

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

Complaint no: 5256 of 2024
Date of Filing: 08.11.2024
Date of decision: 13.02.2026

Ramesh Kumar

R/o: 133, Village – Chandla – Dunderwas, Tehsil Manesar,
District Gurugram, Haryana – 122413.

Complainant

Versus

M/s K S Propmart Private Limited

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

Respondent

CORAM:

Shri Arun Kumar

Chairman

Appearance:

Shri Jitender Yadav (Advocate)

Shri Jagdeep Yadav (Advocate)

Complainant

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 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 complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. N.	Particulars	Details
1.	Name and location of the project	"Park Street" at Sector 85, Village Badha, Tehsil-Manesar, Gurgaon, Haryana
2.	Nature of the project	Commercial complex
3.	Project area	2.85 acres
4.	DTCP license no.	100 of 2013 dated 02.12.2013 Valid up to 01.12.2019
5.	Name of licensee	M/s K S Propmart Private Limited
6.	RERA Registered & validity status	Registered 41 of 2019 dated 30.07.2019 Valid up to 31.12.2021
7.	RERA Extension	Extension No. 7 of 2023 dated 10.04.2023 Extension granted up to 30.06.2023
8.	Unit no.	S-33, Second Floor (page no. 23 of complaint)
9.	Unit area admeasuring	642.61 sq. ft. (super area) (Tentative area) (page no. 23 of complaint)
10.	MoU	27.06.2023 (page no. 26 of complaint)
11.	Allotment Letter	28.06.2023 (page no. 23-24 of complaint)
12.	Lease Rental	3. Lease Rental 3.1.1 Pre possession lease rental <i>No Pre Possession Lease Rental is payable to the Allottee for the period of 3 years starting from the date of 01.03.2021 if the filing of application of Occupation Certificate is delayed beyond 3 years from the date of 01.03.2021 for any reason other than force majeure as defined herein then the Developer/third party would pay Pre Possession Lease Rental</i>

		<p><i>at the rate 48.68/- per month to be calculated after taking into account received consideration to the Allottee on pro rata basis commencing from 01.03.2024 till the application for Occupation Certificate is filed for Retail Block of the Building.</i></p> <p>1.1.2 Post Possession Lease Rental: <i>After possession, subject to timely receipt of Possession Charges from the allottee as per the demand raised by the Developer, the Developer/Third party would pay to the Allottee the monthly lease rental @ Rs. 50.67/- per sq. ft. for a period of 1 year or till the signing of tenancy Agreement, whichever is earlier.</i></p> <p>[Emphasis supplied] (As per page 32-33 of complaint)</p>
13.	Possession clause	Not available
14.	Due date of possession	<p>27.06.2026</p> <p><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></p> <p><i>In view of the above-mentioned reasoning, the date of the execution of MoU dated 27.06.2023 ought to be taken as the date</i></p>

		<i>for calculating the due date of possession. Therefore, the due date for handing over the possession of the unit comes out to be 27.06.2026.</i>
15.	Clause w.r.t revision is super area	1.3 It is hereby clarified to the allottee that area of unit as mentioned herein above is subject to modifications, final confirmation of same shall be made once the building plan is revised/ the structure is complete/ at the time of offer of possession of unit. (As per page 30 of complaint)
16.	Basic sale consideration @4895/- per sq. ft.	Rs. 31,45,576/- (as per MOU at page no. 30 of complaint)
17.	Revision in basic sale consideration @6131/- per sq. ft.	Rs.39,39,842/- (As per page no. 39 of complaint)
18.	Total sale consideration [BSP + EDC/IDC]	Rs.43,18,982/- (page no. 39 of complaint)
19.	Amount paid against the allotted unit	Rs.15,57,000/- (As mentioned in clause 1.4 of MoU at page 31 of complaint)
20.	Occupation certificate	Not obtained
21.	Offer of possession	Not offered
22.	Legal notice by complainant not to increase BSP	14.08.2024 (page no. 48 of complaint)

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint: -

- I. This complaint is preferred by the complainant under the enabling provisions of the Real Estate (Regulation & Development) Act, 2016 and the Haryana Real Estate (Regulation and Development) Rules, 2017.
- II. The respondent is a company, works in the field of construction and development of residential as well as commercial projects across the country in the name of M/s K S Propmart Private Limited. The real estate

project named "Park Street" to be developed by you is situated at Sector-85, Village Badha, Tehsil Manesar, District Gurugram.

