

BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,
 GURUGRAM

 Date of decision: **13.01.2026**

NAME OF THE BUILDER			M/s Green Heights Projects Private Limited
PROJECT NAME:			APPEARANCE
1	CR/2831/2024	Baani Centre Point Ruchira Mathur and Sanjay Mathur Vs. Green Height Projects Private Limited	Advocate Sh. Garvit Gupta (Complainant) Advocate Sh. Harshit Batra (Respondent)
2	CR/2836/2024	Ruchira Mathur and Sanjay Mathur Vs. Green Height Projects Private Limited	Advocate Sh. Garvit Gupta (Complainant) Advocate Sh. Harshit Batra (Respondent)
3	CR/2406/2025	Iqbal Singh Sehrawat Vs. Green Height Projects Private Limited	Advocate Sh. Garvit Gupta (Complainant) Advocate Sh. Harshit Batra (Respondent)

CORAM:

Shri Arun Kumar

Chairman

ORDER

1. This order shall dispose of all the 3 complaints titled as above filed before this authority in Form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the projects, namely, 'Bani Centre Point' being developed by the same respondent-promoter i.e., M/s Green Heights Projects Pvt. Ltd. The terms and conditions of the builder buyer's agreements that had been executed between the parties inter se are also almost similar. The fulcrum of the issue involved in all these cases pertains to failure on the part of the respondent/promoter to deliver timely possession of the units in question, seeking refund of the deposited amount by the complainant along with prescribed rate of interest.

3. The details of the complaints, reply status, unit no., date of agreement, plans, due date of possession, offer of possession and relief sought are given in the table below:

Possession clause in Cr No. 2831/2024 and 2836/2024	2. Possession <i>2.1 The possession of the said premises shall be endeavored to be delivered by the intending seller to the intending purchaser by a tentative date of 30.09.2017 with a grace period of six (6) months beyond this date, however, subject to compaction of construction and subject to clause 9 herein and strict adherence to the payment plan and other terms and conditions of this agreement by the intending purchaser.</i>						
Possession clause in CR No. 2406/2025	Clause 7. TIME IS ESSENCE The Promoter shall abide by the time schedule for completing the project as disclosed at the time of registration of the project with the Authority and towards handing over the Premises alongwith 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 provided under Rule 2(1)(F) of Rules, 2017						
Sr. No	Complaint No./Title/ Date of filling	Unit no. & Area admeasuring	Date of allotment letter	Date of execution of builder buyer's agreement	Due of possession	Offer of possession	Relief Sought
1	CR/2831/2024	GF-041	01.12.2014	10.01.2017	31.03.2018	OC - Not obtained	1. Refund with interest.

	Ruchira Mathur and Sanjay Mathur Vs. Green Height Projects Private Limited D.O.F: 13.06.2024 Reply: 31.01.2025	325 sq. ft. (Page 39 of complaint)	{page 58 of reply}	{page 36 of complaint}	As mentioned in the buyer's agreement plus 6 months grace period	BSC - Rs. 22,75,000/- (Page 40 of complaint) TSC: Rs. 33,63,788/- AP - Rs. 31,67,711/- (Page 72 of complaint)	2. Not to create third party rights. 3. To impose penalty on the builder on account of various default and illegalities.
2.	CR/2836/2024 Ruchira Mathur and Sanjay Mathur Vs. Green Height Projects Private Limited D.O.F: 13.06.2024 Reply: 31.01.2025	GF-040 (Page 42 of complaint)	01.12.2014 (Page 32 of complaint)	10.01.2017 (page 37 of complaint)	30.03.2018 (As mentioned in the buyer's agreement plus 6 months grace period)	OC - Not obtained TG - Rs. 22,75,000/- (Page 44 of complaint) AP - Rs. 31,67,711/- (Page 76 of complaint)	1. Refund 2. Not to create third party right. 3. To impose penalty on the builder on account of various default and illegalities.
3	CR/2406/2025 Iqbal Singh Sehrawat Vs. Green Height Projects Private Limited D.O.F: 28.05.2025 Reply: Not filed	1-09 (Page 26 of complaint)	NA	29.07.2019 (as disclosed at the time of registration)	13.09.2019 (as disclosed at the time of registration)	OC - Not obtained TG - Rs. 36,13,050/- (Page 29 of complaint) AP - Rs. 9,05,000/-	1. Refund 2. Not to create third party right. 3. To impose penalty on the builder on account of various default and illegalities.

4. 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 allottees and the real estate agents under the Act, the rules and the regulations made thereunder.

5. The facts of all the complaints filed by the complainants/ allottees are also similar. Out of the above-mentioned cases, the particular's of lead case CR/2831/2024 at serial no. 1 titled as Ruchira Mathur and Sanjay Mathur Vs. M/s Green Heights Projects Pvt. Ltd. are being taken into consideration for determining the rights of the allottees qua refund, and other reliefs sought by the complainants.

A. Unit and project related details.

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

CR/2831/2024 at serial no. 1 titled as Ruchira Mathur and Sanjay Mathur Vs. M/s Green Heights Projects Pvt. Ltd

S. No.	Particulars	Details
1.	Name of the project	"Banni Centre Point"
2.	Location of the project	Sector-M1D, Urban Complex, Village-Nakhnaula, Sector-M-1D, Tehsil-Manesar, Gurugram.
3.	Nature of the project	Commercial Colony
4.	Project area	2.681 acres
5.	DTCP license no.	59 of 2009 dated 26.10.2009 Valid up to 12.09.2020
6.	Name of licensee	Paradise System



7.	Registered/not registered	Registered Vide registration no. 187 of 2017 dated 14.09.2017 Valid up to 13.09.2019
8.	Booking application form	07.10.2013 (Page no. 50 of the reply)
9.	Provisional allotment letter	01.12.2014 (Page no. 58 of the reply)
10.	Commercial Space no.	GF-041, Ground Floor (Page no. 39 of complaint)
11.	Area of the unit	325 sq. ft. [Super Area] (Page no. 39 of complaint)
12.	Commercial Space Buyer's Agreement	10.01.2017 (Page no. 36 of the complaint)
13.	Possession clause	<p>2. Possession</p> <p><i>2.1 The possession of the said premises shall be endeavored to be delivered by the intending seller to the intending purchaser by a tentative date of 30.09.2017 with a grace period of six (6) months beyond this date, however, subject to compaction of construction and subject to clause 9 herein and strict adherence to the payment plan and other terms and conditions of this agreement by the intending purchaser.</i> (Page no. 43 of the complaint)</p>
14.	Due date of possession	31.03.2018 [Note:- As mentioned in the buyer's agreement plus 6 months grace period]
15.	Basic sale consideration	Rs.22,75,000/- [As per clause 1.1 of the SBA dated 10.01.2017 on page no. 40 of complaint Rs.7,000/- * 325 sq. ft.]

