

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

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| Complaint no.: | 3464 of 2024 |
| Date of filing the complaint: | 22.07.2024 |
| Date of decision: | 07.04.2026 |

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| Birender Singh R/o: Chamber No. 143, Shaheed Bhagat Singh Block, District Court, Gurugram | Complainant |
| Versus | |
| M/s Pivotal Infrastructure Private Limited Registered office at: 309, 3 rd floor, Jmd Pacific Square, Sector 15, Part- II, Gurugram | Respondent |
| CORAM: | |
| Arun Kumar | Chairman |
| APPEARANCE: | |
| Devinder Singh (Advocate) | Complainant |
| Kirandeep Kaur (Advocate) | Respondent |

ORDER

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the

promoter shall be responsible for all obligations, responsibilities and functions under the provisions 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.N. | Particulars | Details |
|------|----------------------------------|--|
| 1. | Name and location of the project | "99 Marina Bay" in project "Ridhi Sidhi" at Sector-99, Gurugram, Haryana |
| 2. | Nature of the project | Commercial Space in Affordable Group Housing |
| 3. | Project area | 6.19375 acres |
| 4. | DTCP license no. | 86 of 2014 dated 09.08.2014 Valid up to 08.08.2019 |
| 5. | RERA Registered/ not registered | Registered 236 of 2017 dated 19.09.2017 valid up to 08.08.2019 |
| 6. | Registration extension vide no. | HARERA/GGM/REP/RC/236/2017/ EXT/177/2019 dated 30.12.2019 valid up to 31.08.2020 |
| 7. | Unit no. | Commercial Shop no.50 (As per clause 2 of BBA of supplementary documents) |
| | Unit area admeasuring | 237 sq. ft. (Super area) (As per clause 2 of BBA of supplementary documents) |
| 9. | Date of agreement for sale | 23.01.2017 |
| 10. | Date of building plan approval | 17.10.2014 (As per page no.59 of the reply) |

| | | |
|-----|---|---|
| 11. | Environmental clearance dated | 22.01.2016 (As per page no. 46 of the reply) |
| 12. | Possession clause as per Policy (AHP 2013) | 1(iv) All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environment clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. |
| 13. | Due date of possession | 22.01.2020 [Note: Due date of possession to be calculated 48 months from the date of environmental clearance i.e., 22.01.2016, being later] |
| 14. | Super flexi payment benefits are payable till | B. Super flexi payment benefit amount shall be payable for the period commencing on the completion of 25% by the 2 nd party after the payment of the booking amount and till the date the letter of offering possession of the unit (the possession letter) is issued to the second party subject to all subsequent payments paid timely by the second party as per the plan (The Plan). The company shall issue the possession letter only after having received the occupation certificate from the competent authority in relation to the commercial complex: (Emphasis supplied) (As per BBA page no. 17 of the complaint) |
| 15. | Total sale consideration | Rs. 27,96,600/- |

| | | |
|-----|--|--|
| | | (As per clause 2 of BBA page of supplementary documents) |
| 16. | Amount paid by the complainant | Rs.27,96,599/- (as alleged in para 12 at page 8 of complaint) |
| 17. | Assured return paid by the respondent <i>[From February, 2017 till March, 2021]</i> | Rs.7,64,386.40/- (as per details provided at page no.71 of reply) |
| 18. | Offer for fit-out of possession | 06.10.2023 (As per page no. 47 of the complaint and page no. 65 of reply) |
| 19. | Occupation certificate | Not obtained |
| 20. | Offer of possession | Not offered |

B. Facts of the complainant:

3. The complainant has made the following submissions: -

1. That the complainant is a law abiding and old age citizen of India, who is resident of House No: 04, Village: Molahera, Gurugram, Haryana-122015 and had applied for booking of a commercial shop in the Affordable Housing Project of the respondent company under the name and style of "Riddhi Siddhi" located in the revenue village of Kherki Majra Dhankot, Sector-99, Gurugram, Haryana. The affordable Housing real estate project "Riddhi Siddhi" located in the revenue village of Kherki Majra Dhankot, Sector-99, Gurugram, Haryana came to the knowledge of the complainant through its authorized representatives, for and on behalf of the respondent making tall claims in regard to the project and the respondent lured the complainant for booking a unit in the above said project of the respondent.

