

BEFORE THE HARYANA REAL ESTATE REGULATORY
 AUTHORITY, GURUGRAM

 Date of Decision: **30.01.2026**

NAME OF THE BUILDER		Venetian LDF Projects LLP	
PROJECT NAME		"83 Avenue"	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/2498/2025	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP	Ms. Sapna Malik (Advocate) Sh. Harshit Batra (Advocate)
2.	CR/2503/2025	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP	Ms. Sapna Malik (Advocate) Sh. Harshit Batra (Advocate)
3.	CR/2506/2025	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP	Ms. Sapna Malik (Advocate) Sh. Harshit Batra (Advocate)
4.	CR/2523/2025	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP	Ms. Sapna Malik (Advocate) Sh. Harshit Batra (Advocate)
5.	CR/2526/2025	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP	Ms. Sapna Malik (Advocate) Sh. Harshit Batra (Advocate)
6.	CR/2528/2025	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP	Ms. Sapna Malik (Advocate) Sh. Harshit Batra (Advocate)
7.	CR/2529/2025	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP	Ms. Sapna Malik (Advocate) Sh. Harshit Batra (Advocate)
8.	CR/2538/2025	M/s Subiz Fintech Pvt. Ltd.	Ms. Sapna Malik

		V/S Venetian LDF Projects LLP	(Advocate) Sh. Harshit Batra (Advocate)
9.	CR/2539/2025	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP	Ms. Sapna Malik (Advocate) Sh. Harshit Batra (Advocate)

CORAM:

Shri Arun Kumar

Chairman
ORDER

1. This order shall dispose of nine complaints titled as above filed before this authority 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 there under or to the allottee as per the agreement for sale executed inter se.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "83 Avenue" being developed by the same respondent/promoter i.e., Venetian LDF Projects LLP. The terms and conditions of the buyer's agreements, fulcrum of the issues involved in all these cases pertains to cancellation of the unit and other issues.
3. The details of the complaints, reply, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount and relief sought are given in the table below:

Project Name and Location	"83 Avenue" situated in Sector- 83, Gurugram.
Project Area	2.3625 Acres
RERA Registered	Registered Vide registration no. 04 of 2019 dated 16.01.2019 Valid upto 30.09.2020

Possession Clause:-

34. Schedule for possession of the said plot/ unit/ apartment for residential/ commercial/ industrial/ IT any other usage - The promoter agrees and understands that timely delivery of possession of the plot/ unit/ apartment for residential/ commercial/ industrial/ IT/ any other usage (as the case may be) along with parking (if applicable) to the allottee(s) and the common areas to the association of allottees or the competent authority , as the case may be, as prescribed under Rule 2(1)(f) of the Rules, 2017, is the essence of the agreement.

Occupation certificate:

18.09.2024 [Ground Floor to 10th Floor]

25.07.2025 [11th and 12th Floor]

Offer of Possession: 18.10.2024

Reminders for payments: 25.11.2024, 12.12.2024, 02.01.2025

Final Notice: 14.04.2025

Intimation of termination: 15.05.2025

Sr. No.	Complaint no. / Title/ Date of Filing / Reply	Unit no. and area	Date of builder buyer agreement	Status of Possession	Total sale consideration and amount paid
1.	CR/2498/2025 M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	G-105, Ground Floor 565.11 sq. ft. 870.230 sq. ft.	MOU: 31.07.2014 BBA: 28.09.2015 Endorsement in favour of complainant: 30.11.2023	Due date of possession: 28.12.2018	TSC:- Rs. 1,47,52,871/- AP:- Rs. 83,84,173/-
2.	CR/2503/2025	F-177, 1 st Floor	BBA: 29.07.2021	Due date of possession: 31.03.2021	TSC:- Rs. 43,86,771/-



