

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

**Complaint no.:** 5302 of 2025  
**Date of filing of complaint:** 14.10.2025  
**Date of Order:** 12.03.2026

Saroj Yadav

**Complainant**

**R/o:** - Villa no.-121, Mahima Subh Nilay, Jai Singh Pura (Village-Chimanpura), Near DPS, Ajmer Road, Jaipur-302026

Versus

M/s Neo Developers Private Limited.

**Respondent**

**Regd. office:** 32-B, Pusa Road, New Delhi-110005.  
**Corporate Office at:** 1507, Tower-D, Global Business Park, Gurugram-122022.

**CORAM:**

Shri Phool Singh Saini

**Member**

**APPEARANCE:**

Shri Ashwani Kumar Singla (Advocate)

Complainant

Shri Dushyant (Advocate)

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	"Neo Square"
2.	Location of the project	Sectors 109, Gurugram
3.	Nature of the project	Commercial
4.	Project Area	3.08 acres
5.	DTCP license no. and validity status	102 of 2008 dated 15.05.2008 valid up to 14.05.2024
6.	RERA Registered/ not registered	109 of 2017 dated 24.08.2017 valid up to 23.08.2021
7.	Unit and Floor no.	Retail space
8.	Revised unit no.	2-27 and 2 <sup>nd</sup> floor (As per page no. 26 of the complaint)
9.	Unit area admeasuring	466 sq. ft. (Super Area) (As per page no. 18 of the complaint)
10.	Revised area of the unit	437.34 sq. ft. (As per page no. 26 of the complaint)
11.	Date of execution of MoU's	22.07.2019 (As per page no. 16 of the complaint)
12.	Date of execution of buyer's agreement	11.01.2021 (As per page no. 11 of the complaint)
13.	Assured return clause	3. <i>The company shall pay a penalty of Rs.50,794/- per month on the said unit. On the total amount received with effect from 23.07.2020 (Effective Date-II). Subject to TDS, Taxes, cess or any other levy which is due and payable by the allottee(s) and which shall be adjusted in total sale consideration, the balance total sale consideration shall be payable by the Allottee(s) to the company in accordance with the payment Schedule annexed as Annexure-I. The penalty shall be paid to the Allottee(s) from end of effective date II until the offer of possession letter date, on prorata basis.</i> (As per page no. 18 of the complaint)



14.	Leasing clause	8.(a) That the responsibility of assured returns to be paid by the company shall cease on commencement of the first lease of the said unit whereupon the allottee(s) shall be entitled to receive the lease rentals at assured lease of Rs.89.25/- per sq. ft. per month. (As per page no. 19 of the complaint)
15.	Possession Clause (As per MoU dated 22.07.2019)	9.(e) That the unit will be constructed and completed by the company and will be handed over to the lessee directly. The company is duly authorized by the allottee(s) to enter into a lease deed with the lessee of their choice either before or after the execution of the sale deed in favour of the allottee(s). The allottee undertakes to not raise objection regarding the same at any stage and bear all costs and expenditure for leasing. (As per page no. 21 of the complaint)
16.	Total Sale Consideration	Rs.30,61,004/- (As per schedule of payment on page no. 15 of the complaint)
17.	Amount paid by the complainants	Rs.17,13,903/- (As per statement of account on page no. 28 of the complaint)
18.	Due date of possession	N.A
19.	Occupation certificate /Completion certificate	14.08.2024 (As per page no. 42 of the reply)
20.	Leasing out of the unit to the Ayaan Foods	24.03.2025 (As per page no. 66 of the reply)
21.	Demand notice and offer of possession	28.03.2025 (As per page no. 26 of the complaint)