- II. That the complainant had booked a commercial space/shop named as "99 Marina Bay" on dated 10.11.2016 in the project of the respondent. The respondent had allotted a commercial space/shop bearing No. 050, having admeasuring 237 sq. Ft. approx Super Area area in "Riddhi Siddhi" located in the revenue village of Kherki Majra Dhankot, Sector-99, Gurugram, Haryana.
- III. That relying on the representations, warranties and assurances of the respondent about the timely delivery of possession, and accordingly the respondent had executed shop buyer agreement on dated 23.01.2017 for the sale of the shop for a total sale consideration of Rs. 27,96,000/.
- IV. Thereafter, with dream of owning a commercial shop and some regular income in old age which was advertised to be a progressive and aesthetic property, the complainant opted a "super flexi payment benefit assurance plan" in short (assured return plan). The complainant has already paid 100% payment to the respondent as per demand of the respondent in respect of the unit from 2016 to 2019. That is clearly shown in the illegal and unlawful intimation of due instalment issued by the respondent on dated 06.10.2023 without issuing valid offer of possession and OC.
- V. That the shop buyer agreement was executed between the parties on dated 23.01.2017 and as per clause a of super flexi payment benefit plan of the shop buyer's agreement, the respondent had agreed to pay monthly instalment for super flexi payment benefit plan till the date of issuance of possession letter, post-dated cheques for the same shall be issued in advance for every subsequent 6 months but the respondent failed to pay monthly instalment of assured return as per

clause of the agreement to the complainant. The chart of all monthly payment of assured return paid to the complainant are as follows:

| S.NO | DATE | AMOUNT |
|------|------------|------------|
| 1 | 07-07-2017 | Rs.7865/- |
| 2 | 07-07-2017 | Rs.7865/- |
| 3 | 19-08-2017 | Rs.7865/- |
| 4 | 18-09-2017 | Rs.7865/- |
| 5 | 21-10-2017 | Rs.8257/- |
| 6 | 14-11-2017 | Rs.7865/- |
| 7 | 07-02-2018 | Rs.10487/- |
| 8 | 07-02-2018 | Rs.10487/- |
| 9 | 15-03-2018 | Rs.10487/- |
| 10 | 06-04-2018 | Rs.10487/- |
| 11 | 10-05-2018 | Rs.10487/- |
| 12 | 07-08-2018 | Rs.13109/- |
| 13 | 10-09-2018 | Rs.13109/- |
| 14 | 06-11-2018 | Rs.13109/- |
| 15 | 01-12-2018 | Rs.15973/- |
| 16 | 03-01-2019 | Rs.15731/- |
| 17 | 08-02-2019 | Rs.15731/- |
| 18 | 07-03-2019 | Rs.15731/- |
| 19 | 15-04-2019 | Rs.15731/- |

| | | |
|----|------------|------------|
| 20 | 03-05-2019 | Rs.15731/- |
| 21 | 10-06-2019 | Rs.18353/- |
| 22 | 03-07-2019 | Rs.18353/- |
| 23 | 06-08-2019 | Rs.18353/- |
| 24 | 10-09-2019 | Rs.18353/- |
| 25 | 05-10-2019 | Rs.18353/- |
| 26 | 04-11-2019 | Rs.18353/- |
| 27 | 05-12-2019 | Rs.20974/- |
| 28 | 7-01-2020 | Rs.20974/- |
| 29 | 05-02-2020 | Rs.20974/- |
| 29 | 05-02-2020 | Rs.20974/- |
| 30 | 05-03-2020 | Rs.20974/- |
| 31 | 03-04-2020 | Rs.20974/- |
| 32 | 07-05-2020 | Rs.20974/- |
| 33 | 06-06-2020 | Rs.20974/- |
| 34 | 04-08-2020 | Rs.21557/- |
| 35 | 04-08-2020 | Rs.21557/- |
| 36 | 03-09-2020 | Rs.21557/- |
| 37 | 06-10-2020 | Rs.21557/- |
| 38 | 03-11-2020 | Rs.21557/- |
| 39 | 21-12-2020 | Rs.21557/- |
| 40 | 11-02-2021 | Rs.21557/- |

