

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

Date of decision: 07.04.2026

Name of the Builder		Manglam Multiplex Pvt. Ltd.	
Project Name		M3M Heights	
S.no.	Complaint No.	Complaint title	Attendance
1.	CR/5434/2023	Vivek Khanna V/s Manglam Multiplex Pvt. Ltd.	Bhrigu Dhama (Complainant) Shreya Takkar Meenal Khanna (Respondent)
2.	CR/5791/2023	Vivek Khanna V/s Manglam Multiplex Pvt. Ltd.	Bhrigu Dhama (Complainant) Shreya Takkar Meenal Khanna (Respondent)
CORAM:			
Arun Kumar			Chairman

ORDER

1. This order shall dispose of all the 2 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 project, namely, "M3M Heights" at Sector 65, Gurugram being developed by the

respondent/promoter i.e., Manglam Multiplex Pvt. Ltd. The terms and conditions of the builder buyer's agreements fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of possession and delayed possession charges.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

Sr. No	Complaint no./title/ date of filing complaint	Reply status	Unit No. and area admeasuring (Carpet area)	Date of execution of apartment buyer's agreement	Due date of possession & Offer of possession	Total sale consideration and amount paid by the Complainant (s)	Relief Sought
1.	CR/5434/2023 Vivek Khanna V/s Manglam Multiplex Pvt. Ltd. DOF- 20.12.2023	Reply received on 09.05.2024	MHTW-01/1105, 11 th floor, Tower/block- 1, 725.28 sq. Ft.(Carpet Area) (Page 71 of complaint)	11.08.2021	30.06.2024 Offer of possession- 19.10.2023 (Page 152 of reply)	TSC: Rs.1,26,53,106/- (As per payment plan on page no. 57 of the complaint) AP: Rs.1,25,15,825/- (As per customer ledger dated 19.03.2024 on page no. 160 of the reply)	Assured Return, Handover possession, Set aside pre cancellation letter, Compensation
2.	CR/5791/2023 Vivek Khanna V/s Manglam Multiplex Pvt. Ltd. DOF- 01.01.2024	Reply received on 13.05.2024	MHTW-01/705, 7 th floor, Tower- 1, 725.28 sq. Ft.(Carpet Area) (Page 59 of complaint)	11.08.2021	30.06.2024 Offer of possession- 19.10.2023 (Page 196 of complaint)	TSC: Rs.1,26,53,106/- (As per the bba on page 83 of the complaint) AP: Rs.1,26,53,103/- (As per customer ledger dated 19.03.2024 on page no. 103 of the reply)	Assured Return, Handover possession, Set aside pre cancellation letter, Compensation

1Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviations Full form

DOF- Date of filing complaint

TSC- Total Sale Consideration

AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed by the complainant(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties *inter se* in respect of said unit for seeking award of possession and delayed possession charges.
 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 promoter, 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/5434/2023 titled as Vivek Khanna V/s Manglam Multiplex Pvt. Ltd.** are being taken into consideration for determining the rights of the allottee(s) qua assured return and possession.
- A. Project and unit related details**
7. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

CR/5434/2023 titled as Vivek Khanna V/s Manglam Multiplex Pvt. Ltd.

S. N.	Particulars	Details
1.	Name of the project	"M3M Heights" sector-65, Gurugram
2.	Project area	14.4125 acres
3.	Nature of project	Residential

4.	RERA registered/not registered	Registered vide no. 01 of 2017 dated 14.06.2017 valid up to 01.05.2024
5.	DTCP License no.	15 of 2017 dated 02.05.2017 valid up to 01.05.2025
6.	Name of licensee	Mangalam Multiplex Private Limited
7.	Unit no.	MHTW-01/1105, 11 th floor, tower/block-1, (As per page no. 71 of the complaint)
8.	Unit measuring	725.28 sq. ft.(Carpet area) (As per page no. 71 of the complaint)
9.	Allotment letter	21.06.2021 (Page 72 of reply)
10.	Date of execution of agreement for sale	11.08.2021 (As per page no. 67 of the complaint)
11.	Possession clause	<p>7 POSSESSIONS OF THE APARTMENT</p> <p>7.3 The Promoter assures to offer the handover of possession of the Apartment along with the parking (if applicable), if any, as per the agreed terms and conditions, unless there is a delay due to Force Majeure, court orders, Government Policy/ guidelines, policy guidelines of Competent Authorities, decisions affecting the regular development of the real estate Project/ infrastructure Project or any other event / reason of delay recognized or allowed in this regard by the Authority, duly completed with all Specifications, Amenities, Facilities as mentioned in "Schedule E" hereto, prior to the expiry of the</p> <p>Commitment Period...</p> <p>Definition: (m) "Commitment Period" shall mean 30.06.2024 as notified by the Promoter to the Authority, at the time of registration of the Project under the Act, for completion of the Project, or as may be further revised/ approved by the authorities.</p>
12.	Due date of possession	30.06.2024 (As mentioned in the possession clause)

