

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

Complaint no. : 1716 of 2024
Date of complaint : 29.04.2024
Date of order : 10.10.2025

Flower Aura,
Both R/o:- C-2, Old DLF
Colony, Gurugram

Complainant

Versus

MRG World LLP and B.D. Infra Developers Limited
Regd. Office at: Unit No. 131, Vatika Tower,
Sector-54, Gurugram-122003

Respondent

CORAM:
Arun Kumar

Chairman

APPEARANCE:
Vijay Pal Chauhan (Advocate)
MK Dang (Advocate)

Complainant
Respondent

ORDER

1. The present complaint has been filed by the complainant/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Project and unit 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	Ultimus - Bazaar-90, Sector-90, Gurugram
2.	Nature of the project	(Commercial portion) of Affordable Group Housing Project
3.	RERA Registered/ not registered	GGM/529/261/2022/04 dated 31.01.2022 Valid up to
4.	License no. and validity	30 of 2019 dated 28.02.2019
5.	Unit no.	GF-41, Ground floor [page 27 of complaint]
6.	Unit area admeasuring	810.23 sq. ft. [page 27 of complaint]
7.	Booking date	23.06.2021 [on page 77 of complaint]
8.	Date of provisional allotment-cum-demand letter	16.04.2021 [page 17 of complaint]
9.	Date of Builder buyer agreement	13.07.2021 [page 21 of complaint]
10.	Payment Plan	Time Linked [Page 55 of complaint]
11.	Possession clause	<i>7.1 The Company/Promoter/Developer agrees and understands that timely delivery of possession of the said Unit for commercial use</i>

to the Allottee(s) and the common areas in the said Complex to the Association of Allotees or competent authority, as the case may be, as provided under Rule 2(1)(f) of HRERA Rules, 2017, is the essence of the Agreement. The Company/Promoter/Developer endeavors to hand over possession of the said Unit for commercial use on completion of the Unit as per Affordable Housing Policy, 2013 as amended from time to time, unless there is delay due to "force majeure", court orders, Government policy/guidelines, decisions affecting the regular development of the said Complex/Project. If the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Company/Promoter/Developer shall be entitled to the extension of time for delivery of possession of the Unit. The Allottee agrees and confirms that in the event it becomes impossible for the Company/Promoter/Developer to implement the project due to Force Majeure and above mentioned conditions, then this allotment shall stand terminated and the Company/Promoter/Developer shall refund the entire amount received by the Company/Promoter/Developer from the Allottee, without any interest, within 90 (ninety days) from that date. The Company/Promoter/Developer shall intimate the allottee about such termination at least 30 (thirty days) prior to such termination. After refund of the money paid by the Allottee, the Allottee agrees that he/she shall not have any rights and claims etc. that the against Company/Promoter/Developer and that the Company/Promoter/Developer shall be released and discharged from all its obligations and liabilities under this Agreement.

(Page 38 of complaint)

12.	Due date of possession	13.07.2024 [Calculated as 3 years from the date of execution of BBA i.e., 11.05.2013 as per <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018</i>]
13.	Total sale consideration	Rs.68,81,699/- [As per BBA on , Page 39 of reply]
14.	Amount paid by the complainant	Rs.21,61,242/- [As per Applicant Ledger dated 03.08.2022, Page 57 of complaint]
15.	Application for occupation certificate	29.09.2022 (On page 75 of reply)
16.	Notice of possession	Not offered
17.	Demand letters	11.11.2022 [Page 59 of complaint]
18.	Reminders	25.02.2022, 30.03.2022, 29.04.2022 [Page 67-69 of reply]
	<p>Note: Cheque amounting to Rs. 25,22,521/- dated 03.11.2022 and Rs.21,80,731/- dated 07.12.2022 issued in the name of respondent but the same were returned with the remark 'Advice not received Amt - name differs On advice'.</p> <p>[Page 4 of reply]</p>	
19.	Pre-cancellation letter dated	11.05.2022 [Page 70 of reply]
20.	Cancellation letter dated	25.06.2022 [Page 73 of reply]
21.	Reminder 1	22.12.2022, 05.08.2023