	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	478.69 sq. ft. 491.87 sq. ft.	Endorsement in favour of complainant: 12.08.2024		AP:- Rs. 33,94,344/-
3.	CR/2506/2025 M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	F-175, 1 st Floor 363.90 sq. ft. 372.830 sq. ft.	BBA: 25.09.2019 Endorsement in favour of complainant: 20.03.2023	Due date of possession: 31.03.2021	TSC:- Rs. 40,94,304/- AP:- Rs. 26,34,930/-
4.	CR/2523/2025 M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	F-179, 1 st Floor 344.48 sq. ft. 356.46 sq. ft.	BBA: 25.09.2019 Endorsement in favour of complainant: 20.03.2023	Due date of possession: 31.03.2021	TSC:- Rs. 37,09,616/- AP:- Rs. 26,34,930/-
5.	CR/2526/2025 M/s Subiz Fintech Pvt Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	F-170, 1 st Floor 332.23 sq. ft. 352.210 sq. ft.	BBA: 29.07.2021 Endorsement in favour of complainant: 12.08.2024	Due date of possession: 31.03.2021	TSC:- Rs. 33,49,542/- AP:- Rs. 24,14,270/-
6.	CR/2528/2025	F-132, 1 st Floor	Allotment: 15.03.2020	Due date of possession: 31.03.2021	TSC:- Rs. 16,41,765/-

	M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	166.13 sq. ft. 178.590 sq. ft.	Endorsement in favour of complainant: 09.02.2024 BBA: 12.02.2024		AP:- Rs. 10,34,716/-
7.	CR/2529/2025 M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	G-099, Ground Floor 467.11 sq. ft. 496.630 sq. ft.	BBA: 25.11.2019 Endorsement in favour of complainant: 30.12.2023	Due date of possession: 31.03.2021	TSC:- Rs. 37,00,884/- AP:- Rs. 17,35,500/-
8.	CR/2538/2025 M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	G-21, Ground Floor 364.580 sq. ft. 330.200 sq. ft.	MOU: 22.01.2014 BBA: 01.10.2014 Endorsement in favour of complainant: 09.02.2024	Due date of possession: 01.01.2018	TSC:- Rs. 69,22,082/- AP:- Rs. 57,72,155/-
9.	CR/2529/2025 M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP DOF 28.05.2025 Reply 05.12.2025	G-099, Ground Floor 467.11 sq. ft. 496.630 sq. ft.	BBA: 25.11.2019 Endorsement in favour of complainant: 30.12.2023	Due date of possession: 31.03.2021	TSC:- Rs. 37,00,884/- AP:- Rs. 17,35,500/-

Note: In the table referred above, certain abbreviations have been used. They are elaborated as follows:

Abbreviation	Full form
DOF	Date of filing complaint
BBA	Builder buyer agreement
TSC	Total Sale consideration
AP	Amount paid by the allottee(s)
MOU	Memorandum of Understanding

4. The aforesaid complaints were filed against the promoter on account of violation of the apartment buyer's agreement and allotment letter against the allotment of units in the project of the respondent/promoter and seeking possession of the unit.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/2503/2025 titled as M/s Subiz Fintech Pvt. Ltd. V/S Venetian LDF Projects LLP*** are being taken into consideration for determining the rights of the allottee(s) qua delay possession charges of the allotted unit.

A. Unit and project related details

7. 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. N.	Particulars	Details
1.	Name and location of the project	"83 Avenue" Sector - 83, Gurugram
2.	Project area	2.3625 Acres
3.	Nature of the project	Commercial colony
4.	DTCP license	12 of 2013 dated 13.03.2013