13.	Clause of Pre handover amount as per letter dated 05.10.2021	4. ...In order to ensure you, the Allottee of the timely delivery of possession of the Unit and to provide you with comfort of our commitment, Company shall allow an accumulated Pre handover amount of ₹39,469/- Per month to you, the Allottee, with effect from completion of payment of ₹ 13,05,580/- Plus GST till the date of Filing of application for grant of occupancy certificate of the unit. Further, Company shall allow an accumulated Pre handover amount of ₹39,457/-Per month to you, the Allottee, with effect from completion of payment of ₹13,05,580/- Plus GST till the date of Filing of application for grant of occupancy certificate of the unit. Once the Commitment Period has expired, no further amount will be allowed as accumulated pre handover amount by the Company to you, the Allottee.....
14.	Total sale consideration	Rs.1,26,53,106/- (As per payment plan on page no. 57 of the complaint)
15.	Total amount paid by the complainant	Rs.1,25,15,825/- (As per customer ledger dated 19.03.2024 on page no. 160 of the reply)
16.	Applied for OC	14.10.2022 (As stated by the respondent in its reply at page 9)
17.	Demand letter	17.10.2022 (As per page no. 144 of the reply)
18.	Pre-cancellation letter	08.11.2022 and 27.11.2023 (As per page no. 146 of the reply and as per page no. 2 of the application placed on record by respondent to file its counter claims)
19.	Cancellation letter	24.11.2022 (As per page no. 147 of the reply)
The complainant made payment after the cancellation and the said cancellation letter was withdrawn by the respondent.		

20.	Final opportunity to pay the balance	24.02.2023
21.	Occupation certificate	16.10.2023 (As stated by the respondent in at page no. 2 of the application placed on record by respondent to file its counter claims)
22.	Intimation letter for possession	19.10.2023 (As per page no. 152 of the reply)
23.	Pre cancellation	27.11.2023

B. Facts of the complaint

8. The complainant has made the following submissions: -

- I. That the complainant had initially booked a unit bearing no. 208 in the project of the respondent, namely, Emporis Tower (Indo World Infrastructure Pvt. Ltd) in the year 2017, being developed at Sec-140, Noida, for which the complainant had duly paid part sale consideration amount. The said unit was later cancelled and it was agreed between the parties that the said paid amount would be equally adjusted in the 4 current/ fresh bookings made by the complainant in the project "M3M Heights".
- II. That around february 2021, vide advertisements, publications and physical representations made by the respondent, the respondent had enticed and invited applications from buyers and investors in its project. It is submitted that Ms/. Investor Clinic was agent/property dealer involved in the booking of the subject unit as well as the other 3 units booked in the subject project.
- III. That the complainant had invested his hard earned money and booked 4 units, i.e. unit no. 508 tower - 6, unit no. 1105 tower - 1, unit no. 2005 tower - 1, and unit no. 705 tower - 1, in the project of the respondent based on the representation and assurances of the respondent, which have later on proved to be false. Out of the four units booked, the complainant was allotted the present subject unit being, mh tw-01-1105, having carpet area of 725.28 sq. ft. (67.38 sq.mtrs.) and corresponding super area admeasuring 1261 sq. ft./

117.15 sq. mtrs., on the 11th floor, of tower no. 1, along with exclusive usage of 1 number of car parking spaces .

- IV. That the respondent vide its e-mail dated 03.03.2021, had shared the cost sheet for the said unit, wherein the total sale value of the unit was duly intimated as Rs. 1,53,84,200/- (which includes 1,50,68,950 as total cost value + ifms on possession as Rs 1,89,150/- + 1,26,100/- as power backup charges to be paid on possession). The effective total sale value after deducting the old investment amount was finalised as Rs. 1,10,79,200/- only. Thus, the effective sale consideration to be paid was only Rs. 1,10,79,200/- against the said unit. The said e-mail also recorded the plan of 2 (two) pre-handover amounts/ assured return amounts, amounting to Rs. 78,931/- which were to be paid by the respondent on a monthly basis.
- V. That in terms of the information provided and the representations offered by the staff of the respondent company, the scheme for investment offered to the complainant was an assured return scheme, wherein, an amount of Rs. 39,468/- per month, calculated at Rs. 31.30 per sq. ft. per month, stated to be Pre-Handover amount, was to be paid to the complainant from the date of completion of 40% till a valid application of occupation certificate. Furthermore, another amount of Rs. 39,463/- per month calculated at Rs. 31.30 per sq. ft. per month, stated to be pre-handover amount on old investment, which was to also start from completion of 40% till valid application of occupation certificate to be paid as interest @11% p.a. (Accumulation per month).
- VI. That the respondent had issued a discount/ rebate/ credit letter dated 16.04.2021, whereby the respondent had assured for the adjustment of an amount of Rs. 43,05,000/- from the total sale consideration of the subject unit. The said amount should have been adjusted at the get go as the same was duly paid and now being only transferred from the earlier unit of the

complainant in the project, "Emporis Tower" to the subject unit in "M3M Heights". The said was only a transfer of amounts already paid and not any discount or rebate granted by the Respondent.

VII. That vide e-mail dated 28.05.2021 Mr. Hanish Kumar (Representative of M/s. Investors Clinic) had forwarded the SOA of the said units, which was shared with him by the staff of the respondent vide their e-mail of the same day. Vide another e-mail dated 28.05.2021 shared by the respondent's staff, the complainant was conveyed another cost sheet, whereby now the total sale value (including ifms & pbc) was stated as Rs. 1,23,84,200/-. The payment plan presented was;

PAYMENT PLAN

Payment within 30 days (40% of TCV)	INR
Payment on Application of OC (50% of TCV)	INR 53,81,975/-
On offer of Possession (10% of TCV + 100% IFMS & PBC)	INR 13,91,645/-
Credit Note Pre-Handover	INR 43,05,000/-
Pre-handover to start from completion of 40% till Application of OC @ 11%PA (accumulation per month)	INR 39,468/-
Pre-handover on Old Investment to start from completion of 40% till Application of OC @ 11%PA (accumulation per month)	INR 39,463/-

VIII. Therefore, what was to be paid to the complainant was an assured return amount, for every preceding english calendar month, starting from 01.05.2021 onwards, which was a recurring payment of Rs. 78,936/- per month. However, despite repeated follow-ups, personal meetings and reminders over e-mail's and call, the respondent till date has wilfully neglected to make any payment towards the same, neither any adjustment of

the outstanding assured return amounts has been made in the ledger of the complainant as maintained by the respondent.

