

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

Complaint no: 3717 of 2024
Date of Filing: 30.07.2024
Date of decision: 13.02.2026

1. Narain Dass

2. Dolly

Both R/o 48/4, Ashok Nagar, Tilak Nagar (West Delhi),
New Delhi – 110018.

Complainants

Versus

M/s VSR Infratech Private Limited

Office address: Plot No. 14, Ground Floor, Sector-44,
Industrial Area, Gurugram-122003.

Registered address: A-22, Hill View Apartment, Vasant
Vihar, New Delhi – 110057.

Respondent

CORAM:

Shri Arun Kumar

Chairman

Appearance:

Shri Gaurav Rawat (Advocate)

Shri Jagdeep Yadav (Advocate)

Complainants

Respondent

ORDER

1. The present complaint has been filed by the complainants/allottees 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 as provided under the provision of the Act or the rules and regulations made there under or to the allottees as per the memorandum of understanding executed *inter se*.

A. Project and unit related details.

2. The particulars of the project, the details of 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:

S. N.	Particulars	Details
1.	Name and location of the project	"68 Avenue" at Sector-68, Gurugram.
2.	Project area	3.231 Acres
3.	Nature of Project	Commercial Colony
4.	DTCP license no. and validity status	04 of 2012 dated 23.01.2012 Valid up to 22.01.2020
5.	Name of Licensee	M/s Shamrock Infrastructure Pvt. Ltd.
6.	Rera registered/ not registered and validity status	Registered Vide no. 119 of 2017 dated 28.08.2017 Valid up to 30.06.2018
7.	K08 (Kisok), Food court at 2 nd floor having super area 331 sq. ft. [Unit no.1]	Booking application form - Undated Date of receipt of application form by respondent - 11.03.2016 and made a payment of Rs.4,55,000/- via cheque no. 000012 dated 03.03.2016 drawn on Bank of India (As per Booking application form at page 17-21 of complaint)
8.	FA-08, in Block-A having super area 486.75 sq. ft. [Unit no.2]	MoU - 06.06.2018 For TSC - Rs.29,18,553/- [as per MoU] Amount paid - Rs.13,51,340/- [Inclusive of Rs.4,55,000/- paid against booking of unit no.1 as mentioned in MoU] (As per MoU dated 06.06.2018 at page 24-26 of complaint)

	<p>Clause w.r.t 2. Lease of unit. <i>"2.1 That upon completion of the complex the developer issue offer of possession to the allottee and after payment of all dues as demanded by the developer, the developer shall find out a suitable lessee the lease the premises to on such terms and conditions as may be determined by the developer..."</i></p> <p>Clause w.r.t 3. Assured return 3.1 <i>"It is hereby agreed and undertaken by the developer that from 19.07.2018 till the application for offer of possession is issued, the developer shall pay to the allottee an assured return at the rate of Rs.72.60/- per sq. ft. of super area of premises per month. After completion of construction till the first lease, the developer shall pay to the allottee(s) an assured return @Rs.79.50/- per sq. ft. of super area of premises per month (herein referred as the "Assured return"). The assured return shall be subject to tax deduction at source, which shall be payable on due date of every English colander month in due basis."</i></p> <p>[Emphasis supplies] (As per Page 27 of complaint)</p>	
9.	Transfer of unit from First Floor in Tower-A to Service apartment SA-5/41 (576.09 sq. ft.) in Tower-A	02.03.2021 (As per page 50 of complaint)
10.	Contents of transfer letter: To Mr. Narain Dass Mrs. Dolly Subject: Transfer of Unit from First Floor in Tower-A to Service Apartment SA-5/41 (576.09 sq. ft.) in Tower-A in 68 Avenue, sector-68, Gurgaon, Haryana. Dear Sir, We would like to. inform that your Unit is being shifted from First Floor to SA-5/41 (Service Apartment, 576.09 sq. ft.) in the Project- 68 Avenue. So, all the rights on the unit allotted to you are hereby relinquish and the unit become free from all sort of encumbrances. The Company does not owe any liability to you towards the aforesaid unit/ allotment and no claim of any nature, whatsoever is pending against the Company in respect of the aforesaid unit / allotment, except the payment receivable from the Company.	
11.	SA5-41 on 5 th Floor in Tower-A admeasuring aggregate tentative super area of 576.09 sq. ft. [herein referred as unit no.3/ current unit]	MoU - 23.06.2021. TSC - Rs.24,49,535/- Amount Paid - Rs.24,49,594/- [Inclusive of credit note of Rs.20,49,594/- as mentioned in clause 1.2 of MoU] (As per MoU at page 51-65 of complaint)
12.	Clause w.r.t 3. Lease Rental. 3.1. Post-possession lease rental;	