| | | |
|-------------|------------|------------|
| 41 | 02-03-2022 | Rs.20974/- |
| 42 | 15-06-2022 | Rs.20975/- |
| 43 | 15-06-2022 | Rs.20975/- |
| GRAND TOTAL | | |

VI. That the respondent has not mentioned anything or any clauses in the shop buyer agreement regarding delivery of the possession of the commercial shop. In that case where possession clause is not mentioned in the agreement then it would be calculated according to the Affordable Housing Policy, 2013. Therefore, their license bearing no. 84 of 2014 was issued to the respondent on dated 09.08.2014 and approval of Building Plan on dated 17-10-2014 and Environment Clearance on dated 22.01.2016. The Policy prevails over any agreement executed inter se the parties and thus, the due date of possession is to be calculated in accordance with the policy. The date of approval of environment clearance has been given as 22.01.2016. Whereas, the date of sanction of building plan is 17.10.2014. The due date of possession is calculated from the date of sanction of environmental clearance i.e.; 22.01.2016, being later which comes out to be 22.01.2020.

VII. That even after approx 4.5 years of delay, the respondent has not handed over the possession of the unit, till date. The respondent has instead always been vague and ambiguous in the speaking about the status of development in the project. The project is still not in a position to be completed any time soon and the respondent has only delaying the construction by giving frivolous excuses. The total

amount paid by the complainant is of Rs 27,96,599/- towards the total sales consideration of the shop. Therefore, the complainant has already paid 100% of the total cost of the unit till 10.11.2019.

VIII. That thereafter, the malafide conduct and unlawful activities of the respondent continued to be seen in its conduct as the delivery of the possession has been delayed by a very long period of almost 4.5 years and have consequently caused the complainant to go through mental agony and financial distress. The respondent has neither issued offer of possession nor occupation certificate has been granted to the respondent till date which is evident from the latest status report generated on dated 30.05.2024 from the site of Department of Town & Country Planning Government of Haryana that no OC has been granted to the respondent till date.

IX. That the respondent has sent offer of fit-out possession dated 06.10.2023 in place of valid offer of possession to the complainant and mentioning that the construction of the said unit has been completed. The unit is ready for the possession for the purpose of commencing the fit-out and interior work. Along with the above said letter of offer of fit-out possession, the respondent raised several illegal demands on account of electricity connection and pre-paid meter charges, external electrification charges, labour cess etc which were never the part of the payment plan as per shop buyer agreement. The offer of fit-out possession sent without OC cannot be considered to be a valid offer of possession because no OC has been granted to the respondent till date.

X. That the facts and circumstances of the present case clearly makes out a case where the respondent has blatantly failed to perform its

obligation to give possession in terms of the buyer's agreement and hence in the present scenario complaint is filed under section 31 of the Haryana Real Estate Regulation and Development Act 2016.

XI. That the respondent has utterly failed to fulfil his obligation to deliver the possession of the apartment in time and adhere to the contentions of the agreement which has caused mental agony, harassment and huge losses to the complainant, hence the present complaint.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):

I. Direct the respondent to pay monthly assured return to the complainant till date of issuance of valid offer of possession and grant of OC.

II. To quash the intimation of due installment dated 06.10.2023 and offer of fit-out possession dated 06.10.2023 and direct the respondent to not to charge anything which has not been between the parties.

III. Direct the respondent to carry out the title registration/ execution of conveyance deed of the unit and to handover the physical vacant possession of the unit with immediate effect.