		Valid up to 12.03.2027
5.	Name of Licensee	M/s Realtown Property Private Limited
6.	RERA Registered & validity status	Registered 04 of 2019 dated 16.01.2019 Valid up to 30.09.2020
7.	Unit no.	F-177, 1 st floor, (As per allotment letter as well as mentioned in BBA at page 20 & 29 of complaint)
8.	Unit area Tentatively measuring	478.69 sq. ft. (super area) 239.35 sq. ft. (carpet area) (As per allotment letter as well as mentioned in BBA at page 20 & 29 of complaint)
9.	Revised unit area	491.87 sq. ft. (super area) 245.933 sq. ft. (carpet area) (As per final demand letter and notice of possession dt. 18.10.2025 at page 58 of complaint)
10.	Allotment letter [Mrs. Kamni Khanna & Mr. Karanbir Khanna]	29.07.2021 (As per page no.20 of complaint)
11.	Date of execution of buyer's agreement [Mrs. Kamni Khanna & Mr. Karanbir Khanna]	29.07.2021 (As per page no.26 of complaint)
12.	Possession clause	<i>34. Schedule for possession of the said plot/ unit/ apartment for residential/ commercial/ industrial/ IT any other usage - The promoter agrees and understands that timely delivery of possession of the plot/ unit/ apartment for residential/ commercial/ industrial/ IT/ any other usage (as the case may be) along with parking (if applicable) to the allottee(s) and the common areas to the association of allottees or the competent authority , as the case</i>

		<p><i>may be, as prescribed under Rule 2(1)(f) of the Rules, 2017, is the essence of the agreement.</i></p> <p>[Emphasis Supplied]</p> <p>(As per page 36 of complaint)</p>
13.	Due date of possession	<p>31.03.2021</p> <p>[30.09.2020 + 6 months]</p> <p>[Note: The due date of possession is taken from RERA Registration certificate of project with the Authority, as no time period is specified in para 5 of BBA]</p> <p>Plus</p> <p>[Grace period of 6 months is hereby allowed as per HARERA notification no. 9/3-2020 dated 26.05.2020.]</p>
14.	First Endorsement [Mr. Ankit]	<p>30.12.2022</p> <p>(As per Endorsement-1, annexed with BBA at page 56 of complaint)</p>
15.	Second Endorsement [M/s Subiz Fintech Private Limited] i.e., Complainant herein	<p>12.08.2024</p> <p>(As per Endorsement-2, annexed with BBA at page 57 of complaint)</p>
16.	Total sale consideration [BSP + EDC/IDC + EEC + PBC + FFC + ACC + IFMS + IFCRF + Taxes]	<p>Rs.43,86,771.65/-</p> <p>(As mentioned in Annexure-I of Final demand letter and notice of possession at page 60-61 of complaint)</p>
17.	Amount paid	<p>Rs.33,94,344.29/-</p> <p>(As mentioned in Annexure-I of Final demand letter and notice of possession at page 60 - 61 of complaint) also (as per receipt dated 06.04.2014 at page 19 of complaint)</p>
18.	Occupation Certificate	<p>18.09.2024</p> <p>[Ground Floor to 10th Floor]</p> <p>(As per copy of OC at page 38 - 40 of reply)</p>

		and 25.07.2025 [For 11 th and 12 th Floor] (As per copy of OC uploaded at TCP Haryana Official website)
19.	Offer of possession [for payment of O/s amount of Rs.9,92,427.36/-]	18.10.2024 (As per page no. 58 – 61 of complaint)
20.	Reminder letter's 1, 2 & 3	25.11.2024, 12.12.2024 & 02.01.2025 (As per page no. 46 – 51 of reply)
21.	Final Notice	14.04.2025 (As per page no. 52 – 53 of reply)
22.	Intimation of termination [Along with cheque of balance refundable amount of Rs.29,99,759/-]	15.05.2025 (As per page no. 54 – 57 of reply)
23.	3 rd party right/ allotment [in favour of Mr. Himmat Singh]	21.05.2025 (As per page no. 58 – 59 of reply)

