

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

Complaint no. : 2861 of 2024
Date of filing : 04.07.2024
Date of decision : 31.10.2025

Vishal Dhawan

Address: - House No. 61 KSM Road Near NTC School
No-3, Rajpura Town, Patiala, Punjab-140401

Complainant

Versus

M/s Sai Aaina Farms Private Limited

Address: - 302-A, Global Foyer, Sector-43, Golf
course road, Gurugram-122009

Respondent

CORAM:

Shri Arun Kumar

Chairperson

APPEARANCE:

Ms. Yamini

Counsel for Complainant

None

Counsel for Respondent

EX-PARTE 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 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 68, Gurgaon, Haryana
2.	Nature of the project	Affordable Group housing
3.	Project area	9.96875 acres
4.	DTCP license no.	106 of 2017 dated 22.12.2017
5.	Name of licensee	Mohan investment and properties Pvt. Ltd. and others.
6.	Date of cancellation of license no. 106 of 2017	09.05.2022 (Taken from another case of the same project i.e., CR/3322/2023 decided on 11.03.2025)
7.	RERA Registered/ not registered	Registration revoked by the Authority vide order dated 11.03.2024
8.	Unit no.	1203, T-N
9.	Unit area admeasuring	536.65 sq. ft. (carpet area)
10.	Allotment letter	03.05.2018
11.	Date of execution of flat buyer's agreement	N/A
12.	Date of building plan approval	23.02.2018 (As per information provided by Planning Branch of the Authority)
13.	Environmental clearance dated	05.06.2018 (As per information provided by Planning Branch of the Authority)
14.	Possession clause (The due date has been referenced from a different file, which relates to the same project)	8. Possession <i>"8.1 Subject to force majeure circumstances, intervention of statutory authorities, receipt of occupation certificate and Allottee having timely complied with all its obligations, formalities or documentation, as prescribed by Promoter/Developer and not being in default under any part hereof and Apartment Buyer's Agreement including but not limited to the timely</i>

		<p><i>payment of instalments of the other charges as per the payment plan, Stamp Duty and registration charges, the Promoter /Developer proposes to offer possession of the Said Apartment to the Allottee within a period of 4 year from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Dote"), whichever is later."</i></p> <p><i>(Emphasis supplied)</i></p>
15.	Possession clause as per Affordable Housing Policy, 2013	<p>1(IV) of the Affordable Housing Policy, 2013</p> <p><i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i></p>
16.	Due date of possession	<p>05.06.2022</p> <p>[Note: Due date of possession to be calculated 4 years from the date of environmental clearance]</p>
17.	Total sale consideration	Rs. 21,96,572/-
18.	Amount paid by the complainant	Rs.23,72,298/-
19.	Occupation certificate	Not obtained
20.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions: -

- i. That the Complainant is an “allottee” within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016. The Respondent Company, M/s Sai Aaina Farms Private Limited, is a company incorporated under the Companies Act, 1956 and is, inter alia, engaged in the business of real estate development and allied services.
- ii. That around the year 2018, the Respondent advertised the launch of its new project, namely “Mahira Homes” (hereinafter referred to as “the project”), located at Sector-68, Village Badshahpur, Gurugram, Haryana. The Respondent painted a rosy picture of the project in its advertisements, making tall claims and representing that the project was an affordable group housing project launched under the Haryana Affordable Housing Policy, 2013, notified by the Government of Haryana. It was represented that the project would be developed over 10 acres of sprawling landscape, strategically located within walking distance from IFFCO Chowk and Rajiv Chowk on NH-8, offering affordable living spaces. It was further represented that the project would be a paradise in itself, with thoughtfully designed apartments ensuring a harmonious blend with nature and well-planned amenities.
- iii. That relying upon the representations made by the Respondent and being in search of a cost-effective residence, the Complainant applied for booking of a residential flat in the said project. Accordingly, vide Application No. 1198, the Complainant paid an amount of Rs. 1,12,000/- (being 5% of the total cost of the unit) through Instrument No. 031715 for Rs. 32,000/- and Instrument No. 464533 for Rs. 80,000/-, both dated 23.02.2018, towards booking of the unit.

