 24.02.2021)	
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Relief sought by the complainant in abovementioned complaints: -

1. To pay the refund of Rs.21,59,827/- and along with interest for the period of delay of more than 9 years, i.e. April, 2015 till the filing of this complaint (calculated @10% per annum) of the amount of Rs.46,16,629.5/- and additional delay compensation from the date of payment made by the complainant (i.e. 23.04.2015) till the time of actual realisation of the amount;
2. To pay a sum of Rs.30,000/- as cost of litigation/present proceedings to the complainant;
3. To pay a sum of Rs.5,00,000/- for the harassment and mental agony suffered by the complainant;
4. To pass any other order and / or relief or directions as Authority may deem appropriate in favour of the complainant and against the respondents herein.

Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviation	Full form
DOF	Date of filing of complaint
RR	Reply received
BBA	Builder buyer's agreement
TSC	Total sale consideration
AP	Amount paid by the allottee(s)
OC	Occupation certificate
OOP	Offer of possession

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties in respect of subject unit for not handing over the possession till date, seeking refund along of the paid-up amount along with interest and other reliefs.
5. The facts of all the complaints filed by the complainant-allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case bearing no. **CR/4584/2024 titled as Anil Kumar Siddana V/s M/s Vatika Limited & M/s Lincoln Developers Private Limited** are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

A. Project and unit related details

6. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

CR/4584/2024 titled as **Anil Kumar Siddana V/s M/s Vatika Limited & M/s Lincoln Developers Private Limited**

S. N.	Particulars	Details
1.	Name and location of the project	"Vatika Professional Point" at Sector-66, Gurugram.
2.	Project area	2.11 acres
3.	Nature of Project	Commercial Complex
4.	DTCP license no. and validity status	57 of 2008 dated 19.03.2008
5.	Rera registered/ not registered and validity status	Un-registered
6.	Application form In " Vatika Towers "	22.04.2015 (page 17-22 of complaint)
7.	Allotment letter In " Vatika Towers "	04.08.2015 [unit no. P-162 for a unit measuring 500 sq. ft. super area] (page 23-24 of complaint)
8.	Assured returns [In terms of Allotment letter in " Vatika Towers "]	a) Assured monthly commitment of Rs.129.72/- pr sq. ft. payable till completion of the project. b) Post completion of the project an amount equivalent to Rs.120 per sq. ft. super area of the unit per month shall be paid as committed return from the date of completion of construction of the said unit, for up to 36 months or till the said unit is put on lease. (As per the allotment letter dated 04.08.2015 for unit no. P-162 in project " Vatika Towers " at page 23-24 of complaint)
9.	Amount paid	Rs.79,94,791/- (Last payment was made in 29.04.2015)

	w.r.t unit In " Vatika Towers "	(as per receipt issued against unit no. P-162 in project "Vatika Towers" at page 25 of complaint)
10.	Assured returns received by the complainant	Rs.27,37,092/- [from 01.06.2015 to 01.10.2018] (As per page no.5-6 of details submitted by the respondent during proceedings dated 16.10.2025)
11.	Unit No.	1106A (As per Clause-E at page 6 of additional documents filed by the complainant on 09.10.2025)
12.	Unit area admeasuring (Super Area)	360 sq. ft. (As per Clause-E at page 6 of additional documents filed by the complainant on 09.10.2025)
13.	Allotment Letter	04.01.2021 (As per page 2-3 of additional documents filed by the complainant on 09.10.2025)
14.	Date of buyer's agreement	24.02.2021 (As per page 5 of additional documents filed by the complainant on 09.10.2025)
15.	Possession clause	Not provided in BBA
16.	Due date of possession	Cannot be ascertained
17.	Total sale consideration [BSP + EDC/IDC]	Rs.21,59,827/- (As per allotment letter at page 2 & Clause-1.2 of BBA at page 7 of additional documents filed by the complainant on 09.10.2025)
18.	Amount paid/ adjusted	Rs.21,59,827/- (as mentioned in clause 1.7 of buyer's agreement dated 24.02.2021)
19.	Occupation certificate	29.10.2013 (Page 14-15 of reply)

B. Facts of the complaint: -

7. The complainant has made following submissions in the complaint:
- i. That the respondent planned to construct / create a commercial complex named as "Vatika Towers" (hereinafter referred to as said Old Project /

complex), "Vatika Professional Point" (hereinafter referred to as said New Project / complex) in the year 2015 in Sector 66, Gurgaon. The details of the same have been clearly mentioned in the allotment letter & builder buyer's agreement.