	Total sale consideration	Rs.33,63,788/- (As per statement of account dated 20.04.2024 at page 72 of complaint)
16.	Total amount paid by the complainant	Rs.31,67,711/- (As per statement of account dated 20.04.2024 at page 72 of complaint)
17.	Occupation certificate	Not obtained
18.	Offer of possession	Not offered

B. Facts of the complaint

7. The complainant has submitted as under:

- That the complainants received a marketing call from the office of respondent in the month of July, 2013 for booking in residential project of the respondent, 'Baani Centre Point', situated at Sector M1D, Gurugram. The complainants had also been attracted towards the aforesaid project on account of publicity given by the respondent through various means like various brochures, posters, advertisements etc. The complainants visited the sales gallery and consulted with the marketing staff of the respondent. The marketing staff of the respondent painted a very rosy picture of the project and made several representations with respect to the innumerable world class facilities to be provided by the respondent in their project. The marketing staff of the respondent also assured timely delivery of the unit.
- That the complainants, induced by the assurances and representations made by the respondent, decided to book a commercial unit in the project of the respondent as the complainants required the same in a time bound manner for their own use. This fact was also specifically brought to the knowledge of the officials of the respondent who confirmed that the possession of the commercial unit to be allotted to the complainants

would be positively handed over within the agreed time frame. It was also confirmed by the representatives of the Respondent that the payment plan in question would be 'Construction Linked Plan'. The complainants signed several blank and printed papers at the instance of the respondent who obtained the same on the ground that the same were required for completing the booking formalities. The complainants were not given chance to read or understand the said documents, and they signed and completed the formalities as desired by the respondent.

- c) That the complainant had made the payment of Rs. 1,75,000/- at the time of Booking vide cheque no. 616332 on 07.10.2013 and the respondent accordingly had issued an acknowledgment receipt dated 14.10.2013. Vide the said acknowledgment receipt dated 14.10.2013, the respondent allotted a Shop bearing no. BG-046, admeasuring 247 sq. ft. The unit was sold at the rate of Rs. 7000/- per sq.ft. It is pertinent to mention herein that at the time of allotment, it was promised and assured by the respondent to the complainant that the unit would be handed over to the complainant by 30.09.2017.
- d) That the respondent sent a demand letter dated 20.12.2016 against 'Laying of Raft' and 'Adjustment in area' intimating the complainants about the due installment. The Complainants were in complete shock and dismay when it was informed to them vide the said demand letter that the unit number of the commercial space allotted to them was changed from BG-046 to GF-041. It is pertinent to mention that the respondent had unilaterally and without any consent from the complainants had changed the layout of the project in question and allotted an entirely different unit without taking a prior consent of the complainants or even intimating the complainants about the said fact. It is pertinent to mention herein that the Respondent had even increased

the size of the unit from 247 sq.ft to 325 sq.ft and hence in the said process, it was the Complainants who suffered on account of increased in the total sale consideration of the allotted unit. That the complainants enquired about the said change in the layout plan of the project and the location of the newly allotted unit but to no avail as the complainants never received any satisfactory answer. However, it was assured by the respondent that the location of the unit has not been compromised and that the unit would remain at the same location as it was. The complainants believing the said payment demand to be correct and believing the assurances of the respondent to be correct, paid the demanded amount of Rs 3,53,622/- and the same is evident from the cheques and receipts dated 09.01.2017 as issued by the respondent.

- e) That since, the respondent had failed to execute the buyer's agreement with the complainants despite lapse of three years from the date of booking, the complainants visited the office of the respondent in the month of November 2016 to enquire about the construction status and execution of the agreement in question. The complainants were surprised and anguished with the response of respondent who informed the complainants that the execution of the buyer's agreement would take some more time. it is pertinent to mention here that the complainants also enquired about the re-allotment of the originally allotted unit, to which the respondent kept on assuring the complainants that the originally allotted unit would be re-allotted to the complainants. Since, the complainants had made payment of a substantial sum, the complainants had no other option but to believe the said representations of the respondent.
- f) That finally, after more than three long years, the respondent intimated the complainant regarding the execution of the Buyer's Agreement vide

letter dated 12.01.2017. A copy of the buyer's agreement was sent to the complainants which was a wholly one-sided document containing totally unilateral, arbitrary, one-sided, and legally untenable terms favoring the respondent and was totally against the interest of the purchaser, including the complainants herein.

- g) That the complainants upon the demands of the respondent made more payments of Rs 2,37,738/- and Rs 4,10,237/- and the same is evident from the receipts dated 30.03.2017 and 12.06.2017. It is pertinent to mention here that the complainants despite the delay and default on the part of the respondent in executing the Buyer's Agreement continued to make the payments as and when demanded by the respondent and strictly as per the payment plan.
- h) That it is pertinent to mention here that despite having made the Buyer's Agreement dated 10.01.2017 containing terms very much favorable as per the wishes of the respondent, still the respondent miserably failed to abide by its obligations thereunder. The respondent/promoter has even failed to perform the most fundamental obligation of the agreement which was to handover the possession of the commercial within the promised time frame, which in the present case has been delayed for an extremely long period of time. The failure of the respondent and the fraud played by it is writ large.
- i) That the complainants continued to make the payments as and when demanded by the respondent and no default whatsoever was committed by the complainants in discharging their liabilities. That the respondent sent a demand letter dated 10.10.2017 against 'Casting of 1st Basement Roof Slab' and '50% Project Development Charges' intimating the complainants about the due installment. The complainants without any delay or defaults paid the said amount of Rs 3,61,335/- on 31.10.2017.

vide cheque no. 008339. respondent accordingly issued a receipt dated 31.10.2017 acknowledging the said payment.

- j) That the respondent sent a demand letter dated 08.01.2018 against 'Casting of 2nd Floor Roof Slab' and '50% 'PLC' intimating the complainants about the due installment. The complainants yet again paid the said amount of Rs 3,89,025/- on 28.01.2018 vide cheque no. 879603. Respondent accordingly issued a receipt dated 29.01.2018 acknowledging the said payment. Thereafter, the respondent vide its demand letter dated 04.04.2018 raised a demand of Rs 4,31,799/- against 'On Casting of 4th Floor Roof Slab' and '50% Car Parking', the said was paid by the complainant on 30.04.2018 vide cheque no. 008351 and the same is acknowledged by the respondent vide its receipt dated 30.04.2018.
- k) That the respondent sent a demand letter dated 24.04.2018 against 'On Start of Brick Work' and '50% 'PLC' intimating the complainants about the due installment. The complainants yet again paid the said amount of Rs 3,25,325/- on 12.09.2018 vide cheque no. 899576. Respondent accordingly issued a receipt dated 13.09.2018 acknowledging the said payment. Thereafter, the respondent vide its demand letter dated 19.02.2019 raised a demand of Rs 2,83,140/- against 'On Completion of Super Structure' and '50% Project Development Charges', the said was paid by the complainant on 12.03.2019 vide cheque no. 899578 and the same is acknowledged by the respondent vide its receipt dated 12.03.2019.
- l) That since the time period to handover the possession stated by the respondent in the Buyer's Agreement had lapsed, the complainants requested the respondent telephonically, and by visiting the office of the respondent to update them about the date of handing over of the

possession. The representatives of the respondent assured the complainants that the possession of the unit would be handed over to them very shortly as the construction was almost over. The respondent has continuously been misleading the allottees including the complainants by giving incorrect information and timelines within which it was to hand over the possession of the unit to the complainant. The respondent/promoter had represented and warranted at the time of booking that it would deliver the commercial unit of the complainant to them in a timely manner. However, the failure of the respondent company has resulted in serious consequences being borne by the complainants.