- IX. That at the time of initial booking of the subject unit, it was promised to the complainant that the assured return amounts will be paid till the obtaining of the occupation certificate, however later the said terms same were unilaterally changed by the respondent and the documents had only captured the payment of the assured return amounts only till a valid application for OC. The complainant having already invested huge sums in the subject unit as well as 3 other booked units in the same project, was constrained to accept the said unilateral change under the threat and fear of cancellation and forfeiture of paid amounts by the respondent. Vide an E-mail dated 18.06.2021 the respondent had sought to share a revised payment plan with the complainant, whereby now the payments were to be made as;

NEW PAYMENT PLAN:- MH TW- 01 - 1105	
Within 15 days of Booking	INR 13,05,580.00/- + GST
On Application of OC	90% of TCV + GST to be completed
On offer of notice of possession	Balance Amount

- X. That shortly thereafter the respondent shared a pre-set allotment letter/ tax Invoice along with a letter dated 22.06.2021 for the subject unit. In terms of the allotment letter the total consideration value of the unit was now presented as Rs. 1,26,53,106.00/-.
- XI. That in terms of the allotment letter the payment plan now offered to the complainant was whereby the payments were to be made as;

Name of Instalment	Instalment Amount in INR (including Tax component)
Within 5 days of Booking	10,99,999.00/-

Within 15 days of Booking (subject to signing of BBA)	2,70,859.00/-
On Application of OC	1,00,16,938.00/-
On Notice of Offer of Possession	12,65,310.00/-
Total	Rs. 1,26,53,106.00/-

- XII. That furthermore, as per the payment plan offered for other charges, the complainant was to pay Rs. 1,58,329.00/- as 100% power backup charges and Rs. 1,99,452.00/- as ifms charges at the time of notice of offer of possession (which shall be only after obtaining the requisite occupation certificate.) After the finalisation of the allotment the parties executed the agreement for sale dated 11/08/2021 for the said unit.
- XIII. That subsequently the respondent had issued letter dated 05.10.2021 whereby the certain terms and conditions were penned down, with respect to the payment plan, assured return amounts and the allotment letter. The respondent around november, 2021 raised a fresh demand on the complainant, now for an amount of Rs. 52,222/- for each unit booked stated to be towards gst amount. The complainant had raised serval issues and had sought clarifications with respect to the new demands being raised as all payments as per the own calculation of the respondent company were duly made earlier. The complainant had also raised the issue of non-payment of the assured return amounts, which were contractually due and payable but not paid/ defaulted to by the respondent company.
- XIV. That on the persistent enquiries by the complainant, Mr. Hanish Kumar (from M/s. Investors Clinic) vide his e-mail dated 20.11.2021, addressed to the Respondent company and M/s. Investors Clinic, had duly raised the said issue on behalf of the complainant. It is pertinent to state that, the fact of starting

of the assured return payments for two units from 31.03.2021 and for the other two units from 01/05/2021 was duly captured vide the said e-mail.

- XV. That the complainant owing to the wilful neglect on the part of the respondent, was constrained to send another e-mail dated 03.08.2022, whereby the respondent was requested to provide copy of statement of account showing the demand raised for the 4 units, after adding all the amounts of assured returns for all 4 units. The complainant vide his e-mail dated 01.11.2022 had sought to clarify to the respondent that, all payment with respect to the units were cleared from his end and the demand of Rs. 52,222/- was raised later on account of fault of m3m and not of the complainant. It was clarified that the assured return for the subject unit was to start from 01.05.2021.
- XVI. That the respondent thereafter shared another e-mail dated 03.11.2022, thereby sharing another statement of account with the complainant. Seeking payment of the demanded amounts. The complainant in reply to the above mail issued his reply e-mail dated 05.11.2022, whereby it was clarified that what was sought by the complainant was an updated statement after adjusting the previous payment made under pyp scheme. It was clarified that till the said date payment details after adjustment of the previous payment. The said clarification was required in order to arrange loan through the bank. Thereafter, in response the respondent issued another e-mail dated 08.11.2022, wherein surprisingly rather than providing the requested statement of account, it was stated that the clarification was already clarified to Mr. Hanish Palta who confirmed that he would clarify the same to the complainant. It was shocking to note that rather than providing the updated statement of account as requested the respondent by a letter of the same day, i.e. 08.11.2022 sent a pre-cancellation letter for the subject unit.