	<i>The allottee shall be in receipt of First lease rental @ of Rs.72/- per sq. ft. of super area of premises per month beginning from 01.08.2021.</i>			
13.	Credit note of Rs.20,49,594/-	26.06.2021 (As per MoU at page 66 of complaint)		
14.	Due date of possession	<p>23.12.2024 <i>[23.06.2024 + 6 months on account of covid-19]</i> <i>"Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018-SC); MANU/SC/0253/2018 Hon'ble Apex Court observed that "a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract."</i> In view of the above-mentioned reasoning, the date of the execution of MoU dated 23.06.2021 ought to be taken as the date for calculating the due date of possession. Therefore, the due date for handing over the possession of the unit comes out to be 23.06.2024 + Grace period of 6 months allowed as per HARERA notification no. 9/3-2020 dated 26.05.2020.</p>		
15.	Occupation certificate	<table border="1"> <tr> <td>15.01.2019 [For Block-A, Ground floor to 2nd floor]</td> <td>02.08.2019 [For Tower-A, 3rd floor to 12th floor and Tower-B Ground floor to 5th floor]</td> </tr> </table> <p>(As per copy of OC available at HARERA, GGM Official website)</p>	15.01.2019 [For Block-A, Ground floor to 2 nd floor]	02.08.2019 [For Tower-A, 3 rd floor to 12 th floor and Tower-B Ground floor to 5 th floor]
15.01.2019 [For Block-A, Ground floor to 2 nd floor]	02.08.2019 [For Tower-A, 3 rd floor to 12 th floor and Tower-B Ground floor to 5 th floor]			
16.	Final allotment letter [Unit no.3]	15.07.2021 (As per page 67-68 of complaint)		
17.	No dues Certificate [Unit no.3]	15.07.2021 [stamp duty/ registration payment at the time of registry only] (As per page 69 of complaint)		

18.	Letter for lease rental information [Unit no.3]	15.07.2021 Leased out for 15 years (As per page 70 of complaint)
19.	Notice for payment of lease rentals [Unit no.3]	18.06.2022 & 03.01.2023 (As per page 71-77 of complaint)
20.	Legal Notice [For immediate possession of Unit no.2 & conveyance deed/ sub-lease deed of Unit no.3]	07.02.2024 (page 78-80 of complaint)
21.	Assured return paid, if any	Not Provided

B. Facts of the complaint:

3. The complainants have made the following submissions in the complaint: -
- i. That in the month of January/February 2016, the representatives / brokers of the respondent named Vineet Chillani from Asset Deals having address at 35, Ground floor, Edmonton Mall, Bristol Hotel, Gurugram approached the complainants and apprised them about the investment opportunities in the real estate project namely 68 Avenues, Gurugram, Haryana, hereinafter called as the said project, being developed by the respondent and allured them that investing in the said project would be a great value for money for an old aged couple like that of complainants. They further assured that this investment would give the complainants a handsome, regular and assured flow of income, since the company shall be giving the property to be purchased on lease to a third party.
 - ii. That believing the words of the representatives/ brokers in toto and hoping for an assured future income, the complainants agreed to purchase a unit in the said project and accordingly booked a unit/ shop/kiosk numbered as K08 (henceforth called as unit no. 1) in food court on 2nd floor admeasuring about 331 sq. ft. on dated 03.03.2016 by paying Rs.4,55,000/- as earnest money for a total consideration of Rs.15,85,490/-
 - iii. That the respondent assured that the possession of unit no. 1 shall be handed over by the year 2018 and in the meanwhile, the representatives of