- m) That it is very important and pertinent to mention herein that the complainants always wanted to inspect the location of the allotted unit and had requested the representatives of the respondent several times in meetings and through telephonic conversations to allow them to do the same. However, the respondent kept on making excuses and did not allow the complainants to inspect the location of the unit in question.
- n) That the complainants visited the project site of the respondent in the month of May, 2019 to enquire about the construction status and handing over of possession of the unit in question. The complainants were finally allowed to inspect the project site and they were in complete shock to see that the payment demands being raised were not at all corresponding to the actual ground reality. It was evident that the respondent had demanded the payment only to somehow illegally extract the amount from the complainants when in reality, no such development had even taken place. Furthermore, the respondent had unilaterally and without any consent from the complainants had changed the layout of the project in question.

o) That the respondent has miserably failed to send any other legal payment demand for the period of 5 years from the date of issuance of last payment demand for the simple reason that the respondent has not completed the construction within the agreed time frame. There has been virtually no progress and the construction activity are lying suspended since long. It is pertinent to mention herein that the last payment demand 'Completion of Super Structure' was sent by the respondent to the Complainants in the year 2018 and the same was paid by the complainants within the time period. The next payment demand as per the terms of the allotment and the construction linked payment plan which was to be raised at the stage of 'Offer of Possession' has till date not been issued by the respondent to the complainants because the respondent failed to complete the structure till that stage. It is very important to note that since all the payment demands except the demand to be raised at the time of offer of possession were sent by the respondent to the complainants, then the respondent/promoter should have been in the condition even otherwise to apply for the grant of the Occupation Certificate in the year 2018 itself. The fact that no intimation regarding the application for the grant of the Occupation Certificate was given by the respondent to the complainant speaks about the volume of illegalities and deficiencies on the part of the respondent/promoter. There is inordinate delay in developing the project well beyond what was promised and assured to the complainants. This further shows that the demands which were raised by the respondent didn't correspond to the actual construction status on the site.

p) That the complainants had paid Rs 31,67,711/- out of the total basic sale consideration of Rs 22,75,000/- which is more than the 100% of the total

sale consideration. The said fact is evident from the Statement of Accounts dated 20.04.2024.

- q) That the respondent has committed various acts of omission and commission by making incorrect and false statements at the time of booking. There is an inordinate delay of 76 months calculated up to July, 2024 and till date the possession of the allotted unit has not been offered by the respondent to the complainants. The non-completion of the project is not attributable to any circumstance except the deliberate lethargy, negligence and unfair trade practices adopted by the respondent/promoter. The respondent has been brushing aside all the requisite norms and stipulations and has accumulated huge amount of hard-earned money of various buyers in the project including the complainant and are unconcerned about the possession of the unit despite repeated assurances.
- r) That the respondent has misused and converted to its own use the huge hard-earned amounts received from the complainants and other buyers in the project in a totally illegal and unprofessional manner and the respondent was least bothered about the timely finishing of the project and delivery of possession of the unit in question to the complainant as per the terms of the Commercial Space Buyer's Agreement. The respondent has deliberately, mischievously, dishonestly and with malafide motives cheated and defrauded the complainants. It is unambiguously lucid that no force majeure was involved and that the project has been at standstill since several years. The high headedness of the respondent is an illustration of how the respondent conducts its business which is only to maximize the profits with no concern to the buyers.

s) That the complainants have been duped of their hard-earned money paid to the respondent regarding the commercial unit in question. The complainant enquired from the respondent vide several telephonic conversations and through visiting the office of the respondent the date on which the unit in question would be handed over but the respondent has been dilly-dallying the matter. The complainants have been running from pillar to post and have been mentally and financially harassed by the conduct of the respondent. It is pertinent to mention herein that at the time of booking, it was represented by the respondent company that the project would consist of Retail units at Ground Floor, First Floor, Second Floor and Restaurants with terrace dining on 2nd floor on some blocks. Moreover, it is evident from a bare perusal of the payment plan of the allotted unit that the concept of Lower and Upper Ground Floor was never in existence. The complainants had accordingly made the booking taking into consideration the said layout along with the floor plans which were shared by the respondent with the complainants in the Brochure of the project. However, the actual ground reality is altogether different. When the complainant went to inspect the project site, they realized that the respondent has added another floor in the project and is now referring the same as 'Lower Ground Floor'. Hence, the location of the Unit allotted to the Complainants on Ground Floor has been changed by the respondent. It is pertinent to mention herein that the Respondent has unilaterally, after making the booking, completely altered the Layout and the Floor plans of the project without taking the written consents of the Allottees of the project and without any approval from the Statutory Authorities. The complainants specifically reserve their right to claim compensation for the same.

i) That the respondent has taken undue advantage of the helplessness of the complainants and has further exploited its dominant position. It would not be out of place to mention that the complainants were always ready and willing to perform their part of the contract. Therefore, it is evident from the entire sequence of events that no illegality or acts can be attributed to the complainant. The Respondent cannot be permitted to take advantage of its own illegal acts

C. Relief sought by the complainants:

8. The complainants have sought following relief(s):

- Refund the total amount paid by the Complainants along with the interest at the rate prescribed under RERA Act, 2016 and Haryana RERA Rules, 2017 to be calculated from the date of payment till the date of realization of the amount.
- To not terminate the allotment and create third party rights till the time, the principal amount along with interest is paid to the Complainant.
- Pass an order imposing penalty on the builder on account of various defaults and illegalities under RERA Act, 2016 and the same be ordered to be paid to the Complainant

9. In **CR. No. 2406-2025**, the respondent-promoter has failed to file a reply despite several opportunities granted by the authority. It shows that the respondent is intentionally delaying the procedure of the Authority by avoiding to file the written reply. In view of the above, Hence, in view of the same, the Authority has no option but to proceed the ex-parte against the respondent.

D. Reply by the respondents

10. The respondents have contested the complaint on the following grounds:

- That the commercial relationship between the parties revolves around a commercial unit in the project. That upon gaining knowledge of the Project, Mrs. Ruchira Mathur and Mr. Sanjay Mathur being investors,

sought to apply for a provisional unit in the Project by submitting an application form dated 07-10-2013. That the terms of the booking were categorically, willingly and voluntarily agreed by the complainants Mrs. Ruchira Mathur and Mr. Sanjay Mathur.

- b) That the said request of allotment was accepted by the Respondent, subject to such terms and conditions as came to be agreed between the parties and hence, the aforementioned provisional unit bearing tentative number GF-041 tentatively admeasuring 247 sq. ft. was allotted to Mrs. Ruchira Mathur and Mr. Sanjay Mathur.
- c) That it was agreed between the parties that the area of the Unit is not final and subject to revision and consequently, a letter dated 30-03-2015 has been issued by the respondent regarding the revised change in the area of the unit- GF-041 from 247 sq. ft. to 325 sq. ft. That the same was agreeable to the complainants as well who had raised no protest whatsoever, over the same.
- d) That thereafter, the respondent sent a copy of the buyer's agreement to the complainants, however, due to reasons best known to Mrs. Ruchira Mathur and Mr. Sanjay Mathur, the signed copy of the Agreement was returned to the respondent with a delay, eventually, leading to the execution of a commercial space buyer agreement between the parties on 10-01-2017 for the new area of 325 sq. ft.
- e) That from the beginning of the implementation of the Project, there have been various intervening circumstances, beyond the control and apprehension of the Respondent that have affected this commercial relationship between the parties. For ease of reference all the factors and events having a direct effect on the project have been delineated hereinbelow. For a detailed comprehension, the events having a direct

effect on the jural relationship between the parties has been diving into 4 categories:

Category I:	Period between 06.04.2004 and 23.04.2015	The events that transpired under this category show that there was not one event that could have been pre-conceived by the Respondent and neither was there any event / default on part of the Respondent that has led to the subsequent stay and the departmental delays.
Category II:	Period between 24.04.2015 and 13.03.2018 (hereinafter referred to as Zero Period I)	Due to the pendency of the proceedings before the Hon'ble Supreme Court, a stay was affected over the project land, however, permission was granted to Paradise to approach DTCP to seek clarifications qua the applicability of stay over the project in question. During this time, the company was in constant follow up with DT P (enforcement) with respect to grant of necessary permissions concerning the project.
Category III:	Period Between 14.03.2018 and 12.10.2020	After the removal of the stay by the Hon'ble Supreme Court, continuous follow ups were made by the Respondent regarding the grant of pending permissions. The Respondent herein is seeking the grace of this period as the entire time was utilised in following up with the concerned departments.
Category IV:	Period Between 13.10.2020 – 21.07.2022 (hereinafter referred to as the Zero Period II)	The Project was under injunction by the Hon'ble Supreme Court due to an application filed by HSIIDC.