- XVII. That the complainant yet again vide his e-mail dated 11.11.2022 had raised the issue of unpaid assured return amounts with the respondent. However, the said plea again fell on deaf ears and the respondent yet again failed to make any payment, whatsoever, against the contractual assured return amounts. That vide another e-mail of the same date the complainant has further requested the Respondent company to issue the demand which he could send to the bank for all units. It was also requested to revise the assured return calculation as per the details shared with the respondent.
- XVIII. That the complainant vide its e-mail of the same date, i.e. 16.11.2022, had even agreed to make part payment of an amount of Rs. 25,00,000/- each for three units, subject to receiving the statement of accounts for the said units and a confirmation from the respondent via e-mail. Thus, the intent of the complainant in readily complying with his contractual obligations was duly conveyed to the respondent. Thereafter the complainant in a follow up e-mail dated 17.11.2022 had shared with the respondent the payments receipts for calculation of the assured return amounts and had again requested for payment of the same.
- XIX. That owing to the callous attitude of the respondent and its wilful neglect to take any action on the issues raised by the complainant, the complainant was yet again constrained to send another e-mail dated 22.11.2022, whereby it was duly communicated that, the balance payments were duly available with the complainant through Bank (loan) and part by self-funding. However, it was duly contented that the same would only be released once the updated demand was received, wherein the credit amount of Rs. 43,05,000/- was duly adjusted against the sale consideration along with adjustment or payment of the assured return amount till the said date. It was also duly informed that the complainant had issued 3 cheques of Rs. 25,00,000/- each for three (3) units and the same were being handed over to Mr. Hanish Palta from Ms/

Investors clinic. Since the respondent had miserably failed to complete the requirements as raised on 20/10/2022 by the complainant, it was duly apprised that as the said requirements were not met, no penalty could be imposed upon the complainant for the delay caused owing to the wrongdoings on the part of the respondent.

- XX. That in response to the above e-mails the respondent thereafter vide its e-mail dated 24.11.2022, shared the fresh calculation from their end and demanded the alleged amount on immediate basis. The representative of the bank/ Financier, ICICI bank vide his e-mail dated 01.12.2022 had requested the respondent to help in arranging certain document which were required for loan disbursement for the subject unit. The representative of the bank/ Financier, ICICI bank vide his e-mail dated 02.12.2022 had shared the sanction letter for loan allocation, and had clarified that the same was also sent through by the complainant on 23.11.2022, yet there was no action on the same by the respondent company. It was contended the loan for the subject unit, i.e. 1105, could only be released upon receipt of certain documents by the bank, a list of which was duly shared vide the said e-mail.
- XXI. That the complainant thereafter in response to the cancellation notice dated 24.11.2022, issued by the respondent had sent its reply to the same vide e-mail 05.12.2022 and letter dated 05.12.2022. Vide the said Reply, the complainant had duly intimated that, the payments were available through loan from ICICI Bank, however, the same could only be released once the updated demand was issued after mentioning/ adjusting the rebate/ discount of the amount of Rs. 43.05 Lakhs and the after updating the assured return amounts. It was further informed that three cheques of Rs. 25,00,000/- each were handed over to Mr. Hanish Palta, from Investors Clinic which was requested to handover the said cheques once the details as had been requested since 20.10.2022 was provided to the complainant. It was

further clarified that in lieu of the said neither was the complainant liable to pay and delay charges nor the booking/ allotment could be cancelled. The complainant, thereafter, vide his e-mail dated 06.12.2022 had requested the respondent company and its staff to help him in arranging certain documents in order for disbursement of the loan amount for the subject unit. The respondent thereafter issued another e-mail dated 07.12.2022, thereby arbitrarily rejecting to adjust the credit amount of Rs. 43.05 Lakhs from the current demand and to the utter shock of the complainant sent along with it a cancellation letter dated 24.11.2022 for the subject unit.

XXII. That owing to the inaction on the part of the respondent the Bank Officials, vide their e-mail dated 15.12.2022 had yet again sought confirmation from the respondent as to suggest a date for collection of the necessary documents. The bank officials yet again vide their e-mail dated 19.12.2022 had requested the respondent company and its staff to arrange the necessary documents for the subject unit latest by 20.12.2022, and requested for the said to be undertaken on priority basis. The Bank officials vide another e-mail of the same date, i.e. 19.12.2022, requested the respondent to share the copy of occupation certificate, for tower - 1 in subject project, i.e. "m3m heights", if received. On the same day the complainant vide another e-mail dated 19.12.2022, had yet again requested the respondent company and its staff to provide the copy of the oc application submitted by the respondent with the concerned Govt. department, which was required by the complainant for the purpose of financing and re-financing of the units booked. However, the said request was plainly and arbitrarily rejected/ not acted upon by the Respondent and its staff.

XXIII. That the complainant has till date paid an amount of Rs. 1,10,72,243/- against the total sale consideration as payable as on date, i.e. Rs. 13,70,858/-, which is till the stage of "Within 15 days of booking". The respondent has till date

despite repeated requests, abstained from sharing any application filed for occupation certificate/ completion certificate for the said tower/unit. Therefore, as and when the said application, if any, filed with the concerned authority is shared, the next stage of amounts would become due and payable by the complainant, which the complainant undertakes to pay and when called upon with adequate proof of achieving the agreed milestone. In terms of the amounts paid with respect to the subject unit the respondent vide its e-mail dated 10.01.2023 issued and shared the receipt for the same with the complainant. To the utter shock of the complainant the respondent issued a letter dated 24.02.2023, titled as last and final opportunity, demanding a further payment of Rs. 45,58,452/-

