

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

Complaint no.: 1646 of 2024
Date of filing of complaint: 30.04.2024
Date of Order: 20.01.2026

Complainants

1. Amrinder Singh
 2. Preeti Singh
- Both R/o:** - 150, SFS Flat, Rajouri Garden, New
Delhi-110064

Versus

Respondent

M/s Vatika Limited.
Office at: 4th 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 Garvit Gupta and Ms. Mansa (Advocates)
Shri Anurag Mishra (Advocate)

Complainants
Respondent

ORDER

1. This complaint has been filed by the complainants/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 and location of the project	INXT High Street Phase-I, Sector-83, Gurgaon
2.	Nature of project	Commercial
3.	Project area	3.34 Acres
4.	DTCP License no.	113 of 2008 dated 01.06.2008 71 of 2010 dated 16.09.2010 62 of 2011 dated 02.07.2011 76 of 2011 dated 07.09.2011 66 of 2014 dated 15.07.2014
5.	License holder	M/s Vatika Limited
6.	RERA registered or not registered	Registered 263 of 2017 dated 03.10.2017 valid up to 02.10.2022
7.	Unit no.	167, FF, (As per page no. 19 of the complaint)
8.	Unit area	860 sq. ft. (super area) (As per page no. 19 of the complaint)
9.	Allotment letter	20.04.2016 (As per page no. 19 of the complaint)
10.	Buyer's agreement	Not executed
11.	Possession clause	N.A
12.	Due date of possession	20.04.2019 <i>"Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018-SC); MANU/SC/0253/2018 Hon'ble Apex Court observed that "a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract."</i>

		In view of the above-mentioned reasoning, the date of the allotment letter dated 20.04.2016 ought to be taken as the date for calculating the due date of possession. Therefore, the due date for handing over the possession of the unit comes out to be 20.04.2019.
13.	Assured return provision	3.The developer shall remit an assured monthly return of Rs.93.38/- per sq. ft. till completion of the building... (As per allotment letter on page no. 20 of the complaint)
14.	Total sale consideration	Rs.47,94,760/- (As alleged by the complainant on page no. 15 of the complaint)
15.	Amount paid	Rs.47,94,760/- (As alleged by the complainant on page no. 16 of the complaint)
16.	Occupation certificate	Not obtained
17.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainants have made the following submissions:

- I. That the payment of this consideration amount was made in two (2) parts, one at the time of initial booking on 07.07.2010 when an amount of Rs.1,00,000/- was paid as booking amount/ token amount vide cheque number 557167 dated 07.07.2010 drawn on Axis Bank. The second payment was made lump-sum before execution of the builder buyer agreement, of Rs.19,00,000/- vide cheque dated 23.07.2010 drawn on Axis Bank. This lump-sum payment was made to the Respondent on promises made by them that on upfront payment of the consideration amount, the complainants will be getting benefits of assured returns.
- II. That no builder buyer's agreement was executed by the respondent at the time of receipt of 100% sale consideration and it was only on

28.07.2010 that the BBA was executed and as per its terms and conditions, it was agreed by the respondent that the complainants will receive assured returns @ Rs.65/- per sq. ft. per month till the completion of the project and thereafter, on the completion of the project, the respondent was obligated to let-out the unit of the complainants at a minimum lease rent @ Rs. 65/- per sq. ft. per month as 'Minimum Guaranteed Rent' for the first 36 (thirty-six) months. It was also agreed that if lease amount achieved was less, then the respondent shall return to the complainants a compensation calculated at Rs. 20/- for every one rupee drop in the lease rental below Rs.65/- per sq. ft. per month. It is pertinent to mention herein that the respondent did not get the BBA registered in violation of section 13 of the RERA Act.

- III. That thereafter, an addendum to the BBA was also executed by which the assured return was increased by Rs.6.50/- per sq. ft., therefore making the assured return payable @Rs.71.50/- per sq. ft. till the completion of the building and then Rs.65/- per sq. ft. after the completion of the building for three years and this was to be effective from 28.07.20 and was to be paid before the 15th day of each calendar month.
- IV. That as per the BBA, the possession of the unit was to be handed over by the respondent within a period of three years from the date of BBA after completing the construction of the said complex and after making it ready for occupation and possession in all respects meaning thereby that the possession was to be handed over by 28.07.2013. That in the month of July, 2011, the complainants received a letter from the respondent stating that the location of the project has been changed and that the name of the project has also

been changed to Vatika INXT City Centre. This was an arbitrary act on part of the respondent and after this, a series of arbitrary and one-sided decisions started flowing on part of the respondent.

