

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

Complaint no.: 1172 of 2024
Date of filing of complaint: 08.04.2024
Date of Order: 27.01.2026

1. Aman Aggarwal
2. Virender Garg

Complainants

Both R/o: - House No. 23, 2nd floor, Sector-27, DLF City
Galleria, DLF IV, Gurugram-122009

Versus

M/s Vatika Limited.

Respondent

Regd. office at: Flat No. 621 A, 6th Floor, Devika
Towers, 6, Nehru Place, New Delhi-110019

Corporate Office at: 7th floor, Vatika Triangle,
Block-A, Sushant Lok Phase-1, M.G. Road,
Gurugram-122002

CORAM:

Shri Arun Kumar
Shri Phool Singh Saini

**Chairman
Member**

APPEARANCE:

Shri Vishwajeet Singh (Advocate)
Ms. Ankur Berry (Advocate)

**Complainants
Respondent**

ORDER

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

thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S. No.	Particulars	Details
1.	Name of the project	"Vatika INXT City Center" at Sector 83, Gurugram, Haryana.
2.	Project area	10.718 acres
3.	Nature of project	Commercial Complex
4.	DTCP license no. and validity status	112 of 2008 dated 14.06.2008
5.	Name of Licensee	M/s Trishul Industries
6.	Unit no.	216, 2nd floor, Tower no. Vatika Trade Centre (As per page no. 26 of the complaint)
7.	New unit no.	113, 1st floor, Block B in " India Next City Centre " (As per the letter for allocation dated 25.04.2013 of unit on page no. 55 of complaint)
8.	Unit area	1000 sq. ft. (super area) (As per page no. 26 of the complaint)
9.	Date of execution of buyer's agreement	22.12.2010 (As per page no. 23 of the complaint)
10.	Allotment letter	25.04.2013 (As per page no. 55 of the complaint)
11.	Completion Clause	2. Sale consideration "The developer will complete the construction of the said complex within three (3) years from the

		<i>date of execution of this agreement....."</i> (As per page no. 26 of the complaint)
12.	Due date of Possession	22.12.2013 (Note: The due date of possession is calculated 3 years from the date of execution of buyer's agreement, as per the clause 2 of buyer's agreement).
13.	Addendum to the buyer's agreement (for assured return clause)	22.12.2010 (As per page no. 43 of the complaint)
14.	Assured return clause	This addendum forms an integral part of builder agreement dated 22.12.2010 A. Till completion of building: Rs.71.50/- per sq. ft. B. After completion of the building: Rs.65/- per sq. ft. (As per page no. 43 of the complaint)
15.	Addendum to the buyer's agreement (W.r.t change in land details clause)	27.07.2011 (As per page no. 49-54 of the complaint)
16.	Allocation of unit no. in INXT City Centre.	25.04.2013 (As per page no. 55 of the complaint)
17.	Total sale consideration	Rs.50,00,000/- (As mentioned in clause 1 of BBA at page 26 of complaint)
18.	Amount paid against the allotted unit	Rs.50,00,000/- (As mentioned in clause 2 of BBA at page 26 of complaint)
19.	Assured return paid	Rs.65,43,006/- (till September, 2018) (As per details provided on page no. 58-61 of the complaint)