XXIV. That to the utter shock and surprise of the complainant the respondent company had yet again issued a cancellation notice dated 24.02.2023. The said notice was duly replied to by the complainant through his e-mail dated 28.02.2023, whereby it was duly pointed out that the necessary documents were provided by the respondent for disbursement of loan amounts only on 24.11.2022. The payment of Rs. 10,68,000/- for the subject unit was on 04.01.2023, thus there was no delay of the part of the complainant and the entirety of the delay, if any, was solely occasioned by the respondent and its inactions. The complainant yet again being constrained owing to the inaction on the part of the respondent, had sent the e-mail dated 14.07.2023, which was a follow up on the e-mail dated 19.12.2022, duly pointing out that the respondent had raised a demand for the milestone of application for occupation certificate in November, 2022, however, the occupation certificate application was not made available along with the demand and even after several requests. Owing to the inaction on the part of the respondent, the complainant was constrained to write another e-mail dated 04.08.2023, raising several concerning issues with respect to his investment. Vide the said

e-mail it was reiterated that despite several follow ups, mails and visits the alleged copy of application for occupation certificate or copy of occupation certificate, if received, was not provided to the complainant, neither it was shown to him during his visits to the respondent company's office. It was also conveyed that the officials of ICICI bank had apprised the complainant that as the main promoter of the company was in jail they will not provide any further loans and had asked the complainant to be cautious in his dealings with the respondent. The respondent vide its e-mail dated 08.08.2023 had apprised the complainant that they had revoked the cancellation for the 3 units including the subject unit.

- XXV. That as despite numerous follow ups and e-mails the respondent and its staff had failed to even attend to the issues raised by the complainant. The complainant vide its e-mail dated 12.08.2023 reiterated its stance taken up vide earlier dated 14.07.2023 and 19.12.2022. The complainant thereafter vide another e-mail dated 14.08.2023, yet again raised the issue of difference in assured return amounts with the respondent. Subsequently, the respondent vide its Letter dated 19.10.2023 issued its notice for offer of possession for the subject unit, i.e. 1105, tower - 1. That along with the said letter a fresh demand of Rs. 70,51,508/- was raised against the subject unit.
- XXVI. That the complainant had to get issued a legal notice dated 14.09.2023 through his lawyer. That vide the said legal notice the fact of total payments made with respect to all 4 units was brought to the attention of the respondent, which was Rs. 99,53,861/- for the subject unit, without adjustment of the outstanding assured return amounts. The complainant vide the said legal notice duly brought to the notice of the respondent the non-payment of outstanding assured return amounts which were due/ outstanding from 01.05.2021. It was reiterated that the respondent had wilfully neglected to supply copy of the occupation certificate or application

submitted for issuance of occupation certificate with the concerned govt. authority. It was reiterated vide the said legal notice that the complainant as always was ready to pay the balance amounts, if had become due, in respect of all 4 units, which was already communicated vide complainants Ee-mail dated 03.08.2023 and other numerous E-mails.

XXVII. Thereafter, the complainant vide his another -mail dated 04.11.2023, had conveyed that as per earlier e-mail dated 24.11.2022, the balance amount along with GST for the subject unit was 12,65,666/- . It was duly pointed out that neither any details/ pictures of proof were attached of achieving the said milestones for which demands were raised and amenities as promised were currently missing. It was duly pointed out that in the recent demand letter shared, neither the credit mount was adjusted neither any payment of adjustment of the assured return amounts were made. It was duly conveyed that the complaint as always was ready to pay the pending amounts but only after adjustment and proof of achieving the said milestones as per payment plan. The complainant thereafter had sent another e-mail dated 07.11.2023, wherein the issue of assured return and its outstanding payments was raised. It was reiterated that the complainant has always been compliant of its contractual obligations and payment commitments.

XXVIII. That the respondent to the utter shock and dismay of the complainant had sent an alleged pre-cancellation Letter dated 27.11.2023 for the subject unit. It is pertinent to point out that the said alleged cancellation letter was issued despite the fact that there was a credit amount of Rs. 43.05 Lakhs which was to be adjusted and also an hefty amount of assured return which as remained unpaid had to be adjusted in the said demand, as and when it became due. However, the Respondent despite complying with its obligations had sought to arbitrarily issue the alleged cancellation letter.

- XXIX. That the complainant in reply to the said alleged cancellation letter had sent its e-mail dated 04.12.2023, whereby the demand for the copy of occupation certificate/completion certificate or the demand for supplying a copy of the occupation certificate application letter was reiterated and it was duly pointed out that till the said obligation was not fulfilled the milestone of next demand had not arisen.
- XXX. That till date the respondent has not given the possession of the said unit after obtaining the requisite occupation certificate. Neither paid the assured return amounts to the complainant for any unit. Therefore, wilfully neglecting to comply with the terms and conditions of the AR Scheme. That the complainant has been regularly suffering on account of wilful neglect of the respondent in complying with their contractual obligations. The respondent prays that this Hon'ble Authority may direct the Respondent to share with the complainant the copy of occupation certificate/completion certificate received or supply a copy of the valid application made for obtaining occupation certificate/completion certificate with the concerned govt. department and offer possession of the subject unit thereafter.
- XXXI. That the entire premise of filing the said four complaints was the inaction/wilful neglect on the part of the respondent despite receipt of the major part of the sale consideration, was firstly the denial to share the alleged application for occupation certificate which was a benchmark for the calculation of the pre-handover amounts, secondly, its refusal to make adjustment of the pre-handover amounts in the SOA and raised demands accordingly, thirdly, to revise the demands in order to safeguard the Credit amount of Rs. 43,05,000/- (each for the 4 units) and the pre-handover amounts, as the demands so raised without adjusting the said credit amount and the pre-handover charges were infact ging way over and above the sale consideration. and fourth the wilful neglect on the part of the respondent to

share any details w.r.t the delay of more than one year from the date of alleged and wrongful application of occupation certificate and the alleged date of receipt of occupation certificate, fifth, failure on the part of the respondent to pay Pre-Handover charges till atleast 60 days prior to the date of issuance of occupation certificate for the respective units. It is pertinent to note that despite repeated arguments the Respondent has till date failed to place on record the alleged application for occupation certificate, which is the primary document in contention, the respondent has failed to place on record the alleged application for occupation certificate for tower – 6 and Tower – 1.

