

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

Complaint no. : 2523 of 2023
Date of complaint: 30.05.2023
Date of decision: 07.04.2026

Nitin Arora
Asha Arora
R/o: B-62, 1st floor, South Extension
Part 2, New Delhi

Complainants

Versus

M/s Manglam Multiplex Private Limited
Regd. Office at: Cabin -1, LGF, F-22,
Sushant Shopping Arcade,
Sushant Lok Phase-1, Gurugram -122002

Respondent

CORAM:

Arun Kumar
Phool Singh Saini

**Chairman
Member**

APPEARANCE:

Sukhbir Yadav (Advocate)
Shriya Takkar (Advocate)
Meenal Khanna (Advocate)

Complainants
Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the

Rules and regulations made thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

Sr. No.	Particulars	Details
1.	Name and location of the project	"M3M 65 th Avenue", Sector 65, Gurugram
2.	Nature of the project	Commercial
3.	Project area	14.4125 acres
4.	DTCP license no.	15 of 2017 dated 02.05.2017 valid up to 01.05.2025
5.	Name of licensee	Manglam Multiplex Pvt. Ltd.
6.	REERA Registered/ not registered	01 of 2017 dated 14.06.2017 (Issued for part of the project by the Interim REERA) 32 of 2023 dated 02.02.2023 valid up to 01.05.2024 (for whole project)
7.	Unit no.	KIOSK-20, 1 st Floor & Food court unit (As per page no. 48 of the complaint)
8.	Unit area admeasuring	1200.87 sq. ft. (Super area) & 215.05 sq. ft. (Carpet Area) (As per page no. 48 of the complaint)
9.	Allotment letter	10.02.2018



		(As per page no. 31 of the complaint)
10.	Date of agreement for sale	22.11.2019
		(As per page no. 45 of the complaint)
11.	Possession clause	7. POSSESSION OF THE UNIT 7.1 Schedule for possession of the said Unit: <i>The promoter agrees and understands that timely delivery of possession of the unit along with the car parking space(s), if any, to the allottee and the common areas to the association of allottees or the competent authority, as the case may be, as provided under the act and Rule 2(1)(f) of Rules, 2017, is the essence of the agreement.</i>
		(As per page no. 60 of the complaint)
12.	Due date of possession	01.05.2024 (As per RERA registration)
13.	Total sale consideration	Rs.1,94,56,280/- (As per payment plan on page no. 86 of the complaint)
14.	Amount paid by the complainant	Rs.77,61,946/- (As per SOA on page no. 99 of the complaint)
15.	Pre-handover amount paid by the respondent	30,18,213/- (Including tds) (As per page no. 2 of the application of respondent for placing on record details of pre-handover amount)
16.	Occupation Certificate	30.09.2021

		(As per page no. 137 of the reply)
17.	Surrender by the complainant	14.10.2021 (Page 89 of complaint)
18.	Offer of possession	25.10.2021 (As per page no. 97 of the complaint)
19.	Email for payment of outstanding dues	31.10.2021 & 28.11.2021 (As per page no. 147 & 150 of the reply)
20.	Legal notice for refund	24.11.2021 (As per page no. 106 of the complaint)
21.	Pre-cancellation notice	25.11.2021 (As per page no. 116 of the complaint)
22.	Cancellation notice	10.12.2021 (As per page no.117 of the complaint)

B. Facts of the complaint:

3. The complainant has made the following submissions: -

- I. That in the year 2017, the respondent advertised its proposed residential and commercial project known as 'M3M 65th Avenue, in Sector-65, Gurugram, Haryana stating that purchase of a shop in the said project would be very beneficial, lucrative and a good investment for future as the respondent had offered assured return on the investment.
- II. That, from the aforesaid advertisements and assurances of the respondent, the complainants were induced by the respondent to part with their hard-earned money for booking the commercial unit. The standardized application form for booking the said unit was submitted

