

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

Complaint no. : 627 of 2025
Date of complaint : 13.02.2025
Date of order : 30.01.2026

Kamlesh,
R/o: - 228/2, First Floor, Gali No.5,
Sadh Nagar, Palam Colony, New Delhi-110045.

Complainant

Versus

M/s Magic Eye Developers Private Limited.
Regd. Office at: GF-09, Plaza M-6,
District Center Jasola, New Delhi-110025.

Respondent

CORAM:
Arun Kumar

Chairman

APPEARANCE:
P.K Pandey (Advocate)
None

Complainant
Respondent

ORDER

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

A. Unit and project related details

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

S. No.	Particulars	Details
1.	Name of the project	The Plaza at 106, Sector-106, Gurugram
2.	Project area	3.73 acres area
3.	Nature of project	Commercial Colony
4.	DTPC License no.	65 of 2012 dated 21.06.2012 valid upto 21.06.2022
5.	Name of licensee	Magic Eye Developers
6.	RERA registered/not registered	Registered vide no. 72 of 2017 dated 21.08.2017 valid upto 31.12.2021
7.	Letter vide which respondent confirmed allotment of said unit in favour of the complainant	20.08.2018 (page 57 of complaint)
8.	Unit no.	05, Tower-B (page 57 of complaint)
9.	Unit area admeasuring	636 sq. ft. (super are) (page 60 of complaint)
10.	Date of execution of buyer's agreement	Not executed
11.	Possession clause	Not on record
12.	Due date of possession	31.12.2021 (project completion date as declared by the promoter while registering the project with the Authority)
13.	Basic sale consideration	Rs.65,50,393/- (page 62 of complaint)
14.	Amount paid by the complainant	Rs.16,90,865/- (As per page 70 of complaint)
15.	Occupation certificate /Completion certificate	28.11.2019 (as per DTCP website)
16.	Offer of possession	Not on record

17.	Intimation regarding revision in stamp duty charges for registration of conveyance deed	27.01.2021 (page 71 of complaint)
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B. Facts of the complaint:

3. The complainant has made the following submissions: -

- I. That the respondent through its authorized representative and executives approached the complainant and informed that they are working as a real estate developer and own huge land and all requisite permissions(s) and inclined to construct a commercial complex namely "Plaza at 106 " situated in the revenue estate of Sector-106, Tehsil & District Gurugram.
- II. That the respondent induced the complainant and lured her to book a commercial unit in the above-mentioned commercial project. That in good faith and interest upon, the complainant showed interest in the proposal and booked a commercial unit no. 5 at Ground Floor. The total consideration of the unit admeasuring approx. 636 sq. ft. super area being Rs.61,69,200/- and the complainant paid Rs.18,90,865/- in total till date from the date of booking in various installments through cheque. The said payment is being made by the complainant from her personal account as well account of her family member.
- III. That the opposite party had neither issued any letter/MOU/Receipt/BBA at the time of booking the above said space even after more than three years, despite the receiving the said amount of Rs.1,890,865/- when complainant protested the same, then respondent issued three-four receipt of payments in 2014 in single go.
- IV. That the buyers, despite of having paid Rs.16,90,865/- of the payment against the total consideration amount, respondent has till date has



- not executed any agreement to sell/purchase/builder and buyer agreement, which is clearly against provision of section 13 RERA Act, 2016.
- V. That the complainant after booking and realization of payments qua booking approached the respondent several times since 2012-2013 onwards for executing the agreement but respondent never cared to respond to the complainant and not even cared to execute any agreement to sell/purchase till date or signed any MOU.
- VI. That the complainant contacted respondent regularly and was surprised to see and was constrained to note that neither any construction was started or visible at site. The bogus demand letter was issued by the respondent despite fact that the respondent running behind the assured time of delivery. It is further pertinent to mention that the respondent company was raising the demand notice despite the fact that no construction began at the site.
- VII. That at the time of purchasing the unit, the complainant was assured that the possession of the unit would be delivered on or before 42 months from the commencement of project but till date no scope of possession is there. When the complainant later on visited the site during the year 2015 to 2017, she was surprised to find that the no progress in construction work was visible. When she raised the issue with the representatives of the respondent, they failed to provide any satisfactory answer to the complainant.
- VIII. That upon the unsatisfactory response and the hostile behaviour of the respondent, the complainant withdrawn her consent and requested for cancellation the booking but respondent kept hostile behaviour.
- IX. That the respondent first kept hostile behaviour on the part to refund the amount paid by the complainant but after several follow ups,

respondent assured the complainant that they will refund the amount paid by the complainant but failed to liquidate aforesaid liability stating that " we do not have requisite funds available with us and presently we have got many other old pending claims to satisfy.