		[Page 78 of reply]
22.	Reminder 2 with email	20.05.2023, with email on 23.05.2023 [Page 81 and 82 of reply as R17 and R18]
23.	Reminder 3 with email	05.08.2023 with email on 05.08.20223 [Page 83 and 84 of reply]
24.	Payment-cum-cancellation notice	01.11.2023 [Page 85 of reply as R21]
25.	Final cancellation letter	08.12.2023 [page 87 of reply]
26.	Unit cancelled through mail dated	08.12.2023 [Page 88 of reply]
27.	Occupation certificate	07.05.2025
28.	Third party rights created on	18.04.2024 [in favour of Mr. Rakesh Singh Kaintura vide BBA dated 18.04.2024] [As admitted by the respondent on page 5 of reply]

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:
- i. That a builder buyer agreement was executed by the complainant in favour of respondent on 13.07.2021 whereby the allotment of the commercial unit no. GF-41 at Ground Floor in Project "Bazar 90" at Sector 90, Gurugram having super area 810.231 sq.ft. was confirmed by the respondent for a total sale price of Rs. 68,81,699/- in favour of the complainant and the builder buyer agreement was got registered on even date at the office of the Sub Registrar, Manesar, District

Gurugram and expenses toward registration of the same were incurred by the complainant. The terms and conditions of the agreement were totally one sided in favour of the respondent and against the complainant. It is pertinent to state here that the sale consideration as mentioned in the bba was excluding the cash amount i.e. Rs. 75,00,000/- paid by the complainant to the respondent.

- ii. The payments against the unit were to be made by the complainant as per the payment plan and both the parties were bound to adhere the payment plan.
- iii. That surprisingly respondent had issued a demand letter in january, 2022 for making the payment of installment toward completion of the super structure whereby the complainant was asked to make payment by 21.02.2022 in violation of the payment plan agreed between the parties and bba. The same can be confirmed by the ledger statement issued by the complainant on 03.08.2022. However, after receipt of the Demand Letter the Complainant visited the site and it was found that the Super Structure was not complete in any manner. The Complainant raised the objections that demand was to be issued on completion of super structure or 18 months of booking (whichever is later). Further the Complainant has visited the office of the Respondent thrice to resolve the issue and even offered to close the same. But the Respondent failed to come out with any solution. Thus, the demand letter issued by the respondent was against the payment plan agreed between the parties and the complainant was not obligated to make payment as per the said demand letter. It is not out of place to mention here that the complainant offered the respondent to close the matter

with early payments and removal of wrongful interest being charged from complainant but the respondent failed to resolve the issue and was adamant to charge interest for delayed payment.

- iv. That the respondent without resolving the matter mentioned in the previous paragraph again issued another demand letter asking the complainant to make payment by 07.12.2022 which was inclusive of previous unpaid amount. It is submitted the second demand letter was to be issued on application for occupation certificate. However, the respondent failed to provide any proof regarding application for occupation certificate despite the fact that the complainant regularly asked for the same. It is not out of place to mention that the complainant has submitted a cheque for amount of Rs. 25,22,521/- bearing number 438722 dated 03.11.2022 drawn on Punjab National Bank with the complainant and asked the respondent to resolve the matter. The complainant had sent email dated 07.11.2022 followed by email dated 11.11.2022, 14.11.2022, 16.11.2022 and 23.11.2022 finally vide email dated 28.01.2023 the respondent agreed to waive off the interest till date i.e. 28.01.2023.
- v. That thereafter the complainant was informed by the office of the respondent that the cheque mentioned in above para has been misplaced from the office of the respondent. Thus the same could not be deposited with their banker. Immediately in the month of february 2023 the complainant issued another cheque bearing number 000152 for an amount of Rs. 25,22,521/- drawn on HDFC Bank against the lost cheque and simultaneously issued another cheque for future installment amounting Rs. 21,81,321/- bearing Cheque No. 000153

drawn on HDFC Bank. That thereafter the respondent asked numerous times to get cleared the said cheques submitted with the respondent by the complainant, but the representatives of the respondent never revert back.