- by the complainants. After due negotiations the complainant paid a sum of Rs.10,00,000/- and the respondent confirmed the receipt of the same vide receipt dated 17.01.2017. After making the aforesaid payment the respondent issued a provisional allotment letter dated 23.06.2017 in favour of complainants on receipt of total amount of Rs.77,56,344/- from the complainants.
- III. That accordingly the respondent allotted the KIOSK no.20 in the project M3M 65th Avenue Sector 65th, Gurugram having its super area measuring 1215.84 sq. ft. and carpet area 215.05 sq. ft. on the basic sale price of Rs.13,566/- per sq. ft. totaling to Rs.1,64,94,085/-. The complainants already made the payment of Rs.77,56,344/- and this amount was duly mentioned in the provisional allotment letter dated 23.06.2017 as per the demand of the respondent and the remaining amount of sale consideration was agreed to be paid at the time of offer of possession of the said unit. Subsequently the respondent issued a regular allotment letter dated 10.02.2018 in favour of complainants admitting and acknowledging the receipt of the aforesaid amount and further stating that the remaining amount of sale consideration would be paid within 30 days of notice of the possession.
- IV. That the respondent assured the complainants to make payment of assured return @10% p.a. w.e.f. 01.05.2018 till handing over the possession of the unit upto June 2022 subject to completion of the project. The respondent in compliance of the same also issued letter dated 23.05.2018 wherein they handed over the 18 cheques w.e.f. 01.05.2018 to 01.08.2019 i.e. for 18 months against pre-handed over payable for the period February 2018 to July 2019. The complainants sent email dated 11.07.2018 to the respondent requesting it to

handover the cheques of the entire period i.e. upto June 2022, the proposed date of completion of the project, but the respondent failed to do so. All these cheques were encased at the given date and even thereafter the respondent continued to pay the amount in the same manner till September 2021 as the possession of the unit was never offered till that date and the respondent had agreed to pay the said amount as assured return in lieu of the lumpsum amount paid by the complainants.

- V. That the respondent duly executed and registered the agreement for sale in respect of the aforesaid unit in favour of complainants vide Vasika No.10800 on 22.11.2019. However, the respondent did not hand over the original copy of the agreement for sale for a long time and after persistent requests of the complainants the respondent handed over the original agreement for sale after three months. The respondent at the time of booking had assured that there will be only 24 (food kiosks) serving eatables in the entire project and the unit allotted to the complainants would be very beneficial since the complainants had purchased the unit for their own livelihood owing to the retirement and keeping in view a fixed source of income of livelihood after retirement. Even after encashment of 18 cheques in year August 2019, the respondent failed to handover further 18 PDC's cheques and insisted for payment via online on monthly basis as against the original arrangement/commitment. Besides it the respondent in order to attract other clients financially offered higher attraction to the new clients as against the interest of the complainants which resulted into loss of faith in the respondent and the complainants were forced to withdraw from the project and to seek

refund of the amount paid by them to the respondent via email dated 08.10.2021. Finding no response from the respondent the complainants again sent the reminder dated 18.10.2021 requesting the respondent to refund of the amount.

- VI. That however the respondent instead of refunding the amount made a counter offer via email dated 20.10.2021 in response to the aforesaid email of the respondent which was never acceptable by the complainants as they had already seek refund of their hard earned money and there was no occasion for the respondent to withheld the said amount illegally and unauthorized and to make counter offers at its whims and fancies specially when the complainants had already lost faith in the respondent and the project.
- VII. That the atrocities of the respondent did not stop here, the respondent instead of refunding the amount sent a totally illegal and unauthorized letter/notice for offer of possession dated 25.10.2021 to the complainants and also sent email dated 26.10.2021 mentioning the notice for offer of possession dated 25.10.2021 despite having every notice and knowledge that the complainants had already claimed refund of their amount much prior to issuance of the said letter. Immediately after receiving the aforesaid letter dated 25.10.2021 the complainants approached the officials of the respondent and requested them to refund their amount and ultimately got served issued legal notice dated 24.11.2021 through their counsel Mr. Virender Tarun by way of speed post dated 25.11.2021 requesting the respondent to refund their amount along with interest @18% p.a., cost and damages.
- VIII. That, however despite receiving the aforesaid legal notice dated