- III. The respondent advertised itself as a very ethical business group that lives onto its commitments in delivering its projects as per promised quality standards and agreed timelines.
- IV. The respondent is very well aware of the fact that in today's scenario looking at the status of construction of commercial/Cyber/IT Park projects in India, especially in NCR, the key factor to sell any dwelling unit is the delivery of completed unit within the agreed and promised timelines and that is the prime factor which a consumer would consider while purchasing his dream unit. Therefore; respondent used this tool, which is directly connected to the emotions of gullible consumers, in the marketing plan and always represented and warranted to the consumers that his dream unit will be delivered within the agreed timelines and consumer will not go through the hardship of paying rent along-with the instalments of loan like in the case of other developers in market.
- V. That, somewhere in the year 2019, the respondent through its marketing executives and advertisement through various medium and means approached the complainant with an offer to invest and buy a unit in the proposed project of the respondent, which respondent was going to launch under the name and style of "Park Street" situated at Sector-85, Village Badha, District Gurugram. The respondent represented to the complainant that the respondent is very ethical business house in the field of construction of residential and commercial project and in case, he would invest in the project of the respondent, then the respondent would deliver the possession of proposed unit on the assured delivery date as per best quality assured by the respondent. The respondent further assured to the



complainant that the respondent has already secured all the necessary sanctions and approvals from the appropriate and concerned government authorities for the development and completion of said project. The respondent had also shown brochures and advertisement material of the said project to the complainant given by the respondent assuring the complainant that the allotment letter and builder buyer's agreement for the said unit would be issued to him within one week of booking to be made by the complainant. While relying upon representations and warranties to the complainant and believing those to be true the complainant had agreed to the proposal of the respondent to book a unit in its project.

- VI. The respondent arranged the visit of its representatives to the complainant and they also assured the same as assured by the respondent to the complainant, wherein it was categorically promised by the respondent that the respondent has already secured all the sanctions & permissions from the concerned authorities and departments for the sale of said project and the respondent would allot the unit in the name of the complainant immediately after booking. Relying upon those assurances and promises to be true, the complainant booked retail block bearing No. S-33 located on second floor as provisional floor plans admeasuring an aggregate tentative carpet area of 290.97 Sq. ft. and super area of in the said proposed project named Park Street, situated at Sector-85, Village Badha, Gurugram, Haryana against a basic sale price of Rs.31,45,576/-.
- VII. That, at the time of booking of the unit, it was assured and represented to the complainant by the respondent that the respondent has already secured / taken all required necessary approvals and sanctions from concerned authorities and departments to develop and complete the proposed project on time.

- VIII. The respondent assured the complainant that the respondent would issue allotment letter at the earliest and maximum within one week and respondent would get the allotment as a confirmation of the allotment of said unit in his name. However, the respondent has allotted the said Unit to the complainant through allotment letter dated 28.06.2023. Finally, even after repeated requests made by the complainant, the respondent executed a memorandum of understanding on 27.06.2023 in respect of the said unit in favor of the complainant.
- IX. That, while executing the memorandum of understanding in favor of the complainant assuring him that the respondent would offer to the complainant the pre-possession lease rental at the rate of Rs.48.68/- per month to be calculated after taking into account received consideration to the complainant on pro-rata basis commencing from 01.03.2024 till the application for occupation certificate is filed for retail block of the building.
- X. That, as the time of execution of the memorandum of understanding, the respondent by misusing its dominant position had coerced and pressurized the complainant to sign the arbitrary, illegal and unilateral terms of the memorandum of understanding and when complainant objected those arbitrary terms and conditions and refused to sign the same, the respondent threatened to forfeit the amount already paid by the complainant as sale consideration in respect of the said unit and also to cancel his booking. The complainant having no other option and found himself helpless and being cheated and under duress and coercion had signed the said memorandum of understanding.
- XI. The complainant stood shocked and surprised when respondent shared a demand letter with the complainant on his whatsapp number, whereby respondent has increased the BSP at Rs.39,39,842/- in place of