- ii. That the complainant based on promises made by the respondent no. 1 applied to the company for possession of the commercial Space in the old project/ complex and an application for allotment dated 22.04.2015 was executed between the parties. That the respondent no.1 on the basis of the same allotted unit bearing No. P-162, Vatika Towers, measuring 500 sq. ft. in the said complex. That the acknowledgement receipts, payment receipts & copy of cheque given by the respondent no.1 to the complainant at the time of booking are annexed herewith as Annexure - B (Colly)
- iii. That later when the respondent no.1 failed to handover the possession on April 2018 of the said old unit in Vatika Towers, within time of 36 months, the respondent no.1 in order to trick the complainant convinced the complainant to transfer the booking in another project which is ready to move in and the possession of the said unit shall be within 60 days. That pursuant to the said transfer the respondent no.1 even deducted some amount from the total amount already paid by the complainant and transferred the balance amount of Rs.75,88,500/- to a new project namely "Vatika Professional Point" in Sector - 66, Gurgaon.
- iv. That after the said transfer respondent no.2 issued letter of allotment dated 04.01.2021 to the complainant and further a builder buyer's agreement dated 24.02.2021 was executed between the complainant and the respondent no.1 & 2. That the respondents on the basis of the same allotted a unit bearing No. 1401A, Vatika Professional Point, measuring 405 sq. ft. in the said complex, the said agreement for sale/ builder buyer's agreement.

- v. That way before the execution of the above said builder buyer's agreement the complainant had already paid an amount of Rs.79,94,791/- to respondent no.1 for old project Vatika Towers and later the same amount was adjusted with three units in new project Vatika Professional Point for the above-mentioned commercial space. That the complainant made the above-mentioned payment of the booking amount vide cheque bearing no "964737" dated 23.04.2015.
- vi. That the respondent has acknowledged the above said payment vide the payment acknowledgement receipt issued in the name of the complainant dated 23.04.2015. That the above said complete payments (close to about 100% payment) as mentioned in para 5 were taken before signing of the agreement to sell. That the intentions of the builder were clear from the initial phase of the transaction when the above said payments of more than 10% of the cost of the unit were taken by the builder from the respondent without getting the agreement for sale registered.
- vii. That the complainant has made all the payments before time as demanded by the builder in accordance with the terms and conditions agreed between the parties at the time of signing the said documents.
- viii. That for the sake of brevity the particulars of the said dwelling unit are not mentioned here and the same are clearly mentioned in the above said buyer agreement executed between the parties.
- ix. That as of the terms and conditions mentioned in clause b of "acknowledgment of receipt of application" Annexure - B, it was promised by the respondent that the possession of the said old unit will be delivered to the complainant within 36 months. That the respondent has cheated the complainant here by tweaking the facts to harass the innocent complainant and got a fresh agreement to sale signed with the complainant by promising

him instant handover in another project. That the said new unit was allotted by the respondent to the complainant vide the builder buyer agreement and the respondent no.1 with the intention to defraud the complainant syphoned off funds on behalf of administrative charges before executing the above said documents.

- x. That the complainant has made timely payments as asked by the respondent but the respondent has failed to keep the promises made by him as per the terms and conditions of the said agreement. That the respondent has failed to deliver the possession of the said flat by April, 2018.
- xi. That it is most critical to point out that the said Builder has been alleged of fraud and misrepresentation in various forums.
- xii. That in year 2021, the complainant was telephonically called by the builder's team, who exhorted the complainant to come to the respondent's office and sign the new unit agreement to which the complainant already having a needle of suspicion, refused to do so unless and until the copies are supplied to him for their study. The entire act on the part of the defendant, smacks of their dishonest and manipulative intentions. That the complainant herein, was, disheartened and shocked to find the new unit agreement to sale, allotment letter as an arbitrary, absolutely one-sided, indicative of dishonest manipulations by the defendant and under coercion as he had already grabbed a good chunk of money from the complainant, unequivocal; having balance of equity titled totally in favour of the respondent and to the prejudice of the complainant herein.
- xiii. The contents of the same may please be taken into consideration for proper adjudication of this present complaint. That the said new unit agreement clearly shows the dishonest and manipulative intentions of the respondent, and ill motives for extracting more payments under threat and coercion,