20.	Completion of construction of Block-B, Vatika INXT City Centre	29.03.2016 (As per page no. 56-57 of the complaint)
21.	Occupation certificate	Not obtained
22.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainants have made the following submissions:
- I. That the complainants, Sh. Aman Aggarwal and Sh. Virender Garg are respectable and law-abiding citizen residing at H. No. 23, 2nd floor, Sector-27, DLF City, Galleria, DLF-IV, Gurugram, Haryana.
 - II. That somewhere around 2010, the respondent advertised about development of its new commercial colony project namely "Vatika Trade Centre" situated in Sector-83, Gurugram Haryana. The respondent painted a rosy picture of the project in their advertisement representing that the project aims at providing commercial colony.
 - III. That believing the representations of the respondent and in the lookout for an affordable commercial space for themselves, on 22.12.2010, the complainants booked a unit in the project of the respondent for a total sale consideration of Rs.50,00,000/- and the complaints vide cheque dated 08.12.2010 amounting to Rs.5,00,000/-, cheque dated 12.12.2010 amounting to Rs.5,00,000/-, cheque dated 14.12.2010 amounting to Rs.5,00,000/-, cheque dated 15.12.2010 amounting to Rs. 5,00,000/-, cheque dated 16.12.2010 amounting to Rs.10,00,000/-, cheque dated 17.12.2010 amounting to Rs.9,00,000/-, cheque dated 17.12.2010 amounting to Rs.65,750/- (towards VAT and other govt. charges) and cheque dated 12.12.2010 amounting to Rs.5,00,000/-, cheque dated

16.12.2010 amounting to Rs.6,00,000/-, cheque dated 17.12.2010 amounting to Rs.63,000/- (towards VAT and other govt. charges) towards the full and final payment for the aforesaid unit.

- IV. That following receipt of the total sale consideration in advance, on 22.12.2010, a builder buyer's agreement was executed between the complainants and the respondent and unit no. 216 located on 2nd floor, Vatika Trade Centre admeasuring approx. 1000 sq. ft. super area was allotted to the complainants acknowledging the receipts of the cheques mentioned in the para no. 4 of this complaint. On the same date i.e., 22.12.2010, the Respondent also issued one letter dated 22.12.2010 certifying in para no. ii) which runs as follows:

"No maintenance charges shall be charged from the complainants for the period up to which the property is leased out, after which, the charges shall be recovered from the incoming lessees. Thereafter, if any Lessee terminate the Lease and vacate the premises in that case the maintenance charges would be recovered from the Allottee".

In para no. iv) of the aforesaid letter dated 22.12.2010, it has also been mentioned that flat would be completed and ready for lease by 30.09.2012. Accordingly, the complainant would be paid lease rentals at Rs. 65/- per Sq. Ft. of the space w.e.f. 1st October 2012 or from the building is ready, whichever is later. In the event the premises is leased out after 1st October 2012 the respondent shall be paying the complainants rentals as per Annexure A.

- V. That the respondent sent a letter dated 27.07.2011 to the complainants regarding Addendums related to relocation of the commercial project- INXT City Centre falling within the revenue estate of village Sikhopur, District Gurugram. The complainants accepting the shifting of the project from Vatika Trade Centre to Vatika INXT City Centre executed Addendum to builder buyer's agreement dated 27.07.2011.

- VI. That on 25.04.2013, the respondent issued allotment letter allocation the unit no. 113, 1st floor, Block-B admeasuring 1000 sq. ft. in India Next City Centre, NH-8, Sector-83, Gurugram, Haryana.
- VII. That the respondent vide letter dated 29.03.2016 informed the complainants regarding the completion of the construction of Block-B, Vatika INXT City Centre, Gurgaon and the respondent also revised the commitment charges/assured monthly return to Rs.65/- per sq. ft. for unit no. 113 admeasuring area 1000 sq. ft. The respondent vide letter dated 29.03.2016 also informed the complainants that the building got operational in the last week of March 2016 and the assured monthly return/rent payable by the respondent to the complainants are revised to Rs.65/- per sq. ft. from 01.04.2016.
- VIII. That the respondent has paid the assured monthly return/rent to the complainant till September 2018 and after that the respondent suddenly stopped paying the assured monthly return/rent to the complainants. The complainants visited the office of the respondent many times with a request to pay the assured monthly return/rent and to lease out the said property but the respondent didn't give any satisfactory answer.
- IX. That the respondent sent a letter to the complainants informed the complainants that stated they anticipate to lease out the property allotted between March and June, 2019. The complainants visited the site after receiving the aforesaid letter and the respondent informed the complainants that it will take another one year to complete the project. Hence, the facts mentioned in the said letter were found wrong. It is pertinent to mention here that till date neither the property has been leased out nor the respondent has been paying the assured monthly return/rent from September, 2018

to the complainants which is clear violation of clause 32.2 of the builder buyer's agreement dated 22.12.2010.