- V. That before the date of completion, in July, 2013, the respondent arbitrarily, without consent and after taking a one-sided decision, changed the unit of the complainants from Unit No. 1434A, 14th Floor, Tower A, Vatika Trade Centre, Sector 83, Gurugram, Haryana to 304, Third Floor, Tower B, Vatika INXT City Centre, Sector 83, Gurugram, Haryana.
- VI. That the building was incomplete in all respects and the respondent had failed to offer possession within the stipulated period but the respondent issued a letter dated 07.02.2014 to the complainants saying that the property tax being levied on the unit will be deducted from the assured return of the complainants which is completely illegal, arbitrary because the conveyance deed never got executed in favour of the complainants and for all legal purposes, the respondent is only liable to pay the property tax.
- VII. That despite failing to offer possession of the unit after completing it in all respects by the stipulated time, and without completing the construction of the building/ unit and without obtaining any OC/CC, the respondent illegally declared in the month of March, 2016 (vide a letter) that Block B of the project was complete. Further, arbitrarily and contrary to the terms of addendum, reduced the Assured Return from Rs.71.50/- per sq. ft. to Rs.65/- per sq. ft. w.e.f. 01.04.2016 on the pretext of completion. Because the construction of the project was not complete, the term set in addendum that payment will be reduced to Rs.65/- per sq. ft. was never triggered.

- VIII. That w.r.t. to payment of assured return, the respondent only started paying it to the complainants from October, 2010 (as opposed to the agreed terms as per addendum as payment of assured return was to made from 28.07.2010) @ Rs.71.50/- per sq. ft. after deduction of TDS. Then after sending the abovementioned arbitrary Letter falsely stating that construction of Block B was complete without obtaining OC/CC, the respondent starting paying Assured Return @ Rs.65/- per sq. ft. without any reason. In fact, the respondent in the months of January and February, 2017 has only paid an amount Rs.18,750/- respectively without any reason whatsoever and as per respondent's own whims and fancies. Finally, in the month of September, 2017 the respondent completely stopped paying the assured return even though the project was not complete.
- IX. That the respondent had promised and sold the project as a commercial project and made representations that the said unit will be leased out to a tenant as soon as it is completed, but respondent has failed to obtain occupation certificate or the completion certificate till date. In fact, the project presently lacks from several amenities and many electrical and sanitary hardware is yet not installed by respondent.
- X. That as per pictures available on the website of the respondent, the project is far from complete and is not in a habitable or tenantable state. The respondent has failed to pay any property tax, execute any conveyance deed in favour of the complainants, appoint any maintenance agency or form an association of allottees to deal with the issues of the said project. Therefore, the respondent has without dispute cheated the complainants by inducing them to pay the consideration amount basis false promises.

- XI. That the said allotment was made under an assured return plan, however, the respondent failed to honour the terms of the said assured return plan and the BBA. The respondent has further failed to obtain the occupation certificate and the completion certificate from the Department of Town and Country Planning, Haryana for the project and the unit of the complainants remain to be inhabitable and in an untenable state. Consequently, has also failed to offer the possession of the unit to the complainants till date.
- XII. Furthermore, the respondent has charged the complainants for super area admeasuring 500 sq. ft. Whereas, the respondent is required to allot units as per carpet area and charge accordingly. Therefore, the respondent in addition to the above said liabilities, is also liable to disclose the carpet area allotted under the said commercial unit to the complainants. In fact, the project is not even RERA registered.
- XIII. That the respondent had promised and sold the project as a commercial project and made representations that the said unit will be leased out to a tenant as soon as it is completed, but it has failed to obtain occupation certificate as well as completion certificate till date and it lacks from several basic amenities, features as promised and many electrical and sanitary hardware is yet not installed by them. That as per recent visit of the complainants to the site of the project, it is far from complete and is not in a habitable or tenantable state. The respondent has failed to execute any conveyance deed in favour of the complainants, appoint any maintenance agency or form an association of allottees to deal with the issues of the said project.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):