B. Facts of the complaint:

8. The complainant has made the following submissions in the complaint:
 - I. That a unit no. F-177, first floor, in respondent's project "83 AVENUE" in Sector-83, Village Sihi, Tehsil Manesar, District Gurugram, Haryana was allotted to Mrs. Kamni Khanna on 29.07.2021. Letter of allotment dated 29.07.2021, agreement for sale dated 29.07.2021 and other documents were issued in favour of the aforesaid allottee i.e. Mrs. Kamni Khanna.
 - II. That thereafter, the aforesaid unit was transferred to another allottee namely Mr. Ankit on 30.12.2022 from Mrs. Kamni Khanna along with aforesaid documents in favour of Mr. Ankit. In this regard, the letter dated 24.12.2022 and letter of no objection for transferring from Mrs. Kamni Khanna to Mr. Ankit was issued by the respondent.
 - III. That the complainant approached the respondent for buying the unit in the aforesaid project. In this regard, the complainant paid a sum of Rs.33,94,344/- to the respondent which includes BSP, EDC/IDC,

Possession/Administration/IFMS Charges, Pool Credit + Excess Recd., S. Tax/GST for the aforesaid unit.

- IV. That after receiving the payment from the complainant, respondent allotted the unit no. F-177, First Floor, in respondent's project "83 AVENUE" in Sector-83, Village Sihi, Tehsil Manesar, District Gurugram, Haryana to the complainant. In this regard on 12.08.2024 the respondent made the endorsement of the aforesaid documents i.e., letter of allotment dated 29.07.2021 and other documents (if any) as mentioned above, in favour of the complainant from the aforesaid allottee Mr. Ankit and confirmed the transfer of the aforesaid unit.
- V. That the respondent issued the letter dated 03.08.2024 and 12.08.2024 to the complainant for in receipt of the original documents and for transfer executed for the aforesaid unit respectively.
- VI. That further the agreement for sale dated 29.07.2021 along with all annexures and endorsements was also transferred in favour of the complainant from Mr. Ankit for the aforesaid unit.
- VII. That as per the agreement for sale dated 29.07.2021, the respondent allotted the unit No.F-177, First Floor, admeasuring 478.690 sq. ft. approx super area and carpet area of 239.35 sq. ft. in favour the complainant. Further, as per the aforesaid agreement for sale, the total sale consideration for the aforesaid unit is Rs.33,65,699/- plus GST. As such, the complainant has paid a sum of Rs.33,94,344/- to the respondent for the aforesaid unit till date on time without any default for the same.
- VIII. That as per clause 39 (i) of the agreement for sale dated 29.07.2021, the respondent agreed to provide ready to move in possession of the developed plot/unit/ apartment for residential/commercial/

industrial/it any other usage along with parking (if applicable) to the complainant within the time period specified in para 5 or fails to complete the project within the stipulated time disclosed at the time of registration of the project with the authority. As such, the aforesaid project was started on 01.01.2014 and the project shall be completed within the stipulated time i.e. 01.01.2017, which is disclosed at the time of registration of the project with the Authority. Hence, the possession of the unit is a delay of more than seven years nine months for issuing the notice of possession dated 18.10.2024. However, till date, the respondent never handover the aforesaid unit to the complainant.

- IX. That the respondent is liable to be paid the delay possession charges interest to the complainant for every month of delay at prevailing rate of interest from the date 02.01.2017 till actual handing over of complete and valid physical possession.
- X. That even after taking of more than 100% of the sale consideration amount, the respondent did not sign the agreement for sale till 29.07.2021. Hence, the act of the Respondent is violated the Section 13 of the RERA, 2016.
- XI. That the respondent issued a letter of final demand and notice of possession dated 18.10.2024 to the complainant, hereby the respondent informed the final super area i.e. 491.870 sq. ft. and carpet area i.e. 245.933 sq. ft. of the aforesaid unit to the complainant and demanded the possession charges a sum of Rs.9,92,427/- from the complainant. As per the final demand letter and notice of possession dated 18.10.2024 the respondent charged the unjustified possession charges for the aforesaid unit which are not possession charges of the aforesaid unit as per the agreement for sale dated 29.07.2021.