IV. Direct the respondent to provide the complainant with prescribed rate of interest on delay in handing over of possession of the unit/ flat on the amount paid by the complainant from the due date of possession as per the buyer's agreement till the actual date of possession of the apartment.

D. Reply by respondent:

5. The respondent by way of written reply made following submissions: -
- i. That the complainant approached the respondent for purchase of the premises, whereby, the complainant and the respondent entered into a builder buyer's agreement dated 23.01.2017 with the respondent for purchase of the premises for a total sale consideration of Rs. 27,96,600/- (exclusive of taxes, GST and other cess(s) payable under any other statute).
 - ii. That as per the terms of the BBA, the respondent was liable to deliver the possession of the premises and subsequent execution of the conveyance deed in favour of the complainant, only on the complainant having discharged all the due obligations he is bound to pay as per the terms of the BBA. The respondent has on several occasions requested and reminded the complainant to fulfil his due obligations as per the terms of the BBA, but to no avail, the complainant has been persistent in his default.
 - iii. That the complainant has failed to remit the full and final sale consideration, as stipulated under the BBA. In such circumstances, the complainant, having himself committed a material breach of the terms of the contract, cannot be permitted to invoke the jurisdiction of this Hon'ble Authority or seek redressal of alleged grievances arising therefrom. Therefore, in the absence of fulfilment of his own contractual liabilities, the complainant can claim no enforceable right in law, and as such, the present complaint deserves to be rejected in limine for want of locus and maintainability.
 - iv. That this I.d. Authority must take into account the fact that due to the outbreak of the pandemic Covid-19 in March 2020, a National Lockdown was imposed as a result of which all the construction

works were severely hampered. Keeping in view the difficulties in completing the project by Real Estate Developers, this Hon'ble Authority granted 6 months extension to all the under-construction projects vide order dated 26.05.2020. Thereafter, due to the second covid wave from January to May 2021 once again the construction activities came to a standstill. The covid pandemic led to severe shortage of labour and disruption in supply chain of the raw materials which resulted in the delay in completing the construction of the project for which the time of 6 months granted by this Hon'ble Authority was not sufficient as the effect of labour shortage continued well beyond for more than 12 months after the covid lockdown. The Id. Authority is being requested to consider the office memorandum dated 13.05.2020 issued by Ministry of Housing and Urban Affairs along with Town and Country Planning Notification dated 28.07.2020. By virtue of the said notification moratorium period from 01.03.2020 to 30.09.2020, was allowed for all existing projects for the purpose of making various time-bound compliances and payments. Thereafter the Town and Country Planning vide notification dated 26.06.2021 extended the moratorium period from 01.04.2021 to 31.05.2021, was allowed for all existing projects for the purpose of making various time-bound compliances and payments. The Id. Authority while computing the delayed possession charges has failed to grant the Appellant concession of nine months as enunciated in the said notifications.

v. That the construction of the project had been stopped / obstructed due to the stoppage of construction activities several times during this period with effect from 2016 as a result of the various orders and

directions passed by Hon'ble National Green Tribunal, New Delhi; Environment Pollution (Control and Prevention) Authority, National Capital Region, Delhi; Haryana State Pollution Control Board, Panchkula and various other authorities from time to time. The stoppage of construction activities abruptly had led to slowing down of the construction activities for months which also contributed in the delay in completing the project within the specified time period. All these contributory pollutants were deliberated upon at length before this Tribunal from time to time and detailed orders covering all the facets of air pollution were covered under different orders of the Tribunal. The respondent's entitlement to an extension is fortified by the Hon'ble Supreme Court's ruling in *Sagufa Ahmed v. Upper Assam Polywood Products Pvt. Ltd.* (2020 SCC Online SC 998), which unequivocally held that the COVID-19 pandemic and resultant lockdowns constitute a force majeure event, absolving parties from strict compliance with contractual timelines. This principle was further reinforced by the Hon'ble Punjab & Haryana High Court in *M/s Trevoc Builders Pvt. Ltd. v. Haryana RERA* (CWP No. 9876/2022), where it was observed that the pandemic's cascading effects, including labour migration and supply-chain disruptions, rendered statutory deadlines under RERA "impossible to adhere to," warranting extensions suo moto under Section 6(3) of the Act. In the case of *Sagufa Ahmed v. Upper Assam Polywood Products Pvt. Ltd.* (2021 SCC Online SC 998) the Hon'ble Supreme Court declared COVID-19 a "natural calamity" and "force majeure," entitling parties to relief from strict deadlines. The Hon'ble Apex Court held that nationwide lockdowns under the Disaster Management Act, 2005,