XXXII. That the main objection to the alleged application of occupation certificate stems from the fact that admittedly in the filings for the project before this Hon'ble Authority, the building plans were revised after the date of the alleged application of occupation certificate, the fire scheme approval was revised after the same and also the occupation certificate in itself records deviations from the approved plans. The said clearly goes to show the said application for occupation certificate was defective and thus the complainant is entitled to pre-handover charges as stated below atleast till 60 days prior to the date of alleged occupation certificate, i.e. from 01.05.2021 till 17.08.2023. Thus, the Application of OC dt. 13.10.2022 was infact faulty and incomplete.

XXXIII. That furthermore, the Quarterly schedules, submitted online by the respondent on 26.04.2024, the service plans having been approved on 18.04.2023, site plans on 16.12.2022, building plans on 16.12.2022 and fire NOC on 14.02.2023, thus admittedly the alleged occupation certificate application dated. 13.10.2022 could not have bene complete and thus an incomplete application for occupation certificate cannot be used or allowed to be relied upon by the respondent to stop payment of the pre-handover charges. The respondent has till date has not filed its application for

occupation certificate for both towers in the present case with all its annexures or has in any way replied to the question of delay of more than 1 year in receipt of occupation certificate.

XXXIV. Written submissions have been filed by the complainant. The same have been taken on record and perused further.

C. Relief sought by the complainant:

9. The complainant has sought following relief(s):

- i. Direct the respondent to pay the outstanding assured return amounts from the date of inception, i.e. 01.05.2021 till the date of actual handover of possession or service of copy of occupation certificate / valid and legal application of occupation certificate to the complainant along with applicable interest till the actual realization of the said amounts.
- ii. Direct the respondent to handover possession of the subject unit after obtaining and sharing the requisite occupation certificate/ Completion certificate form the concerned Govt. Department.
- iii. Direct the respondent to set aside the alleged cancellation letter dated 27.11.2023 issued by the respondent for the subject unit.
- iv. Direct the respondent to pay a sum of Rs. 5,00,000/- towards legal costs and expenses incurred by the complainant in pursuing legal recourse against 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 complainant after conducting his own due diligence and market research applied for booking of four unit through his broker M/s. Investors Clinic Infratech Pvt. Ltd. in the Project "M3M Heights" which is residential

component of the mixed land use development being undertaken by respondent in Sec 65 Gurugram. The complainant booked 4 apartments which are - mh tw-06-508, mh tw-01-2005, mh tw-01-705, mh tw-01-1105. The complainant applied for booking of apartment no. mh- tw-01-1105 and paid an amount of Rs. 5,00,000/- as part booking amount towards the same. The complainant on his own free will and understanding after reading all the clauses of the application Form, signed the said application form.

- ii. That the respondent allotted unit bearing no. mh tw-01-1105 vide allotment letter dated 02.03.2021. The cost of the unit for an area admeasuring 725.28 sq. ft. carpet area was fixed at Rs. 1,58,03,099/- plus other applicable charges. Thereafter, the respondent as per the payment plan opted by the complainant, raised the demand due within 30 days of booking vide letter dated 03.03.2021 and requested the respondent to pay an amount of Rs. 40,20,860/- on or before 31.03.2021. Since the complainant failed to clear his balance outstanding dues, the respondent issued a reminder vide reminder letter-1 dated 09.04.2021 for payment of the outstanding amount immediately, to avoid further accrual of interest/penal consequences. Thereafter, the respondent vide cover letter dated 15.04.2021 sent three copies of the buyer's agreement for due execution at the complainant's end. However, for the reasons best known to the complainant, the complainant failed to return the duly executed triplicate copies of the buyer's agreement and did not come forward for the registration process.
- iii. That it is pertinent to mention here that the respondent as a goodwill gesture offered the complainant a discount/rebate of Rs. 43,05,000/- against the total consideration amount of the said unit vide letter dated 16.04.2021. It was specifically stated in the said letter that the complainant shall be entitled for the abovesaid discount at the time of issuing the final demand of the instalments, subject to making of the payment of the

instalment of the said unit in a timely manner as per the agreed payment plan. Despite issuance of the reminder letter, the complainant did not come forward to clear his outstanding dues, therefore the respondent Company issued a pre-cancellation letter dated 27.04.2021 to the complainant finally calling upon the complainant to make payment of the outstanding dues, failing which the allotment shall be cancelled/terminated.

- iv. That in lieu of the demand letter dated 03.03.2021, the complainant made part payment of Rs. 8,05,580/- on 01.05.2021 which was duly acknowledged by the respondent. The complainant continued to breach the terms of the application form/allotment despite the issuance of above-mentioned pre-cancellation letter; therefore, the respondent issued a last and final opportunity letter dated 26.05.2021 requesting the complainant to remit payment against the pending dues. Since, the complainant failed to clear his dues, therefore the respondent was constrained to terminate the allotment of the complainant vide cancellation letter dated 11.06.2021. Thereafter, the complainant approached the respondent and requested for reinstatement of the unit. The respondent being a customer-oriented company acceded to request of the complainant, subject to complainant clearing all his pending dues. The complainant requested to carry forward the paid amount of Rs. 13,05,580/- in order to revive the unit. The respondent on the assurance given by the complainant, agreed to the said request of the complainant. Thereafter on the request of the complainant, respondent revised the payment plan of all the four units of the complainant vide email dated 17.06.2021 and requested the complainant to give confirmation/consent on the same. That vide email dated 17.06.2021 the complainant consented to the revised payment plan of the units of the complainant. Accordingly, the previous documentation issued by the respondent was annulled.

