

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

Complaint no: 3034 of 2025
Order Reserved on : 19.02.2026
Order Pronounced on: 19.03.2026

SMT. ANJU DEVI

Resident of: House No.602, Tower - E,
Police Lines, Near Bus Stand, Gurugram,
District Gurugram, Haryana-122001

Complainant

Versus

M/S JMS BUILDTECH PVT. LTD.

Registered address: Plot No.10, Third
Floor, Sector-44, Gurugram, District
Gurugram, Haryana - 122001

Also at JMS Group, M3M Tee Point, 7th Floor,
North Block, Sector-65, Gurugram, District
Gurugram, Haryana - 122018

Respondent

CORAM:

Shri Phool Singh Saini

Member

Appearance:

Mr. Parmod Kumar (Complainant's husband)

Complainant

Mr. Ravinder Kumar Kinha (Advocate)

Respondent

ORDER

1. The present complaint has been filed on 23.06.2025 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 allottee 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 of the project	"Marine Square", Sector- 102, Gurugram
2.	Nature of project	Commercial Complex
3.	RERA registered/not registered	Registered vide registration no. 22 of 2018 dated 02.02.2018
	Validity status	02.02.2023 Extension vide extension no. 12 of 2024 dated 28.06.2024 valid upto 02.08.2024
	registered area	2 acres
4.	DTPC License no.	99 of 2014 dated 13.08.2014 Valid upto 12.08.2026
5.	Shop no.	05, first floor [page 21 of complaint]
6.	Unit area admeasuring	156.93 sq. ft. (carpet area) 189.6 sq. ft. (covered area) [page 29 of complaint]
7.	Buyer's agreement	15.03.2019 (page no. 14 of reply)
8.	Possession clause	7. Possession of the Unit 7.1 Schedule for possession of the said unit <i>The Promoter assures to offer the possession of the Unit as per agreed terms and conditions on or before time granted under the registration by the HRERA or such extension thereof as extended by HRERA unless there is delay due to "Force Majeure", which shall mean all such circumstances or factors not in control of the Promoter, including, but not limited to, shortage of materials, inflation.....</i>





		[Page 41 of complaint]
9.	Due date of possession	02.08.2023 [as per possession clause + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020]
10.	MoU dated	11.02.2019 (page 70 of complaint)
11.	Assured Return Clause 3 as per MoU dated 11.02.2019	<p>3. That the Parties agrees that the Said Unit is on an Assured Return Scheme, as per terms and conditions stipulated herein. The First Party shall pay the Second Party monthly amount of Rs.16107/- less TDS (herein referred to as "Assured Return") from the date of realization of Payment Plan from the Second Party till the issuance of the letter for Offer of Possession in accordance with the Buyer's Agreement executed with the Second Party, in respect of the Said Unit as provided in the present MoU and/or Buyer's Agreement. Simultaneously with the realization of the Payment, the First Party shall handover 12 post-dated cheques from an amount of Assured Return for a period of 12 months. The First Party shall issue such cheques till the offer of possession is given by the First Party to the Second Party.</p> <p>8...The Assured Return would be paid with effect from Feb-19 till the issuance of the Letter for Offer of Possession in accordance with Buyer's Agreement in respect of the said Unit. It is clarified that no Assured Return shall be paid by the First Party to the Second Party on EDC/IDC, GST or any other statutory tax and/or government levies and/or other charges. In case any GST or any other tax/cess is applicable on payment of such assured return at any time during the subsistence of this MoU, the same shall be deducted from the Assured Return in accordance with applicable law and/or rules.</p>

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		(as per MoU at page 72 & 74 of complaint)
12.	Basic Sale Consideration [excluding EDC/IDC/IAC, GST, VAT IFMSD, Sinking Fund, etc.]	Rs.24,16,125/- (Page 64 & 72 of complaint as per BBA & MoU)
13.	Amount paid by the complainants	Rs.19,92,778/- (As per receipts annexed with written submissions dt. 03.03.2026)
14.	Occupation certificate	27.12.2024 (Page no. 76 of reply)
15.	Offer of possession	24.02.2025 (Page 79 of complaint)
16.	Assured return paid/adjusted from Jan, 2019-March,2023	Rs.10,47,828/- (Page 80 of reply)