24.11.2021, the respondent did not make payment of the amount of the complainants and issued a totally illegal null, void, malafide, dishonest and untenable notice dated 25.11.2021 illegally and falsely alleging pre-cancellation of the unit. The said letter had no sanctity in the eyes of law as the complainants had already opted for refund of their amount much prior to issuance of letter of offer of possession well within the notice and knowledge of the respondent and its officials, hence there was no occasion for the respondent to issue any such alleged letter which has effect in any manner upon the claim of the complainants to seek refund of their whole amount along with interest.

- IX. That the respondent sent another illegal, letter of cancellation dated 10.12.2021 cancelling the aforesaid unit despite knowingly that the complainants had already cancelled the same and opted for refund of their amount which had been denied by the respondent time and again by making lame excuses and issuing such illegal and untenable letters to usurp the hard earned money of the complainants.
- X. That the alleged letter of offer of possession dated 25.10.2021, the alleged pre-cancellation letter dated 25.11.2021 and the alleged cancellation letter dated 10.12.2021 are totally illegal, null, void, nullity, monest and untenable in the eyes of law and result of malafide and dishonest intentions of the respondent and its officials to withheld and usurp the hard earned money of the complainants without there being any right, title or interest to do so. None of the alleged letters have any effect upon the claim of the complainants to seek refund of their amount along with interest upto date from the date of payment till realization of the same.

- XI. That, however in view of the aforesaid facts and circumstances it is clear the respondent has no respect for law and order and even thereafter they had not been agreeing to refund the amount of the complainants despite various visits and the complainants have lost all their hopes of getting the refund of the amount and compelled to ask for refund of the their entire amount paid by them to the respondent along with upto date interest by filling the present complainant before the I.d. Authority.
- XII. Written submissions have been filed by the complainants. The same have been taken on record and perused further.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
- I. Direct the respondent to refund the entire amount paid by the complainants from the date of payment till its actual realization.
 - II. Direct the respondent to not to create any charge, lien or third-party rights in any manner upon the commercial unit till final realization of the amount.

D. Reply by respondent:

5. The respondent vide reply and written submissions dated 09.04.2025 contested the complaint on the following grounds:
- i. That the complainants after conducting their own due diligence applied for booking of a unit in the project "M3M 65th Avenue" which is an integral part of the mixed land use development being undertaken by respondent vide application form in june 2017 and paid an amount of Rs.1,00,000/- towards part booking amount. In light of the commitment to make timely payments the complainants were allotted unit bearing no. KIOSK-20 vide provisional allotment letter

dated 23.06.2017. The cost of the unit for an area admeasuring 215.05 sq. ft. carpet area was fixed at Rs. 1,80,58,872/- plus other applicable charges. Vide aforementioned letter the respondent requested the complainants to deposit the remainder amount towards the first instalment. Thereafter the complainants were sent a letter dated 12.12.2017 by the office of the respondent intimating about the change in building plans by the respondent and were also requested to raise objections, if any. No objection was ever raised by the complainants to the revision in building plans.