which ostensibly is to the disadvantage and prejudice of the complainant herein. That in the meanwhile the defendant kept on this pressurising the complainant to sign up the additional documents waiving off his rights for delay caused by the respondents in handing over the possession and the complainant all the time spoke of the arbitrariness to the respondent and requested the respondent to send an explicit and specific documents which is evenly poised and is not prejudiced to the rights of either the defendant or the complainant but all efforts of the complainant were in vain.

- xiv. That the complainant has time and again requested the respondent to handover the possession, assured return, monthly rent or refund the amount paid by the complainant, but the respondent being affluent and an influential player in real estate choose not to respond or take any action regarding the said requests. The complainant was given assurances by the officials of the respondent that the possession will be handed over timely and the construction is going at a good pace.
- xv. That the respondents also promised the complainant that no maintenance charges & other charges shall be charged from the complainant till the time of first lease but to the contrary the respondent has started issuing arbitrary maintenance dues to the complainant.
- xvi. That the respondent has not yet offered the possession of the said unit. That it is pertinent to mention here that the handover was promised by the builder to be complete till April 2018.
- xvii. That all the pleas of the complainant to the respondent to refund the payment of the amount paid to the builder of the said unit fell on the deaf ears of the officials of the respondent. The uncalled conduct of the officials of the respondent is causing a lot of mental agony and harassment to the complainant. When despite all the efforts of the complainant no concrete

action was taken by the respondent, the complainant had no other option except approaching this Authority, hence this application.

- xviii. That no similar application has been filed or pending or decided by any competent court of law regarding the same cause of action.
- xix. That the cause of action for filing present complaint first arose when the respondent denied to refund the amount paid by the complainant of the said unit after delay of almost 6 years and the cause of action is still continuing and subsisting one as the respondent has failed to provide the complainant with the refund of the amount so paid.

C. Relief sought by the complainant:

8. The complainant has sought the following relief(s):
- I. To pay the refund of Rs.21,59,827/- and along with interest for the period of delay of more than 9 years, i.e. April, 2015 till the filing of this complaint (calculated @10% per annum) of the amount of Rs.46,16,629.5/- and additional delay compensation from the date of payment made by the complainant (i.e. 23.04.2015) till the time of actual realisation of the amount;
 - II. To pay a sum of Rs.30,000/- as cost of litigation/present proceedings to the complainant;
 - III. To pay a sum of Rs.5,00,000/- for the harassment and mental agony suffered by the complainant;
 - IV. To pass any other order and / or relief or directions as Authority may deem appropriate in favour of the complainant and against the respondents herein.
9. 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:

10. The respondent has contested the complaint on the following grounds:
- i. That at the outset, respondents humbly submit that each and every averment and contention, as made/raised in the complaint, unless specifically admitted,

be taken to have been categorically denied by respondent and may be read as travesty of facts.

- ii. That the complaint filed by the complainant before this Authority, besides being misconceived and erroneous, is untenable in the eyes of law.
- iii. That further, without prejudice to the aforementioned, even if it was to be assumed though not admitting that the filing of the complaint is not without jurisdiction, even then the claim as raised cannot be said to be maintainable and is liable to be rejected for the reasons as ensuing.
- iv. That apparently, the complaint filed by the complainant is abuse and misuse of process of law and the reliefs claimed as sought for, are liable to be dismissed. No relief much less any interim relief, as sought for, is liable to be granted to the complainant.
- v. That initially the complainant applied for booking / allotment in the proposed commercial complex namely Vatika Towers to be developed by the respondent no. 1 and made payment of Rs.79,94,791/- to the respondent. The complainant was allotted priority no. P-162 for a unit measuring 500 sq. ft. super area
- vi. That as per the understanding /arrangement between the parties, the respondent duly paid assured monthly commitment charges till September/October, 2018 to the complainant.
- vii. That thereafter due to the evolving policies, regulations and legal framework governing real estate investments and as per the Guidelines of newly promulgated ordinance i.e. "Banning of Unregulated Deposit Scheme ordinance 2018" and further "Banning of Unregulated Deposit Scheme Act 2019", the Government banned assured / committed returns and schemes of such returns completely. Thus, it was due to aforesaid reason the respondent suspended all return-based sales and stopped making payments towards the assured returns / commitment charges and the same was also informed to the complainant.