B. Facts of the complaint:

3. The complainants have made the following submissions: -

- a. That, somewhere in the year 2019, the respondent through its marketing executives had advertisement done through various medium and means approached the complainant with an offer to invest and buy a unit/retail space in the proposed project of respondent, which respondent was going to launch the project under the name and style of "JMS Marine Square" at Sector-102, Village Dhankot, Gurugram, Haryana (hereinafter to be referred to as "Said Project"). The respondent had represented to erstwhile owner of the complainant that the respondent is very ethical business house in the field of construction of building and in case, the complainant invests in the project of respondent, then respondent would deliver the possession of proposed unit on the assured delivery date as per the best quality assured by the respondent. The respondent had further assured the complainant that the respondent has already secured all the necessary sanctions and approvals from the appropriate and

concerned authorities for the development and completion of said project on time with the promised quality and specification. The respondent had also shown the brochures and advertisement material of the said project to the complainant given by the respondent and assured that allotment letter and buyer's agreement for the said project would be issued to the complainant within one week of booking to be made by the complainant. The complainant while relying on the representations and warranties of the respondent and believing those to be true had agreed to the proposal of the respondent to book the unit in the project of respondent.

- b. 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 assured and promised by respondent that they already have secured all the sanctions and permissions from the concerned Authorities and Departments for the sale of said project and would allot the unit/space in the name of complainant immediately upon booking. Relying upon those assurances and believing those to be true, the complainant has booked a commercial unit no.05, on first floor, having carpet area of 156.93 Sq. ft./14.58 Sq. mtrs., and covered area of 189.6 Sq. ft./17.62 sq. mtrs., type – SHOP along-with the rights in common areas in the upcoming project of the respondent namely "Marine Square" for retail /commercial /office use for a total sale consideration of Rs.29,14,510/- through an application no. A0035 dated 07.01.2019.
- c. The respondent without allotting the said unit /space has executed a buyer's agreement registered at the office of sub-registrar, Kadipur,



- District Gurugram vide vasika no.9007 dated 15.03.2019, in favour of complainant as a confirmation of the booking made by complainant.
- d. That, on 11.02.2019, the respondent has executed a Memorandum of Understanding in favour of the complainant and this MOU was executed in respect of the sum assured return to the complainant.
- e. As per Clause-3 of the MOU dated 11.2.2019, the respondent was agreed for the assured return to the complainant and the responded was agreed to pay monthly amount of Rs.24,241/- less TDS from the date of realization of payment by the buyer till the issuance of the letter of offer of possession in accordance with the buyer's agreement executed with the complainant in respect of the said unit as provided in the MOU. However, initially, the respondent has paid an amount of Rs.16,107/- to the complainant for a period of 12 months and thereafter, the respondent started paying the amount of Rs.24,241/- less TDS to the complainant.
- f. That the respondent has written a letter dated 25.04.2023, to the complainant with subject postponement of balance "assured returns" amount for time being towards unit no. FF005 in Project, wherein it was conveyed and represented by the respondent to the complainant that as per the understanding between you and company, the company has duly provided you with the assured returns amounts without any delay. However, as you have witnessed that the Real Estate Sector has suffered from huge losses due to COVID-19 pandemic in last couple of years and also due to change in the Government Policies, as a result the company has also severely impacted. Thus, in view of the above valid circumstances, the company want to defer, further payment of assured return amount



payable to you, only till application of Occupation Certificate for the project, but the company certify you that the balance assured return will be adjusted in the final pending dues as per the offer of possession letter to you of unit and also rest assured that timely delivery of your unit be done without any issues. Hence, we seek out your full corporation and support in this regard.

- g. That, this amount was adjusted by the respondent in the sale consideration and the adjusted amount was to the tune of Rs.1,79,718/, which was added in the payment made by the complainant and till one year, the respondent has paid an amount of Rs.25,436/- to the complainant, which respondent paid to the complainant from 01.03.2022 to 01.03.2023, but thereafter, the respondent has stopped paying the assured return to the complainant.
- h. The complainant stood shocked and astonished on having received a letter dated 24.02.2025, issued by the respondent to the complainant, whereby the respondent has offered the possession of the said unit to the complainant but has raised an illegal and unlawful demand of Rs.3,92,087/- from complainant on account of possession /admin charge. However, no such charge had ever been agreed upon the complainant and even the respondent has also agreed that, it will not charge any charge, which is not the part of agreement and the amount so being demanded by the complainant is out and out illegal and flimsy.
- i. That, as per Section 11, Subsection 4(a) of the RERA, 2016, which provides that: -

(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:

- j. That, from the said proviso of RERA, 2016, it is clearly evident that the builder was /is under legal obligation to pay the Assured Return to the complainant in terms of the MOU dated 11.02.2019.
- k. The complainant has taken all possible requests and gestures to persuade the respondent, whereby requesting it to pay the monthly Assured Return/Lease Guarantee but the respondent miserably failed in doing so and to meet the just and fair demand of the complainant and completely ignored the request of the complainant.
- l. Till today the complainant had not received any satisfactory reply from the respondent regarding payment of monthly Assured Return and possession of the unit to him and has been suffering a lot of mental, physical & financial agony and harassment.
- m. That, from bare perusal of the statement of account of the complainant, it is clear that the sum assured amount was paid by the respondent in the account of complainant till the aforesaid period but thereafter, the respondent has not paid even a single penny to the complainant despite her repeated requests from 01.05.2023.
- n. The respondent has not paid assured return to the complainant despite promises done and representation made by the respondent. In this way, the respondent has violated the terms and conditions of the buyer's agreement /MOU and promises made at the time of booking of said unit.

- o. The respondent has committed grave deficiency in services by not paying Assured Return and by not delivering the possession of the unit /space on the committed date as was promised 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 the complainant as sale consideration of the said unit by not paying the assured return and the possession to the complainant. The respondent has also acted fraudulently and arbitrarily by inducing the complainant to buy the unit on the basis of its false and frivolous promises and representations about the Assured Return.
- p. The cause of action accrued in favour of the complainant and against the respondent, when complainant had booked the said unit and it further arose when respondent failed/neglected to pay the assured return and failed to handover the possession. 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. Direct the respondent to pay the pending/accrued assured returns to the complainant. with effect from 01.05.2023 to 30.06.2025, worth Rs.6,61,366/- as per the terms and conditions of the MOU dated 11.02.2019;
- II. Direct the respondent not to charge anything, which is not the part of agreement /MOU;
- III. Direct the respondent to waive off the amount of Rs.3,92,087/- .



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 contested the complaint on the following grounds: -
- a. The respondent is filing the present reply to the brief facts through its Authorized representative Vikas Sharma, who is duly authorized to act on behalf of the respondent vide board resolution dated 01/11/2025.
 - b. The present complaint is gross misuse of the process of law. That the complainant is guilty of "*suppression veri & suggestion falsi*" and the complainant has advertently not provided the correct factual background of this case and also not produced all the documents pertaining to the case. The complaint ought to be dismissed on this ground alone as the complainant has concealed vital facts & documents and with malafide intention, The Hon'ble Supreme Court of India in the matter of S.P, Chengalvaraya Naidu vs Jagannath reported in 1994 AIR 853 has held:
"A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party."
 - c. That the present complaint, filed by the complainant, is bundle of lies and hence is liable to be dismissed. Further the complaint is also not maintainable as it doesn't disclose any cause of action for filing the complaint against the respondent.



- d. That the present complaint is an abuse of the process of the Authority and process of law at the behest of the complainant. The complainant is trying to evade the payments legally demanded by the respondent, while issuing the offer letter. The complainant is making false, misleading, frivolous, baseless, unsubstantiated allegations against the respondent with malicious intent and the sole purpose of the complainants behind filing the complaint is to extract unlawful gains from the respondent.
- e. That the complaint is devoid of any merits and as such is liable to be outrightly dismissed with heavy and exemplary costs in favour of the respondent.
- f. That the present complaint is also liable to be dismissed as there is no cause of action in favour of the complainant and against the respondent, to file the present complaint. The complainant has preferred the instant complaint in order to obtain wrongful gain and to cause wrongful loss to the respondent.
- g. That the present complaint is also liable to be dismissed as after receipt of the occupation certificate on 27.12.2024, offer of possession letter dated 24-02-2025 was sent to the complainant of the unit in question. However, the complainant has not cleared the outstanding dues as mentioned in the offer of possession letter even till today. Thus, the complainant is herself in default in making the payment of pending dues as per offer of possession letter.
- h. That after receipt of application from the complainant, a commercial unit/space bearing no. 005, 1st floor, in the project "Marine Square", situated at Sector 102, Village Dhankot, Gurugram, was allotted to the complainant.