**B. Facts of the complaint:**

3. The complainant has made the following submissions: -



- I. That the complainant is a citizen of India by birth and has the Constitutional right to invoke the jurisdiction of this Hon'ble Authority.
- II. That the respondent is a body corporate constituted under the provisions of the Companies Act, 1956 and their project 'Neo Square' situated in Sector-109, Dwarka Expressway, Gurugram falls within the territorial jurisdiction of this Hon'ble Authority.
- III. That the complainant after relying on the promises of the respondent booked a space measuring 466 sq. ft. (super area) in the aforesaid project of the respondent at an agreed total cost of Rs.30,60,964.88/- excluding EDC, IDC and IFMS.
- IV. That the complainant and the respondent entered into an agreement for sale on 11.01.2021 and an MoU dated 22.07.2019 and as per agreement, the respondent has allotted a space of super area measuring 466 sq. ft. in their project. As per terms of clause no. 4 of the MoU, the respondent has agreed and assured to pay a sum of Rs.50,794/- per month from 23.07.2020, till offer of possession letter on pro-rata basis. The respondent has not paid even a single penny under this agreement and as such is liable to pay all due assured return along with interest at prescribed rate compounded monthly.
- V. That the complainant when contacted was given a false assurance. However, the respondent on 15.10.2020 regretted their inability to pay but assured that the monthly assured return shall be adjusted at the time of possession. As such the complainant is entitled to get the adjusted monthly assured return along with interest and receive the balance amount. The respondent is not ready to pay any interest on the complaint's overdue assured return which she was entitled to receive on monthly intervals.



- VI. That the respondent with a view to fleece innocent space buyers and with a view to escape its liability towards unpaid assured return has demanded charges like holding charges, fit-out charges, labour cess development charges FTTH and interest which were not part of the original buyer's agreement. The respondent is fleecing the innocent space buyers that no charges other than what have been agreed are payable by the complainant and as such it is pleaded that the respondent be restrained from demanding/ imposing any such charge which is not a part of the buyer's agreement.
- VII. That the complainant booked a super area of 466 sq. ft. (233 sq. ft. covered area) with the respondent as per buyer's agreement. However, in the demand notice (page no. 28 of the complaint) the super area is shown as 437.34 sq. ft. The respondent has not given any explanation for the same and have not sought consent of the complainant for reduction in the area. In-fact, the respondent is clandestinely reducing area enabling it to sell the remaining area at a higher rate. The complainant booked the space 5 years back and in the meantime the space rates in Gurugram have increased manifold and the respondent is playing mischief. The respondent is using it as a tool to become unduly enrich. The complainant respectfully prays that the respondent be ordered to allot and give possession of originally agreed space i.e. 466 sq. ft. (super area).
- VIII. That the respondent with malafide intent is not providing transparent statement of accounts. The respondent please be ordered to provide accounts with full and clear calculations.

**C. Relief sought by the complainant:**

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



- i. Direct the respondent to pay assured return of Rs.50,794/- per month to the complainant from 23.07.2020 till the unit is handed over/ leased out.
  - ii. Direct the respondent to pay interest at the prescribed rate on the delayed assured return at monthly intervals.
  - iii. Direct the respondent not to charge any fit-out charges as there is no agreement for that.
  - iv. Direct the respondent not to charge any amount which is not part of the MoU dated 22.07.2019 and/or builder buyer's agreement dated 11.01.2021.
  - v. Direct the respondent not to charge holding charges/ maintenance charges as unit has not been handed over/ leased out yet.
  - vi. Direct the respondent to allot agreed area i.e., 466 sq. ft. (super area) and 233 sq. ft. (covered area) instead of 437.34 sq. ft. (super area).
  - vii. As the property has not been leased out (no lease money paid to the complainant) as such no 'upside charges' payable'. No lease money has been paid and no lease agreement has been shared/ consented.
  - viii. Direct the respondent to provide accounts with full and clear calculations.
5. 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.

**D. Reply by the respondent:**

6. The respondent has contested the complaint on the following grounds:
  - I. That the complaint has been preferred by the complainant on frivolous and unsustainable grounds and the complainant has not approached this Authority with clean hands and is trying to suppress material facts



relevant to the matter. The complainant is making false, misleading, fatuous, baseless and unsubstantiated allegations against the respondent with malicious intent and sole purpose of extracting unlawful gains from the respondent. The instant complaint is not maintainable in the eyes of the law and is devoid of merit, therefore is fit to be dismissed in limine.

