

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

Complaint no.: 4523 of 2024
Date of filing of complaint: 01.10.2024
Date of Order: 23.12.2025

Payal

Complainant

R/o: - House no.138, Gali no.-9. Devilal
Colony, Guarugram-122001

Versus

M/s Mahira Buildtech Private Limited.
Regd. Office at: 311-A, Global Foyer,
Sector-43, Golf Course Road,
Gurugram-122009

Respondent

CORAM:

Shri Arun Kumar
Shri Phool Singh Saini

**Chairman
Member**

APPEARANCE:

Sh. Pranshu Khatri (Advocate)
None

Complainant
Respondent

ORDER

1. The present complaint dated 01.10.2024 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the Rules and regulations made thereunder or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the 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 and location of the project	"Mahira Homes" at sector 103, Gurgaon, Haryana
2.	RERA Registered/ not registered	Not registered
3.	Unit no.	1502 & Tower-A (As per page no. 15 of the complaint)
4.	Unit area admeasuring	645 sq. ft. (Carpet area) (As per page no. 15 of the complaint)
5.	Date of building plan approval	29.03.2019 (taken from another complaint of the same project)
6.	Allotment letter	20.09.2019 (As per page no. 15 of the complaint)
7.	Environmental clearance	29.01.2020 (taken from another complaint of the same project)
8.	Date of execution of flat buyer's agreement	Not executed
9.	Possession clause	N.A
10.	Due date of possession	29.07.2024 [Note: Due date of possession to be calculated 4 years from the date of environmental clearance dated 29.01.2020 being later plus grace period of 6 months on account of Covid-19]
11.	Total sale consideration	Rs.26,30,000/- (As per SOA dated 22.03.2022 on page no. 19 of the complaint)
12.	Amount paid by the complainant	Rs.23,24,266/- (As per SOA dated 22.03.2022 on page no. 19 of the complaint)
13.	Occupation certificate	N/A
14.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint:
- I. That In the year 2019, the respondent advertised their proposed project called Mahira Homes 103 in Sector 103 in the Revenue Estate of Village Daultabad, Tikampur and District, Gurgaon, Haryana wherein the respondent specifically stated that the possession of the units shall be delivered within 36 months.
 - II. That the complainant booked the flat on 14.04.2019 by paying an amount of Rs.1,31,000/- vide cheque in favour of respondent as a booking amount. After that an allotment letter dated 20.09.2019 is issued to the complainant.
 - III. That after the allotment letter issued in favor of the complainant, the complainant approached the respondent many times to get the builder buyer's agreement executed but the respondent linger on the matter and the builder buyer's agreement never got executed among the complainant and the respondent.
 - IV. That thereafter the complainant started paying the amount of installments as per the demand of the respondent on time and the respondent received the same from time to time accordingly while assuring the timely delivery of possession which fell due on December, 2023 but never delivered the possession of the aforesaid flat and even till date the respondent has been miserably failed to handover the possession of the aforesaid flat to the complainant despite there being inordinate delay of more than 10 months from the due date. The respondent even cannot count the grace period in the total period agreed for handing over the actual physical possession of the apartment as the same can only be considered when the respondent is able to deliver the actual physical possession of the allotted apartment within the grace period, failing which the respondent is liable to pay the interest and penalty for this period also.

- V. That the respondent continued to accept money from the complainant without any intention to deliver the possession from the beginning. The statement of account is issued from respondent in which the total payment made by the complainant is clearly reflected.
- VI. That the complainant duly adhered their part of the contractual stipulations and the respondent however, with mala-fide intentions, even after taking amount as per the prescribed payment schedule stopped adhering to their contractual stipulation and liabilities. The complainant purchased the aforesaid flat with the hope that they would shift their very soon. However, due to inordinate delay have to shift at her present address and she is facing a lot of problems.
- VII. That the complainant visited to the site of the respondent but the respondent clearly denied the complainant to enter the site.
- VIII. That the respondent after receiving the substantial amount of Rs.23,24,271/- till January 2023 from the complainant has been failed to handover the possession of the flat in question which is yet not complete to the notice and knowledge of the complainant.
- IX. That the complainant and many other people have invested their hard-earned money with hope of having a residential flat, which they could use for their personal use, but now they are left with nowhere to go except to approach this Hon'ble Authority.
- X. That the act of the respondent in deliberately inducing complainant to part way with her life's saving and cheat her based upon false documents amounts to an act of fraud and cheating for which the present complaint is being filed.
- XI. That the modus operandi of the respondent has caused tremendous financial pressure upon the complainant herein for which the complainant is entitled to be reimbursed forthwith as well as for the

mental agony caused to the complainant by the acts, omissions and malafide conduct on the part of the respondent.