- iv. That thereafter, a draw of lots was conducted by the Respondent on 27.04.2018, wherein the Complainant was declared successful. Accordingly, vide Allotment Letter dated 03.05.2018, the Respondent allotted Residential Unit No. N-1203 A in Tower 'N', admeasuring 536.65 sq. ft. carpet area and 99.94 sq. ft. balcony area, for a total sale consideration of Rs. 21,96,572/-.
- v. That despite issuance of the allotment letter, the Respondent failed to execute the Builder Buyer Agreement in respect of the said unit to date. Nevertheless, the Complainant continued to make payments in accordance with the demands raised by the Respondent, in the hope of receiving possession of his dream home. Around mid-2022, upon visiting the project site, the Complainant was shocked to observe that construction was still at an initial stage. Even after more than three years from the date of booking and launch of the project, no structural work had commenced for the tower in question. There were no laborers at the site and the project appeared to be at a complete standstill. Upon raising concerns, the Respondent attributed the delay to COVID-19 and assured that construction would resume shortly and possession would be delivered as per schedule. Having already deposited a substantial amount, the Complainant had no option but to rely upon these assurances.
- vi. That subsequently, when no communication regarding execution of the Apartment Buyer Agreement or possession was received, the Complainant again visited the project site and was dismayed to find that only minimal construction activity was underway, with merely 5-6 laborers present and no significant progress toward completion.

- vii. That despite failing to execute the Apartment Buyer Agreement, the Respondent continued to raise payment demands. Fearing cancellation of the allotment, the Complainant continued making payments in good faith. To date, the Complainant has paid a sum of Rs. 23,72,298/- as against the total sale consideration of Rs. 21,96,572/-, in accordance with the demands raised by the Respondent.
- viii. That thereafter, to the utter shock of the Complainant, it came to his knowledge that the Respondent had been blacklisted by the DTCP and that License No. 106 of 2017 for the project had been cancelled on 09.05.2022. Upon further inquiry, the Complainant obtained a copy of the Blacklisting Order dated 17.05.2022, whereby the DTCP blacklisted the Respondent for grave violations of license conditions, including fabrication of bank guarantees and forging signatures of bank officials. Shocked by these revelations, the Complainant approached the Respondent's office, where he was merely assured that the issue was a departmental misunderstanding that would soon be resolved.
- ix. That thereafter, the Hon'ble Real Estate Regulatory Authority, Gurugram, took suo motu cognizance of the blacklisting, cancellation of license, and misconduct by the Respondent, and registered Suo Motu Complaint No. RERA-GRG-2651-2022 dated 28.05.2022 against the project Mahira Homes-68. That subsequently, the Respondent filed review applications against the blacklisting order before the DTCP. Vide order dated 21.07.2022, the DTCP withdrew the blacklisting order, subject to conditions including submission of construction status and prohibition on raising demands without corresponding construction progress. Vide order

dated 26.08.2022, the Respondent was permitted to raise demands subject to submission of detailed construction status and strict adherence to the timelines under the Affordable Housing Policy, 2013. Further, vide order dated 05.09.2022, the Principal Secretary, Department of Town and Country Planning, set aside the license cancellation and directed the Respondent to complete construction within six months and hand over possession. However, the Respondent failed to comply with the said direction.

- x. That from May 2022 till date, construction at the project site has remained completely stalled. The suo motu complaint is being regularly heard before the Hon'ble Authority, alongside proceedings before the DTCP. The Complainant, along with other allottees, has been relentlessly pursuing the matter before various authorities, including the STP, Gurugram, to ensure monitoring and resumption of construction. That the Complainant and other buyers have also conducted protests and made repeated representations before the STP, Gurugram, which in turn raised concerns before the DTCP. However, the Respondent has failed to heed the persistent requests of buyers and directions of authorities.
- xi. That since June 2022 till date, the Complainant and other buyers have continuously pursued the Respondent to resume construction and hand over possession, but to no avail. The Respondent's website itself reflects that only plinth beam level work has been completed in the tower in question. That the inordinate delay in handing over possession has caused immense mental agony and financial hardship to the Complainant. Furthermore, due to the delay, the Complainant has been deprived of the benefit of subsidy under the Pradhan Mantri Awas Yojana (PMAY). Accordingly,

through the present complaint, the Complainant seeks delayed possession charges along with other appropriate reliefs.

- xii. That even after making 100% payment of Rs. 23,72,298/-, the Complainant continued to repose faith in the Respondent, despite the latter's failure to execute the Apartment Buyer Agreement and hand over possession of the unit. That the Complainant has been severely harassed and exploited by the Respondent. Despite the lapse of more than five years from the date of booking, the Complainant remains without possession of the unit and is under financial distress, having been deprived of his hard-earned money and subjected to immense mental trauma. That the present complaint is being filed seeking delayed possession charges on the principal amount paid by the Complainant, along with interest at the rate prescribed under RERA, 2016 and the HRERA Rules, 2017, from the due date of possession, along with other reliefs as deemed fit.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- I. Direct the Respondent to offer possession of the unit in question after obtaining Occupation Certificate along with delay possession charges.
5. The present complaint was filed on 04.07.2024 and registered as complaint no. 2861 of 2024. Notice sent to the respondent through e-mail (crm@mahiragroup.com) was duly served on 05.07.2024. Notice sent to the respondent through post was also duly served. As per the registry, the complainant sent a copy of the complaint along with annexures via speed post as well as email. The tracking report for the

same was submitted by the complainant along with the complaint. Despite proper service of notice, neither the respondent put in appearance before the Authority nor any written reply filed till date. In view of the above, the matter was proceeded ex-party against respondent vide order dated 31.10.2025 and the matter is being decided based on the facts and documents submitted with the complaint, which remain undisputed.