- viii. Thereafter subsequent to mutual discussions between the parties, the complainant was allotted three units in another project namely Vatika Professional Point, Sector-66, Gurgaon in place of the initially allotted Unit in Vatika Towers and fresh agreement for sale was executed between the complainant and respondent.
- ix. That status of the construction of the building in which the newly allotted unit of the complainant is located is complete and the Respondent has already received the occupation certificate vide Memo No. ZP-394/SD(BS)/2013/55656 dated 29.10.2013. It is submitted that since the respondent has received the occupation certificate much before the coming of the RERA Act, 2016, therefore this Authority does not have the jurisdiction to try and entertain the present complaint.
- x. That the complainant is a real estate investor who has made the booking with the respondent only with an intention to earn committed/assured return and lease rentals from the respondent. Therefore, the present complaint does not fall within the purview of the Authority. Therefore, all the reliefs as claimed by the complainant are false and misleading and hence denied, as the complainant is not entitled for any of such reliefs. It is, therefore, prayed that the complaint may kindly be dismissed with exemplary costs.
11. All other averments made in the complaint were denied in toto.
12. 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. Written submissions made by both the parties:

13. On 16.10.2025, the respondents have supplied a copy of written submissions and the same are taken on record. By filing of written submission, the respondents have submitted the following:

- i. That briefly it is stated that the complainant has filed a false and frivolous complaint against the respondents for refund of the amount of Rs.21,59,827/-, Rs.24,29,805 and Rs.29,99,760/- in complaint nos. 4584/2024, 4585/2024 and 4699/2024 respectively along with interest.
- ii. That initially the complainant applied for booking / allotment in the proposed commercial complex namely Vatika Towers to be developed by the respondent no.1 and made payment of Rs.79,94,791/- to the respondent. The complainant was allotted priority no. P-162 for a unit measuring 500 sq. ft. super area.
- iii. That as per the understanding / arrangement between the parties, the respondent duly paid the assured monthly commitment charges to the complainant till September/October, 2018, amounting to Rs.27,37,092/-.
- iv. That the respondent has deducted an amount of Rs.1,94,600/- towards brokerage charges and Rs.2,88,631/- towards the taxes and the remaining amount was adjusted in the fresh booking (total 3 units) made by the complainant.
- v. That no timeline to handover the possession was promised to the complainant as the unit booked by the complainant was not meant for physical possession. That the complainant was allotted three units in another project namely Vatika Professional Point, Sector-66, Gurgaon in place of the initially allotted unit in Vatika Towers and fresh agreement for sale dated 24.02.2021 was executed between the complainant and respondent. Therefore, the complainant cannot calculate the due date of possession based on the unit that was initially booked by him.
- vi. That further, for sake of arguments assuming not admitting even if this Authority decides that the complainant is still entitled to refund then the

respondent may be allowed to deduct an amount of committed returns amounting to Rs.27,37,092/- paid by the respondent to the complainant.

14. The complainant has submitted written submission on 17.10.2025 and the same are taken on record. No additional facts apart from complaint and reply has been stated in the written submission.

F. Jurisdiction of the Authority:

15. 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

16. 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

17. 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.

18. So, in view of the provisions of the Act quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.
19. Further, the Authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357 and reiterated in case of M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

20. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the Authority has the jurisdiction to

entertain a complaint seeking refund of the amount and interest on the refund amount.

G. Findings on the relief sought by the complainant:

G.I. Direct the respondent to pay the refund of Rs.24,29,805/- and along with interest for the period of delay of more than 9 years, i.e. April, 2015 till the filing of this complaint (calculated @10% per annum) of the amount of Rs.46,16,629.5/- and additional delay compensation from the date of payment made by the complainant (i.e. 23.04.2015) till the time of actual realisation of the amount;

G.II. To pass any other order and / or relief or directions as Authority may deem appropriate in favor of the complainant and against the respondents herein;

21. The above-mentioned reliefs sought by the complainant are being taken together, as the findings in one relief will definitely affect the result of the other reliefs and the same are being interconnected.