XII. That the respondent charged the EEC, FFC, ACC, administration charges, IFCRF, Advance maintenance charges for 6 months and other charges of the aforesaid unit unjustified manner and without following the terms and conditions of the agreement for sale dated 29.07.2021. Hence, without consent of the complainant, the respondent charged the possession charges of the aforesaid unit illegally and arbitrarily with a malafide intention to grab the money from the complainant. Therefore, the complainant prays this Hon'ble Authority to restrain the respondent towards the unjustified possession charges as per the final demand letter and notice of possession dated 18.10.2024.

XIII. That further, the respondent informed that the carpet area of the aforesaid unit is 245.933 sq. ft., which is excessive overloading and quite high of almost 50% of the super area. Further, the loading is almost 50%, which is very high without providing the details of loading calculation for the aforesaid unit. As such, the same was done by the respondent unilaterally without consent of the complainant.

XIV. That apart from that the respondent demanded unjustified maintenance charges also from the complainant illegally and arbitrarily with a malafide intention to grab the money from the complainant.

C. Relief sought by the complainant:

9. The complainant has sought the following relief(s)
 - i. Direct the respondent to pay the delay possession charges for every month of delay at prevailing rate of interest from the date 02.01.2017 till actual handing over of complete and valid physical possession.
 - ii. Direct the respondent to give the aforesaid unit to the complainant without imposing any additional charges for the increased super area of 13.180 sq. ft. of the aforesaid unit.

- iii. Direct the respondent handover the possession of the aforesaid unit to the complainant within 3 months with paying the delay possession charges as mentioned above.
- iv. Restraine the respondent towards unjustified possession charges as per the final demand letter and notice of possession dated 18.10.2024 and direct the respondent to charge the possession charges as per the agreement for sale dated 29.07.2021.
- v. Direct the respondent to provide the details of loading calculation because the loading is almost 50%, which is very high.
- vi. Direct the respondent to reimburse litigation cost of Rs.1,50,000/- to the complainant as they was constrained to file the same because of the callous and indifferent attitude of the respondent.

10. 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:

11. The respondent has contested the complaint on the following grounds:

- I. That the respondent had undertaken development of a commercial project known under the name and style of "83 AVENUE" situated at Sector 83, Village Sihi, Gurugram, Haryana 122004. That the project of the respondent has also been registered with the Haryana Real Estate Regulatory Authority.
- II. That the original allottee, Dell Infrastructure Private Limited being interested in purchasing a commercial unit in the project being developed by the respondent, approached the respondent after conducting its own due diligence and investigation. The original allottee applied for allotment

of a unit in the project of the respondent by submitting an application form.

- III. That upon the acceptance of the application made by the original allottee for allotment of a commercial space, a unit bearing no. F-132, First Floor tentatively admeasuring super area of 166.13 sq. ft. and carpet area of 83.07 sq. ft. was allotted to the original allottee via allotment letter dated 15.03.2022.
- IV. Thereafter, the original allottee and the respondent requested the respondent to endorse the unit in favour of the complainant. Subsequently, an endorsement letter dated 09.02.2024 was executed in favor of the complainant.
- V. That subsequent to the endorsement in favour of the subsequent allottee, the respondent handed over the copies of the agreement to the subsequent allottee for execution of the agreement. Thereafter, the parties mutually entered into an agreement for sale on 12.02.2024.
- VI. That the complainant has purchased the unit from the original allottee, and on their request, the unit was endorsed to the complainant on 09.02.2024. That all the payment were made by the original allottee which was only endorsed to the complainant hence, the complainant cannot mislead the Ld. Authority that there has been any violation of section 13 of the Act.
- VII. That the complainant who is the subsequent allottee step into the shoe of the original allottee on dated 09.02.2024 cannot raise such issue at this belated stage when no such issue was raised by the original allottee. The complainant does not have the locus standi to raise such issue. Furthermore, the agreement has already been executed on 12.02.2024. Hence, there exist no cause of action to raise such issue.