- II. That by way of filing the complaint the complainant is trying to negotiate on the fit-out demand being raised by the respondent and also to gain some more time to make the payment.
- III. That the respondent after making the dues of the DTCP and other formalities of the department which also includes the completion of construction has obtained the completion certificate/occupancy certificate from the department of DTCP.
- IV. That the complainant has erred gravely in filing the present complaint and misconstrued the provisions of the Act, 2016. The Act, 2016 was passed with the sole intention of regularisation of real estate projects, and the dispute resolution between the builders and buyers and the reliefs sought by the complainant cannot be construed to fall within the ambit of Act, 2016. The complainant herein, has failed to provide the correct/complete facts that she is investor and not an allottee.
- V. That the complainant with the intent to invest in the real estate sector as an investor, approached the respondent and inquired about the project i.e., "NEO SQUARE", situated at Sector-109, Gurugram, Haryana being developed by the respondent. That after being fully satisfied with the project and the approvals thereof, the complainant decided to apply to the respondent by submitting a booking application form, whereby seeking allotment of unit no. 2-27, admeasuring 437.34 sq. ft.



(Super Area) on the 2<sup>nd</sup> floor having a Basic Sale Price of Rs.5,190/- per sq. ft.

- VI. That since the complainant had opted for the Investment Return Plan, a Memorandum of Understanding dated 22.07.2019 was executed between the parties, which was a completely separate understanding between the parties in regard to the payment of assured returns in lieu of investment made by the complainant in the project and leasing of the unit/space thereof. As per terms of MOU, the returns were to be paid from 23.07.2020 till offer of possession. As per terms of the MOU, the complainant herein had duly authorised the respondent to put the said unit on lease.
- VII. That in any case whatsoever, the aspect of leasing of the unit and the investment of the complainant cannot be dealt with by this Authority. Without prejudice to the rights of the respondent, at the utmost *bonafide*, the Authority is most humbly appraised by the fact that the respondent had been rightly obliging with the payments of committed returns to be made by it.
- VIII. That the complainant voluntarily also executed the buyer's agreement dated 22.07.2019 for shop no. 2-27 on 2<sup>nd</sup> floor admeasuring 437.34 sq. ft. Super Area in the project.
- IX. That the complainant is seeking relief of assured return which is not maintainable before the Authority upon enactment of the BUDS Act. Any direction for payment of assured return shall be tantamount to violation of the provisions of the BUDS Act. There is no provision under the Act, 2016 for examining and deciding the issues relating to the provisions of Assured Return, also the Authority has no jurisdiction to entertain an application for enforcement of an agreement of assured



return on investment, which is separate from the agreement of sale or allotment, which grants right in immovable property.

- X. That the respondent cannot pay "Assured Returns" to the complainant by any stretch of Imagination in the view of anomaly/confusion prevailing over the interpretation of definition of deposit under BUDS Act and various promotional offers of the company offering discounts while promoting the sale of its properties. None of the promotional offers qualify under the deposits or any other scheme as contemplated under any law, however, with introduction of BUDS Act, and anomaly in the definition of deposit thereof, company may be exposed to severe penalties and hence the respondent had no other alternative but to stop the payment of any return etc. On 21.02.2019 the Central Government passed an ordinance "Banning of Unregulated Deposits, 2019", to stop the menace of unregulated deposits and payment of returns on such unregulated deposits.
- XI. That the BUDS Act is a central Act came subsequent to the Companies Act and the Act, 2016, therefore, directing the respondent to pay Assured Returns shall be violation of the provisions of BUDS Act. It is also pertinent to note herein that for any kind of deposits and return over it shall be tried and adjudicated as per the relevant provisions of the BUDS Act by the Competent Authority constituted under the Act.
- XII. That as per clause 11 of the MOU, the respondent was obligated to complete the construction of the complex within 36 months from the date of execution of the MOU or from start of construction, whichever is later and apply for grant of completion/occupancy certificate. As per clause 5.2 of the agreement the construction completion date was the date when the application for grant of completion/occupancy certificate was made. Accordingly, as per clause 11 of the MOU the due



date of delivery of possession in the present case is 36 months i.e., to be calculated from 01.11.2016, and the due date of possession in the instant case comes out to be 01.11.2019.