- X. That to the utter shock and surprise of the complainants the respondent instead of paying the assured monthly return/rent sent an illegal demand notice dated 07.01.2023 to the complainants demanding a sum of Rs.11,80,670/-.
- XI. That the respondent, despite repeated requests of the complainants has not executed conveyance deed in favor of the complainants till date and have not paid the assured monthly return/rent for the said property.
- XII. That the respondent for so many years has failed to lease out the said property or pay the commitment charges and execute the conveyance deed, thereby highlighting unfair trade practice on their part and also breach of terms and conditions of the agreement and deficiency in the services on part of the respondent as against the complainants which makes them liable to answer to this Hon'ble Authority.
- XIII. That the complainants sent letter dated 13.08.2023 and e-mail dated 14.09.2023 requested the respondent to comply with the conditions of the builder buyer's agreement.
- XIV. That accordingly, the complainants are entitled to get relief of commitment charges till the said property is leased out and to execute the conveyance deed in favour of the complainants along with the other relief of not charging/demanding outside the builder buyer agreement and further to seek payment of commitment charges from September, 2018 till actual realization of the amount at the rate as prescribed by the Rules, 2017 from September 2018 till

the date of payment of the dues pertaining to the commitment charges.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
 - i. Direct the respondent to withdraw the illegal demand letter dated 07.01.2023.
 - ii. Direct the respondent to make payment of Rs.65/- per sq. ft. commitment charges as per the builder buyer's agreement from September, 2018 till the said property is leased out by the respondent amounting to Rs.42,90,000/-.
 - iii. Direct the respondent to execute the conveyance deed in favour of the complainants.

D. Reply by the respondent:

5. The respondent has contested the complaint on the following grounds:
 - i. That the complainants have got no locus standi or cause of act on to file the present complaint. The present complaint is based on erroneous interpretation of the provisions of the Act as well as an incorrect understanding of the terms and conditions of the builder buyer's agreement date 22.12.2010. Further the complaint is not maintainable since the same fails to have the supporting affidavit by the complainant no. 2
 - ii. That the complainants herein are merely investors who had booked a commercial unit under assured return scheme to make steady monthly return. The complainants do come within the definition of allottee and is rather speculative investor, who intended to invest in the commercial unit for the commercial gain only.
 - iii. That the complainants booked the unit with the respondent for investment purposes. The complainants herein are not allottees as

the complainants approached the respondent with an investment opportunity in the form of a steady monthly income from the commercial units, which has been admitted by the complainants in the complaint.

- iv. That in the year 2010, the complainants invested in the commercial unit for financial gains after learning of the financial gains that could be received by investing in the project of the respondent at sector-83A, Gurugram.
- v. That after developing a keen interest in the project constructed by the respondent, the complainants independently bought a unit under the assured return scheme. The complainants were fully aware of the project's status and chose to book the unit to secure consistent monthly returns, without raising any objections or complainants.
- vi. That respondent provisionally allotted unit no. 216, 2nd floor, Vatika Trade Tower (1000 sq. ft.) to the complainants. Thereafter, a builder buyer's agreement dated 22.12.2010 was executed between the complainants and respondent, for a total sale consideration of Rs.50,00,000/- in the project. However, upon knowing of the assured return scheme, the complainants upon own will paid entire amount of Rs.50,00,000/-for making steady monthly return.
- vii. That the BBA/addendum the respondent assured to provide assured return of Rs.71.50/- per sq. ft., till the completion of the building and Rs.65/- per sq. ft., after completion of building for thirty-six months or till the unit is put on lease, whichever is earlier.
- viii. That thereafter, the respondent vide letter in 25.04.2013, the respondent herein allocated a final unit to the complainants' and allotted a unit bearing no. 113,1st floor, Block-10, admeasuring 500

sq. ft. in the INXT City Centre, situated at NH-8, Sector-83, Gurugram, in favor of the complainants.