created "unforeseeable and uncontrollable circumstances," making timely compliances impossible. The respondent's delay falls squarely under this precedent, as lockdowns halted construction from March 2020.

- vi. That furthermore, the Hon'ble Supreme Court in *Ramesh Chand v. Aditya Kumar* (2022 SCC Online SC 567) explicitly recognized that labour shortages triggered by pandemic-induced migration amounted to a "national calamity," entitling developers to seek parity under the doctrine of impossibility of performance (Section 56, Indian Contract Act, 1872). Similarly, the Hon'ble Punjab & Haryana High Court in *M/s Greenopolis Infra v. State of Punjab* (2023 SCC Online P&H 245) granted a 15-month extension to a developer, noting that "labour unavailability for over 12 months post-lockdown created an insurmountable hurdle," and such delays could not be attributed to the promoter's negligence. The Hon'ble High Court noted that "labour scarcity for 12+ months post-lockdown was a national crisis beyond promoters' control." It is humbly submitted that the answering-respondent faced identical labour shortages, justifying additional time under RERA Section 6.
- vii. That this Hon'ble Authority is bound by the Supreme Court's directive in *Manohar Lal v. Ugrasen* (2010 11 SCC 557) to balance "equity and law" while adjudicating force majeure claims. The Hon'ble Punjab & Haryana High Court in *M/s Apex Buildcon v. Punjab RERA* (2023 SCC Online P&H 654) emphasized that RERA's objective is rehabilitation, not retribution, and mandated a 12-month extension despite a 6-month statutory cap, citing "extraordinary humanitarian and economic circumstances."

- viii. That this I.d. Authority, while adjudicating the instant complaint should not be oblivious of the material facts that the respondent has to face financial hardship simultaneously on three accounts for the delay in constructing the Project as it has to pay an hefty amount of fees in renewing its License by DTCP, Haryana, a fee for extension of registration under RERA Act, 2016 and the delayed possession charges for non-delivering the possession to the respondent. It is submitted that the present project is an affordable group housing project being developed in accordance with the provisions of the Affordable Housing Policy, 2013. The allotment price of the unit was fixed by the Government of Haryana and in terms of the policy, the Appellant company was paid the allotment price in instalment. Though, the allotment price was fixed by the Government of Haryana in the year 2013 but the same was not revised till date and the profit margin of Appellant company is capped at 15% of total consideration amount of concerned unit. Although the construction cost got increased manifold but the Government of Haryana had failed to increase the allotment price. The Government of Haryana had failed to take into account the increase in the construction cost since the promulgation of the policy in the year 2013. If by conservative estimates the construction cost is deemed to have increased by 10% every year then till date the construction costs have got doubled since the date of promulgation of Affordable Housing Policy, 2013.
- ix. That the respondent had already got the deemed occupation certificate in terms of Regulation 4.10 of Haryana Building Code, 2017. Pertinently, the respondent had applied for the OC before the Directorate of Town and Country Planning, Haryana for the grant of

OC way back on 22.12.2022. The DTCP reverted back only on 10.03.2023 (after a period of 60 days from the date of application) demanding certain documents from the answering-respondent. It is necessary to point out here that as per the Regulation 4.10 of Haryana Building Code, 2017, the 'Occupancy Certificate' is deemed to have been issued after completion of 60 days from the date of filing the application. Regulation 4.10 (5) is being reproduced herein as: -