- i. Direct the respondent to pay the accrued arrears of assured returns from October 2018 to 20.04.2019 @ Rs.93.38/- per sq. ft. i.e., Rs.5,62,147/-.
- ii. Direct the respondent to pay the commitment charges from the date of due date of possession 20.04.2019 as stipulated under the allotment letter @ Rs.100/- per sq. ft. for a period of three years from 20.04.2019 to 20.04.2023 i.e., Rs.30,96,000/-.
- iii. Direct the respondent to uphold its promise to rent out the complainant's commercial office space in the project to a suitable tenant and to further disclose all efforts including email correspondences done, till today, in respect of leasing the allotted unit on lease.
- iv. Impose penalty u/s 61 for violation of section 13 of the RERA Act, at the maximum rate of 5% of the total project cost for not executing the BBA at the time of accepting 100% upfront sale consideration from the allottee on 20.04.2016 or even at any day thereafter.
- v. Direct the respondent to execute the BBA and get it registered in terms of Section 13 of the Act.
- vi. Direct the respondent to give copies of all the BBA executed to the complainants and alternatively, in case of change of name of the project, to execute a fresh BBA with the complainants in respect of the new name 'V'lante' in accordance with the RERA Act.
- vii. Direct the respondent to clarify and disclose the latest status of the project including its current name, layout plans, any other and all documents pertaining to the project and to accordingly obtain an occupation certificate and completion certificate and to complete the project in all respects especially to bring it in a tenantable condition,

- including but not limited to all pending civil work and installation of hardware.
- viii. Direct the respondent to disclose the actual carpet area allotted to the complainants.
 - ix. Direct the respondent to inform the tower number of the allotted unit to the complainants.
 - x. Direct the respondent to appoint a maintenance agency to look after the daily upkeep of the project and to pay for all such maintenance charges at its own cost, up-till the day of first lease.
 - xi. Direct the respondent to execute and register a conveyance deed in favour of the complainants for the allotted unit, only after obtaining an occupation certificate and completion certificate for the said project.

D. Reply by the respondent:

5. The respondent has contested the complaint on the following grounds:
 - i. That at the outset, it is pertinent to bring into the attention of the Ld. Authority that the complaint under reply is not maintainable as the term "Assured Return" has not been defined under the Real Estate Regulatory Act, 2016 and therefore any such complaint is not maintainable under the present Act. The complainant in this case should have approached civil court being proper forum to adjudicate upon such disputes.
 - ii. That the respondent had entered into an agreement of assured return with the complainant in the year 2016 however the government has enacted Banning of Unregulated Deposit Scheme Act, 2019 thereby putting a sanction on all such commitments made by the Builder under the agreement of assured return. Therefore, as per section 2 (j) of the Contract Act "A Contract which ceases to be

enforceable by law becomes void when it ceases to be enforceable” and therefore all such contracts after enactment of BUDS Act have been void contracts and therefore such agreements have no enforceability in the eyes of law.

- iii. That the complainant herein along with his mother had invested money into the project of the respondent, and has not purchased the said unit for residential use. The complainant had erred gravely in filing the present complaint and misconstrued the provisions of the RERA Act. It is imperative to bring the attention of the Ld. Authority that the Act, 2016 was passed with the sole intention for regulation of the real estate projects, promoters and for the dispute resolution between builders and buyers. That the same can be perused from the objective of the said act as published in the official gazette.
- iv. That the complainant booked the said commercial unit with the respondent for investment purposes. The said complainant herein is not an “allottee”, as the complainant approached the respondent with an investment opportunity in the form of a steady rental income from the commercial units.
- v. After having dire interest in the project constructed by the respondent the complainant booked a commercial unit under the assured return scheme, on her own judgement and investigation. The complainant was aware of the status of the project and booked the unit to make steady monthly returns, without any protest or demur.
- vi. That the complainant has booked a unit in the project “V'Lante” located in Sector 83, Gurgaon for a total consideration of Rs.54,25,000/-. Since starting the respondent had always tried level best to comply with the terms of the agreement and has always

intimated the exact status of the project. However, the respondent herein could not continue with the payments of assured return after coming in force of the BUDS Act, 2019.

- vii. That the complainant is merely trying to hoodwink the Ld. Authority by concealing facts which are detrimental to this complaint at hand. Therefore, the said allotment of the said commercial unit contained a "Lease Clause" which empowers the developer to put a unit of complainant along with other commercial space unit on lease and does not have "possession clauses", for physical possession.
- viii. Further, any orders or continuation of payment of any assured return or any directions thereof may be completely contrary to the subsequent act passed post the RERA Act, which, is not violating the obligations or provisions of the RERA Act. Therefore, enforcing an obligation on a promoter against a Central Act which is specifically banned, may be contrary to the central legislation which has come up to stop the menace of unregulated deposit.
- ix. That the entire case of the complainant is nothing but a web of lies, false and frivolous allegations made against the respondent. That the complainant has not approached the Ld. Authority with clean hands hence the present complaint deserves to be dismissed with heavy costs. The complainant is guilty of placing untrue facts and are attempting to hide the true colour of intention of the complainant.
- x. That the complainant herein, have suppressed the above stated facts and has raised this complaint under reply upon baseless, vague, wrong grounds and has mislead this Ld. Authority, for the reasons stated above. None of the reliefs as prayed for by the complainant is sustainable before this Ld. Authority and in the interest of justice.