Category V:	Period from 22.07.2022 till Date	The Respondent is seeking the benefit of this period as a grace period from this Id. Authority. The entire list of events ex facie show that the Respondent has been left at the mercy of the competent department and has been entangled in the procedural requirements and departmental delays due to no fault whatsoever on part of the Respondent.
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f) That the project land had become a part of certain land acquisition proceedings by the state. The following detailed list of dates, shows the detailed events that have transpired relating such land acquisition proceedings, within the period falling in the aforesaid categories:-

S. No	CATEGORY	DATE	EVENTS
1	CATEGORY I: The events that transpired prior to the effect of the Hon'ble Supreme Court's orders over the Project. This shows the required permissions for the project	06.04.2004 07.04.2024	Paradise Systems Pvt. Ltd. purchased 2.681 acres of land in the village Lakhnaula by registered sale deeds, hence Paradise Systems Pvt. Ltd. is the landowner of the project in question (hereinafter referred to as " Paradise ")
2		27.08.2004 24.08.2007	A notice was issued by Haryana Govt. industries Department under Section 4 of Land Acquisition Act, 1894 for acquiring land admeasuring 912 acres 7 Marlas from village Manesar, Lakhnaula and Naurangpur, Tehsil & Dist Gurugram for setting up Chaudhari Devi Lal Industrial Township. Paradise's Land fell under the above mentioned 912 acres. The land acquisition proceedings were

	were obtained in a timely fashion.		withdrawn by the State Government on 24.08.2007
3	09.09.2007	Paradise entered into a collaboration agreement with the erstwhile developer - Sunshine Telecom Services Pvt. Ltd. Paradise granted the 'absolute developmental right' of land for construction of commercial office space to Sunshine.	
4	20.09.2007	Haryana State Industrial & Infrastructure Development Corporation (hereinafter referred to as the "HSIIDC") proposed to constitute an Inter Department Committee to submit a report with recommendations regarding issuance of fresh acquisition.	
5	26.10.2009	Paradise had obtained license for of land measuring 2.681 acres situated at village Lakhnaula Manesar MID, from the Town and Country Planning Department, Govt. of Haryana (hereinafter referred to as the "DTCP") vide License No. 59/2009 dated 26.10.2009, being valid up to 25.10.2013. The license was granted for the development of the Project in question.	
6	29.01.2010	The report of the interdepartmental committee was submitted and the said report was duly endorsed by HSIIDC. The State Government in Industries and Commerce Department decided to close the acquisition proceedings in view of the recommendations of the Inter Departmental Committee.	

7	30.03.2013	Paradise alleged that Sunshine did not adhere to the terms of the collaboration agreement. Paradise claims to have refunded all amounts received by it and annulled that transaction by deed dated 30.03.2013.
8	30.03.2013	Paradise thereafter entered into a collaboration agreement with Green Heights projects Pvt. Ltd. (the Respondent herein) for the development of the Project in question.
9	22.05.2013	The <i>bonafide</i> of the Respondent is evident from the fact that in order to comply with the then applicable guidelines and regulations, the Respondent paid the entire External Development Charges and Internal Development Charges (EDC & IDC) to the DTCP.
10	01.04.2014	Paradise was granted the NOC for Height clearance from the Airports Authority of India.
11	23.07.2014	The building plans for the development of the Project in question were approved by DTCP.
12	17.10.2014	Environment clearance was granted for construction of the commercial project in question.
13	24.04.2015	The said Land became the subject of the proceedings before the Hon'ble Supreme Court in a case titled <i>Rameshwar & Ors. vs. State of Haryana & Ors.</i> bearing Civil Appeal No. 8788 of 2015. The Hon'ble Apex Court, vide its order dated 24.04.2015 in the <i>Rameshwar</i> Case, stayed the construction on the said land with effect from 24.04.2015, which was eventually affected till 12.03.2018.

			<p>Notably, on 24.04.2015, the Project land, <i>inter alia</i>, became the subject land in the legal proceedings in the Rameshwar Case.</p> <p><i>A copy of the order dated 24.04.2015 passed by the Hon'ble Supreme Court in a case titled Rameshwar & Ors. vs. State of Haryana & Ors. bearing Civil Appeal No. 8788 of 2015 is annexed and marked as Annexure 5.</i></p>
14	<p>CATEGORY II:</p> <p>ZERO PERIOD I</p> <p>Due to the pendency of the proceedings before the Hon'ble Supreme Court, a stay was affected over the project land, however, permission was granted to Paradise to</p>	27.04.2015	<p>Pursuant to the directions passed by the Apex Court, the DTCP directed all Owners/Developers to stop construction in respect of the entire 912 Acres of land which included our Real Estate Project Baani Center Point vide letter dated 27.04.2015.</p> <p><i>A copy of the letter dated 27.04.2015 issued by DTCP directing to stop the construction is annexed and marked as Annexure 6.</i></p>
15		21.08.2015	<p>Paradise approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether order dated 24.04.2015 was applicable to the land and license no. 59 of 2009. Paradise contended that their land was distinct from the land involved in the Rameshwar case. The Hon'ble Supreme Court directed Paradise to seek clarifications from DTCP, designating the DTCP as the appropriate authority to issue orders in the matter.</p>

	approach DTCP to seek clarifications qua the applicability of stay over the project in question. During this time the company was in constant follow up with DT P (enforcement) with respect to grant of necessary permissions concerning the project.		<i>A copy of the order dated 21.08.2015 passed by the Hon'ble Supreme Court directed Paradise to seek clarification from DTCP is annexed and marked as Annexure 7.</i>
16		25.08.2015 08.01.2016	Paradise approached DTCP on 25.08.2015 for clarification and stated that the land owned by Paradise doesn't fall within the ambit of the Rameshwar case. Paradise had also issued a reminder dated 08.01.2016 to DTCP for the clarification being sought. <i>A copy of the clarification dated 25.08.2015 sought by Paradise from DTCP regarding Project land not being a part of Rameshwar case is annexed and marked as Annexure 8.</i>
17		15.01.2016	In the meanwhile, the permissions and approvals, previously granted qua the project had expired and hence, Paradise had also requested DTCP for renewal of the permissions. Paradise also submitted an application for transfer of license and change in developer, in favour of Green Heights Projects Pvt. Ltd.
18		20.04.2016	That Paradise approached DTCP vide various representations however DTCP did not take any decision as the matter was pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of entire 912 acres have been taken by Central Bureau of Investigation (hereinafter referred to as the "CBI") of all the projects and till