22. in the present complaint, the complainant intends to withdraw from the project and is seeking return of the amount paid by him in respect of subject unit along with interest as per Section 18(1) of the Act and the same is reproduced below for ready reference:

"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. -

in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act...

(Emphasis supplied)

23. The factual matrix of the case reveals that vide allotment letter dated 04.08.2015, the complainant was allotted a commercial unit bearing no. P-162

(500 sq. ft.) in project namely "Vatika Towers" being developed by the respondent no.1 (M/s Vatika Limited), for which the complainant has paid an amount of Rs.79,94,791/- via cheque bearing no.964737 dated 23.04.2015, which was encashed by the respondent no.1 on 29.04.2015. Further as per allotment letter dated 04.08.2015, the respondent no.1 assures the complainant, the assured monthly commitment of Rs.129.72/- pr sq. ft. payable till completion of the project. Thereafter, the post completion of the project an amount equivalent to Rs.120/- per sq. ft. super area of the unit per month shall be paid as committed return from the date of completion of construction of the said unit, for up to 36 months or till the said unit is put on lease. In lieu of it, the respondent no.1 a sum of Rs.27,37,092/- was paid to the complainant, as commitment charges up to September, 2018. Thereafter, the respondent no.1 refused to pay the amount of commitment charges by taking a plea that the same are not payable as per the Banning of Unregulated Deposit Schemes Act, 2019.

24. Subsequently, the respondent no. had proposed a offer of three alternative units to the complainant stating that the said offered units are ready to move in units and their possession would be given within 60 days of the said transfer. Upon the assurances of the respondent no.1, the complainant agreed to the said adjustment and allotment letter to this effect was issued by respondent no. 1 on 04.01.2021. Thereafter, a fresh buyer's agreement was executed between the complainant and the respondents herein on 24.02.2021 and allotted the following units to the complainant in the project "Vatika Professional Point" situated at Sectorin 66, Gurugram, while transferring the amount from the unit booked in "Vatika Tower" and adjusting the amount paid by the complainant against the fresh allotment of three (3) alternative units, the respondent no.1

deducted an amount of Rs.4,05,399/- and transferred/ adjusted the amount against the total sale consideration for the said units in the following manner:

Sr. No.	Case No.	Unit No.	Unit area admeasuring	Basic Sale Consideration	Amount Adjusted
1.	CR/4584/2024	1106A	360 sq. ft.	Rs.21,59,827/-	Rs.21,59,827/-
2.	CR/4585/2024	1401A	405 sq. ft.	Rs.24,29,805/-	Rs.24,29,805/-
3.	CR/4699/2024	1130	500 sq. ft.	Rs.29,99,760/-	Rs.29,99,760/-

25. The respondents has contended that they had obtained the occupation certificate from the competent authority on 29.10.2013 i.e., before the enactment of the Act, 2016. Further during proceedings dated 16.12.2025, the counsel for the respondents stated that the complainant in its complaint had not disclosed that he received a sum of Rs.27,37,092/- as commitment charges from the respondent. The counsel for the respondents confirms that current units of the complainant are not yet leased out. The counsel for the respondents also pleaded that without prejudice, in case the Authority allows the refund, the respondents be allowed to adjust the amount of assured returns of Rs.27,37,092/- paid to the complainant for the erstwhile unit.
26. Upon perusal of the documents available on record and submissions made by both the parties, the Authority observes that as per Clause 8.1 of Agreement for Sale dated 24.02.2021, the respondent undertook to handover the possession of the unit within 60 days and as per Clause 8.2 of BBA, the respondent was under an obligation to offer the possession of the unit. Although, it is an admitted fact that the unit allotted to the complainant is a commercial unit and is for leasing purpose only and physical possession of the unit cannot be given to the complainant and the Occupation Certificate of the project "Vatika Professional Point" was granted to the respondents on 29.10.2013 and the BBA was executed between parties on 24.02.2021. However, despite the receipt of

occupation certificate, the respondents have failed to offer possession of the subject unit in question.