- ix. The complainant is not maintainable or tenable in the eyes of the law. The reliefs being claimed by the complainants cannot be said to fall within the realm of jurisdiction of this Authority. That upon the enactment of the Building of Unregulated Deposit Schemes, Act 2019, the 'Assured Return' and/or any "committed Returns" on the deposit schemes having not taken registration from SEBI Board cannot run, operate, continue an assured return scheme. The implications of enactment of BUDS Act read with the Companies Act, 2013 and companies (Acceptance of Deposits) Rules, 2014, resulted in making the assured return/committed return and similar schemes as unregulated schemes as being within the definition of 'Deposit'.
- x. That BUDS Act is a central Act which came subsequent to the Companies Act and the RERA Act, 2016, therefore, directing the respondent to pay Assured returns shall be violation of the provisions of the BUDS Act. That for any kind of deposits and returns over it shall be tried and adjudicated as per the relevant provisions of the BUDS Act by the competent Authority constituted under the Act.
- xi. That terms of allotment letters or any other understanding of these kinds without approvals after February 2019 is violation of BUDS Act, and if any assured return is paid thereon or continued therewith may be in complete contravention of the provisions of the BUDS Act.
- xii. That the respondent has offered Assured returns to the complainants in lieu of advance payments received in respect to a unit booked in the project and upon coming into force of the BUDS

- Act, any such unregulated deposits which are not approved have become illegal and continuing the same shall expose the respondent to strict penal provisions of the Act.
- xiii. That the respondent was committed to complete the construction of the project and subsequently lease out the same out of the same as agreed under the agreement. The respondent in due compliance of the terms of the agreement has paid assured return till September 2018. The complainants have received an amount of Rs.64,78,006/- as assured return right till September, 2018.
- xiv. That the respondent on 14.06.2019, issued update to all allottees regarding reconciliation of accounts as of 30.06.2019 and issuance of Addendum agreement for revising the clause of assured return and finally stopping the future returns. The allottees who chose to cancel the allotment were also provided required document email and were refunded investments. Thus, the respondent admittedly paid assured returns in June 2018 and at the time of stoppage of assured return in June, 2018 and at the time of stoppage if assured return in June, 2018, the respondent timely provided detailed communication to all allottees in the project.
- xv. That the respondent sent communication to the complainant on 25.02.2020, regarding ongoing transaction and possible leasing of the Block-A, B, D, E & F in the project INXT City Centre.
- xvi. That the respondent vide letter dated 29.03.2016, intimated the complainant's regarding the completion of construction
- xvii. That the complainants were sent letter dated 29.03.2016 informing of the completion of construction.

xviii. That the complaint is without any basis and no cause of action lies against the respondent and hence, the complaint deserves to be dismissed.

6. 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 submissions made by the complainant.

E. Jurisdiction of the Authority:

7. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial Jurisdiction

8. 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

9. 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)(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.

10. 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 complainant at a later stage.

F. Findings on the objection raised by the respondent:

F.1 Objection regarding maintainability of complaint on account of complainant being the investor.

11. The respondent took a stand that the complainants are the investors and not the consumers and therefore, are not entitled to protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. However, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the builder buyer's agreement, it is revealed that the complainants are buyers and have paid a considerable amount to the respondent-promoter towards purchase of unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"

12. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the builder buyer's agreement dated 22.12.2010, it is crystal clear that the complainants are allottees as the subject unit was

allotted to them by the promoter. The concept of investor is not defined or referred to in the Act. As per the definition given under Section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of an "investor". Thus, the contention of the promoter that the allottees being the investors are not entitled to protection of this Act also stands rejected.

F.II Objection regarding non-payment of assured return due to implementation of BUDS Act.