			<p>original files are returned by CBI, DTCP will not be in a position to provide clarification in respect of various representations.</p> <p><i>A copy of DTCP's Letter dated 20.04.2016 keeping the permissions pending due to non-receipt of original files is annexed and marked as Annexure 9.</i></p>
19		13.09.2016 (receiving dated 14.09.2016)	Paradise again wrote to DTCP to retrieve the original files from CBI. It was informed that in the writ petition filed seeking retrieval of the original files, directions for handing back of the original files as already passed.
		21.10.2016 (receiving dated 25.10.2016)	It was requested that such retrieval be done and DTCP should process the pending application for renewal and transfer of License and sanction of revised building plans.
		01.02.2017 (Received on 02.02.2017)	Due to the non-action part of DTCP, multiple reminders and representations were written by Paradise with a <i>bonafide</i> attempt towards the completion of the project.
		27.03.2017	Paradise then approached Punjab and Haryana High Court for directions to CBI to handover original files in respect of the project of Green Heights and the High Court by order dated 27.03.2017 noting the handover.
			<i>A copy of the order dated 27.03.2017 passed by Punjab and Haryana High Court qua possession of</i>

			<i>the original files of the affected land is annexed and marked as Annexure 10.</i>
21	09.05.2017		Paradise approached DTCP to issue BR-III for revised building plans stating that the conditions of the in-principle approval have been complied with.
22	07.08.2017		Paradise again approached DTCP to issue BR-III for revised building plans.
23	2015-2017		Despite various efforts and representatives DTCP did not clarify about the status of land and license of Paradise thus the order of the Supreme Court de-facto remained applicable on the said project.
24	14.09.2017		After the implementation of the RERA Act, the Real Estate Project Baani Center Point was registered under RERA Act 2016 and Haryana RERA Rules 2017. The project was registered on 14.09.2017 vide registration no. 187 of 2017.
25	23.10.2017		Paradise wrote to DTCP detailing all the facts and events that have led to the present situation and again requested the DTCP to issue BR-III revised building plans. It was also highlighted that the delay in issuance of BR III is also delaying the service plan estimates and fire scheme approvals.
26	27.11.2017		Paradise requested DTCP to consider the period during which the no construction order is in frame, as the cooling period and extend the license accordingly. <i>A copy of the letter dated 27.11.2017 requesting for the grant of Zero period is annexed and marked as Annexure 11.</i>

27		15.12.2017	<p>DTCP wrote to Paradise that the final approval for sanction of building plans on BR-III will be issued only after the Hon'ble Supreme Court of India removes the restrictions imposed for not raising further construction in the area.</p> <p><i>A copy of the letter dated 15.12.2017 by DTCP stating the issuance of BR III only after removal of restrictions by Hon'ble Supreme Court is annexed and marked as Annexure 12.</i></p>
28		12.03.2018	<p>The stay of supreme court was lifted and the project Baani Center Point was not included in tainted projects.</p> <p><i>A copy of the order dated 12.03.2018 showing the Baani Center Point is not in tainted projects is annexed and marked as Annexure 13.</i></p>
29	CATEGORY III: After the removal of the stay by the Hon'ble Supreme Court, continuous follow ups were made by the Respondent	14.03.2018	<p>Paradise wrote to DTCP that the order dated 12.03.2018 has clarified that lands transferred/purchased prior to 24.08.2004 are not governed by the directions being given by Hon'ble Supreme Court which only pertain to lands transferred/purchased between the period from 27.08.2004 till 29.01.2010 only. The land owned by Paradise stands excluded from the dispute as the land was purchased on 06.04.2004 and 07.04.2004. Paradise requested DTCP to consider the period as Zero Period and requested for the renewal of the license and issue BR-III.</p> <p><i>A copy of the letter dated 14.03.2018 by Paradise to</i></p>

	<p>regarding the grant of pending permissions.</p> <p>The Respondent herein is seeking the grace of this period as the entire time was utilised in following up with the concerned departments</p>		<p><i>DTCP requesting to consider Zero Period I is annexed and marked as Annexure 14.</i></p>
30		23.07.2018	<p>Paradise approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018. That while renewing the license the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.</p> <p><i>A copy of permission for renewal of license along with grant of zero period between 24.04.2015 till 12.03.2018 is annexed and marked as Annexure 15.</i></p>
31		01.07.2019	<p>The HSIIDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 in the matter of Rameshwar & Ors. Vs. State of Haryana & Ors. to include the land of Paradise developed by Green Heights in the award dated 26.08.2007, being Application for Clarification of Final Judgment dated 12.03.2018 passed by the Supreme Court.</p>

32		31.08.2019 13.09.2019	<p>DTCP has passed an order dated 31.08.2019 stating that the renewal and transfer of license of Paradise and approval of revised building plan will be processed only after clarification is given by the Hon'ble Supreme Court on the application filed by HSIIDC. The intimation of this order was received from DTCP vide letter dated 13.09.2019.</p> <p><i>A copy of the cover letter dated 13.09.2019 along with the order dated 31.08.2019 by DTCP noting that pending permissions shall be granted after clarification is given by Supreme Court, is annexed and marked as Annexure 16.</i></p>
33	CATEGORY IV:	13.10.2020	<p>The Hon'ble Supreme Court through its order dated 13.10.2020 granted injunction on further construction and creating third party rights of projects to the said case including project Baani Center Point.</p>
34	ZERO PERIOD II. The Project was under injunction by the Hon'ble Supreme Court due to an application filed by HSIIDC	21.07.2022	<p>Through the judgment dated 21.07.2022 in <i>Rameshwar Case</i>, the stay on construction was cleared by the Hon'ble Supreme Court of India with directions to Green Heights for payment of Rs. 13,40,50,000/- (Rupees Thirteen crores forty lakhs and fifty thousand only) as additional cost of land payable to HSIIDC @ Rs. 5 crores per acre. This order was passed by the Hon'ble Supreme Court after considering the development status of the project, amount received from the allottees, and to protect the interest of the allottees.</p> <p><i>A copy of the order dated 21.07.2022 passed by Hon'ble Supreme Court having directions of</i></p>

			<i>payment of additional cost of land is annexed and marked as Annexure 17.</i>
35	CATEGORY V: The Respondent is seeking the benefit of this period as a grace period from this ld. Authority. The entire list of events ex facie show that the Respondent has been left at the mercy of the competent department and has been entangled in the procedural requirements and departmental delays due to no fault whatsoever on	25.07.2022 (Receiving dated 26.07.2022) 04.08.2022 (Receiving dated 05.08.2022)	<p>Paradise approached DTCP to issue BR-III for revised building plans as the land owned by Paradise shall be excluded from the deemed award after depositing a sum of 13,40,50,000/- to HSIIDC. It was highlighted that DTCP had previously (vide its letter dated 15.12.2017) stated that any application of the Project will be processed only after the restrictions imposed by Hon'ble Supreme Court were removed. Due to such acts of DTCP, there had been many delays in getting the necessary permissions. It was intimated that no such restriction is effective now and hence, DTCP was requested to process the following:</p> <ul style="list-style-type: none"> • Renewal of license no. 59 of 2009; • Application dated 07.09.2020 with request to consider the period between 23.07.2018 till 21.07.2022 as cooling / zero period as no approvals were granted; • BR-III for revised building plans which were approved on 22.02.2017 • Grant of approval of transfer of license and change of developer
36	no fault whatsoever on	04.08.2022	Green Heights filed an application for extension of the RERA registration under section 7 sub clause 3 dated 04.08.2022 which is awaited.

	part of the Respondent.	In complete compliance of the order passed by the Hon'ble Supreme Court, and with an intent to complete the development of the Project, Green Heights projects Pvt. Ltd. paid the amount ₹ 13,40,50,000/- from its own resources on 16.11.2022 and requested for confirmation of such compliance.
37	16.11.2022	HSIIDC wrote to Green Heights confirming the amount ₹ 13,40,50,000/- received in HSIIDC account and that Green Heights has complied with the orders of Hon'ble Supreme Court.
	14.12.2022	<i>A copy of the letter dated 16.11.2022 by Green Heights Projects Pvt. Ltd. submitting the payment of 13.4 Cr along with copy of letter dated 14.12.2022 issued by HSIIDC stating complete compliance by Green Heights Project Pvt. Ltd. of the Hon'ble Supreme Court order are annexed and marked as Annexure 18(Colly)</i>
38	15.12.2022 (Receiving dated 16.12.2023)	Paradise approached DTCP to issue BR-III for revised building plans as the sum of ₹ 13,40,50,000/- was deposited by Green Heights to HSIIDC and now the land was excluded from the deemed award.
39	05.01.2023 (Receiving dated 11.01.2023)	Paradise approached DTCP to process the pending applications for transfer of license.