Rs.31,45,576/-, meaning to say that the respondent has increased an amount of Rs.7,94,266/- illegally & unlawfully, for which the respondent has no right, title or interest to do so.

- XII. The complainant tried his level best to reach at the representatives of the respondent to seek a satisfactory reply in respect of the said unit but all in vain. The complainant requested the respondent to deliver his unit citing the extreme financial and mental pressure he was going through but respondent never cared to listen to his grievances and left his with the sufferings and pain. Even the complainant has also requested the respondent to waive off the demand of Rs.7,94,266/-, which has been levied by the respondent illegally and unlawfully.
- XIII. The respondent has not completed the construction of the said project till now and the complainant has not been offered the possession of the said unit despite all promises done and representation made by the respondents. By committing delay in delivering the possession of the aforesaid unit, the respondent has violated the terms & conditions of the memorandum of understanding and promises made at the time of booking of said unit. The respondent also failed to fulfill its promises and representation made to the complainant while selling the said Unit to the complainant.
- XIV. The conduct on part of respondent regarding delay in delivery of possession of the said unit has clearly manifested that the respondent never ever had any intention to deliver the said unit on time as agreed. It has also cleared the air on the fact that, all the promises made by the respondent at the time of selling of involved unit were fake and false. The respondent made all those false, fake, wrongful and fraudulent promises just to induce the complainant to buy the said unit basis of false and frivolous promises of the

respondent, which respondent never intended to fulfill. The respondent in its advertisements had represented falsely regarding the area, price, quality and delivery date of possession and resorted to all kind of unfair trade practices while transacting with the complainant.

- XV. The complainant has committed grave deficiency in services by not delivering the possession of said unit and false promises made at the time of sale of the said unit, which amounts to unfair trade practice which is immoral and illegal. The respondent has also criminally misappropriated the money paid by complainant as sale consideration of the said Unit by not delivering the unit by agreed timelines. The respondent has also acted fraudulently and arbitrarily by inducing the complainant to buy the said it basis on its false and frivolous promises and representations about the delivery timelines aforesaid project.
- XVI. The complainant had faced all these financial burdens and hardships out of his limited income resources, only because of failure of the respondent to fulfill its promises and commitments. Failure of commitment on the part of respondent has made the life of complainant miserable socially as well financially as all his personal financial plans and strategies were based on the date of delivery of possession as agreed by the respondent. Therefore, the respondent has forced the complainant to suffer grave, severe & immense mental and financial harassment with no fault on his part. The complainant being common person just made the mistake of relying on false and fake promises of the respondent, which lured the complainant to buy a unit in the said project. The respondent has trapped the complainant in a vicious circle of mental, physical and financial agony, trauma and harassment in the name of delivering his dream home within deadline representing itself as a multinational real estate giant.