- vi. That on 08.12.2023, the complainant received an email from the office of the respondent and shocked to know that the allotment of the unit has been cancelled by the respondent for non- payment of the outstanding dues without serving any notice or any demand letter. On receipt of the email dated 08.12.2023, the complainant contacted the respondent vide email dated 09.12.2023 and asked for time to meet the respondent and close the issue which was responded by the respondent No. 1. Thereafter an email was sent by the complainant and certain issues were raised by the complainant then it came to the knowledge of the complainant vide email dated 21.12.2023 issued by the respondent that both cheques issued by the complainant were bounced (returned uncleared) due to non-advised by the complainant.
- vii. It is pivotal to state here that the said cheques were never dishonored at any stage as the same were not deposited by the respondent with their banker and never put those cheques for clearance. It is the failure on the part of the respondent that the complainant was not informed of any cheque dishonor. Infact, the respondent did not deposit with the bank above cheques due to their own strategy for selling the units on higher rates by cancelling the allotment of the unit. it is utmost import to state here whenever the complainant asked for cheque dishonor memo issued by the bank, the respondent failed to produce the same by stating that the same has been misplaced.

- viii. That vide emails dated 22.12.2023, 17.01.2024, 13.02.2024, 28.02.2024, 02.04.2024 and 06.04.2024 the complainant raised the issue with the respondent and told the respondent that they are making the payment by issuing fresh cheques but the respondent did not pay any heed to the request and issue raised by the complainant and did not revert back to the complainant.
- ix. That whenever the complainant visited the office of the respondent, he was sent back on verbal assurance that his grievance would soon be redressed. However, till date there is no progress at all.
- x. That the demand was to be raised after the submission of the application for issuance of occupation certificate, but the respondent failed to produce any such proof before the Complainant. Thus, the demand raised by the respondent was illegal, null and void and any cancellation for non-payment of such demand is also null and void.
- xi. That without sending any demand letter, notices the cancellation of the unit by the respondent is null and void and not enforceable in the law.
- xii. That during the visit to the office of the respondent the complainant found there persons having similar grievance as their cheques were not put for clearance by the respondent and it has become the regular practice of the respondent to sell the unit on a higher price by cancelling the previous allotment. That the modus operandi of the respondent is that "cancel the allotment of unit and re-sell those on higher rates." Thus the aforesaid act of cancellation of the unit is unfair trade practice.

- xiii. That the entire sequential of events leading to the instant complaint establish the malafide intent of the respondent to defraud the complainant of its hard-earned money. In this hue, it is reverentially submitted that such conduct on the part of the respondent are tantamount to breach of the contractual obligations of the agreement. Ergo, the complainant is entitled to exercise its right conferred by the Real Estate (Regulation & Development) Act, 2016 under section 31 read with section 19(3) read with section 18 of the Act.
- xiv. That the great prejudice shall be caused to the complainant if the present complaint with humble submission and relief are not allowed.
- xv. That due to the acts of the above and terms and conditions of the agreement, the complainant has been unnecessarily harassed mentally as well as financially.
- xvi. That there are clear unfair trade practices and breach of contract and deficiency in services of the respondent and much more a smell of playing fraud with the complainant and other allottees and is prima facie clear on the part of the respondent which makes them liable under the provisions of the RERA Act.
- xvii. That the act and conduct of the respondent also attract the criminal proceedings under the different provisions of Indian penal code like criminal breach of trust, cheating and forgery.
- xviii. That the complainant does want to withdraw from the project. The respondent has not fulfilled its obligations provided under the RERA Act, 2016.

C. Relief sought by the complainants: -

4. The complainants have sought following relief(s):
- I. To direct the respondent to restore the allotment of the unit which has been cancelled by the respondent illegally and unlawfully.
 - II. To direct the respondent to not to create any third party right in the said unit till the disposal of the present complaint
 - III. The complainant is also entitled to any other relief to which he is found entitled by this Authority.
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