- v. That vide fresh allotment letter dated 21.06.2021, the Complainant was allotted unit no. mh tw-01-1105 in the said project. That as per the allotment letter the cost of the unit for carpet area admeasuring 725.28 sq. ft. was Rs. 1,26,53,103/- plus other charges. It is submitted that the total consideration value of the unit in question was reduced after the revision in the payment plan. Thereafter, the respondent as per the payment plan opted by the complainant, raised the demand due within 15 days of booking vide demand letter dated 22.06.2021 and requested the respondent to pay an amount of Rs. 65,278/- on or before 05.07.2021 after adjustment of the dues. Since the complainant failed to clear his outstanding dues, the respondent issued a reminder vide reminder letter-1 dated 07.07.2021 for payment of the outstanding amount immediately, to avoid further accrual of interest.
- vi. That the buyer's agreement was executed between the parties on 11.08.2021 and the same was duly registered. The buyer's agreement sets out the rights and liabilities of the parties. The buyer's agreement was duly registered before the Sub-Registrar, Gurugram on 19.08.2021. The respondent company vide acknowledgment letter dated 05.10.2021 offered the complainant a monthly pre-handover amount to provide the complainant the comfort of the company's commitment to deliver the unit on time. It is submitted that as per the terms of the letter, the respondent was to pay the pre-handover amount of Rs. 39,469/- per month with effect from completion of payment of Rs. 13,05,580/- plus GST till the date of filing of application for grant of occupancy certificate. Further, company shall allow an accumulated pre-handover amount of Rs. 39,457/- per month to you, the allottee with effect from completion of payment of Rs. 13,05,580/- plus GST till the date of filing of application for grant of occupancy certificate of the unit. The accumulated pre-handover shall be adjusted from the

demand payable on application of grant of occupation certificate of the Unit. However, in this letter, it was made clear that the said accumulated pre-handover given shall be given to the Complainant only on making the payments of the remaining instalments in a timely manner as per the payment plan opted by the complainant. It is submitted that the prerequisite for availing accumulated pre-handover was timely payment of all demands in accordance with the agreed payment plan.

- vii. That thereafter the complainant made part payment of Rs. 52,222/- on 30.11.2021 towards the unit which was duly acknowledged by the respondent company vide receipt. The respondent company fulfilled its promise and completed the construction before the agreed timeline by investing its own funds. The respondent completed the construction of the project much prior to the agreed timeline and thus applied for the grant of occupation certificate on 14.10.2022.
- viii. That thereafter, the respondent as per the payment plan opted by the complainant, raised the demand due on application of occupation certificate vide letter dated 17.10.2022 and requested the respondent to pay an amount of Rs. 1,00,16,938/- on or before 05.11.2022. The complainant did not come forward to clear his outstanding dues against the demand raised, therefore the respondent issued a pre-cancellation letter dated 08.11.2022 to the complainant. Even after the issuance of the above-mentioned pre-cancellation letter, the complainant failed to clear his dues and continued to breach the terms of the buyer's agreement. As a consequence of the same, the respondent was constrained to cancel the allotment of the complainant vide cancellation letter dated 24.11.2022 and forfeit the amount deposited as per the terms of the buyer's agreement. The complainant approached the respondent company and requested to keep the cancellation in abeyance and assured the respondent that he would make the due payments. The unit

in question has been revived twice on the request and the assurance given by the complainant that he will clear the outstanding dues. The complainant made part payment of Rs. 10,68,000/- on 04.01.2023 and Rs. 32,00,000/- on 12.01.2023 towards his outstanding dues which was duly acknowledged by the respondent vide receipts dated 04.01.2023 and 17.01.2023. Accordingly, the cancellation notice dated 24.11.2022 was withdrawn by the respondent.

- ix. That despite the complainant being in default of his contractual obligations, the respondent adjusted the amount of Rs. 14,43,582/- towards accumulated pre-handover amount in terms of the Acknowledgment letter vide credit note to the complainant. The aforementioned fact has been concealed by the complainant in his complaint filed before this Hon'ble Authority. After the withdrawal of the cancellation notice dated 24.11.2022, the respondent gave ample opportunity to the complainant to clear the outstanding dues. Since the complainant failed to make the complete payment of the pending dues, therefore the respondent issued a last and final opportunity letter dated 24.02.2023 requesting the complainant to come forward and clear the outstanding dues.
- x. That the occupation certificate for the unit in question was granted by the competent Authorities on 16.10.2023 after due verification and inspection. It is submitted that the unit was ready and the respondent herein vide letter dated 19.10.2023 offered possession to the complainant and requested the complainant to remit the outstanding amount towards the remaining basic sale price, taxes, cess, stamp duty charges etc on or before 17.11.2023. It is submitted that the complainant was well aware of his obligation to take possession of the unit in accordance with Section 19(10) of RERA Act, 2016, however failed to clear his dues and take possession of the unit in question. Despite, the complainant defaulting in timely payment of demands, the

respondent gave the rebate of Rs.43,05,000/- to the complainant on 31.10.2023 as agreed in letter dated 16.04.2021.