- the respondent convinced the complainants to switch over to a better investment opportunity and accordingly on 06.06.2018, an MoU was signed between both the parties for unit no. FA-08 in Block - A, on 1st a Floor having a super area of approx. 486.75 sq. ft. (herein referred to as the Unit 2 and the payments made by the complainant as on the date of MoU aggregating to Rs.13,51,340/- were mentioned in the MoU of unit no.2.
- iv. That as per article 2 of the said MoU, the respondent acquires the lease rights of unit no.2 from the complainants and promised a 3 years lease rent guarantee against the above said unit, which was to be paid by the respondent to the complainant, but the respondent failed to do so.
- v. That as per article 3 of the said MoU, the respondent specifically undertook to pay assured returns to the complainant with effect from the date of execution of MoU till the execution of lease of the unit but again the respondent failed to do so.
- vi. That the conveyance deed of unit no.2 was registered in the office of Sub-Registrar Badshahpur, Gurugram, Haryana on 20.08.2019.
- vii. That hereafter, the respondent once again made all kinds of promises and induced the complainant to switch over to another unit and lured him with better financial returns. Under the influence of the respondent, the complainants once again consented to the said arrangement and with effect from 02.03.2021, the said unit no. 2 was transferred/shifted to Service Apartment SA-5/41, measuring 576.09sq.ft. (henceforth called as, unit no. 3) by the respondent in the same project 68 Avenue for a consideration of Rs.24,49,535/- and a memorandum of understanding to this effect was executed amongst the complainant and respondent in June/July 2021, in which, among other things, the payments made by the complainant amounting to Rs.24,49,594/-.

- viii. That the final allotment of said unit 3 was granted to the complainant vide letter dated 15.07.2021 along with a No Dues letter dated 15.07.2021.
- ix. That as per Article No. 1.1 of the said MoU of unit 3, the respondent specifically mentioned that a space buyer's agreement/property buyer's agreement for said unit no. 3 shall be subsequently executed between the parties but it did not see the light of the day.
- x. That the respondent also did not fulfil his promise of executing a tripartite agreement with regards to unit no.3 which was to be executed amongst the respondent, the complainant and Sarovar Portico (M/s Devyansh Hotels and Resorts Pvt. Ltd.).
- xi. That the respondent also failed to fulfil his promise of providing 3 years lease rent of unit no. 2 and 15 years lease rent of unit no. 3 to the complainant as per the letter dated 15.07.2021.
- xii. The respondent also failed to fulfil his promise of providing assured returns against unit no. 2 to the complainant. That further, the respondent also miserably failed to execute conveyance deed of unit number 3 in favour of the complainant.
- xiii. That in spite of many reminders by the complainant, the respondent has failed to fulfil his obligations due towards the complainant despite the fact that the complainant has been complying to all the directions and requirements of the respondent.
- xiv. The respondent had hidden malafide intentions towards the complainant from the very beginning and has usurped the life savings of the complainant by luring him into rosy deals one after the other but delivering none.
- xv. Hence the complainants, who are well past their retirement age and have put their hard-earned money into the said project are filing the present complaint seeking relief from the Authority.

C. Relief sought by the complainants: -

4. The complainants have sought following relief(s)

- a. The respondent be directed to handover the physical possession of FA-08, Project – 68 Avenue (unit no.2) to the complainants;
- b. The respondent be directed to pay compensation to the complainants in lieu of delay caused in handing over the possession of FA-08, Project – 68 Avenue (unit no.2) to the complainants;
- c. The respondent be directed to refund the excess amount paid by the complainants along with applicable interest in lieu of purchase of service apartment SA-5/41 (unit no.3);
- d. The respondent be directed to pay compensation to the complainants amounting to Rs.5 lacs in lieu of mental agony and harassment cause to them;
- e. The respondent be directed to pay legal expenses to the complainants amounting to Rs.75,000/- incurred by them;
- f. Any other relief(s) which may be granted to the complainants in the interest of justice.

Further on 02.01.2026, the complainant has filed an application under Section 151 of CPC, 1908, seeking amendment in reliefs sought.