- a) That the respondent is reputed real estate developer having immense goodwill, comprised of law abiding and peace loving persons and has always believed in satisfaction of its customers.
- b) That the complainant after checking the veracity of the project namely, 'Bazaar 90', Sector 90, Gurgaon had applied for allotment of a commercial unit/shop vide booking application form dated 16.04.2021.. The complainant agreed to be bound by the terms and conditions of the said booking application form.
- c) That pursuant to the said application for booking, the respondent vide provisional allotment cum demand letter dated 16.04.2021 allotted to the complainant commercial unit no. GF-41 in its project 'Bazaar 90, Sector 90, Gurgaon' having super area of 810.231 sq. ft. Vide the said provisional allotment cum demand letter dated 16.04.2021, the respondent had also demanded a sum of Rs. 19,61,738/- from the complainant as per the payment schedule agreed by the complainant

- d) That thereafter, commercial space builder buyer agreement bearing vasika no. 2224 dated 13.07.2021 was executed between the complainant and the respondent.. The complainant had agreed to be bound by the terms and conditions contained in the Builder Buyer's Agreement.
- e) That the respondent raised payment demands from the complainant in accordance with the agreed terms and conditions of the allotment as well as of the payment plan. However, it is pertinent to mention here that the complainant had defaulted in making payment in a timely manner. Vide intimation cum demand dated 21.01.2022, the respondent had raised demand of Rs. 25,22,521 and the same was payable by the complainant on or before 21.02.2022. However, no payment was made till the said date after which reminder email dated 25.02.2022 in respect of the payments due was sent by the respondent to the complainant. However, despite this, the complainant failed to make any payment. The respondent was constrained to send Reminder 1 dated 30.03.2022 and Reminder 2 dated 29.04.2022 to the respondent calling upon the complainant to pay the outstanding dues.
- f) That despite the said demand letter and reminders, no payment was made by the complainant. As a result, the respondent sent pre-cancellation letter dated 11.05.2022 whereby the complainant was again called upon to make payment of its outstanding dues within 10 days in order to avoid cancellation of the booking. Email dated 11.05.2022 was also sent by the respondent to the complainant intimating the complainant that pre-cancellation letter had already been sent by the respondent to the complainant.

- g) That despite all this, no payment was made by the complainant to the respondent so the respondent was constrained to issue cancellation notice dated 25.06.2022 intimating the complainant that the respondent had terminated/cancelled the said provisional allotment in favour of the complainant. Vide email dated 25.06.2022, intimation regarding cancellation of allotment of complainant had also been sent by the respondent to the complainant.
- h) That after the respondent sent cancellation letter dated 25.06.2022 to the complainant, the complainant approached the respondent and requested that the unit allotted to him be not cancelled and also assured the respondent that it would pay the previous dues of the respondent and also keeping on paying the future installments as and when they became due. Being a customer oriented company and relying upon the assurances given by the complainant, the respondent agreed to the said request of the complainant and revoked the cancellation of the unit.
- i) That the respondent applied to The Director, Town and Country Planning, Chandigarh, Haryana for obtaining occupation certificate vide its application dated 29.09.2022. After applying for the Occupation Certificate, the respondent, as per agreed Payment Schedule, sent intimation cum demand dated 07.11.2022 to the complainant calling upon the complainant to remit a sum of Rs. 49,85,210/- including its previous arrears on or before 07.12.2022. Email intimating the complainant regarding the said demand was also sent by the respondent to the complainant on the same date.
- j) That however, surprisingly, despite promises made by it, the complainant again failed to make payment of the said amount due and

- accordingly, the respondent was constrained to send reminder dated 22.12.2022 calling upon the complainant to make payment of its outstanding dues.
- k) That the complainant then sent cheque bearing no. 438722 for Rs. 25,22,521/- drawn on Punjab National Bank and another cheque bearing no. 438724 for Rs. 21,80,731/- drawn on Punjab National Bank to the respondent towards its outstanding dues. However, to the utter shock of the respondent, the said cheques were dishonoured on being presented by the respondent with its bank vide return memos dated 01.02.2023 & 10.02.2023 respectively with the remarks 'Advice Not Received'. The factum of dishonour of the said cheques is clearly reflected in the bank account statement of the respondent of that time period.
- l) That upon the dishonour of the aforesaid cheques, despite being aware about the said dishonor, no payment was made by the complainant and accordingly, the respondent was constrained to send Reminder 2 dated 20.05.2023 and email dated 23.05.2023 calling upon the complainant to pay the outstanding due amount of Rs. 51,56,700/- to the respondent. Despite this, no payment was made by the complainant and the respondent was forced to send Reminder 3 dated 05.08.2023 and also email of the same date calling upon the complainant to pay its outstanding dues.
- m) That despite the said demand letter and 3 reminders, the complainant failed to remit any payment towards the amount due to the respondent. being a customer-oriented company, respondent issued payment cum cancellation notice dated 01.11.2023 giving last and final opportunity and calling upon the complainant to pay outstanding