"(5) If no communication is received from the Competent Authority within 60 days of submitting the application for "Occupation Certificate", the owner is permitted to occupy building, considering deemed issuance of "Occupation certificate" and the application Form BR-IV (A) or BR-IV(B) shall act as "Occupation Certificate". However, the competent authority may check the violations made by the owner and take suitable action."

x. That the respondent had obtained the necessary approvals and NOCs on the following dates: -

| Particulars | Date |
|--|------------|
| Application for Occupation Certificate | 20.12.2022 |
| Approval of electrification plan | 15.06.2022 |
| Registration of Lift | 15.04.2023 |
| Fire Safety Certificate | 24.05.2023 |
| Approval of HT Electric Installation | 08.06.2023 |
| Approval of Single Line Diagram | 02.06.2023 |
| Approval of Services Plan | 27.12.2023 |

- xi. That only after obtaining the necessary approvals and NOCs from the concerned competent authorities, a fit-out possession was offered to the respondent on 06.10.2023 stating that the building was safe and fit to be inhabited and the allottee was requested to take over the possession of the unit in view of deemed issuance OC as per regulation 4.10 of Building Code, 2017. Along with the offer of possession the respondent had also requested the complainant to pay the outstanding demand as stipulated in the demand letter. It is also pertinent to submit the complainant has till date failed to pay the outstanding demand. It is further submitted that, assuming arguendo, if the complainant at all is entitled for interest for delayed possession, he is entitled only till the date of offer of possession.
- xii. That the claim of the complainant for assured return along with delayed possession charges/compensation is wholly tenable and unheard of. It is humbly submitted that it is not within the jurisdictional compass of this Hon'ble Authority to adjudicate upon the claim regarding Assured Return. The Hon'ble Authority, having been duly constituted under the provisions of RERA Act, 2016, and empowered to deal with the questions relating to delayed possession and Execution of Conveyance deed of the premises in question, as the sole object of the RERA Act, 2016 is to ensure timely possession of the premises to the allottees by the promoters/builders. It is humbly submitted that the question of assured return is purely of civil nature, outside the jurisdiction and ambit of the RERA Act, 2016, thereby, disentitling the Hon'ble Authority to deal with any question relating to assured return.

- xiii. That the present complaint in the present form is not maintainable as the same is contrary to the provision of the Real Estate (Regulation and Development) Act, 2016 and Haryana Real Estate (Regulation and Development) Rules, 2017 and therefore, the present complaint is liable to be dismissed in limine.
- xiv. The complainant booked a commercial space/shop in 2016 and filed a complaint in 2024, is barred by limitation as the Complainant failed to take timely legal action. The complainant failed to prove limitation. It is submitted that there is no postal receipt, POD, tracking report etc. which prove that the complainant sent the legal notice or alleged legal Notice was ever received by respondent. On this reason alone the present complaint is liable to be dismissed.
- xv. That the delivery of the shop by the respondent within the agreed period of 4 years from the date of grant of Building Approvals or from the date of grant of environmental clearance which is later, was incumbent upon the complainant making timely payments. The complainant, in the present matter, had failed to make timely payments and there were substantial delays in making the payments of the due instalments. Therefore, the complaint is forbidden to demand the timely performance of the 'contractual obligation' by the respondent wherein the complainant herself had failed to perform his part of the 'contractual obligations' on time.
- xvi. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

6. 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

7. 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

8. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee 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 promoter, the allottee and the real estate agents under this Act and the rules and regulations made thereunder.

9. 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.

F. Maintainability of the complaint:

10. That in the present complaint a buyer's agreement was executed between the parties on 23.01.2017 wherein a shop no. 50 with area admeasuring 237 sq. ft was allotted to the complainant for a total sale consideration of Rs. 27,96,600/-. The complainant has paid an amount of Rs. 27,96,599/- as stated by the complainant in his facts. On its contrary the respondent has stated that the complainant has not paid the full consideration as per the agreement and therefore is in the default.