- a. Allow the complaint, directing the respondent to hand over the symbolic possession of the said unit no.3 with the amenities and specifications as promised in all completeness without any further delay and not to hold delivery of the possession for certain unwanted reasons much outside the scope of BBA;
- b. Direct the respondent to pay the interest on the total amount paid by the complainants at the prescribed rate of interest as per RERA from due date of possession till date of actual physical possession as the possession is being denied to the complainants by the respondent in spite of the fact that the complainants desires to take the possession;
- c. Direct the respondent to pay pending assured return and thereafter lease rentals for the said units;
- d. Direct the respondent to execute a tripartite agreement with regard to unit no.3 which was to be executed amongst the respondent, the

- complainant and Sarovar Portico (M/s Devyansh Hotels and Resorts Pvt. Ltd.) for 15 years lease rentals;
- e. Direct the respondent to pay the balance amount due to the complainants from the respondent on account of the interest, as per the guidelines laid in the RERA, 2016, before signing the Conveyance Deed/ sale deed.
 - f. Direct the respondent to get the conveyance deed executed in favor of the complainants.
 - g. Direct the respondent not to force the complainants to sign any Indemnity cum undertaking indemnifying the builder from anything legal as a precondition for signing the conveyance deed.
 - h. Direct the respondent to refund the excess amount excecated from the complainants.
 - i. Direct the respondent to obtain the occupation certificate with respect to the said unit and provide the copy of same.
 - j. Direct the respondent to not to charge anything which not the part of the payment plan as agreed upon.
 - k. Direct the respondent to not to create any third-party rights on the allotted unit.
 - l. Restrain the respondent from raising any fresh demand with respect to the unit as complainants has already paid the total sale consideration.
 - m. Direct the respondent to pay compensation to the complainants amounting to Rs.5 lacs in lieu of metal agony and harassment cause to them;
 - n. Direct the respondent to pay legal expenses to the complainants amounting to Rs.75,000/- incurred by them;
 - o. Pass such other or further order(s), which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
5. Thereby the Authority deliberates its findings on the amended reliefs sought vide application dated 02.01.2026 for amendment in reliefs sought.
6. 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.

7. The complaint was filed on 30.07.2024 and the Authority issued a notice dated 02.08.2024 of the complaint to the respondents by speed post EH092227710IN and also on the given email address at info@vsrinfratech.in on 01.08.2024 for filing reply within 4 weeks. The delivery reports have been placed in the file. The counsel for the respondent appeared on 22.11.2024, however, not filed the reply of the complaint in the registry of the Authority till date. Despite multiple opportunities for filing reply on 22.11.2024, 28.03.2025, 25.07.2025, 31.10.2025, 12.12.2025 & 13.02.2026, it failed to comply with the orders of the Authority. It shows that the respondent was intentionally delaying the procedure of the Authority by avoiding to file written reply despite a lapse of more than 1 year & 6 months from the date of filing of complaint. Therefore, the Authority assumes/ observes that the respondent has nothing to say in the present matter and accordingly the Authority struck off the defence of the respondent.
8. 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 based on these undisputed documents and submission made by the parties.

D. Jurisdiction of the Authority:

9. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

D. I Territorial jurisdiction

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project

in question is situated within the planning area of Gurugram District. Therefore, this Authority has complete territorial jurisdiction to deal with the present complaint.

D. II Subject matter jurisdiction

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per flat buyer's agreement. 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.

12. So, in view of the provisions of the Act quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

E. Findings on the reliefs sought by the complainants:

- E. I Direct the respondent to pay the interest on the total amount paid by the complainants at the prescribed rate of interest as per RERA from due date of possession till date of actual physical possession as the possession is being denied to the complainants by the respondent in spite of the fact that the complainants desires to take the possession;**
- E. II Direct the respondent to pay pending assured return and thereafter lease rentals for the said units;**
- E. III Direct the respondent to pay the balance amount due to the complainants from the respondent on account of the interest, as per the guidelines laid in the RERA, 2016, before signing the Conveyance Deed/ sale deed.**
- E. IV Direct the respondent to execute a tripartite agreement with regard to unit no.3 which was to be executed amongst the respondent, the**