- X. That even after the cancellation of booking the respondent for its illicit financial gains and with mala fide intentions the respondent company keep on raising the demand notices and asking for the money. The complainant objected the same but no fruitful purpose was served.
- XI. That the respondent did not accept request for cancellation and continued to raise the demand notice from 2014-2020 to that complainant where-in the complainant is under no obligation pay any of amount subject to cancelation of the booking. Rather than refunding the amount of sum of Rs.16,90,865/-, the respondent is levying the heavy interest on the complainant by showing the arrears in that name of the complainant in its books.
- XII. That despite several communications through mails/calls/office visits the complainant never got a satisfactory response and the grievance of the complainant has not been resolved till date.
- XIII. That till date, the respondent had neither provide the possession of the above said commercial space nor returned the amount to the complainant, despite repeated request of complainant, which caused great mental agony, harassment and financial loss to the complainant. Thus, respondent has also cheated and defrauded the complainant just to cause wrongful loss to the complainant and to cause wrongful gain to himself/themselves and misappropriated the hard-earned money of complainant, for which respondent is liable to pay to compensation as per law upon the above said amount on delay of payment/possession.

- XIV. That it is submitted that the complainant is ready and willing to pay the remaining consideration amount to respondent.
- XV. That previously complainant has filed a complaint before this authority against the respondent and due to some technical objection, same was withdrawn by the complainant with liberty to file fresh complaint.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
1. Direct the respondent to handover possession of the unit and to execute conveyance deed.
5. On the date of hearing, the Authority explained to the respondents/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

6. Despite due service of notice through speed post and specific direction for filing reply in the matter, neither anyone has put in appearance on behalf of respondent before the Authority, nor any written reply to the present complaint has been received from it. Therefore, the respondent was proceeded ex-parte vide proceedings dated 30.01.2026.
7. 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 those undisputed documents and submissions made by the complainant.

E. Maintainability of complaint

8. The Authority observes that the present complaint is based on some payment receipts which have been given to the complainant on account of booking amount towards the unit in question and as per record,

neither any formal allotment regarding the said unit has been made in favour of the complainants nor any buyer's agreement has been executed between them till date. Thus, the transaction between the parties never progressed beyond the stage of booking and did not culminate into allotment of any plot, apartment or building.

9. Before examining the merits of the case, it is necessary to determine whether the complainant fall within the definition of allottee or not under the Real Estate (Regulation and Development) Act, 2016. Section 2(d) of the RERA Act, 2016 defines an "allottee" as under:

"...the person to whom a plot, apartment or building...has been allotted, sold...or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment... but does not include a person to whom such plot...is given on rent."

10. As per Section 2(d) of the RERA Act, 2016, an "allottee" means a person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the promoter. In the present case, admittedly no formal allotment of any unit was ever made in favour of the complainant. Mere payment of booking amount and issuance of payment receipts against the same, in the absence of an allotment letter or agreement for sale, does not confer the status of an allottee upon the complainant.
11. This Authority further observes that for a legally enforceable contract to come into existence, there must be consensus ad idem on essential terms such as identification of the unit, consideration, payment schedule, rights and obligations of the parties which are ordinarily crystallized through an allotment letter and agreement for sale. In the absence of such documents, no concluded contract for sale came into existence between the parties.

12. Since no concluded contract was formed and no allotment was made, the dispute raised by the complainant relating to handover of possession and execution of conveyance deed pursuant to payment receipts, falls outside the scope and jurisdiction of this Authority under the RERA Act, 2016.
13. In view of the above facts and circumstances, this Authority holds that the complainant does not fall within the definition of "allottee" as defined under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016. Consequently, the present complaint is not maintainable under the provisions of the Act and is accordingly dismissed with liberty to the complainant to avail appropriate remedies in accordance with law before the competent forum.
14. Complaint as well as applications, if any, stands disposed of accordingly.
15. File be consigned to the registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 30.01.2026

HARERA
GURUGRAM