40	02.09.2023 (Receiving dated 04.09.2023)	Paradise again approached DTCP to process the pending applications for renewal and transfer of license and issuance of BR-III,
41	03.10.2023	Paradise vide letter dated 03.10.2023 again approached for renewal of license no. 59 of 2009 and grant of approval for transfer of license and change of developer.
42	17.10.2023 23.10.2023	DTCP renewed the license no.59. of 2009 up to 21.01.2025. DTCP granted Zero Period from 23.07.2018 to 21.07.2022. BR III was also issued. <i>A copy of the renewed license with the grant of Zero Period II is annexed and marked as Annexure 19.</i>
43	31.10.2023	Paradise vide letter dated 31.10.2023 again approached DTCP for grant of pending approval of transfer of license no. 59 of 2009 and change of developer.
44	20.02.2024 04.04.2024	The Hon'ble Supreme Court had directed the enforcement directorate to inquire about the projects falling within the purview of the subject matter. While following up from DTCP, it came within the knowledge of Green Heights Projects Pvt. Ltd. that DTCP is awaiting clearance from the enforcement directorate before proceeding towards the grant of pending permissions. Taking matters in its own hands, Green Heights Projects Pvt. Ltd. approached the enforcement directorate seeking a closer report,

			<i>Copies of letters dated 20.02.2024 and 04.04.2024 written to the enforcement directorate requesting for a closer report are annexed and marked as Annexure 20.</i>
45	15.04.2024 17.05.2024 (Receiving dated 20.05.2024) 03.06.2024	Paradise has been approaching DTCP, time and again, seeking the issuance of the pending permission for change of developer and transfer of license. Highlighting the urgency of the matter, it was informed that the project has been completed and around 400 customers are awaiting the possession. As part of the proactive approach of the company, Paradise also conveyed DTCP of the relevant email ids that need to be addressed while seeking clarifications from the enforcement directorate.	
46	26.11.2024	Paradise again wrote to DTCP. It was highlighted that while DTCP allowed the BR III on 26.10.2023 and had also renewed the license, no further approvals were granted. It was highlighted that the project is complete and requested for grant of pending approvals. <i>Copies of reminders, representations and letters issued to DTCP in respect to the Project land not being a part of Rameshwar case and constant follow ups with respect to grant of pending permissions dated 13.09.2016, 21.10.2016, 01.02.2017, 09.05.2017, 07.08.2017, 23.10.2017, 25.07.2022, 04.08.2022, 15.12.2022, 05.01.2023, 02.09.2023, 31.10.2023, 15.04.2024, 17.05.2024,</i>	

			<i>03.06.2024, and 26.11.2024 are annexed and marked as Annexure 21.</i>
47	As on date		The approval for transfer of license and change of developer is pending at the department's end, due to no fault of the Respondent or Paradise.

g) That at the outset, as per the contents of the Complaint, the issue at hand arises out of the alleged delayed construction, however, it is most vehemently noted that there has been no effective delay in the present circumstance, the details of which have been noted in the following paragraphs. It is submitted that the entire Project, along with other land parcels, were entangled with the land acquisition proceedings, as noted above. However, at every stage and instant, the Respondent had, communicated the purchaser, Mrs. Ruchira Mathur and Mr. Sanjay Mathur of all the updates of the matter. For instance, reference may be given to the letters dated 26.03.2021, 26.07.2022, and 06.12.2022 which show that the respondent had duly informed the complainants about the injunction over the project, the resumption of the construction works, and the imposition of additional fee of 13.4 crore upon the respondent.

h) That it was not only through such letters but the Respondent Company has always been in touch with the purchasers to keep them updated of the construction status and the status of the pending proceedings. That upon gaining knowledge of the same, and being well aware of the continuation of these proceedings, Mrs. Ruchira Mathur and Mr. Sanjay Mathur had never expressed any disagreement with the same, rather,

had been supportive of the diligent efforts being made by the respondent.

- i) That a perusal of the Commercial Space Buyer Agreement dated 10-01-2017, shows that as per Clause 2.1 of the Agreement the tentative date of possession is 30-09-2017 with a grace period of 6 months beyond this date, hence the tentative due date comes out to be 30-03-2018, however the possession of the unit is subject to completion of the construction; force majeure as per clause 9 of the Agreement; strict adherence to timely payment of the instalments by the Allottee.
- j) it is pertinent to mention herein that the Hon'ble Supreme Court in the matter titled *Rameshwar & Ors. vs. State of Haryana & Ors.* bearing Civil Appeal No. 8788 of 2015 vide its order dated 24.04.2015 stayed the construction on the project land for the period between 24.04.2015 till 12.03.2018. That in lieu of the same, DTCP on 23.07.2018, exempted the period from **24.04.2015 till 12.03.2018 as 'Zero Period I'**. That the said period of Zero Period I amounts to a period of 1054 days.
- k) That although the project land was freed by the Hon'ble Supreme Court in *Rameshwar (Supra)*, however, HSIIDC filed an application seeking clarification and inclusion of project land in the Award. During this period, the Hon'ble Supreme Court had again effective an injunction on further construction from 13.10.2020. The said application was dismissed with directions of payment of Rs. 13.405 Cr to HSIIDC vide order dated 21.07.2022. Considering all the facts, the DTCP renewed License No. 59 of 2009 up till 21.01.2025 and granted '**Zero Period II for the period of 23.07.2018 to 21.07.2022**'. That the said period of Zero Period II amounts to a period of 1460 days.