- i. That as the unit was allotted on assured return basis, a Memorandum of Understanding dated 11-02-2019 was executed between the complainant and respondent company and as per the said MoU the respondent has assured to pay assured return amount of Rs.16,107/- less TDS per month starting from Feb 2019 till offer of possession i.e. 24-02-2025. That the respondent was constantly paying the assured return to the complainant but thereafter the respondent in year 2021 and 2022 adjusted the assured return amounting to Rs.1,79,718/- in the total sale consideration of the said unit and even after till Mar 2023 paid the assured amount. However, thereafter due to covid 19 impact, it was verbally mutually agreed between the complainant and the respondent that the respondent will pay the assured amount only till application of occupation certificate and the amount shall be adjusted in offer of possession letter against pending sale consideration and in this regards a letter dated 25-04-2023 was sent to the complainant which is also annexed by the complainant in his complaint
- j. The Letter dated 25.04.2023 informing the complainant about change in the period of payment of assured return is already admitted by the complainant with her complaint at page no. 78.
- k. That subsequently buyer agreement was executed between the complainant and the respondent acknowledging the terms and conditions of allotment/sale of unit, to the complainant.
- l. That the respondent received the occupation certificate for the Project 'Marine Square' on 27.12.2024 and accordingly after completing the internal formalities issued letter of offer of possession on 24.02.2025.



- m. That the respondent was liable to pay assured return amounting to Rs.10,63,062/- calculated at the rate of Rs.16,107/- per month for 66 months and has already paid or adjusted an amount of Rs. 10,47,828/-
- n. That the respondent while issuing the letter of offer of possession along with the account statement reflecting the outstanding amount to be paid by the complainant, has raised the legal demands and the said amount has to be paid by the complainant without any protest or demur.
7. 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.

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 the 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 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.

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 leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Findings on the relief sought by the complainant.

- F.I. Direct the respondent to pay the pending/accrued assured returns to the complainant. with effect from 01.05.2023 to 30.06.2025, worth Rs.6,61,366/- as per the terms and conditions of the MOU dated 11.02.2019.**
12. The factual matrix of the case reveals that the complainant purchased a unit in re-sale from the erstwhile owner in the project "Marine Square" and was allotted unit bearing no.5, 1st floor admeasuring 157 sq. ft. of carpet area and 379 sq. ft. of super area vide builder buyer agreement that was executed on 15.03.2019 between the parties and subsequently an memorandum of understanding (MOU) dated 11.02.2019 was also executed between the parties. The basic sale consideration of the unit was

Rs.24,16,125/- as per buyer's agreement as well as clause 2 of memorandum of understanding. The basic consideration excludes EDC/IDC/IAC stamp duty, registration cost & administration charges with respect to the buyer's agreement & conveyance deed of the unit, charges as levied by various authorities, meter installation charges, BOCW Welfare Cess, GST, VAT and other taxes extra as applicable, TDS @1% is applicable as per Income Tax Act, Section 194-IA, maintenance charges for one year in advance at the rate as may be prescribed by the Promoter, Interest Free Maintenance Security Deposit (IFMSD) of Rs.37,900/- and Sinking Fund Deposit of Rs.3,796/-. The assured possession payment plan annexed with buyer's agreement in this regard has been reproduced herein:

	ASSURED POSSESSION	PAYMENT PLAN	
	Stage (Due Date)		Installments
1.	At the time of booking	33.00% of BASIC	797321.25
2.	Within 12 month(s) of booking	34.00% of BASIC	821482.50
3.	On offer of Possession	33.00% of Basic + 100% of EDC/IDC + IFMS + EC + SINKING FUNDS)	1104311.25
		Registration & Other Charges	As applicable
	Total		42,23,116

13. Moreover, Occupation certificate for the said project has been obtained by the respondent from the competent authority on 27.12.2024.

(I) Assured returns

14. The complainant is seeking unpaid assured returns on monthly basis as per memorandum of understanding (MOU) dated 11.02.2019 at the rates mentioned therein. It is pleaded that the respondent has not complied with the terms and conditions of the said memorandum of understanding. Though for some time, the amount of assured returns was paid by the

respondent from Jan, 2019 to March, 2023 but, later on, the respondent vide letter dated 25.04.2023 stated that he is unable to pay the assured return further due to the huge financial losses accrued due to COVID-19 pandemic and due to change in Government policies and that the respondent want to defer, further payments of assured return amount payable by the complainant, only till application of Occupation Certificate for the Project, but respondent further certified that the balance assured return amount will be adjusted in the final pending dues as per the offer of possession letter for the unit.