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 complainant.

D. 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.

D.I 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.

D.II Subject matter jurisdiction

9. 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.

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 leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.
11. 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.***" (*Supra*) 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."

12. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the case mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

E. Findings on the relief sought by the complainant.

- E.I Direct the Respondent to offer possession of the unit in question after obtaining Occupation Certificate along with delay possession charges.
13. The factual matrix of case reveals that the complainant had booked a residential unit in the Affordable Group Housing project of the respondent named "Mahira Homes-68" at Sector-68, Gurugram and was allotted a unit bearing no. 1203, T-N, having carpet area of 536.65 sq. ft vide allotment letter dated 0305.2018. The complainant has paid an amount of Rs.23,72,298/- against the sale consideration of Rs. 21,96,572/-.
14. In the present complaint, the complainant intends to continue with the project and is seeking possession 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, —

(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.

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

15. As per clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licensed under it and the same is reproduced as under for ready reference:

1 (iv)

"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."

16. **Due date of handing over of possession:** As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that "All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The respondent has obtained building plan approval and environment clearance in respect of the said project on 23.02.2018 and 05.06.2018 respectively. Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. Therefore, the due date of possession comes out to be 05.06.2022.

17. The Authority considering the above facts opines that the due date of possession (05.06.2022) has lapsed much before the time of filing of the present complaint on 04.07.2024. The Authority observes that the registration certificate granted by the authority has already been revoked on 11.03.2024 and even licence of the respondent-promoter

has been expired and at present the project is scrapped. Further, Section 18 of the Act is invoked if the promoter is unable to handover possession of the unit due to discontinuance of business as developer on account of suspension or revocation of registration under this Act or any other reason than the allottee shall be entitled to refund of the entire amount paid to the respondent along with prescribed rate of interest.

18. 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 fulfilment 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-moto revocation proceedings under Section 35 of the Act. 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.

19. 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 and also due to the promoter's serious violations, there seems no possibility of completing the said project in near future. 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.
20. **Admissibility of refund at prescribed rate of interest:** Proviso to Section 18 of the Act provides that where an allottee(s) intends to withdraw from the project, the promoter shall be liable 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 and it has been prescribed under Rule 15 of the Rules, *ibid.* Rule 15 is 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

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."

21. The legislature in its wisdom in the subordinate legislation under the 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.

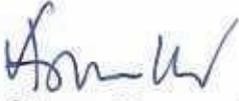
22. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 31.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
23. Accordingly, the respondent is obligated to refund the paid-up amount of Rs.23,72,298/- received by it along with interest at the rate 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.

F. Directions of the Authority:

24. 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/promoter is directed to refund the paid-up amount of, Rs.23,72,298/- to the complainant along with interest at the rate of 10.85% 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 respondent to comply with the directions given in this order and failing which legal consequences would follow.
 - III. The respondent is directed not to create third party right against the unit before full realization of the amount paid by the complainant. If any transfer is initiated with respect to the subject unit, the receivable

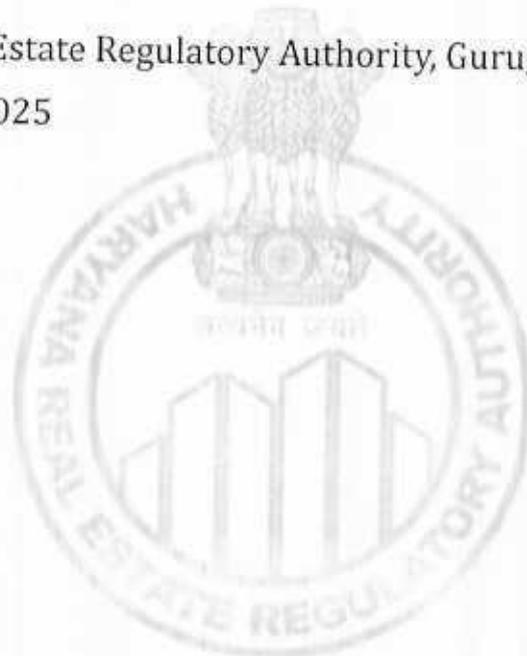
from that property shall be first utilized for clearing dues of the complainant-allottee.

25. The complaint and application, if any, stands disposed of.
26. File be consigned to the registry.


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 31.10.2025



HARERA
GURUGRAM