Hence, the present complaint under reply is an utter abuse of the process of law, and hence 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.I Objection regarding maintainability of complaint on account of complainants being the investors.

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 allotment letter, 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 allotment letter dated 20.04. 2016, 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 pay the accrued arrears of assured returns from October 2018 to 20.04.2019 @ Rs.93.38/- per sq. ft. i.e., Rs.5,62,147/-.

14. The complainant is 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.

15. 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 complainant-allottee has a right to approach the authority for redressal of her grievances by way of filing a complaint.
16. 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 complainant besides initiating penal proceedings. So, the amount paid by the complainant 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 complainant-allottees in terms of the allotment letter dated 20.04.2016. The relevant clause of the allotment letter is reproduced as under:

"3. The developer shall remit an assured monthly return of Rs.93.38/- per sq. ft. till completion of the building. It is stated that the project is in advance stages of construction and the developer based on its present plans and estimated and subject to all just exceptions, contemplates to complete construction of the said building/ said commercial unit soon."

17. Thus, the respondent is liable to pay assured returns @ Rs.93.38/- per sq. ft. per month w.e.f. 20.04.2016 till completion of the building, after deducting the amount already paid on account of Assured Returns.

G.II Direct the respondent to pay the commitment charges from the date of due date of possession 20.04.2019 as stipulated under the allotment letter @ Rs.100/- per sq. ft. for a period of three years from 20.04.2019 to 20.04.2023 i.e., Rs.30,96,000/-.

G.III Direct the respondent to uphold its promise to rent out the complainant's commercial office space in the project to a suitable tenant and to further disclose all efforts including email correspondences done, till today, in respect of leasing the allotted unit on lease.

18. In the present matter the complainants were allotted a unit bearing no. 167, 1st floor in the project namely "INXT High Street Phase-I" located in sector-83, Gurugram vide allotment letter dated 20.04.2016. Though no buyer's agreement was executed but the complainants paid the whole amount of sale consideration i.e., Rs.47,94,760/-. As per clause 4 of the allotment letter dated 20.04.2016 it was promised and assured to the complainants on completion of the unit and an amount of Rs.100/- per sq. ft. per month will be paid as minimum rent. The relevant portion of clause 4 of allotment letter has been reproduced below for the ready reference:

4. The Allottee authorizes the developer to lease out the said unit, which is part of the commercial complex (mention name of the project) and agrees that the obligation of the developer shall be to lease the said unit along with the other commercial spaces in the commercial complex. The developer shall lease the unit along with the premises @ Rs.100/- per sq. ft. However, in the eventuality the achieved lease return being higher or lower than Rs.100/- per sq. ft. the following would be applicable.

a. If the achieved rental is less than Rs.100/- per sq. ft. then you shall be refunded @Rs.133/- per sq. ft. for every Rs.1/- by which achieved rental is less than Rs.100/- sq. ft.

b. If the achieved rental is more than Rs.100/- per sq. ft. shall be liable to pay additional sales consideration @ Rs.67/- er sq. ft. for every rupee of additional rental achieved.

19. Further as per section 11(4)(a) of the Act of 2016, the promoter is responsible for all obligations and responsibilities as per the provisions of the Act or the terms agreed as per agreement for sale. The relevant portion of section 11(4)(a) is reproduced below:

(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 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:

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

20. In the present case, the respondent has not obtained the occupation certificate of the tower in which the unit of the complainants is situated till date and no valid offer of possession has been made. Neither any document is placed on record nor any submission has been made by either party regarding leasing of the unit, therefore, the complainants are entitled for committed returns of Rs.100/- per sq. ft. per month post completion of building till the date the said unit is put on lease.

G.IV Impose penalty u/s 61 for violation of section 13 of the RERA Act, at the maximum rate of 5% of the total project cost for not executing the BBA at the time of accepting 100% upfront sale consideration from the allottee on 20.04.2016 or even at any day thereafter.