- VIII. That the complainant has sought relief from the delay possession charges as per Section 18 of the RERA Act however, he has miserably failed to substantiate his claim under Section 18 of the Act, 2016.
- IX. That the project of the respondent was already completed, and the respondent had already applied for the grant of an occupation certificate vide application dated 14.10.2023, at the time of endorsement of the complainant on 09.02.2024. Thereafter, the respondent was granted the occupation certificate for the project on 18.09.2024.
- X. Thereafter, the respondent offered the possession of the unit to the complainant vide the final demand letter and notice of possession dated 18.10.2024. The notice of possession letter specifically mentions that the super area of the unit is 178.590 sq. ft. and the carpet area is 89.293 sq. ft.
- XI. That as per clause 5 of the agreement, the complainant agreed to the tentative nature of the super area of the unit and had also agreed to make the payments of such additional charges being charged due to an increase in the super area.
- XII. That the agreement entered into between the parties clearly mentioned that the following charges are not to be included in the total sale price, and the complainant shall be liable to pay the same as when raised through the demands by the respondent.
- XIII. That the complainant has failed to make the payment of the outstanding dues raised by the respondent vide final demand letter and notice of possession dated 18.10.0224, which the complainant was under the obligation to pay as per the terms and conditions of the agreement.
- XIV. That it was the obligation of the complainant to make the payments as per the agreed payment plan and the agreed terms and conditions of the agreement. That the timely payment of the sales consideration of the unit

was the essence of the agreement executed between the parties as per clause 28 of the agreement. That in case of default by the complainants, the complainant is bound to make the payment of interest.

XV. That after the offer of possession dated 18.10.2014 various reminders were raised as per the agreed payment plan; however, the complainant had continuously delayed in making the due payments. That the total sales consideration is Rs.16,41,755/- however, even after the receipt of offer of possession letter the complainant has failed to make payment of the balance amount of Rs. 10,34,716.

XVI. That since the complainant failed to make a payment towards the outstanding dues, the respondent herein issued reminder letters for payment of the final installment dated 18.10.2024 and the same was duly sent to the complainant, but to no avail. That thereafter the respondent herein sent a reminder letters dated 25.11.2024, 12.12.2024 and 02.01.2025 to the complainant requesting him to make payment of outstanding dues. Subsequently, when no response was received from the complainant the respondent sent a final notice dated 14.04.2025.

XVII. That even after issuing multiple reminders and a final demand notice the complainant defaulted in making payment; hence, the allotment of the unit of the complainant was cancelled on 15.05.2025. The unit allotted to the complainant was cancelled as per the terms and policy of the agreement between the parties.

XVIII. That the respondent was well within his rights to terminate the allotment of the unit in favor of the complainant, upon his failure to comply with his obligations as per the terms and conditions of the agreement. Moreover, the complainant was aware of its obligation and the consequences of its failure to comply with the terms and conditions of the agreement.

XIX. That the respondent had duly informed the complainant that the refund cheque amounting to Rs. 8,81,400/- after deducting the delay interest and earnest money is ready and requested the complainant to visit the office of the respondent to return all the original documents and collect the cheque.

XX. That the respondent has already created third party against the unit. The unit has been allotted to third party vide allotment letter dated 21.05.2025. Hence, in view of the same the relief sought of the complainant becomes infructuous.

12. Copies of all the relevant documents have been filed and placed on 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 parties.

E. Jurisdiction of the authority:

13. 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

14. 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

15. 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.

16. 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.

F. Findings on the relief sought by the complainant(s):

- i. Direct the respondent to pay the delay possession charges for every month of delay at prevailing rate of interest from the date 02.01.2017 till actual handing over of complete and valid physical possession.
- ii. Direct the respondent to give the aforesaid unit to the complainant without imposing any additional charges for the increased super area of 13.180 sq. ft. of the aforesaid unit.
- iii. Direct the respondent handover the possession of the aforesaid unit to the complainant within 3 months with paying the delay possession charges as mentioned above.
- iv. Restraine the respondent towards unjustified possession charges as per the final demand letter and notice of possession dated

18.10.2024 and direct the respondent to charge the possession charges as per the agreement for sale dated 29.07.2021.

v. Direct the respondent to provide the details of loading calculation because the loading is almost 50%, which is very high.