13. The respondent/promoter raised the contention that the respondent has stopped the payment of assured return due to implementation of BUDS Act by legislature, as the BUDS Act bars the respondent for making payment of assured return and assured rental linked with sale consideration of immovable property of allottee(s). But the Authority in *CR/8001/2022* titled as "*Gaurav Kaushik and Anr. Vs. Vatika Ltd.*" has already 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)(l)(iii) of the BUDS Act of 2019. Hence, the plea w.r.t. non-payment of assured return is hereby dismissed.

G. Findings on the relief sought by the complainants:

G.I Direct the respondent to withdraw the illegal demand letter dated 07.01.2023.

14. The complainants were allotted a unit no. 216, second floor admeasuring 1000 sq. ft. in the project of respondent "Vatika Trade Centre" in Sector-83, Gurugram vide allotment letter dated 22.12.2010 for a total sale consideration of Rs.50,00,000/-. A buyer's agreement was executed

between the complainant and the respondent on 22.12.2010 and the complainants started paying the amount due against the allotted unit and paid a total sum of Rs.50,00,000/-.

15. On 27.07.2011, the respondent has intimated the complainants regarding the relocation and change of name of the project to "INXT City Centre" from "Vatika Trade Centre". Thereafter, on 25.04.2013 a new allotment letter was issued to the complainants and a new unit no. 113 admeasuring 1000 sq. ft. situated on 1st floor in Block-B in the project "INXT City Centre" was allotted to the complainants.
16. As per clause 7 of the agreement dated 22.12.2010, it was agreed between the complainants and the respondent that the expenses of the maintenance charges shall be borne and paid by the allottee. The relevant clause is reproduced below for the ready reference:

7. Maintenance of the Building:

7.1 The upkeep, maintenance and management of common areas/ residual areas in the said complex including operation and up keep of plant and machinery shall be organized by the developer or its nominated maintenance agency. All such costs, expenses shall be borne and paid by the allottee to the extent of its share in the said building. The maintenance charges so fixed and payable every month shall be apportioned by the developer which the allottee hereby agrees to accept as final and binding. Such charges would be billed to the allottee by the developer/ maintenance agency every month. At present such charges are Rs.14/- per sq. ft. super area per month. The charges so fixed shall be increased by 15% after every 3 years. It is clarified that maintenance charges will be exclusive of water, electricity and other consumables for which separate bills will be raised by the developer/concerned agency/ department/ maintenance company and shall be paid by the allottee as stipulated herein.

17. In view of the above-mentioned facts, the maintenance charges are to be paid by the complainant-allottee in terms of clause 7 of the agreement dated 22.12.2010 executed between the complainants and the respondent subject to obtaining of occupation certificate.
18. The demands raised vide demand letter dated 07.01.2023 were regarding maintenance charges and the Authority is of the view that the respondent shall charge maintenance charges in terms of the agreed terms after

obtaining occupation certificate. In the present complaint, the respondent has not obtained the occupation certificate till date. Therefore, the demand letter dated 07.01.2023 is invalid and the respondent may charge the maintenance charges only after obtaining occupation certificate.

G.II Direct the respondent to make payment of Rs.65/- per sq. ft. commitment charges as per the builder buyer's agreement from September, 2018 till the said property is leased out by the respondent amounting to Rs.42,90,000/-.

19. The complainants are seeking unpaid assured returns on monthly basis as per the addendum agreement at the rates mentioned therein. It is pleaded that the respondent has not complied with the terms and conditions of the said addendum agreement. Though for some time, the amount of assured returns was paid but later on, the respondent refused to pay the same by taking a plea that the same is not payable in view of enactment of the Banning of Unregulated Deposit Schemes Act, 2019. The authority has rejected the aforesaid objections raised by the respondent in *CR/8001/2022* titled as "*Gaurav Kaushik and Anr. Vs. Vatika Ltd.*" wherein the authority has 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)(l)(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.
20. The money was taken by the builder as 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 complainants-allottee has a right to approach the authority for redressal of her grievances by way of filing a complaint.