- XVII. The respondent has acted in a very deficient, unfair, wrongful, fraudulent manner by not delivering the said unit in the project "Park Street" Sector-85, Village Badha, District Gurugram within the timelines agreed in the memorandum of understanding. Therefore, the respondent is liable to pay the damages and compensation for the monetary loss and harassment suffered by the complainant due to delay in delivering the possession of aforesaid unit. The respondent is also liable to pay damages to the complainant for the losses they incurred due to wrongful and fraudulent promises & commitments made by the respondent in respect of the delivery of possession of aforesaid unit.
- XVIII. The respondent is guilty of deficiency in service, unfair trade practice, giving incorrect and false statement while selling the said unit to the complainant within the purview of the Act, 2016, and rules applicable thereto. The complainant suffered losses on account deficiency in service, unfair trade practice, giving incorrect and false statement. As such the respondent is fully liable to pay/reimburse the payment claimed by the complainant in the form of interest along-with the delay possession charges for the losses incurred by the complainant due to wrongful and fraudulent acts of the respondent.
- XIX. The respondent advanced false and fabricated assurance to the complainant, in this way, the respondent has committed fraud against the complainant knowingly, wilfully with dishonest intentions and also breached the trust of the complainant; thereby, committed the offences punishable U/s 316(2) & 318(3) of the BNS, 2023.
- XX. From the date of booking and till today, the respondent had raised various demands for the payment of installments on complainant towards sale consideration of the said unit and the complainant has duly paid and

satisfied all those demands without any default or delay on her part and has also fulfilled otherwise also her part of obligations but the respondent having fraudulent intention never started.

- XXI. That, when nothing fruitful came out, the complainant through his counsel served a legal notice bearing Ref. No. VSV/LN/LC/CPA-35/AUG-14/2024 dated 14.08.2024 upon respondent through speed post, vide which the respondent was called upon to withdraw the demand letter, whereby the amount of Rs.7,94,266/- demanded by the respondent be waived off with immediate effect and to handover the peaceful physical possession of the said unit to the complainant, in addition to pay the delay possession charges and compensation thereof to the complainant within 15 days from the receipt of the notice. The legal notice deemed to be served upon respondent, as neither has the respondent replied the said legal notice nor has yet waived of the said amount.
- XXII. The cause of action accrued in favor of the complainant and against the respondent when complainant had booked the said unit and it further arose when respondent failed /neglected to deliver the said unit and even has demanded the amount of Rs.7,94,266/-. The cause of action is continuing and is still subsisting on day-to-day basis.

C. Relief sought by the complainant: -

4. The complainant has sought following relief(s):
- I. To pass an order, whereby the amount of Rs.7,94,266/- demanded by the respondent, may kindly be ordered to be waived off;
 - II. Pass an order to direct the respondent to handover the possession of the unit to the complainant with immediate effect;
 - III. Pass an order to waive off the charges being demanded /levied by the respondent on account of various heads, which were not the part of the agreement / MoU, which are demanded /levied by the respondent illegally, unlawfully and deliberately;

- IV. Pass an order, whereby directing the respondent not to charge or claim any charges other than the basic sale price, if any is being charged by the respondent, then the same may kindly be waived off being illegal, null, void, ab-initio, honest in the eyes of law and not binding upon the rights of the complainant in any manner whatsoever;
 - V. Pass an order to pay the penalty to the complainant on account of delay possession charges in delivering possession of the unit;
 - VI. Pass an order to direct the respondent to pay an amount of Rs.55,000/- to the complainant as cost of the present litigation.
 - VII. Any other relief /order or direction, which this Authority ay deem fit and proper considering the facts and circumstances of the present complaint, may also be granted to the complainant.
5. 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:**
6. The respondent has contested the complaint on the following grounds: -
 - I. That the present complaint filed by the complainant is misconceived, frivolous, and not maintainable in the eyes of the law. The complainant has deliberately suppressed material facts and has approached this Authority with unclean hands only to harass the respondent.
 - II. That the complainant has no enforceable cause of action against the respondent, as the default in timely payment of dues squarely lies on the complainant himself/herself. The respondent has acted strictly in accordance with the terms and conditions of the allotment, MoU, and applicable legal provisions.
 - III. That the complainant, being a willful defaulter, is not entitled to any relief in equity or otherwise. It is settled law that no person can be allowed to take the benefit of his own wrong.