15. The respondent has raised the contention that he is unable to pay assured return due to losses accrued due to COVID-19. Authority observes that the orders passed by the Hon'ble NGT, Environment Protection Control Authority, and Hon'ble Supreme Court were for a very short period of time and thus, cannot be said to impact the respondent-builder leading to such a situation. Furthermore, the respondent should have foreseen such situations. Thus, the promoter respondent cannot be given any leniency on the basis of aforesaid reasons and it is a well-settled principle that a person cannot take benefit of his own wrong. Therefore, the authority is of the view that outbreak of a pandemic cannot be used as an excuse for non-performance of a contract.
16. The authority has rejected the aforesaid objections raised by the respondent in CR/8001/2022 titled as "Gaurav Kaushik and Anr. Vs. Vatika Limited" wherein the authority while reiterating the principle of prospective ruling, has held that the authority can take different view from the earlier one on the basis of new facts and law and the pronouncements made by the apex court of the land and it was held that when payment of assured returns is part and parcel of builder buyer's agreement (maybe

there is a clause in that document or by way of addendum, memorandum of understanding or terms and conditions of the allotment of a unit), then the builder is liable to pay that amount as agreed upon and the Act of 2019 does not create a bar for payment of assured returns even after coming into operation as the payments made in this regard are protected as per Section 2(4)(I)(iii) of the Act of 2019. Thus, the plea advanced by the respondent is not sustainable in view of the aforesaid reasoning and case cited above.

17. The money was taken by the builder as a deposit in advance against allotment of immovable property and its possession was to be offered within a certain period. However, in view of taking sale consideration by way of advance, the builder promised certain amount by way of assured returns for a certain period. So, on his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of his grievances by way of filing a complaint.
18. The builder is liable to pay that amount as agreed upon and can't take a plea that it is not liable to pay the amount of assured return. Moreover, an agreement defines the builder/buyer relationship. So, it can be said that the agreement for assured returns between the promoter and allottee arises out of the same relationship and is marked by the original MoU dated 11.02.2019. The relevant clause of assured return is reproduced herewith:

*3. That the Parties agrees that the Said Unit is on an Assured Return Scheme, as per terms and conditions stipulated herein. The First Party shall pay the Second Party **monthly amount of Rs.16107/- less TDS (herein referred to as "Assured Return")** from the date of realization of Payment Plan from the Second Party till the issuance of the letter for Offer of Possession in accordance with the Buyer's Agreement executed with the Second Party, in respect of*

the Said Unit as provided in the present MoU and/or Buyer's Agreement. Simultaneously with the realization of the Payment, the First Party shall handover 12 post-dated cheques from an amount of Assured Return for a period of 12 months. The First Party shall issue such cheques till the offer of possession is given by the First Party to the Second Party.

8....The Assured Return would be paid with effect from Feb-19 till the issuance of the Letter for Offer of Possession in accordance with Buyer's Agreement in respect of the said Unit. It is clarified that no Assured Return shall be paid by the First Party to the Second Party on EDC/IDC, GST or any other statutory tax and/or government levies and/or other charges. In case any GST or any other tax/cess is applicable on payment of such assured return at any time during the subsistence of this MoU, the same shall be deducted from the Assured Return in accordance with applicable law and/or rules.

19. The complainant has averred in the pleadings that the respondent is liable to pay a monthly assured return of Rs. 25,437/-, less applicable TDS, from the date of realization of payment by the allottee till the issuance of the letter of offer of possession, in accordance with the agreement executed between the parties in respect of the subject unit and as contemplated under the memorandum of understanding (MoU). However, a perusal of Clause 3 of the MoU dated 11.02.2019 reveals that the respondent has undertaken to pay a monthly assured return of Rs. 16,107/- less TDS, from the date of realization of payment received from the complainant till the issuance of the letter of offer of possession. For the sake of clarity, the relevant Clause 3 of the MoU is reproduced hereinbelow:

*3.That the Parties agrees that the Said Unit is on an Assured Return Scheme, as per terms and conditions stipulated herein. The First Party shall pay the Second Party **monthly amount of Rs.16107/- less TDS (herein referred to as "Assured Return")** from the date of realization of Payment Plan from the Second Party till the issuance of the letter for Offer of Possession in accordance with the Buyer's Agreement executed with the Second Party, in respect of the Said Unit as provided in the present MoU and/or Buyer's*

Agreement. Simultaneously with the realization of the Payment, the First Party shall handover 12 post-dated cheques from an amount of Assured Return for a period of 12 months. The First Party shall issue such cheques till the offer of possession is given by the First Party to the Second Party.