amount of Rs. 54,27,008/- within a period of 7 days failing which the allotment of the complainant shall stand cancelled. Email dated 03.11.2023 was also sent by the respondent in this behalf to the complainant. However still no payment was made by the complainant.

- n) That despite sending 3 reminders and payment cum cancellation notice dated 01.11.2023 giving last and final opportunity to the complainant, the complainant did not make any payment. It is pertinent to mention here that despite numerous opportunities, the complainant miserably failed in complying with its obligations as per the allotment and builder buyer's agreement. Left with no other option, the respondent was constrained to issue cancellation letter dated 08.12.2023 cancelling allotment of the said shop due to failure of the complainant to comply with the terms and conditions of allotment and builder buyer's agreement. e-mail dated 08.12.2023 was also sent by the respondent to the complainant in this respect. Thus, the complainant is now left with no right, title, interest and claim of any nature whatsoever with respect to the said allotment or agreement.
- o) That after cancellation/ termination of builder buyer agreement dated 13.07.2021, the respondent has already allotted the subject unit to Mr. Rakesh Singh Kaintura vide registered builder buyer agreement dated 18.04.2024.
- p) That from the facts and circumstances narrated above, it is clear that on account of non-fulfilment of the contractual obligations by the complainant despite several opportunities extended by the respondent, the allotment of the shop in its favour was cancelled and the earnest money deposited by the complainant alongwith other charges stood forfeited as per the Agreement. Therefore the

complainant is left with no right whatsoever in the said shop or with respect to the said agreement.

- q) That according to the agreed clauses of the booking application form and the builder buyer's agreement, timely payment of installments within the agreed time frame was the very essence of the allotment. the complainant is a real estate investor who had booked the shop in question with a view to earn quick profit in a short period. However, its calculations went wrong and it did not have sufficient funds to honor its commitments. It is pertinent to mention here that the complainant was never ready and willing to abide by its contractual obligations and also did not have the financial capacity to honor its commitments.

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 complainants.

E. Jurisdiction of the authority

7. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.1 Territorial jurisdiction

8. 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

9. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

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.

10. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

F. Findings on the relief sought by the complainants.

F.I To direct the respondent to restore the allotment of the unit which has been cancelled by the respondent illegally and unlawfully.

F.II To direct the respondent to not to create any third party right in the said unit till the disposal of the present complaint.

11. The above-mentioned reliefs sought by the complainant are being taken together, as the findings in one relief will necessarily affect the outcome of the others and the same being interconnected.
12. In the present matter, the complainant was allotted a commercial unit bearing No. GF-41, situated on the ground floor, admeasuring an area of 810.23 sq. ft., in the project of the respondent titled "Ultimus - Bazaar-90,"

Sector-90, Gurugram, Haryana, forming part of the commercial portion of an Affordable Group Housing Project. The total sale consideration of the said unit was ₹72,05,789/- (including taxes) as reflected in the Builder Buyer Agreement executed on 13.07.2021. The complainant paid a total amount of ₹21,61,242/- to the respondent towards the said unit.

13. It is an undisputed fact that the respondent applied for the Occupation Certificate on 29.09.2022, and the Occupation Certificate was ultimately issued on 07.05.2025. The record reveals that demands were raised by the respondent in accordance with the agreed payment plan, including reminders dated 22.12.2022, 20.05.2023, 05.08.2023, along with emails, culminating in a payment-cum-cancellation notice dated 01.11.2023 and a final cancellation letter dated 08.12.2023, which was also communicated through email on the same date, whereby the allotment of the subject unit was finally cancelled on account of failure of the complainant to clear the outstanding dues within the stipulated period.
14. Upon consideration of the submissions and documents available on record, the Authority observes that the payment schedule and obligations of the complainant-allottee were explicitly set out in the Builder Buyer Agreement dated 13.07.2021. As per the terms of the said agreement, the complainant was under a contractual obligation to make timely payments as per the time-linked payment plan agreed between the parties. The Authority notes that the respondent had issued a series of communications including demand letters, reminders, and the payment-cum-cancellation notice, providing the complainant with reasonable opportunity to remedy the default and make payment of the outstanding dues. Despite such notice and the availability of ample time to comply, the complainant failed to make the required payment.