- XIII. That the respondent from time-to-time issued demand request/reminders to the complainant to clear the outstanding dues against the booked unit. However, the complainant delayed the same for one or the other reasons. The complainant miserably failed to comply the payment plan under which the unit was allotted to the complainant and further on each and every occasion failed to remit the outstanding dues on time as and when demanded by the respondent. The complainant as per the records of the respondent had only paid Rs.17,13,993/- against the total due amount of Rs.31,99,806/-. It is to be noted that there is still an outstanding due of Rs.26,39,532/- which is to be paid by the complainant against the unit booked as per the demand letter dated 28.03.2025.
- XIV. That the complainant is trying to negotiate to the demand of respondent on fit-out, the respondent has raised the demand of Rs.3,500/- per sq. ft. to the complainant which is sum of Rs.18,06,224/- for getting the unit fit out which is essential for getting the said unit leased out. The respondent avoided making the payment for the demand for fitout and deliberately filed the present complaint.
- XV. That the respondent is raising the VAT demands as per government regulations. The rate at which the respondent is charging the VAT amount is as per the provisions of the Haryana Value Added Tax Act, 2003. Accordingly, the VAT amounts have been demanded from the complainant, as the same has been assessed and demanded by the Competent Authority.



- XVI. That that as per the agreement so signed and acknowledged, the completion of the said unit was subject to the midway hindrances which were beyond the control of the respondent. And, in case the construction of the said commercial unit was delayed due to such 'Force Majeure' conditions the respondent was entitled for extension of time period for completion.
- XVII. That since inception the respondent herein was committed to complete the project, however, the development was delayed due to the reasons beyond the control of the respondent. That due to the above reasons the project in question got delayed from its scheduled timeline. However, the respondent has completed the project in all aspect and obtained the completion certificate from DTCP.

**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**

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**

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.*

8. 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 complainant being the investor.**

9. The respondent took a stand that the complainant is the investor and not the consumer and therefore, is 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 buyer's agreement, it is revealed that the complainant is a buyer and has 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;"*



10. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the builder buyer's agreement dated 11.01.2021, it is crystal clear that the complainant is not the allottee as the subject unit was allotted to her 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 investor is 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.**

11. 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 relief sought by the complainant:**

- G.I Direct the respondent to pay assured return of Rs.50,794/- per month to the complainant from 23.07.2020 till the unit is handed over/ leased out.
- G.II Direct the respondent to pay interest at the prescribed rate on the delayed assured return at monthly intervals.

12. The above sought relief(s) by the complainant are taken together being inter-connected.
13. The complainant is seeking unpaid assured returns on monthly basis as per the MOU dated 22.07.2019 at the rates mentioned therein. It is pleaded by the complainant that the respondent has not complied with the terms and conditions of the said MoU. Though for some time, an amount of assured returns was paid but later on, the respondent refused to pay the same. In **Gaurav Kaushik and anr. Vs. Vatika Ltd.** the authority has held that when the payment of assured returns is part and parcel of memorandum of understanding or buyer's agreement (maybe there is a clause in that document or by way of addendum or terms and conditions of the allotment of a unit), then the promoter is liable to pay that amount as agreed upon.
14. A memorandum of understanding was executed between the complainant and the respondent on 22.07.2019 by which a specific unit bearing no. 2-27 has been allotted to the complainant for sale consideration of Rs.30,61,004/-. Although, there is no specific due date for handing over of possession is given in the MOU but as per clause 4 of the MOU, the respondent has promised an amount of Rs.50,794/- per month in the form of assured return from 23.07.2020 till the offer of possession. The definition of "allottee" as per section 2(d) of the Act of 2016 provides that an allottee includes a person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the promoter. Section 2(d) of the Act of 2016 has been reproduced 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;"*



Keeping in view the above-mentioned facts and the definition of allottee as per Act of 2016, it can be said that the complainant is an allottee.