- IV. That the complaint is barred by limitation as the cause of action, if any, first arose when the complainant failed to make due payments in the year 2021, and the complainant has filed the present proceedings after an unreasonable and unexplained delay
- V. That the unit in question is a commercial allotment, and therefore the reliefs claimed by the complainant on equitable or consumer-oriented grounds are not applicable in the present case.
- VI. That the respondent allotted unit no. SH-33, located on the second Floor, having a tentative super built-up area of 642.61 sq. ft. vide allotment letter dated 28.06.2023, for a total sale consideration of Rs.31,45,576/- (exclusive of all applicable taxes). The complainant duly executed the allotment and accepted the terms and conditions therein.
- VII. That the total agreed consideration for allotment as per MOU is Rs.31,45,576/- exclusive of IDC, EDC, IFMS, ACC, Firefighting charges (FFC), Power back up charges, IFCRF, applicable taxes such as services tax/GST and such other levies/cesses as may be imposed by any statutory authority.
- VIII. That the complainant has not made any payment towards the alleged unit retail block S-33, Second Floor, Park Street project. Whatever amount the complainant earlier deposited has already been adjusted/ transferred to another unit F-73A (in the name of Mr. Tulsi Dass) and Rs.4,60,000/- in the account of Mr. Ajay on 22.11.2023. Therefore, no consideration remains in respect of the present alleged unit, and consequently, no cause of action survives.
- IX. That it is also pertinent to mention here that the complainant has relied upon a so-called "demand letter" which is neither issued by the respondent company nor bears the official letterhead, nor the signature of any

authorized signatory of the company. The said alleged demand letter is a false, fabricated, and forged document, and cannot be relied upon.

- X. That the complainant has failed to disclose in the complaint as to how much amount was ever paid for the alleged unit. The complainant intentionally concealed the fact that all amounts paid by him were already transferred/adjusted in other accounts and not towards the present unit.
- XI. That the payment receipts annexed by the complainant do not pertain to the alleged unit. Hence, they are irrelevant and misleading. The receipts annexed by the complainant (Annexure C4) are unrelated to the alleged unit S-33 and thus inadmissible. They pertain to entirely different units and allottees. Hence, the claim is baseless.
- XII. That it is submitted here that, as per Section 18 of the RERA Act, 2016, the right of refund/compensation arises only if the allottee has made payments towards the concerned unit. Since no payment exists towards the alleged unit, the complainant cannot claim possession, delay compensation, or waiver of charges.
- XIII. That it is pertinent to mention here that it is a settled principle of law (as held in S.P. Chengalvaraya Naidu v. Jagannath, AIR 1994 SC 853) that a litigant who withholds material facts is not entitled to any relief. The complainant has failed to disclose the adjustment of all his payments towards other units, thereby suppressing material facts.
- XIV. The so-called demand letter relied upon by the complainant is fabricated and inadmissible. As per Section 65B of the Evidence Act and Section 92 of the Contract Act, no oral or unverified document can override the written records of the company.

- XV. The present complaint is an abuse of the process of law, filed only to harass the respondent and extract unwarranted compensation. Such conduct has been deprecated by courts (see K.K. Modi v. K.N. Modi, (1998) 3 SCC 573).
- XVI. That it is submitted here that the alleged Allotment Letter dated 28.06.2023 and MOU dated 27.06.2023, relied upon by the complainant, nowhere record any payments made by him towards Unit S-33. In the absence of proof of payment, the complainant cannot be treated as an "Allottee" under Section 2(d) of the RERA Act, 2016.
- XVII. That it is also submitted here that, as per Section 2(d) of the Act, only a person who has paid consideration towards a unit qualifies as an allottee. Since the complainant has admittedly transferred all amounts to another unit and has not made any payment towards Unit S-33, he cannot claim rights as an allottee in the said unit.
- XVIII. The complaint is bad for misjoinder as the payments and receipts filed by the complainant pertain to other units and third parties (Mr. Tulsi Dass, Mr. Ajay), not the unit in dispute. Therefore, the present complaint is not maintainable for lack of proper cause of action. The complainant deliberately suppressed the fact that he himself requested the transfer/adjustment of his payments to Unit F-73A and Mr Ajay. This concealment of a material fact makes the entire complaint liable to dismissal as per settled law
- XIX. That the complainant has failed to establish privity of contract between himself and the respondent for the alleged unit. Since no consideration exists, the MoU/ allotment letter cannot be enforced against the respondent. It is also submitted here that, having voluntarily transferred/adjusted his payments to other units, the complainant is