- ii. That in furtherance to the letter dated 12.12.2017, the respondent issued a revised allotment letter dated 10.02.2018 for the commercial unit no. KIOSK-20 in "M3M 65th Avenue" in lieu of and/or in substitution of the earlier provisional allotment letter for the commercial unit. It was further informed to the complainants that the allotment of their commercial unit in "M3M 65th Avenue" stands substituted/ varied /revised/ altered and henceforth the allotment of the complainants would be referred to as commercial unit no. KIOSK-20 on the same terms and conditions except the schedule of payments made as earlier. That as per the revised allotment letter the cost of the unit for carpet area admeasuring 215.05 sq. ft. was Rs. 1,78,24,513/- plus other charges. It is submitted that the total consideration value of the unit in question was reduced after the change in the building plans.
- iii. That in lieu of the said allotment letter, complainants paid an amount of Rs. 42,714/- vide cheque bearing no. 415212 and further made a payment of Rs. 68,621/- and RS. 5,602/- om 6th October 2018. The complainants had earlier applied for booking of a ready to move in unit in OC received project developed by associate company M/s. M3M

India Pvt. Ltd. Thereafter the complainants requested that the amount paid towards the booking in associate company be transferred towards the unit in question without any deductions. The respondent being a customer-oriented company acceded to the request of the complainants and accordingly transferred the entire amount paid i.e. Rs. 75,45,009/- towards the unit in question.

- iv. That in view of the booking and commitment to make timely payments, the respondent offered a monthly pre-handover amount to the complainants to assert the respondent's commitment to deliver the unit on time. It is submitted that as per the letter, the respondent shall pay the pre-handover @ ₹58.45/- per sq. ft. per month on super area, this amount shall start from the date of completion of part payment towards the unit to the tune of ₹74,22,338/- plus GST till the date of notice of offer of possession of the unit. The respondent in compliance of the said letter duly paid the pre-handover amounts to the complainants. It is submitted that an amount to the tune of Rs. 30,18,213/- has been paid to the complainants as pre-handover amount with effect from 01.02.2018 to 01.10.2021.
- v. Thereafter, in due course of time the buyer's agreement was executed between the parties on 22.11.2019 and the same was duly registered. The respondent 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 30.04.2021. The occupation certificate was granted by the competent authorities on 30.09.2021 after due verification and inspection. The unit was ready and the respondent herein vide letter dated 25.10.2021

- offered possession to the complainants and requested the complainants to remit the outstanding amount towards the remaining basic sale price, taxes, cess, stamp duty charges etc. The construction of the project was completed prior to the prescribed commitment timeline i.e., June 2022 and there is no delay in offering possession of the unit to the complainants.
- vi. That the respondent vide email dated 31.10.2021 reminded the complainants to clear the outstanding amount on or before 24.11.2021 and take the possession of the said unit. The complainants were well aware of their obligation to take possession of the unit in accordance with Sec 19(10) of RERA Act, 2016.
- vii. That the complainants in violation of their legal obligations miserably failed to remit any amount towards the dues communicated vide the offer of possession, therefore the respondent was left with no other alternative, issued pre-cancellation notice dated 25.11.2021. An email dated 28.11.2021 was also sent by the respondent to the complainants as a reminder of the issuance of the pre-cancellation letter to avoid further cancellation of the unit. Despite the issuance of abovementioned pre-cancellation letter the complainants herein failed to take advantage of this opportunity to come forward to clear their dues, as a consequence of which the respondent was constrained to terminate the allotment of the complainants vide cancellation letter dated 10.12.2021 and forfeit the amount deposited.
- viii. That the respondent was constrained to cancel the unit on account of non-payment of demands raised by the respondent. The respondent is entitled to deduct the pre-handover amount which was paid to the

complainants as the same was duly credited into the complainant's account through RTGS from September, 2019 till October, 2021.

- ix. Written submissions have been filed by the respondent. The same is taken on record and perused further.
6. All other averments made in the complaint were denied in toto.
7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

8. 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

9. 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

10. 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 allottee as per the agreement for sale, or to the association of allottee, as

the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee 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 promoter, the allottee and the real estate agents under this Act and the rules and regulations made thereunder.

11. 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 relief sought by the complainants:

F.1 Direct the respondent to refund the entire amount paid by the complainants from the date of payment till its actual realization.