- l) That on the addition of Zero Period I, Zero Period II the total number of days covered under zero period comes out to be **2,514 days i.e. 6 years, 10 months, 3 weeks and 3 days.**
- m) That a bare perusal of the list of dates noted hereinabove shows that the complete *bonafide* and diligent manner in which the Respondent has acted throughout the aforementioned periods. That during the 1st period (category III), the Respondent had time and again approached the DTCP seeking necessary permissions and approvals, however, DTCP had refused to deal with the same despite the fact that the Hon'ble Supreme court had allowed the Respondent to approach DTCP.
- n) That a bare perusal of the list of dates noted hereinabove shows that the complete *bonafide* and diligent manner in which the Respondent has acted throughout the aforementioned periods. That during the 1st period (category III), the Respondent had time and again approached the DTCP seeking necessary permissions and approvals, however, DTCP had refused to deal with the same despite the fact that the Hon'ble Supreme court had allowed the Respondent to approach DTCP.
- o) That the Respondent has gone over and beyond and filed writ petition before the Punjab and Haryana High Court when as per DTCP the original files of the land in question were in custody of CBI. This led to the eventual finding that the files had already been returned by CBI to DTCP. Additionally, now that the entire matter has concluded and the amount of Rs. 13.4 Cr stands paid, DTCP is now stating that they need closure from ED. Going beyond its obligations, the Respondent has time and again approached the ED seeking the closure report. The constant and diligent approach taken by the Respondent is evident from the copies of reminders, representations and letters issued to DTCP in respect to the project land not being a part of Rameshwar case and

constant follow ups with respect to grant of pending permissions dated 08.01.2016, 13.09.2016, 14.09.2016, 21.10.2016, 01.02.2017, 09.05.2017, 07.08.2017, 23.10.2017, 25.07.2022, 04.08.2022, 15.12.2022, 05.01.2023, 02.09.2023, 31.10.2023, 15.04.2024, 17.05.2024, 03.06.2024, and 26.11.2024.

p) That a perusal of all the documents show that the Respondent has been left at the mercy of the DTCP and other departments and has been entangled with the procedural lacunae when in fact, the project has been completed. That presently, the permission for the transfer of license and the change of developer and approval of service plan estimate is pending before the DTCP, due to which the further process of fire approvals, occupation certificate, etc has been halted. That none of these facts and circumstances point to any default on part of the Respondent in any manner whatsoever. In such a circumstance, the benefit of such periods, as grace, need to be rightly considered by the Authority.

11. All other averments made in the complaints were denied in toto.
12. 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 parties.

E. Jurisdiction of the authority

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

E.I Territorial jurisdiction

14. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by the Town and Country Planning Department, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for

all purposes with office 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 complaints.

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)(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 of 2016 quoted above, the authority has complete jurisdiction to decide the complaints regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

17. 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.*** 2021-2022(1)RCR(C), 357 and followed 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."

18. 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.

F. Findings on the objections raised by the respondent.

F.I Objection regarding force majeure conditions.

19. The respondent took a plea that as per the Clause 9 - Force Majeure of the builder buyer agreement "the intending seller shall not be held responsible or liable for failure or delay in performing any of its obligation or undertakings as provided for in this agreement, if such performance is prevented, delayed or hindered by "court orders" or any other cause not within the reasonable control of the intending seller". Therefore, as the project "Baani Centre Point" was under stay orders of the Hon'ble Supreme Court of India for 7 years 3 months (24/04/2015 T0 21/07/2022) which was beyond the respondent's reasonable control and because of this no construction in the project could be carried during this period. Hence, there is no fault of the respondent in delayed construction which has been

considered by DTCP and RERA while considering its applications of considering zero period, renewal of license and extension of registration by RERA. Due to reasons stated hereinabove it became impossible to fulfil contractual obligations due to a particular event that was unforeseeable and unavoidable by the respondent. It is humbly submitted that the Stay on construction order by the Supreme Court is clearly a "Force Majeure" event, which automatically extends the timeline for handing over possession of the unit. The Intention of the Force Majeure clause is to save the performing party from consequences of anything over which he has no control. It is no more res *integra* that force majeure is intended to include risks beyond the reasonable control of a party, incurred not as a product or result of the negligence or malfeasance of a party, which have a materially adverse effect on the ability of such party to perform its obligations, as where non-performance is caused by the usual and natural consequences of external forces or where the intervening circumstances are specifically contemplated. Thus, it was submitted that the delay in construction, if any, is attributable to reasons beyond the control of the respondent and as such the respondent may be granted reasonable extension in terms of the buyer agreement. After consideration of all facts and circumstances, Authority is of view that the force majeure clause stipulated in the buyer agreement does indeed exempt the builder from liability for delays in performance attributable to factors beyond their reasonable control, such as court orders. However, the pivotal issue arises from the builder's actions during the specified period in question i.e. despite claiming force majeure due to external impediments, the builder continued construction activities unabated thereafter concurrently received payments from the allottees and even executed buyer's agreement during that time. This sustained course of action strongly suggests that the builder possessed the capability to fulfill

their contractual obligations despite the purported hindrances. Therefore, the builder cannot invoke Force Majeure to justify the delay and consequently, cannot seek an extension based on circumstances within their control.

G. Findings on the relief sought by the complainants

G.I Direct the respondent to refund the entire amount paid by the complainant alongwith prescribed rate of interest.

G.II To not terminate the allotment and create third party rights till the time, the principal amount along with interest is paid to the Complainant.

G.III Pass an order imposing penalty on the builder on account of various defaults and illegalities under RERA Act, 2016 and the same be ordered to be paid to the complainant.

20. That the complainant has stated that the stay on Construction was on Paradise Systems Pvt. Ltd. and not on Green Heights Pvt. Ltd. as the agreement was executed between the later one and nowhere the name of Green Heights is mentioned in the alleged stay order. It further states that payment was collected by respondent in the mode of construction linked plan and respondent was sending demand letters even when the alleged stay was there and hence no relief of zero period may be extended to the respondent. The counsel for the complainant that zero period i.e. by DTCP is for limited purpose of renewal of license and DTCP orders cannot dilute the builder buyer agreement

21. The complainant further states that during the stay period the respondent-builder had collected the payment in the mode of construction linked plan from the allottees and even executed the buyer's agreement during that period. He further submits that the respondent-builder sent construction updates to the allottees and also revised the building plans during the said

stay period. Moreover, the 912 acres of the project land would be acquired by the HSIIDC if it falls under section 4 and section 6 of Land Acquisition Act, 1894 which is not the case.

22. On the contrary, the counsel for the respondent states that the land on which Baani Center Point Project is constructed was notified in Section 4 Notice dated 27 August 2004 and the details of this land are mentioned on Page No. 05 of the Section 4 notice of the Land Acquisition Act, 1894, Notification. This land was not in Section 6 Notification dated 25 August 2005, vide judgement dated 21 July 2022, the Supreme Court in para 32, specifically passed directions that the lands which were not notified in Section 6 notification and there was no transfer during the period 27 August 2004 to 29 January 2010 and were not part of the deemed award. HSIIDC filed an application for clarification on 01 July 2019, for inclusion of this land parcel also in the deemed award, however, subject to payment of penalty this land parcel was exempted from deemed award.

23. Further, the respondent states that a collaboration agreement dated 30.03.2013 was entered into M/s Paradise Systems Pvt. Ltd. being the original landholder and Green Heights Projects Pvt. Ltd., being the Developer for the project namely "Baani Center Point". Thereafter, the construction was initiated in the project and during that process a letter was received from Directorate of Town and Country Planning directing to stop the construction in compliance of the Injunction Order from the Hon'ble Supreme Court of India dated 24.04.2015. Thereafter the respondent builder approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether it is applicable to the land and license however Supreme Court directed it to approach DTCP for clarifications. The respondent builder approached DTCP vide various representations however DTCP did not take any decision as the matter was

pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of entire 912 acres have been taken by Central Bureau of Investigation of all the projects and till original files are returned by CBI, DTCP will not be in a position to provide clarification in respect of various representations. The Landowner then approached Punjab and Haryana high court for directions to CBI to handover original files in respect of the project of respondent and the High Court by order dated 27.03.2017 passed appropriate directions. It is pertinent to mention here that between the periods of 24.04.2015 till 12.03.2018, the Hon'ble Supreme Court of India had passed directions in respect of 912 Acres of land in 3 Villages including the land where the present project (Baani Center Point) is constructed. That vide judgement dated 12.03.2018, the project of Respondent was not included in tainted projects which clearly meant that respondent could commence construction subject to renewal of licenses and other permissions. Shortly after the stay was lifted on 12.03.2018, M/s Paradise Systems Pvt. Ltd. approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018 and thereafter the respondent has developed the said project which is almost complete and was left for some finishing works and interiors. It shall be pertinent to mention that while renewing the license the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.