11. The site of the project namely "99 Marina Bay" in project "Ridhi Sidhi" located at Sector-99, Gurugram and being developed by M/s Pivotal Infrastructure Pvt. Ltd. was inspected by the planning branch of the Authority on 25.03.2026 to ascertain the status of the project. Accordingly, the project was examined and the following observations were made: -

Physical status of the project:

The site of the project i.e, "Ridhi Sidhi" located at Sector-99, Gurugram being developed by M/s Pivotal Infrastructure Pvt. Ltd. has been visited physically to check the status of the project wherein, it is found that: -

(A) The project consists of nine number of towers, commercial shops as per sanctioned layout plan and had been registered with the Authority vide RC no. 236 of 2017 dated 19.09.2017 valid upto 08.08.2019.

(B) The towers are fully completed whereas Occupancy Certificate is yet to be received for the said project.

(C) The complaints filed were regarding commercial shops in the said project i.e Shop No. 21(Birender Singh) and Shop No. 50

(Birender Singh in which as per site it has been observed by the Site Manager that the present shop no. 50 is owned by Raj Kanwar).

Conclusion:

The complaints filed pertained to commercial shops in the said project, specifically shop No. 21 and Shop No. 50 both filed by Birender Singh. However, during the site visit, the Site Manager informed that Shop No. 50 is presently owned by Raj Kanwar.

12. Upon examination of the site inspection report conducted by the Authority, it has been observed that Shop No. 50, which is the subject matter of the present case, is presently owned in the name of Mr. Raj Kanwar (Name inadvertently mentioned as Mr. Kanwar Raj in the proceedings dated 07.04.2026). However, the complainant in the instant complaint is Mr. Birender Singh. In view of the above, the Authority is of the considered opinion that the unit in question does not pertain to the complainant, as the ownership thereof vests in the name of Mr. Raj Kanwar.

13. In these circumstances, this Authority cannot adjudicate upon disputed questions relating to the veracity of the document relied upon by the complainant. The issues of such disputes would require a detailed examination of evidence, including the assessment of allegations of misrepresentation, cheating, forgery, and criminal breach of trust. These issues fall beyond the statutory competence of the Authority and can only be adjudicated upon by the competent civil and criminal courts in accordance with law.

14. Furthermore, as per Section 2(d) of the RERA Act, 2016, an "allottee" means a person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the promoter. In the present case, the shop does not relate to the complainant as the present shop is in the name of Mr. Raj Kanwar.
15. Since no concluded contract was formed and no allotment was presented in the name of Mr. Raj Kanwar the dispute raised by the complainant relating to assured return, delayed possession charges and conveyance deed, falls outside the scope and jurisdiction of this Authority under the RERA Act, 2016.
16. Moreover, Section 29 of the Indian Contract Act, 1872, provides that agreements whose meaning is not certain, or cannot be made certain, are void and therefore not legally enforceable. This Authority further observes that, for a legally enforceable contract to come into existence, there must be *consensus ad idem* on the essential terms, such as the document in whose name the shop belongs i.e Mr. Raj Kanwar. These essential terms are ordinarily crystallized through an allotment letter and an agreement for sale. In the absence of such documents, no concluded contract for sale came into existence between the parties.
17. In view of the foregoing facts and circumstances, this Authority holds that the complainant does not fall within the definition of "allottee" as provided under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016.
18. In the light of the above stated facts and applying aforesaid principles, the Authority is of the view that the present complaint wherein seeking assured return, possession and conveyance deed of the paid-up amount, is not maintainable *firstly*, the Authority only adjudicate the matters

which are undisputed in nature and **secondly**, the complainant does not fall under the definition of Allottee. The Act has been established to regulate real estate sector. It is a principle of natural justice that nobody's right should be prejudiced for the sake of other's right, when a person remained dormant for such an unreasonable period of time without any justifiable cause.

19. In view of the above, the complaint stands dismissed with liberty to the complainant to seek appropriate remedies before the appropriate forum in accordance with law.

20. Complaint as well as applications, if any, stands disposed off accordingly.

21. File be consigned to the registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 07.04.2026