- complainant and Sarovar Portico (M/s Devyansh Hotels and Resorts Pvt. Ltd.) for 15 years lease rentals;**
13. The above-mentioned reliefs sought by the complainants are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
14. In the present complaint, the complainants vide application form dated 11.03.2016, applied for booking of a Kiosk unit bearing no. K08 (Kisok), Food court at 2nd floor, having 331 sq. ft. (super area), in the project "68 Avenue" at Sector-68, Gurugram, and paid a sum of Rs.4,55,000/- against the sale consideration. Subsequently, the said unit was shifted and the complainants were allotted another unit bearing no. FA-08, in Block-A, having 486.75 sq. ft. (super area) in the same project. Thereafter, the parties entered into memorandum of understanding on 06.06.2018. The booking amount paid by the complainants for booking have been adjusted in the new unit.
15. Further, vide letter dated 02.03.2021, the allotment of the complainants was again transferred from FA-08, in Block-A, having 486.75 sq. ft. (super area) to service apartment bearing no. SA5-41 on 5th Floor in Tower-A admeasuring aggregate tentative super area of 576.09 sq. ft. (herein referred as current unit/ subject unit in question). The relevant para of said letter is reproduced for reference:

To
Mr. Narain Dass
Mrs. Dolly
Subject: Transfer of Unit from First Floor in Tower-A to Service Apartment SA-5/41 (576.09 sq. ft.) in Tower-A in 68 Avenue, sector-68, Gurgaon, Haryana.

Dear Sir,

We would like to inform that your unit is being shifted from First Floor to SA-5/41 (Service Apartment, 576.09 sq. ft.) in the Project- 68 Avenue.

So, all the rights on the unit allotted to you are hereby relinquish and the unit become free from all sort of encumbrances. The Company does not owe any liability to you towards the aforesaid unit/ allotment and no claim of any nature, whatsoever is pending against the Company in

respect of the aforesaid unit / allotment, except the payment receivable from the Company.

16. It is important to note that the complainants and respondent entered into a fresh memorandum of understanding dated 23.06.2021, for the subject unit in question i.e., Service apartment bearing no. SA5-41 on 5th Floor in Tower-A admeasuring aggregate tentative super area of 576.09 sq. ft., for a total sale consideration of Rs.24,49,535/- against which the complainants have paid Rs.24,49,594/- (i.e., inclusive of credit note of Rs.20,49,594/- as mentioned in clause 1.2 of MoU). Thereafter, the respondent has issued final allotment letter and no dues certificate in favour of the complainants on 15.07.2021.
17. In the present complaint, the complainants have sought delay possession charges as well as unpaid assured return in terms of MoU dated 23.06.2021.
- **Delay possession charges:**
18. In the present complaint, the complainants intend to continue with the project and are seeking delayed possession charges, as provided under the proviso to Section 18(1) of the Act, 2016. 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,

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

...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."

19. **Due date of possession:** As per the documents available on record, no BBA has been executed between the parties and the due date of possession cannot be ascertained. A considerate view has already been

taken by the Hon'ble Supreme Court in the cases where due date of possession cannot be ascertained then a reasonable time period of 3 years has to be taken into consideration. It was held in matter **Fortune Infrastructure v. Trevor d' lima (2018) 5 SCC 442: (2018) 3 SCC (civ) 1** and then was reiterated in **Pioneer Urban land & Infrastructure Ltd. V. Govindan Raghavan (2019) SC 725 -:**

"Moreover, a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract i.e., the possession was required to be given by last quarter of 2014. Further there is no dispute as to the fact that until now there is no redevelopment of the property. Hence, in view of the above discussion, which draw us to an irresistible conclusion that there is deficiency of service on the part of the appellants and accordingly the issue is answered."

20. Accordingly, the due date of possession is calculated as 3 years from the execution of memorandum of understanding i.e., 23.06.2021. Therefore, the due date of the possession for the unit comes out to be 23.06.2024. Further, vide HARERA notification no. 9/3-2020 dated 26.05.2020, the extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainants is 23.06.2024 i.e., after 25.03.2020. Thus, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. Therefore, the due date of handing over possession comes out to be 23.12.2024.
21. The respondent/ promoter has completed the construction and development of the project and obtained the occupation certificate on

15.01.2019 (for Block-A, Ground floor to 2nd floor) and 02.08.2019 (for Tower-A, 3rd floor to 12th floor and Tower-B Ground floor to 5th floor) and the complainants were allotted the subject unit in question only on 15.07.2021 after obtaining the occupation certificate.