21. In the present complaint, the allotment letter has been issued on 20.04.2016 and the complainants have paid the whole consideration in the furtherance of the same. As the allotment letter is issued prior to the commencement of the Act, 2016 and Act, 2016 is not applicable

retrospectively, therefore, there is no violation of section 13 of the Act, 2016. Thus, no directions to this effect.

G.V Direct the respondent to execute the BBA and get it registered in terms of Section 13 of the Act.

G.VI Direct the respondent to give copies of all the BBA executed to the complainants and alternatively, in case of change of name of the project, to execute a fresh BBA with the complainants in respect of the new name 'V'lante' in accordance with the RERA Act.

22. Section 13 of the Act, 2016 states that a promoter shall not accept a sum more than ten percent of the cost of the apartment, plot or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale and register the said agreement for sale. However, in the present compliant, the complainants have paid the whole consideration in furtherance of the allotment letter dated 20.04.2016 but no BBA has been executed till date. Thus, the respondent is directed to execute the BBA and get it registered within 30 days of this order.

G.VII Direct the respondent to clarify and disclose the latest status of the project including its current name, layout plans, any other and all documents pertaining to the project and to accordingly obtain an occupation certificate and completion certificate and to complete the project in all respects especially to bring it in a tenantable condition, including but not limited to all pending civil work and installation of hardware.

23. Section 19(1) of the Act, 2016, the allottee is entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent Authority and such other information as provided in this Act or the Rules and regulations made thereunder or the agreement for sale signed with the promoter. Thus, the respondent is directed to provide the status of the project including its current name, layout plans and all the necessary documents pertaining to the project as per the agreed terms of the allotment letter and provisions of the Act, 2016.

24. Further, as per Section 11(4)(b) of the Act, 2016 the respondent-promoter is liable to obtain the completion certificate or the occupancy certificate, or both as applicable, from the competent Authority. In the present complaint, the respondent has not obtained the occupation certificate till date, thus, the respondent is directed to complete the project in all aspects and obtain the completion certificate or the occupancy certificate from the competent Authority.

G.VIII Direct the respondent to disclose the actual carpet area allotted to the complainants.

25. In the present complaint, the allotment letter dated 20.04.2016 is pre-RERA agreement vide which the unit admeasuring 860 sq. ft. (super area) has been allotted to the complainants. As the Act, 2016 states that the unit is to allotted in terms of carpet area to the allottee and the same is not applicable retrospectively. Moreover, the Authority cannot rewrite the terms and conditions agreed between the parties prior to the commencement of Act, 2016. Thus, no directions to this effect.

G.IX Direct the respondent to inform the tower number of the allotted unit to the complainants.

26. In the present complaint, the unit details provided in the allotment letter dated 20.04.2016 is consisting no. 167 on first floor but no tower no. has been provided without which it is difficult to find where the unit of the complainants is situated. Thus, the respondent is directed to provide the tower no. in which the unit of the complainants is situated.

G.X Direct the respondent to appoint a maintenance agency to look after the daily upkeep of the project and to pay for all such maintenance charges at its own cost, up-till the day of first lease.

27. There are no provisions in the Act, 2016 to appoint a maintenance agency to look after the daily upkeep of the project and there are no agreed terms regarding the same between the parties vide allotment letter dated 20.04.2016. Moreover, the Authority is of the view that the maintenance charges are to be paid by the allottee once the respondent has obtained

the occupation certificate and is upkeeping the unit of the complainant till the handover of the unit or putting it on lease in case of commercial units. However, in the present complaint, the occupation certificate has not been obtained by the respondent till date. Thus, no directions to this effect.

G.XI Direct the respondent to execute and register a conveyance deed in favour of the complainants for the allotted unit, only after obtaining an occupation certificate and completion certificate for the said project.

28. 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 complainant. 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.
29. In the present case, the unit allotted to the complainant 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:

30. 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 assured returns @ Rs.93.38/- per sq. ft. per month w.e.f. 20.04.2016 till completion of the building after deducting the amount already paid on account of Assured Returns.

- ii. The respondent is also directed to pay @Rs.100/- per sq. ft. post completion of building till the date on which the unit is put on lease.
 - iii. The respondent is directed to pay arrears of accrued assured return as per allotment letter dated 20.04.2016 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.
 - iv. The respondent is directed to provide the tower no. in which the unit of the complainants is situated.
 - v. 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.
 - vi. The respondent shall not charge anything from the complainant which is not the part of the agreed terms of the allotment letter.
 - vii. 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.
31. Complaint stands disposed of.
32. File be consigned to registry.


(Phool Singh Saini)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 20.01.2026