12. The complainants were allotted kiosk -20, 1ST floor, in the project "M3M 65th Avenue, Sector-65 Gurugram" by the respondent builder for a consideration of Rs. 1,94,56,280/- against which the complainants have paid an amount of Rs. 77,61,946/-. The buyer agreement between the parties was executed on 22.11.2019. The due date of completion of project and offering possession of the unit comes out 01.05.2024. But the complainants made request for surrender of the unit on 14.10.2021 which is evident from page no. 89 of the complaint and the same is before due date of handing over of possession for seeking refund against the allotted unit.
13. On the contrary, the respondent states that the complainant has never paid any demand in full and against appropriate demand raised by the respondent. The occupation certificate for the tower in question was obtained by the respondent on 30.09.2021 and thereafter possession of the apartment was offered to the complainant vide offer of possession letter dated 25.10.2021. The respondent thereafter sent demand along with email on 31.10.2021 and 28.11.2021 following which a pre

- cancellation was also sent to the complaint and the respondent cancelled the unit on 10.12.2021 for non-payment of outstanding dues.
14. On consideration of documents available on record and submissions made by both the parties, the authority is of the view that on the basis of provisions of allotment, the complainants have paid an amount of Rs. 77,61,946/- against the sale consideration of Rs. 1,94,56,280/-. The occupation certificate was received on 30.09.2021 which means that the construction was completed. The complainants have surrendered the unit on 14.10.2021 and again on 24.11.2021 stating their reason for withdrawal from the project and seeking refund of their amount paid. The said surrender was made by the complainants much before their unit was cancelled by the respondent.
15. It is important to note that the respondent has already paid an amount of Rs. 30,18,213/- on the context of pre handover amount and has also refunded the amount to the complainants after deduction. National Consumer Disputes Redressal Commissions in **CC/435/2019 Ramesh Malhotra VS. Emaar MGF Land Limited** (decided on 29.06.2020) and **Mr. Saurav Sanyal VS. M/s IREO Private Limited** (decided on 12.04.2022) and followed in **CC/2766/2017** in case titled as **Jayant Singhal and Anr. VS. M3M India Limited decided on 26.07.2022**, held that 10% of basic sale price is reasonable amount to be forfeited in the name of "earnest money". Keeping in view the principles laid down in the first two cases, a regulation known as the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, was framed providing as under:

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above

facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment /plot /building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."

16. Vide proceedings dated 27.01.2026 the respondent has stated that an amount of Rs. 28,72,159/- has been refunded to the complainants through RTGS on 08.04.2024 after deduction of earnest money, pre handover and brokerage. The same is placed on record vide application filed by the respondent on 16.04.2024.
17. Keeping in view the aforesaid factual and legal provisions, the respondent is directed to refund the deposited amount after deducting 10% of the sale consideration along with an interest @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 on such balance amount from the date of surrender i.e. 14.10.2021 till 08.04.2024 when the RTGS amounting to Rs.28,72,159/- were issued within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.
18. The amount already paid on account of pre – handover may be adjusted from the refundable amount.

F.II Direct the respondent to not to create any charge, lien or third-party rights in any manner upon the commercial unit till final realization of the amount.

19. In view of findings in F.I the present relief became redundant

G. Directions of the Authority:

20. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- i. The respondent/builder is directed to refund the deposited amount after deducting 10% of the sale consideration along with an interest @10.80% on such balance amount from the date of surrender i.e. 14.10.2021 till 08.04.2024 when the RTGS amounting to Rs.28,72,159/- were issued. After adjusting the said RTGS amount, the respondent shall refund the remaining balance amount along with interest @ 10.80% per annum from 08.04.2024 till the date actual realization within the timelines provided in Rule 16 of the Haryana Rules, 2017, *ibid*.
 - ii. The amount already paid on account of pre - handover may be adjusted from the refundable amount.
 - iii. 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.
21. The complaints stand disposed of.
22. Files be consigned to the registry.


(Phool Singh Saini)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 07.04.2026