22. Therefore, the Authority is of the view, that in the present complainant the complainants have not suffered any delay in possession as the occupation certificate w.r.t the tower in which unit of the complainants is situated has been obtained prior to the allotment of the subject unit. Thus, no case for delay possession charges is made out in favour of the complainants.

• **Assured return:**

23. The complainants in the present complaint are seeking relief w.r.t payment of pending assured return/ lease rental as per the terms of the MoU dated 23.06.2021. The complainants have submitted that as per clause 3.1 of the said MoU, it was agreed that the respondent would pay monthly penalty charges of Rs.72/- per sq. ft. of super area of premises per month with effect from 01.08.2021. The complainants are seeking unpaid assured return/ lease rental on monthly basis as per the MoU dated 23.06.2021 at the rates mentioned therein. It is pleaded by the complainants that the respondent has not complied with the terms and conditions of the said MoU.
24. In the present complaint, the post-possession lease rental shall be payable as per clause 3.1 of the Memorandum of understanding dated 23.06.2021,

Clause w.r.t 3. Lease Rental.

3.1. Post-possession lease rental;

The allottee shall be in receipt of First lease rental @ of Rs.72/- per sq. ft. of super area of premises per month beginning from 01.08.2021.

25. Thus, the respondent has to pay post-possession lease rental to the complainants @Rs.72/- per sq. ft. of super area per month, as per the MoU dated 23.06.2021.
26. In light of the reasons mentioned above, the Authority is of the view that as per the MoU dated 23.06.2021, it was obligation on part of the respondent to pay the post-possession lease rental. It is necessary to mention here that the respondent has failed to fulfil its obligation as agreed inter se both the parties in MoU dated 23.06.2021. Hence, the respondent/promoter is liable to pay assured return/ post-possession lease rental to the complainants @Rs.72/- per sq. ft. of super area per month from 01.08.2021, as per the agreed terms of the MoU dated 23.06.2021. *[During proceedings dated 13.02.2026, the date of MoU was inadvertently recorded as 06.06.2018 instead of 23.06.2021. However, the correct date of MoU for the subject unit in question is 23.06.2021.]*
27. The respondent is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainants and failing which that amount would be payable with interest @ 8.80% per annum till the date of actual realization.
- E.V Direct the respondent to hand over the symbolic possession of the said unit no.3 with the amenities and specifications as promised in all completeness without any further delay and not to hold delivery of the possession for certain unwanted reasons much outside the scope of BBA;**
28. The respondent/ promoter is directed to deliver the possession of the subject unit to the complainants as per the agreed terms of MoU dated 23.06.2021.
- E.VI Direct the respondent to refund the excess amount excecated from the complainants.**
- E.VIIDirect the respondent to not to charge anything which not the part of the payment plan as agreed upon.**

E.VIII Direct the respondent to not to create any third-party rights on the allotted unit.

E.IX Restrain the respondent from raising any fresh demand with respect to the unit as complainants has already paid the total sale consideration.

29. The respondent is directed to not to charge anything from the complainant which is not part of the Memorandum of understanding dated 23.06.2021 or payment plan (Schedule-1) being annexed with MoU executed interse parties.

E.X Direct the respondent to obtain the occupation certificate with respect to the said unit and provide the copy of same;

E.XI Direct the respondent to get the conveyance deed executed in favour of the complainants.

30. The complainant is seeking direction to respondent to obtain the occupation certificate and provide a copy of same. It is observed by the Authority, that as per Section 11(4)(b) of the Act, the respondent is responsible to obtain the completion certificate or the occupation certificate or both and make it available to the allottee(s) or association of allottee(s). The relevant part of Section 11 (4) (b) is reproduced below:

11. Functions and duties of promoter:

(4) The Promoter shall -

(b) be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be;

31. Further, as per Section 19 (1) of the Act, 2016, it is the right of every allottee(s) to obtain the information relating to the sanctioned plans, layout plans and such other information as provided in this Act or the rules and regulations. The relevant part of Section 19(1) is reproduced for ready reference:

19. Rights and duties of allottees: -

19(1) The allottee shall be entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information as

provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter.