- XII. That the act of taking hard-earned money from the complainant and not making delivery of the aforesaid flat after passing of 1 year from the date of possession willfully and knowingly amounts to an act of fraud and deliberate delay for which respondent is solely liable to pay damages also. However, the complainant is filing the present complaint without prejudice to rights for filing the separate claim for damages, the complainant is filing the present complaint only for compensation on account of delay in handing over the possession of the aforesaid flat.
- XIII. That the present complaint has been filed by the complainant without prejudice to claim further damages suffered by the complainant on account of inordinate delay committed by the respondent in handing over the possession of the allotted flat to the complainant, by filing her claim before the Authority.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- i. Direct the respondent to hand over the possession of the unit to the complainant as per allotment (with all approvals qua completion) along with penalty for delayed possession @ 24% per annum compounded half yearly (interests rate levied by the respondent) for every year of delayed possession to be calculated proportionately to every day of delay from date of payment till realization.
 - ii. All payments made as stated in clause 1, an interest @ 24% per annum compounded half yearly may be paid to the complainant till the date of payment of said interest.
 - iii. Direct the respondent to pay interest at the rate of 24% per annum on the entire payment made by the complainant to the respondent from

- the date of handing over possession till the flat is transferred in the name of the complainant.
- iv. Direct the respondent to pay Rs.10,00,000/- for mental harassment to the complainant.
 - v. The cost of the proceedings of Rs.1,00,000/- may also be awarded.
5. The authority issued a notice dated 08.10.2024 to the respondent by speed post and also on the given email address at advocate.pranshukhatri@gmail.com, and info@mahiragroup.com for filing of reply and putting up appearance on the date fixed for hearing. The delivery reports have been placed in the file. Despite given ample opportunities vide hearings dated 23.01.2025, 01.05.2025, 21.08.2025, 16.10.2025 and 23.12.2025 the counsel for the respondent neither put in appearance nor did not file any reply to the complaint within the stipulated period. Therefore, vide proceedings of the day dated 23.12.2025 the authority has struck off the defence of the respondent and proceeded ex-parte against the respondent.

D. Jurisdiction of the authority:

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

E.I Territorial jurisdiction

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

E.II Subject-matter jurisdiction

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

Section 11.....

(4) 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.

7. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.
8. 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.*** SCC Online SC 1044 decided on 11.11.2021 and followed in ***M/s Sana Realtors Private Limited & others V/s 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."

9. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the matter of **M/s Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. and M/s Sana Realtors Private Limited & others V/s Union of India & others (supra)**, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the amount paid by him.

E. Findings on the relief sought by the complainant:

- E.I Direct the respondent to hand over the possession of the unit to the complainant as per allotment (with all approvals qua completion) along with penalty for delayed possession @ 24% per annum compounded half yearly (interests rate levied by the respondent) for every year of delayed possession to be calculated proportionately to every day of delay from date of payment till realization.**
- E.II All payments made as stated in clause 1, an interest @ 24% per annum compounded half yearly may be paid to the complainant till the date of payment of said interest.**
- E.III Direct the respondent to pay interest at the rate of 24% per annum on the entire payment made by the complainant to the respondent from the date of handing over possession till the flat is transferred in the name of the complainant.**

10. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.
11. The complainant booked a unit in the project of respondent "Mahira Homes", in Sector 103, Gurugram vide allotment letter dated 20.09.2019. Though no flat buyer's agreement was executed between the parties but the complainant started paying the amount due against the sale consideration of Rs.26,30,000/- and paid a total sum of Rs.23,24,266/-.

