

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA
REAL ESTATE REGULATORY AUTHORITY, GURUGRAM.**

**Complaint No.2850-2023
Date of Decision: 03.02.2026**

1. Mr. Pushp Raj Singh S/o Pukh Raj Singh, R/o H. No. 4144, Sector-23A, Gurgaon-122022.
2. Ms. Shalini Chauhan W/o Mr. Pushp Raj Singh, R/o H. No. 4144, Sector-23A, Gurgaon-122022.

Complainants

Versus

Vatika Limited Unit No. A002, INXT City Center, Ground Floor, Block-A, Sector 83, Vatika India Next, Gurugram, 122012, Haryana.

Respondent

APPEARANCE

**For Complainants:
For Respondent**

**Mr. Kuldeep Kumar Kohli, Advocate
Mr. Shividitya, Advocate. (Respondent
ex parte VOD 29.07.24)**

ORDER

1. This is a complaint, filed by Mr. Pushp Raj Singh and Ms. Shalini Chauhan (allottees) for claim for compensation under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act

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of 2016) against M/s. Vatika Limited (promoter) as per section 2(zk) of Act 2016.

2. According to complainants, they approached the respondent for booking of Unit No. 39/360/Simplex/BR admeasuring 360 sq yard on 28.06.2010. The total sale consideration of the unit was Rs. 1,37,79,858/- The respondent allotted the said unit to them (complainants) on 28.06.2010. The builder's buyer agreement was executed on 02.08.2010 between the complainants and respondent. The amount paid by the allottees till date is Rs. 42,30,793/-.

3. That the delay occurred in handing over possession till date of filing complaint was ~~for~~^{about} eight years. The respondent has violated the term of clause 11.2 of Builder's Buyer Agreement 02.08.2020. The complainant has prayed for compensation on following grounds: -

i. That the respondent is in 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 this Act or the Rules and regulations made thereunder to the allottee as per the agreement for sale executed inter se.

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ii. That the respondent company has resorted to unfair practices by way of making incorrect, false and misleading statements over the possession and thereby violated provisions of Section 12 of Real Estate (Regulation and Development) Act, 2016.

iii. That the respondent has failed to provide the requisite facilities, amenities and services as agreed at the time of booking and has violated the provision of Section 12 of Real Estate (Regulation and Development) Act, 2016.

iv. That the respondent by using its dominant position is dictating its unreasonable demands to the complainant without showcasing any proficient progress.

v. That the respondent had substantially failed to discharge its obligations imposed them under the Real Estate (Regulation and Development) Act, 2016 and rules and regulations made thereunder.

vi. That as per section 18 (3), if the promoter fails to discharge any other obligation imposed on him under this Act or the Rules or Regulations made thereunder or in accordance with the terms and conditions of the Agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

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4. Contending all this, the complainants prayed for a compensation of Rs.4,12,20,142/- for the loss incurred by them due to loss of rate appreciation in the said property, Rs.5,00,000/- for mental agony, physical torture and pain resulting to them by behaviour of respondent. The complainants further prayed for a sum of Rs.3,00,000/- as compensation to pursue the case before the Authority as well as before the Adjudicating Officer.

5. The respondent contested the complaint by filing a written reply. It is averred by the respondent: -

6. The present complaint is not maintainable. As per order dated 21.03.2023 (in complaint No.3511 of 2021), the complainants have already been granted refund of the paid-up amount along with interest of 10.70% per annum, by the Authority, Gurugram.

7. That the construction of the project in question was delayed due to reasons beyond its control. The construction activities have also been hit by repeated bans by the Courts/Tribunals/Authorities to curb pollution in Delhi-NCR region. Further, Covid-19 pandemic has resulted

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in serious challenges for the project with no available labours, contractors etc. for the construction of the project.

8. Again, due to the implementation of MNREGA Schemes by the Central Government, the construction industry as a whole has been facing shortage of labour supply, due to labourers regularly travelling away from DELHI-NCR to avail benefits of the scheme. This has directly caused a detrimental impact to it (respondent) as it has been difficult to retain labourers for longer and stable periods of time and complete construction in a smooth flow.

9. That payment of interest on the refund amount as ordered by the Authority is already compensatory in nature. Relief of compensation could be granted to complainants only in certain circumstances.

10. That the complainants have sought compensation for legal expenses by placing invoices but did not show any evidence of payment, as all the invoices are generated by same advocate for the dates 31.08.2021, 15.06.2023 and 17.06.2023 respectively. The invoice numbers of invoice dated 31.08.2021 is 2023/0129, invoice dated 15.06.2023 is 2023/0130 and invoice dated 17.06.2023 is 2023/0131

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clearly depict that the said Advocate has generated only one invoice within two years interval and also the invoice no. for year 2021 showcases the year 2023. It clearly depicts that the invoices are forged by the complainants and cannot be relied upon.

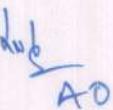
11. That it (respondent) has not committed any violation or caused any deliberate delay in the execution and timely handing over possession of the subject project.

12. Denying all averments, respondent prayed for dismissal of complaint.

13. Complainants filed affidavit in evidence, reaffirming their case. No evidence was adduced on behalf of respondent. The respondent was proceeded ex parte vide order dated 29.07.2024.