Payment Plan

ON BOOKING	2 Lacs
WITHIN 60 DAYS OF BOOKING	30% of BSP Less 2 Lacs
ON COMPLETION OF SUPERSTRUCTURE OR 18 MONTHS (WHICHEVER IS LATER)	35% of BSP+50%(EDC/IDC)
APPLYING OF OC	30% OF BSP+50% (EDC/IDC)
On Offer of Possession	5% of BSP + Other Charges (If A any)

15. Section 19(6) of the Real Estate (Regulation and Development) Act, 2016 casts a statutory obligation upon the allottee to make the necessary payments as per the agreement for sale. The Authority further observes that in all such matters, where cancellation is effected for non-payment of dues, the validity of such cancellation is determined by examining whether the promoter has provided adequate notice, reasonable time for compliance, and acted in accordance with the agreed payment plan. In the present case, the respondent appears to have fulfilled these procedural obligations prior to the cancellation of the allotment.

Section 19(6) of the Real Estate (Regulation and Development) Act, 2016 provides as under:

"The allottee shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any, in accordance with the terms and conditions of the agreement for sale."

16. Accordingly, the Authority holds that the cancellation of the unit vide letter dated 08.12.2023 was made in accordance with the terms and conditions of the buyer's agreement dated 13.07.2021, and in conformity with Section 19(6) of the Act.

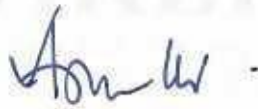
17. The Authority notes that the deductions made from the complainant's deposited amount must conform to the legal principles settled by the *Hon'ble Supreme Court in Maula Bux v. Union of India [(1970) 1 SCR 928] and Sirdar K.B. Ram Chandra Raj Urs v. Sarah C. Urs [(2015) 4 SCC 136]*, wherein it was held that any forfeiture of amount in case of breach of contract must be reasonable and cannot be in the nature of penalty unless actual loss is demonstrated. This principle has been consistently followed by the Hon'ble National Consumer Disputes Redressal Commission in *Ramesh Malhotra v. Emaar MGF Land Limited (CC/435/2019, decided on 29.06.2020)*, *Mr. Saurav Sanyal v. M/s IREO Private Limited (decided on 12.04.2022)*, and *Jayant Singhal and Anr. v. M3M India Limited (CC/2766/2017, decided on 26.07.2022)*.
18. In pursuance of these precedents and in accordance with Regulation 11(5) of the Haryana Real Estate Regulatory Authority (Forfeiture of Earnest Money by the Builder) Regulations, 2018, the Authority reiterates that the forfeiture amount towards earnest money shall not exceed 10% of the basic sale consideration of the unit. Any clause in the buyer's agreement that provides for forfeiture beyond this prescribed limit shall be void and not binding on the allottee.
19. Thus, in the present case, while the respondent-promoter has validly exercised its right to cancel the allotment due to continued non-payment, it is equally bound to refund the balance amount to the complainant after deduction of only 10% of the basic sale consideration as earnest money.

G. Directions of the authority

20. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations

casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:

- i. The respondent-promoter is directed to refund the balance paid-up after deducting 10% of the total sale consideration of Rs.68,81,699/- as earnest money, along with interest at the rate of 10.85 % per annum (SBI MCLR + 2%), as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, on the refundable amount from the date of cancellation i.e., 08.12.2023 till the actual realization of the amount. The amount already paid by the respondent shall also be deducted from the refundable amount.
 - ii. A period of 90 days is granted to the respondent to comply with the above directions, failing which statutory consequences under the Act shall ensue.
21. The complaints stand disposed of.
22. Files be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 10.10.2025