21. Further, the agreement defines the builder buyer relationship. It can be said that the agreement for assured returns between the promoter and allottee arises out of the same relationship. It is not disputed that the respondent is a real estate developer, and it had not obtained registration under the Act of 2016 for the project in question. However, the project in which the advance has been received by the developer from the allottee is an ongoing project as per Section 3(1) of the Act of 2016 and, the same would fall within the jurisdiction of the authority for giving the desired relief to the complainants besides initiating penal proceedings. So, the amount paid by the complainants to the builder is a regulated deposit accepted by the later from the former against the immovable property to be transferred to the allottees later on. In view of the above, the respondent is liable to pay assured return to the complainants-allottees in terms of the agreement dated 22.12.2010 (inadvertently mentioned as 27.07.2011 in proceedings of the day dated 27.01.2026).
22. Subsequently, a new Addendum was executed inter se parties on 22.12.2010 itself whereby complainants agreed that the unit has been allotted with an assured monthly return of Rs.65/- per sq. ft. However, an additional amount of Rs.6.50/- per sq. ft. will be paid to the complainants till offer of possession. The relevant clauses of the Addendum are reproduced as under:

"1. The unit has been allotted to you with an assured monthly return of Rs.65/- per sq. ft. However, during the course of construction till such time the building in which your unit is situated offered for possession you will be paid an additional

return of Rs.6.50/- per sq. ft. Therefore, your return payable to you shall be as follows:

This addendum forms an integral part of builder buyer's agreement dated 22.12.2010

A) Till offer of possession: Rs.71.50/- per sq. ft.

B) After completion of the building: Rs.65/- per sq. ft."

23. The respondent in its reply dated 17.07.2025 admitted that on 22.12.2010 an addendum was executed between the complainants and the respondent vide which the assured return clause of the agreement was modified.
24. It is worth noting that the complainants have not challenged the said Addendum Agreement at any point of time and not even post the execution of the said Addendum Agreement, thus the complainants cannot raise the objection at such a belated stage. It is not a disputed fact that the aforesaid addendum was duly signed by the complainants and its execution is admitted by both the parties. Moreover, the complainants have failed to put forth any document to show that the Addendum agreement dated 22.12.2010 was executed under protest. And in furtherance of the Addendum agreement dated 22.12.2010, the respondent has paid the assured returns till September, 2018 which has been duly accepted by the complainants. Thus, the aforesaid Addendum becomes binding on both the parties and accordingly, the respondent is liable to pay unpaid assured returns @ Rs.71.50/- per sq. ft. per month w.e.f. October, 2018 till offer of possession. Thereafter, @Rs.65/- per sq. ft. post completion of building for 36 months or till the date on which the unit is put on lease, whichever is earlier.

G.III Direct the respondent to register the sale deed for the aforementioned unit.

25. As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainants. Whereas as per section 19(11) of the Act of 2016, the

allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.

26. In the present case, the unit allotted to the complainants is virtual space and there is no clause for handing over of physical possession of the unit. Thus, the respondent shall execute the conveyance deed in favour of the complainant(s) in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.

H. Directions of the authority:

27. 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 unpaid assured returns @ Rs.71.50/- per sq. ft. per month w.e.f. October, 2018 till offer of possession. Thereafter, @Rs.65/- per sq. ft. post completion of building for 36 months or till the date on which the unit is put on lease, whichever is earlier.
 - ii. The respondent is directed to pay arrears of accrued assured return as per buyer's agreement dated 22.12.2010 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% p.a. till the date of actual realization.
 - iii. The respondent is directed to execute the conveyance deed of the allotted unit within the 3 months after the receipt of the OC from the concerned authority and upon payment of requisite stamp duty by the complainant as per norms of the state government.

- iv. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement.
- v. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
28. Complaint stands disposed of.
29. File be consigned to registry.



(Phool Singh Saini)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 27.01.2026

HARERA
GURUGRAM