27. It is evident from clause 18.1 & 18.7 of agreement for sale dated 24.02.2021, the subject unit in question is for leasing purpose and not for personal occupation and hence, the possession of the unit cannot be given to the complainant-allottee. The relevant clause is reproduced below:

*18.7 It is clarified that the scheme under which the units are being agreed to be sold in terms of this clause (under leasing agreement) is **specifically designed for earning rental income from the commercial space/ unit and not for its personal physical occupation or use by the allottee's...***

28. Further observes that as per clause 13 of BBA, the respondent had to execute the conveyance deed of the allotted units within a period of three (3) month and not later than six (6) months from possession and convey the title of the units for which possession is given to the allottee, as agreed between the parties. However, the same is also not executed till date despite having receipt of occupation certificate on 29.10.2013 i.e., much prior of the execution of agreement for sale dated 24.02.2021. The relevant clause is reproduced below:

13. Conveyance of the said commercial space/ unit:

*The developer, on receipt of total price of commercial space/ unit and GST as mentioned under Schedule C for commercial space/ unit and Rs.75,000/- (subject to change) as administrative charges and other ancillary charges, subject to conditions mentioend herein **shall execute a conveyance deed preferably within three (3) months but not later than six (6) months from possession** and convey the title of the unit for which possession is granted to the allottee, as agreed between the parties.*

29. The complainant had bought the said unit with expectation, that the respondent would either deliver the possession, or in the alternative, put the said unit on lease. However, the respondent has failed to discharge its contractual obligation in terms of buyer's agreement dated 24.02.2021, as neither the possession of the unit was delivered nor the unit is put on lease till date, even after receipt of occupation certificate from the competent authority on 29.10.2013. Thus, it can be said that despite making total payment of Rs.79,94,791/-, the purpose of

purchase of unit in question has stands completely defeated and unfulfilled. This continued inaction establish default on the part of the respondent, due to failure to honour its contractual obligations.

30. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottee as per agreement for sale under Section 11(4)(a) of the Act. The promoter has failed to offer the possession of the unit in accordance with the terms of agreement for sale dated 24.02.2021 or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottee, as the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.
31. There has been an inordinate delay in the project which cannot be condoned. Thus, in such a situation, the complainant cannot be compelled to wait endlessly and he is well within right to seek refund of the paid-up amount, upon failure on the part of the respondents.
32. This is without prejudice to any other remedy available to the allottee including compensation for which allottee may file an application for adjudging compensation with the adjudicating officer under Sections 71 & 72 read with Section 31(1) of the Act of 2016.
33. **Admissibility of refund along with prescribed rate of interest:** The Section 18 of the Act read with Rule 15 of the Rules provide that in case the allottee intends to withdraw from the project, the respondent shall refund of the amount paid by the allottee in respect of the subject unit with interest at prescribed rate as provided under Rule 15 of the Rules. Rule 15 has been reproduced as under:

"Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public."

34. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said Rule is followed to award the interest, it will ensure uniform practice in all the cases.
35. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 16.12.2025 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
36. The definition of term "interest" as defined under Section 2(za)(ii) of the act provides that the interest payable by the promoter to the allottee shall be from the date the promoter received the amount. The relevant Section is reproduced below: -

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

... (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, ...

37. Therefore, the Authority hereby directs the promoter to return the amount received by them i.e., Rs.21,59,827/- along with interest at the rate of 10.80% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till

the actual date of refund of the amount within the timelines provided in rule 16 of the Rules *ibid*.

38. The respondent/ promoter has paid an amount of Rs.27,37,092/- as committed return up to September, 2018 to the complainant for the erstwhile unit. The said amount shall be adjusted/deducted from the total payable amount.

G.III. To pay a sum of Rs.30,000/- as cost of litigation/present proceedings to the complainant;

G.IV. To pay a sum of Rs.5,00,000/- for the harassment and mental agony suffered by the complainant;

39. The complainant is seeking above mentioned relief w.r.t compensation and legal expenses. 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. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.

H. Directions of the Authority:

40. 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):
- The respondents are hereby jointly or severally directed to refund the entire paid-up amount of Rs.21,59,827/- received by them from the complainant along with interest at the prescribed rate of 10.80% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and

Development) Rules, 2017 from the date of each payment till its realization.

- ii. The amount of assured return already paid shall be adjusted/deducted from the payable amount.
- iii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

41. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
42. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
43. Files be consigned to registry.


(Phool Singh Saini)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated:16.12.2025

HARERA
GURUGRAM