17. The complainant filed the above mentioned complaints seeking delay possession charges along with possession of the unit. The unit no. F-177 situated on 1st Floor admeasuring 478.69 sq. ft. (tentatively) was first allotted in favour of Mrs. Kamni Khanna and Karanbir Khanna (original allottee) vide allotment letter dated 29.07.2021. The buyer's agreement regarding the said unit was executed on the same date. As per the possession clause 34 of the buyer's agreement the possession of the unit was to be handed over by 30.09.2020 further there shall be a grace period of 6 months is allowed as per HARERA notification no. 9/3-2020 dated 26.05.2020 due to which, the due date of possession comes out to be 31.03.2021. Thereafter the said unit was endorsed in favour of Mr. Ankit (second allottee) vide endorsement letter dated 30.12.2022. Further the said unit was again transferred in favor of complainant vide endorsement letter dated 12.08.2024.

18. The complainant contends that they are seeking delay possession charges along with possession of the unit and further states that the respondent has arbitrarily cancelled the allotment of the unit on 15.05.2025 on the ground of non-payment of outstanding dues. The complainant further states that the said charges are invalid.

19. The respondent on the other hand, submits that the complainant is a subsequent allottee and has stepped into shoes vide endorsement dated 12.08.2024 i.e., after the due date of possession. Further the respondent has completed the project and has received the occupation certificate on

18.09.2024 and subsequently offered the possession of the unit on 17.10.2024. Moreover, the respondent has raised the demand for outstanding payments, which were as per the buyer's agreement dated 29.07.2021, terms & conditions of which were read and agreed by complainant before endorsement. Due to non-payment of such demands, the respondent send various reminders to the complainant on 25.11.2024, 12.12.2024 and 02.01.2025 and final notice on 14.04.2025. However, the complainants failed to honour its obligation to pay the amount on time. It is pertinent to mention here that as per section 19(6) & 19(7) of Act of 2016, the allottee is under obligation to make payments towards consideration of allotted unit despite issuance of reminders, the complainant has failed to clear the outstanding dues. Therefore, the respondent cancelled the unit on 15.05.2025. On the date of hearing dated 30.01.2026 the respondent placed on record a copy of seven (7) No Dues Certificate all dated 24.04.2025 which are address to M/s Subiz Fintech Pvt. Ltd. for 7 other units, which confirms that the complainant has also other units in the same project in which they have already paid all dues including other charges but in the present complaint the complainant has failed to honour its obligations. Hence the present complaint is liable to be dismissed.

20. Now the question before the authority is whether the cancellation issued vide letter dated 15.05.2025 is valid or not.
21. Upon consideration of the documents placed on record and the submissions made by both the parties, the Authority observed that the total sale consideration of the unit in question was Rs. 43,86,771/- out of which the complainant has paid a sum of Rs. 33,94,344/- to the respondent. The respondent vide offer of possession raised a demand of Rs. 9,92,427/-. The complainant has pleaded that they are not liable to pay

other charges as they have already paid the basic sale price. In this regard the authority observes that clause 2 is relevant and reproduced hereunder for ready reference:

2. The Total Price for the built up Unit based on the carpet area is Rs. 33,65,669/- + GST (Total Price) and as mentioned in clause 3 which include the following:

- a.
- b.
- c.

However, the Total Price does not include the following:

- a. All other taxes and cesses payable as may be levied retrospectively and prospectively by the Government including but not limited to Goods and Services Tax.*
- b. Increase in EDC and IDC by the State Government after the date of grant of license, whether retrospectively or prospectively.*
- c. All other types of securities including IFMS, Maintenance Charges, Interest Free Capital Replacement Fund (IFCRF) and property taxes.*
- d. Increase in price due to increase in carpet area of the said unit, stamp duty, registration and any incidental charges and any other charges payable as stated in this Agreement.*
- e. Electric connection charges, meter charges and External Electrification Charges & Firefighting Charges (EEC/FFC). The amount payable on this account will depend on the estimates approved by DHBVN for service connection/substation equipment's, cost of area and security deposit etc.*
- f. Power Backup charges, Air conditioning cost.*

22. As per clause 2 of the buyer's agreement it was the contractual obligation and responsibility of the complainant to pay the applicable other charges including but not limited to External Electrification Charges (EEC), Electrification Maintenance Charges (EMC), Power Backup charges, Fire Fighting Charges (FFC), air conditioning charges and all other ancillary charges as may be applicable in terms of agreement.