estopped by the principle of estoppel under Section 115 of the Indian Evidence Act, 1872, from alleging any claim over the present unit.

- XX. That the fabrication of a false "Demand Letter" shows a clear malafide intention of the complainant to create a false cause of action and to misuse the provisions of RERA. Such conduct attracts dismissal with exemplary costs.
- XXI. That the Authority under RERA has jurisdiction to adjudicate genuine disputes between allottees and promoters. Where no valid allotment/payment exists, the jurisdiction itself is ousted. The complaint, being based on false/fabricated grounds, is outside the scope of RERA.
- XXII. The complainant has not shown any financial loss specifically arising out of the alleged unit. His entire grievance is concocted and based on fabricated documents. Therefore, no relief under Section 71 of the Act can be granted. The complaint is nothing but a malicious prosecution against the respondent to harass and arm-twist the company. As per judicial precedents (K.K. Modi v. K.N. Modi, (1998) 3 SCC 573), such vexatious proceedings deserve exemplary costs.
7. All other averments made in the complaints were denied in toto.
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 on the basis of these undisputed documents and submission made by the parties.
- E. 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.
- E.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.

E.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 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.

12. So, in view of the provisions of the Act of 2016 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.

F. Maintainability of the present complaint:

13. The Authority observes that in the present complaint, the complainant applied for a commercial unit bearing no. S-33, Second Floor, having tentative 290.97 sq. ft. (carpet area) and 642.61 sq. ft. (super area), vide memorandum of understanding dated 27.06.2023. As per the memorandum of understanding, the basic sale consideration of the subject unit in question was Rs.31,45,579/-,

against which the complainant has paid an amount of Rs.15,57,000/- to the respondent-promoter. Subsequently, on 28.06.2023, the respondent had issued an allotment letter, confirming the allotment of the said unit bearing no. S-33, Second Floor, admeasuring 290.97 sq. ft. (carpet area) and 642.61 sq. ft. (super area) in the project "Park Street" at Sector-85, Gurugram, being developed by the respondent herein.

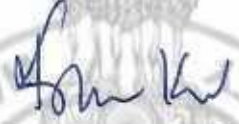
14. As per the documents available on record, no BBA has been executed between the parties and no possession clause or time frame has been provided in the memorandum of understanding dated 27.06.2023. Therefore, the due date of possession cannot be ascertained. A considerate view has already been taken 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."

15. Accordingly, the due date of possession is calculated as 3 years from the execution of memorandum of understanding i.e., 27.06.2023. Therefore, the due date of the possession for the unit comes out to be 27.06.2026.
16. In light of the above facts and circumstance, the Authority is of the view that as the due date of possession i.e., 27.06.2026 has not been lapsed and the present

complaint was filed on 08.11.2024 i.e., much prior to the expiry of due date of possession. Accordingly, the complaint filed by the complainant is pre-mature, as the obligation on the part of promoter under the provisions of the Act, 2016, had not crystalized neither at the time of filing of the present complaint i.e., on 08.11.2024 nor at the time of disposal of the present complaint. Therefore, the present complaint itself is not maintainable at this stage, being pre-mature and is hereby dismissed with liberty to the complainant to file a fresh complaint.

17. Complaint as well as applications, if any, stands disposed off accordingly.
18. Files be consigned to registry.


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.02.2026

**HARERA**
GURUGRAM