- xi. That since, the complainant failed to clear his dues therefore, the respondent issued pre-cancellation letter dated 27.11.2023. It is submitted that the actual amount paid by the complainant towards the unit in question is Rs. 67,67,243/-. The respondent further has credited the following amounts towards pre-handover and rebate despite the complainant defaulting in making timely payments:

- I) Pre-handover amount in accordance with Clause 4 of Acknowledgment letter dated 05.10.2021 - Rs. 14,43,582/-
- II) Rebate/discount as per letter dated 16.04.2021-Rs.43,05,000/.

- xii. That the respondent after completing the construction of the tower in which the unit in question was located applied for the grant of occupation certificate vide application dated 14.10.2022. The respondent post filing of the application of grant of occupation certificate on 14.10.2022, raised the demand due on grant of occupation certificate vide demand letter dated 17.10.2022.
- xiii. That the application dated 14.10.2022 was never rejected by the DTCP, Haryana and the occupation certificate dated 16.10.2023 was granted on the very same application. The occupation certificate is a public document available on the website of DTCP Haryana as well as website of HRERA, Gurugram. As far as the acknowledgment letter dated 05.10.2021 is concerned the same records the commercial understanding between the parties. It was duly agreed between the parties that the accumulated pre-handover amount was payable only till the date of filing of application of occupation certificate provided the complainant made timely payment of all

demands as per payment plan despite the complainant being a defaulter and not being entitled to the pre-handover amount as per the terms of acknowledgment letter dated 05.12.2021 the respondent as a goodwill gesture credited the pre-handover amount in to the account of the complainant on 17.12.2023.

xiv. Written submissions has been filed by the respondent. The same has been taken on record and perused further.

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 these undisputed documents and submission 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, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

15. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be to the allottee 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.

F. Findings on the reliefs sought by the complainant:

F.1 Direct the respondent to pay the outstanding assured return amounts from the date of inception, i.e. 01.05.2021 till the date of actual handover of possession or service of copy of occupation certificate / valid and legal application of occupation certificate to the complainant along with applicable interest till the actual realization of the said amounts.

17. In the present matter the complainant was allotted a unit no. MH TW-01-1105, on 11th floor, tower 1 vide allotment letter dated 21.06.2021 in the project namely M3M Heights located in sector 65, Gurugram for a total sale consideration of Rs.1,26,53,106/- out of which the complainant has paid the total amount of Rs.1,25,15,825/-. The respondent through letter dated 05.10.2021 assured the complainant to pay accumulated pre handover of Rs.39,469/- per month to you, the Allottee, with effect from completion of payment of 13,05,580/- plus GST till the date of filing of application for grant of occupancy certificate of the unit. As per the records available, it is evident from the statement of account dated 19.03.2024 at page 160 of reply that the amount of Rs. 14,43,582/- was credited by the respondent on 17.12.2022. The complainant had also raised a query that the credit rebate amount was never

given to him. However, the same is credited to the complainant and the same is evident from the statement of account dated 19.03.2024.

18. The complainant has prayed for the relief of assured return. However, it is important to note that there is no document or letter on record which can establish that the parties ever entered into any agreement wherein the respondent was liable to pay assured return to the complainant. In the light of the aforesaid facts and reasons, the present relief stands redundant.

F.II Direct the respondent to handover possession of the subject unit after obtaining and sharing the requisite occupation certificate/ completion certificate form the concerned govt. department.

F.III. Direct the respondent to set aside the alleged cancellation letter dated 27.11.2023 issued by the respondent for the subject unit.

19. In the present case the application for the occupation certificate was made on 14.10.2022 and the same is available on the record. Thereafter the occupation certificate was obtained by the respondent on 16.10.2023 and the same is evident from the website of DTCP as well. The possession was offered by the respondent on 19.10.2023. The complainant in his complaint itself stated that he is ready to pay the balance amount. The respondent in its reply has stated that they are ready to give possession to the complainant provided the complainant clears the outstanding dues. The complainant is directed to clear the dues outstanding along with interest if any and to take possession in two weeks. The respondent is directed to handover the possession of the allotted unit complete in all aspects as per specifications of buyer's agreement within 30 days from date of this order once dues are cleared by the complainant. The interest due if any shall be charged by respondent on equivalent rate as per section 2(za) of the Act of 2016. The respondent shall not charge anything beyond the builder buyer agreement.
20. As far as relief no. FIII is concerned the respondent is directed to set aside pre cancellation letter dated 27.11.2023 as the complainant has already paid an

amount of Rs.1,25,15,825/- out of the total sale consideration is Rs.1,26,53,106/- and is willing to take possession of the subject unit.

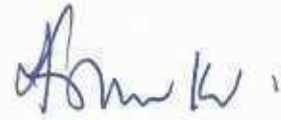
F. IV. Direct the respondent to pay a sum of Rs. 5,00,000/- towards legal costs and expenses incurred by the complainant in pursuing legal recourse against the respondent

21. The complainant is seeking above mentioned relief w.r.t. compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)*, has held that an allottee is entitled to claim compensation and litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation and litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation. Therefore, the complainants are advised to approach the adjudicating officer for seeking the relief of compensation.

G. Directions of the authority

22. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- i. The respondent is directed to handover the possession of the allotted unit complete in all aspects as per specifications of buyer's agreement within 30 days from date of this order.
 - ii. The complainant is directed to clear the outstanding dues with interest, if any.
 - iii. The interest due if any shall be charged by respondent on equivalent rate as per section 2(za) of the Act of 2016.

- iv. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.
23. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
24. The complaints stand disposed off.
25. Files be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 07.04.2026