24. later on, the HSIHDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 through M.A. No. 50 of 2019 in the matter of Rameshwar Vs. State of Haryana & Ors. CA 8788 of 2015 being "Application for Clarification of Final Judgment dated 12.03.2018 passed by this Hon'ble Court". It is submitted that the Hon'ble Supreme Court through its order dated 13.10.2020 again granted an injunction on further construction of projects of the parties to the said case including M/s. Paradise Systems Pvt.

Ltd. project of Baani Center Point. The relevant portion of the said order stated that: - *“Pending further considerations, no third-party rights shall be created and no fresh development in respect of the entire 268 acres of land shall be undertaken. All three aforesaid developers are injunctioned from creating any fresh third-party rights and going ahead with development of unfinished works at the Site except those related to maintenance and upkeep of the site”*. That finally through the recent judgment on 21.07.2022, the stay on construction was cleared by the Hon'ble Supreme Court of India in M.A. 50 of 2019 in the matter of Rameshwar Vs. State of Haryana & Ors. CA 8788 of 2015. vide letter dated 26.07.2022 the complainant was informed that the project has been cleared from stay on construction and creation of third-party interests, by Supreme Court vide order dated 21.07.2022. The respondent vide letter dated 25.07.2022 has also applied for renewal of license and other permissions from DTCP which is awaited. It is also important to mention that the project was registered with RERA vide registration no. 187 of 2017 and after the judgment of Supreme Court the respondent has filed an application for extension of the registration under section 7 sub clause 3 dated 04.08.2022.

25. The matter concerns two distinct periods: from 24.04.2015 to 12.03.2018 and from 13.10.2020 to 21.07.2022. As far as concerned first “Zero Period” i.e. 24.04.2015 to 12.03.2018 granted by DTCP, it is observed that the respondent-builder not only raised demands for payment of instalments from the allottees but also continued construction of the project. Therefore no relief can be granted to the respondent for the said period from 24.04.2015 to 12.03.2018. However, during the period 13.10.2020 to 21.07.2022, the respondent was expressly directed not to undertake any further development in the project and there is no evidence that the respondent did not comply with such order

26. After consideration of all the facts and circumstances, authority is of view that the respondent collected payment and executed buyer's agreement during the "stay period" i.e. 24.04.2015 to 12.03.2018, which indicates their active involvement in real estate transactions. Further, it is important to note that during the "stay period", the respondent -builder raised demands which are reproduced below as:

Demand Raised On	Demand Raised ON Account Of
10.10.2017	On casting of 1 st basement roof slab
08.01.2018	On casting of 2 nd floor roof slab
04.04.2018	On casting of 4 th floor roof slab
24.08.2018	On start of Brick Work
19.02.2019	On completion of super structure

As per aforementioned details, the respondent has raised the demands during the period in which stay was imposed. Hence, granting them a zero period for the purpose of completion of the project would essentially negate their involvement and the actions they took during that time. Therefore, it is justifiable to conclude that the respondent is not entitle to a zero period and should be held accountable for their actions during the stay period. However, the period from 13.10.2020 to 21.07.2022 shall stand exempted from interest to the respondent from 13.10.2020 to 21.07.2022 on the refunded amount as per directions of the Hon'ble Supreme Court clearly restraining the promoter from creation of 3rd party rights and fresh development of unfinished works at site except those related to maintenance and upkeep of the site. So, no interest shall be charged to the respondent from 13.10.2020 to 21.07.2022 as per the direction of Hon'ble Supreme Court.

27. In all the complaints, the complainants intend to withdraw from the project and are seeking return of the amount paid by him in respect of subject unit along with interest at the prescribed rate as provided under the proviso to section 18(1) of the Act. Section 18(1) proviso reads as under:

"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, —

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."

28. Clause 2.1 of the flat buyer's agreement provides the time period of handing over possession and the same is reproduced below:

"2.1. Possession

The possession of the said premises shall be endeavored to be delivered by the intending purchaser by tentative date of 30.09.2017 with a grace period of 6 months beyond this date subject to clause 9 and completion of construction...

....." *(Emphasis supplied)*

29. At the inception, it is relevant to comment on the pre-set possession clause of the allotment letter wherein the possession has been subjected to vague terms and conditions. The incorporation of such clause in the allotment letter by the promoter is just to evade the liability towards timely delivery of the subject plot and to deprive the allottee of his right accruing after delay in possession. This is just to comment as to how the respondent has misused his dominant position and the allottee is left with no option but to sign on the dotted lines

30. **Admissibility of refund along with prescribed rate of interest:** The complainants are seeking refund the amount paid by them at the prescribed rate of interest. However, the allottee intend to withdraw from the project and are seeking refund of the amount paid by them in respect of the subject

unit with interest at prescribed rate as provided under rule 15 of the rules.

Rule 15 has been 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]

(1) 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.

31. The legislature in its wisdom in the subordinate legislation under the provision of 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 ease uniform practice in all the cases.
32. Consequently, as per the 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., 13.01.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate + 2% i.e., 10.80%.
33. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

- i. *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- ii. *the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is*

refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"

34. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondents is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 2.1 of the agreement executed between the parties on 10.01.2017, the due date of possession comes out to be 30.03.2018 including grace period being unqualified.

35. It is pertinent to mention over here that even after a passage of more than 7 years (i.e., from the date of BBA till date) neither the construction is complete nor the offer of possession of the allotted unit has been made to the allottee by the respondent/promoters. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to him and for which he has paid a considerable amount of money towards the sale consideration. Further, the authority observes that there is no document placed on record from which it can be ascertained that whether the respondents have applied for occupation certificate/part occupation certificate or what is the status of construction of the project. In view of the above-mentioned facts, the allottee intends to withdraw from the project and are well within the right to do the same in view of section 18(1) of the Act, 2016.

36. Moreover, the occupation certificate/completion certificate of the project where the unit is situated has still not been obtained by the respondents /promoter. The authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the allotted unit and for which he has paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in *Ireo Grace Realtech Pvt.*

Ltd. Vs. Abhishek Khanna & Ors., civil appeal no. 5785 of 2019, decided on 11.01.2021

"... The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottees cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."

37. Further, the Hon'ble Supreme Court of India in the cases ***of Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra) 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. observed as under:-

"25. The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

38. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottees as per agreement for sale under section 11(4)(a). The promoter has failed to complete or is unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottee, as he wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.

39. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondents is established. As such, the complainant is entitled to refund of the entire amount paid by them at the prescribed rate of interest i.e., @ 10.80% p.a. (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 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

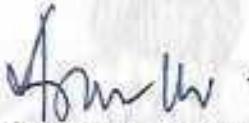
H. Directions of the authority

40. 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 amount received by it from the complainants 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 date of refund of the deposited amount. No interest shall be payable by the respondent from 13.10.2020 to 21.07.2022 in view of judgement of Hon'ble Supreme Court wherein this was explicitly instructed to cease any further development in the project.
- 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 further directed not to create any third-party rights against the subject unit before full realization of the paid-up

amount along with interest thereon to the complainants, and even if, any transfer is initiated with respect to subject unit, the receivable shall be first utilized for clearing dues of allottee-complainants.

41. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
42. Complaints stands disposed off.
43. Files be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Date: 13.01.2026