32. Accordingly, the Authority hereby directs the respondent/promoter to provide the copy of occupation certificate of the subject unit to the complainants/allottees within 30 days from the date of the order.
33. Further the complainants are seeking execution of the conveyance deed of the allotted unit in favour of them. The respondent has obtained the occupation certificate from the competent authority on 15.01.2019 for Block-A, Ground floor to 2nd floor and on 02.08.2019 for Tower-A, 3rd floor to 12th floor and Tower-B Ground floor to 5th floor 02.07.2020 and as per clause 3.3 of the agreement dated 05.12.2013, the respondent shall execute along with allottee(s) a conveyance deed to convey the title of the said unit in favour of the allottee but only after receiving full payment of total price of the said unit. The relevant clause 3.3 is reproduced for ready reference:

3.3 ... After receipt of sale consideration and charges as applicable as per schedule - 1, a sale/ conveyance deed shall be executed as per terms of this MoU and the Buyer agreement in favour of the Allottee.

34. It is to be further noted that Section 11 (4) (f) provides for the obligation of respondent/promoter to execute a registered conveyance deed of the apartment along with the undivided proportionate share in common areas to the association of the allottees or competent authority as the case may be as provided under Section 17 of the Act of 2016 and shall get the conveyance deed done after obtaining of occupation certificate.
35. As far as the relief of transfer of titled is concerned the same can be clearly said to be the statutory right of the allottee as per Section 17(1) of the Act provide for transfer of title. The occupation certificate of the unit has been obtained from the competent authority on 15.01.2019 for Block-A, Ground floor to 2nd floor and on 02.08.2019 for Tower-A, 3rd floor to 12th floor and Tower-B Ground floor to 5th floor 02.07.2020.

Therefore, there is no reason to withheld the execution of conveyance deed which can be executed with respect to the unit. Accordingly, the Authority directs the respondent to execute the conveyance deed of the allotted unit in favour of the complainants after payment of applicable stamp duty charges and administrative charges up to Rs.15,000/- as fixed by the local administration, if any, within 90 days from the date of this order.

E.XIIDirect the respondent not to force the complainants to sign any Indemnity cum undertaking indemnifying the builder from anything legal as a precondition for signing the conveyance deed;

36. The respondent is directed not to place any condition or ask the complainants to sign an indemnity of any nature whatsoever, which is prejudicial to their rights as has been decided by the Authority in complaint bearing no. **4031 of 2019 titled as Varun Gupta V. Emaar MGF Land Ltd.**

E.XIV Direct the respondent to pay compensation to the complainants amounting to Rs.5 lacs in lieu of mental agony and harassment cause to them;

E.XV Direct the respondent to pay legal expenses to the complainants amounting to Rs.75,000/- incurred by them.

37. The complainants are seeking above mentioned relief w.r.t. compensation and litigation expenses. The 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 & 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 & 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 & legal expenses.

F. Directions of the Authority

38. 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 pay the assured return/post possession lease rental to the complainants at the agreed rate i.e., @Rs.72/- per sq. ft. of super area per month from the date i.e., 01.08.2021 in terms of MoU dated 23.06.2021, after deducting/adjusting the amount already paid on account of assured return/post possession lease rental to the complainants.
- ii. The respondent/promoter is directed to pay the outstanding accrued assured return amount till date at the agreed rate within a period of 90 days from the date of this order after adjustment of outstanding dues, if any, failing which that amount would be payable with interest @8.80% p.a. till the date of actual realization.
- iii. The respondent/promoter is directed to deliver the possession of the subject unit to the complainants, as per the agreed terms of MoU dated 23.06.2021.
- iv. The respondent/promoter shall not to charge anything from the complainants which is not part of the MoU dated 23.06.2021.
- v. The respondent/promoter is further directed to execute the registered conveyance deed of the allotted unit in favour of the complainants after payment of applicable stamp duty charges and administrative charges up to Rs.15,000/- as fixed by the local administration, if any, within 90 days from the date of this order.
- vi. The respondent/promoter is directed not to place any condition or ask the complainants to sign an indemnity of any nature

whatsoever, which is prejudicial to their rights as has been decided by the Authority in complaint bearing no. **4031 of 2019 titled as Varun Gupta V. Emaar MGF Land Ltd.**

39. Complaint as well as application, if any, stands disposed of accordingly.
40. File be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.02.2026



HARERA
GURUGRAM