23. It is a matter of fact that the complainant has paid only Rs. 33,94,344/- Therefore, the Authority observes that the demand raised by the respondent vide letter dated 18.10.2024 is valid. The complainant cannot evade or escape its obligation to make payment. The respondent further for the payment of outstanding dues issued various reminders dated 25.11.2024, 12.12.2024, 02.01.2025 and on non payment of the outstanding dues the respondent issued final notice on 14.04.2025. However, the complainant failed to honour its obligation to pay the amount on time. It is pertinent to mention here that as per section 19(6) & 19(7) of Act of 2016, the allottee is under obligation to make payments towards consideration of allotted unit despite issuance of reminders, the complainant has failed to clear the outstanding dues. Therefore, the respondent cancelled the unit on 15.05.2025.

24. Thus, the cancellation in respect of the subject unit is valid and the relief sought by the complainant is hereby declined as the complainant-allottee has violated the provision of section 19(6) & (7) of Act of 2016 by defaulting in making payments as per the agreed payment plan. In view of the aforesaid circumstances, only refund can be granted to the complainant after certain deductions as prescribed under law.

25. The paid-up amount shall be refunded after deductions as prescribed under the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 2018.

26. The Hon'ble Apex court of the land in cases of *Maula Bux Vs. Union of India (1973) 1 SCR 928* and *Sirdar K.B Ram Chandra Raj Urs Vs. Sarah C. Urs, (2015) 4 SCC 136*, and followed by the National Consumer Dispute Redressal Commission, New Delhi in consumer case no. 2766/2017 titled as *Jayant Singhal and Anr. Vs. M/s M3M India Ltd.* decided on

26.07.2022, took a view that forfeiture of the amount in case of breach of contract must be reasonable and if forfeiture is in nature of penalty, then provisions of Section 74 of Contract Act, 1872 are attracted and the party so forfeiting must prove actual damages. After cancellation of allotment, the unit remains with the builder as such there is hardly any actual damage. So, it was held that 10% of the basic sale price is reasonable amount to be deducted in the name of earnest money. Keeping in view, the principles laid down by the Hon'ble Apex court in the above mentioned two cases, rules with regard to forfeiture of earnest money were framed and known as Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 2018, which provides as under-

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment /plot /building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer.

27. Thus, keeping in view the aforesaid legal provisions and the facts detailed above, the respondent is directed to refund the deposited amount of after deducting 10% of the sale consideration along with an interest @10.80% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the

Haryana Real Estate (Regulation and Development) Rules, 2017 on the balance amount from the date of cancellation i.e., 15.05.2025 till actual refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

- vi. **Direct the respondent to reimburse litigation cost of Rs.1,50,000/- to the complainant as they was constrained to file the same because of the callous and indifferent attitude of the respondent.**
28. The complainant in the aforesaid relief is seeking relief w.r.t litigation cost. 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.** (Decided on 11.11.2021), has held that an allottee is entitled to claim compensation 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 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. Therefore, the complainant is advised to approach the adjudicating officer for seeking the relief of compensation.

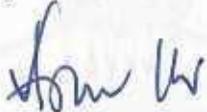
G. Directions of the authority

29. 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/builder is directed to refund the deposited amount in all the cases after deducting 10% of the sale consideration along with an interest @10.80% on the balance

amount from the date of cancellation i.e., 15.05.2025 till the date of realization of payment.

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.

30. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
31. Complaints stand disposed of.
32. Files be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 30.01.2026