20. Upon a careful consideration of the material placed on record and the submissions advanced by the respective parties, the Authority is of the considered view that the calculation sheet relied upon by the complainant, indicating payment of Rs.25,437/-, does not, in itself, establish or fasten any contractual liability upon the respondent to continue payment of monthly assured returns at the said rate. In the absence of any cogent documentary evidence substantiating such enhanced liability, the claim of the complainant in this regard cannot be sustained. On the contrary, a plain reading of Clause 3 of the MoU unequivocally demonstrates that the agreed monthly assured return payable to the complainant is Rs. 16,107/- less applicable TDS.
21. On consideration of documents available on record and submissions made by the parties, the Authority observes that as per the memorandum of understanding dated 11.02.2019 executed between the parties, respondent has paid the amount of Rs.10,47,828/- to the complainant from Jan, 2019 to March, 2023 in accordance to the terms and conditions of the assured return clause of MoU. Out the assured return amount of Rs.10,47,828/- already paid to the complainant, the assured return for some months were adjusted against the dues pending in the year 2020 and for two months in the 2021. Respondent further stopped paying assured return from April, 2023 stating that he will adjust the amount at time of offer of possession. But, at the time of offer of possession respondent d raised a demand of Rs.14,85535/- without adjusting the dues of assured return in it and raised an illegal demand of possession/admin charges in



- it, at the agreed rate i.e., Rs.16107/- less TDS from the date the assured return has been stopped i.e., April, 2023 till the issuance of the letter for Offer of Possession after adjusting the dues, if any.
22. The project is already registered with the Authority vide registration bearing no. 22 of 2018 dated 02.02.2018. The amount paid by the complainant to the respondent-promoter is a regulated deposit accepted by the latter from the former against the immovable property to be transferred to the allottee later. In view of the above, the respondent is liable to pay assured return to the complainant-allottee in terms of the memorandum of understanding dated 11.02.2019.
23. In view of the above, the respondent is directed to pay the amount of assured return at the agreed rate i.e., Rs.16107/- less TDS from the date the assured return has been stopped i.e., April, 2023 till the issuance of the letter for Offer of Possession i.e., 24.02.2025 after adjusting the dues if any.
- F.II. Direct the respondent not to charge anything, which is not the part of Agreement /MOU;**
- F.III. Direct the respondent to waive off the amount of Rs.3,92,087/- .**
24. The above-mentioned reliefs sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
25. On Consideration of documents available on record and submissions made, the Authority observes that the basic sale consideration of the unit was Rs.24,16,125/- as per buyer's agreement as well as clause 2 of memorandum of understanding. The basic consideration excludes EDC/IDC/IAC stamp duty, registration cost & administration charges with respect to the buyer's agreement & conveyance deed of the unit, charges as levied by various authorities, meter installation charges, BOCW Welfare Cess, GST, VAT and other taxes extra as applicable, TDS @1% is applicable

as per Income Tax Act, Section 194-IA, maintenance charges for one year in advance at the rate as may be prescribed by the Promoter, Interest Free Maintenance Security Deposit (IFMSD) of Rs.37,900/- and Sinking Fund Deposit of Rs.3,796/-.

26. That the respondent in Annexure A Statement of final dues attached with the offer of possession dated 24.02.2025 has demanded Possession/Admin Charges of Rs.3,90,087/- which is not part of buyer's agreement dated 15.03.2019 or MoU dated 11.02.2019 executed between the parties. In view of the same Authority observes that the said possession/admin charges are not valid and legal in eyes of law. The respondent is directed to set-aside the possession/Admin charges amounting to Rs.3,92,087/- and issue fresh offer of possession.
27. The Authority is of the view that the respondent shall not charge anything from the complainant which is not part of the MOU executed between the parties on 11.02.2019.

G. Directions of the authority

28. 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 is directed to pay the amount of assured return as per MoU dated 11.02.2019 at the agreed rate i.e., Rs.16,107/- less TDS from the date the assured return has been stopped i.e., April, 2023 till the issuance of the letter for Offer of Possession i.e., 24.02.2025 after adjusting the dues if any.
 - II. 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 complainant and failing which that amount would be payable with interest @8.80% p.a. till the date of actual realization.

- III. The respondent is directed to set-aside the possession/Admin charges amounting to Rs.3,92,087/- and issue fresh offer of possession.
 - IV. The respondent shall not charge anything from the complainant which is not part of the MOU executed between the parties on 11.02.2019.
 - V. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.
29. Complaint stands disposed of.
 30. File be consigned to registry.

Dated: 19.03.2026



Phool Singh Saini
(Member)
Haryana Real Estate
Regulatory Authority,
Gurugram