12. The due date of possession is to be calculated 48 months from the date of environment clearance i.e., 29.01.2020 which comes out to be 29.01.2024 as per the possession clause of another project of affordable group housing.
13. It is in the notice of the Authority that the project was registered on 01.04.2019 and valid up to 28.02.2023. The authority has gone through the possession clause of the agreement of another project of affordable group housing and observed that the respondent-developer proposes to handover the possession of the booked unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. In the present case, the date of approval of building plan is 29.03.2019 and date of environment clearance is 29.01.2020 as per information provided by the planning branch. The due date is calculated from the date of environment clearance being later, so, the due date of subject unit comes out to be 29.01.2024. **Further as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due date on or after 25.03.2020.** The completion date of the aforesaid project in which the subject unit is being booked by the complainant is 29.01.2024 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. So, in such case the due date for handing over of possession comes out to **29.07.2024.**
14. Though the complainant has sought the relief of DPC while filing the complainant but the counsel for the complainant during the proceedings of the day dated 16.10.2025 stated that the complainant wishes to amend the relief from that of DPC to that of refund and the complainant was

directed to file an application for amendment of relief within 15 days but the complainant has failed to file an application for amendment of relief.

15. It is further observed that the Authority on 27.05.2022 initiated Suo-Motu action against the promoter under Section 35 of the Act, 2016 based upon the site visit report submitted on 18.05.2022 wherein it is clearly stated that the physical progress of the project was approximately 15-20% and progress of construction works did not seem commensurate to the payments withdrawn from the bank accounts. Moreover, on 17.05.2022 the Director Town & Country Planning blacklisted the said developer from grant of license on account due to various grave violations by the promoter company which was subsequently withdrawn by the department on 21.07.2022 subject to fulfillment of certain conditions. Also, on 19.05.2022 all the accounts were frozen by the Authority due to non-compliance of the provisions of the Act, 2016. On 06.11.2023 the Authority initiated suo-motu revocation proceedings under Section 35 of the Act, 2016. Thereafter, the Authority vide order dated 11.03.2024 revoked the registration certificate of the project under Section 7(1) of the Act, 2016 and accordingly the respondent company shall not be able to sell the unsold inventories in the project and also, the accounts are frozen therefore, this amounts to discontinuation of business of the respondent.

16. The Authority considering the above mentioned facts opines that Section 18 of the Act, 2016 is invoked if the promoter is unable to handover the possession of the unit as per the terms of the agreement **due to discontinuance of his business as developer on account of suspension or revocation of the registration under this Act** or any other reason than the complainant shall be entitled for entire refund of the amount paid to the respondent along with the prescribed rate of interest. The relevant portion is reproduced herein below for the ready reference:

“Section 18: Return of amount & compensation:

(1) If the promoter fails to complete or is 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) 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:.....”*

17. The Authority is of the view that since vide order dated 11.03.2024 the registration certificate of the project stands revoked under Section 7(1) of the Act, 2016 therefore, the promoter cannot carry out the business in presence of the said circumstances, also due to the promoter's serious violations, there seems no possibility of completing the said project by the due date and the only relief of refund can be granted to the complainant. Thus, the Authority is of the view that the complainant is entitled to his right under Section 18(1)(b) read with Section 19(4) of the Act of 2016 to claim the refund of amount paid along with interest at prescribed rate from the promoter. Accordingly, the Authority directs the respondent to refund the paid-up amount of Rs.23,24,266/- received by it along with interest at the 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 the actual realization of the amount.

E.IV Direct the respondent to pay Rs.10,00,000/- for mental harassment to the complainant.

E.V The cost of the proceedings of Rs.1,00,000/- may also be awarded.

18. The complainant is seeking above mentioned relief w.r.t. compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)*, has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19

which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.

F. Directions of the Authority:

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

- i. The respondent is directed to refund the paid-up amount of Rs.2324,266/- received by it along with interest at the 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 the actual realization of the amount.
- ii. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.

20. Complaint stand disposed of.

21. Files be consigned to registry.


(Phool Singh Saini)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 23.12.2025