14. I have heard learned counsels for both the parties and perused the record on file. Even if defence of respondent was struck off, arguments were advanced on behalf of it by Mr. Shivaditya, Advocate.

15. During arguments, learned counsel for respondent raised an objection that when complainants have already been allowed refund of


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the amount by the Authority, same have no locus standi to approach this Forum seeking compensation.

16. Admittedly, a complaint filed by present complainants, i.e. No. 3511 of 2021 seeking refund of the amount was allowed by the Authority vide order dated 21.03.2023. The copy of such order is on the record. Through said order, respondent/promoter has been directed to refund the entire amount of Rs.42,30,793/- paid by the complainants along with prescribed rate of interest @ 10.70% p.a. from the date of each payment till the actual date of refund of the amount. A period of 90 days was given to the respondent to comply with the directions given in that order. The Authority noted in said order that 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). The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. The Authority upheld that the promoter is liable to the allottees, as they wish to withdraw from

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the project, without prejudice to any other remedy available, to return the amount received by the promoter in respect of the unit with interest. In other words, the Authority found fault in the respondent in handing over the possession of the subject unit.

17. Section 18 (1) of Act 2016 provides that if the promoter fails to complete or unable to give possession of an apartment, plot or building,-

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

(b) -----,

he shall be liable on demand to the allottee, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him----- **including compensation, in the manner as provided under this Act.**

18. From this provision, it is abundantly clear that in case promoter fails to complete the project or to give possession of an apartment, plot etc. in agreed time, the allottee is entitled for refund of the amount along with interest as well as compensation determined in

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the manner as provided under this Act. The complainants were thus entitled for refund of the amount as well as compensation from the promoter i.e. respondent.

19. So far as plea of respondent that BBA between parties was executed before enactment of Act of 2016 and hence provisions of this Act are not applicable, is concerned, even if BBA was entered between the parties of this case prior to enactment of Act of 2016, it is not plea of respondent even that project in question was completed before said Act came into force. In this way, it was an ongoing project and was liable to be registered under the Act. No force in this plea of respondent.

20. As described earlier, complainants have sought compensation of Rs.4,12,20,142/- for the loss incurred by them due to loss of rate appreciation in the said property, Rs.5,00,000/- for mental agony, physical torture and pain resulting to them by behaviour of respondent and Rs.3,00,000/- as compensation to pursue the case before the Authority as well as before the Adjudicating Officer.

21. Section 72 of the Act provides the factors, which are to be taken in account while determining amount of compensation. Apparently,

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when respondent received sale consideration but failed to complete the project, it gained undue profit from money of complainants. However, complainants did not adduce any reliable evidence to prove as what loss has been caused to them. The due date of possession as per BBA between the parties, was 02.08.2013. Possession was never handed over to the complainants, but ultimately after filing a complaint before the Authority, the complainants got an order of refund from the Authority on 21.03.2023. As per AI Overview, property prices in Gurgaon witnessed substantial appreciation between 2013 to 2023, particularly driven by infrastructure developments like the Dwarka Expressway and a shift towards luxury, high-rise, and builder floor developments. Overall Market Trends: Over the decade spanning roughly from 2013 to 2023, Gurgaon witnessed a significant price hike, with some reports citing an average increase of over 80% to 150%. Project where the complainants had booked their unit i.e. Bellevue Villa, Sector 82, Vatika India Next, Gurugram, this is near to Dwarka Expressway. Even it is presumed that amount paid by complainants to the respondent in purchase of said unit was invested in

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some other similar project, it would have at-least doubled till now. Admittedly, complainants paid a sum of Rs.42,30,793/- Said amount has already been ordered to be refunded by the Authority. The complainant is thus allowed a sum of Rs.42,30,000/- (rounded up) to be paid by the respondent as loss of appreciation caused to the complainants.

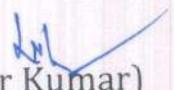
22. When complainants could not get their dream unit despite making payment of about 40%, construction of project was not started even, all this apparently caused mental harassment and agony to the complainants. Same are allowed a sum of Rs.1,00,000/- as compensation for mental agony and harassment. Amount of Rs.5,00,000/- as claimed by the complainants appears to be excessive. Similarly cost of litigation of Rs.3,00,000/- is also excessive. No court fee is required to be paid to the Authority, while filing a complaint. The complainants were represented by an advocate during proceedings of this case, same are allowed a sum of Rs.50,000/- as cost of litigation.

23. The amounts mentioned above, are be paid by the respondent to the complainants along with interest at rate 10.85% per annum from the date of this order till realization of amount.

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24. Complaint is thus disposed of. File be consigned to the record room.

Announced in open court today i.e. on 03.02.2026.


(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate
Regulatory Authority,
Gurugram.

Present: Mr. Kuldeep Kumar Kohli, Advocate for complainants.
Mr. Shivaditya, Advocate for respondent.

Order not ready.

To come on 03.02.2026 for order.


(Rajender Kumar)
Adjudicating Officer,
12.01.2026

Present: Mr. Kuldeep Kumar Kohli, Advocate for complainants.
Mr. Shividitya, Advocate for respondent.

Complaint is disposed of vide separate order today.

File be consigned to record room.

(Rajender Kumar)
Adjudicating Officer,
03.02.2026