15. The money was taken by the promoter 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 promoter promised certain amount by way of assured return for a certain period. So, on his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of her grievances by way of filing a complaint.
16. The promoter is liable to pay that amount as agreed upon. Moreover, an agreement/MoU defines the builder-buyer relationship. So, it can be said that the agreement for assured returns between the promoter and allottee arises out of the same relationship and is marked by the said memorandum of understanding.
17. In the present complaint, the assured return was payable as per clause 4 of MoU, which is reproduced below for the ready reference:

*4. The company shall pay a penalty of Rs.50,794/- per month on the said unit. On the total amount **received with effect from 23.07.2020 (Effective Date-II)**. **Subject to TDS, Taxes, cess or any other levy which is due and payable by the allottee(s) and which shall be adjusted** in total sale consideration, the balance total sale consideration shall be payable by the Allottee(s) to the company in accordance with the payment Schedule annexed as Annexure-I. The penalty shall be paid to the Allottee(s) **from end of effective date II until the offer of possession letter date, on prorata basis.***

Thus, the assured return was payable @ Rs.50,794/- per month w.e.f. 23.07.2020, till offer of possession i.e., 28.03.2025.

18. In light of the reasons mentioned above, the authority is of the view that as per the MoU dated 22.07.2019, it was obligation on the part of the respondent to pay the assured return. It is necessary to mention here that the respondent has failed to fulfil its obligation as agreed inter se both the parties in MoU dated 22.07.2019. Accordingly, in the interest of natural justice, the liability of the respondent to pay assured return as per MoU is



still continuing. Therefore, considering the facts of the present case, the respondent is directed to pay the amount of assured return in terms of clause 4 of MoU dated 22.07.2019 at the agreed rate i.e., @ Rs.50,794/-per month from 23.07.2020 till offer of possession i.e., 28.03.2025 and thereafter lease rentals as per letter dated 24.03.2025.

**G.III Direct the respondent not to charge any fit-out charges as there is no agreement for that.**

**G.IV Direct the respondent not to charge any amount which is not part of the MoU dated 22.07.2019 and/or builder buyer's agreement dated 11.01.2021.**

19. The above sought relief(s) by the complainant are taken together being inter-connected.
20. The complainant has sought relief to direct the respondent not to charge any fit-out charges as they were not part of agreement nor the MoU executed between parties. However, as per clause 8 of the MoU dated 22.07.2019 executed between the parties the complainant has agreed to pay such charges. The said clause is reiterated below for ready reference:

(d)

*That the Allottee(s) further agrees and understands that in case the tenant desires any infrastructural changes in form of separate sewage arrangement or the gas pipeline or any other change which involves expense on the part of allottee(s), then in that event the same shall be paid by the Allottee, strictly within the period of 15 days from the day of written notification by the company on the registered e-mail address of the allottee(s). In case the allottee(s) fails to come forward to tender the payment as demanded by the Company then in that event the company shall bear the same from its own pocket and deduct the same from the rental payable to the allottee(s) with monthly interest of 2%. The allottee(s) shall not register any protest towards the deductions from the rental. The rent shall be paid to the allottee(s) in the above-mentioned arrangement defined at clause 7(b) after the expense incurred by the company along with the monthly interest of 2% is recovered by the company from the rent received.*

21. Upon understanding of the said clause, it is clear that clause 8(d) of the MoU do mention about the allottee being responsible for certain additional charges, such as when a tenant requires like a separate sewage arrangement, gas pipeline, or other infrastructural changes. However, the clause has been worded in very broad terms and does not define any extent for determining such charges. This creates a grey area. Also, the

complainant should have taken note of this clause while executing the MoU, as it reflects an understanding between the parties that such additional charges may arise. The clause also refers to expenses for infrastructural changes, which may fall within the scope of fit out charges. However, the respondent cannot use the clause terms to impose demands in an excessive manner.

22. Therefore, if the respondent seeks to levy fit-out charges, it must first provide a proper justification of demands by showing that the work was required for making the unit fit for lease. The fit-out charges should be supported with proper details, including a break-up of expenditure and certification or report from an authorized architect, engineer or other competent professional confirming both the necessity and reasonableness of the work carried out. Only after such justification is provided respondent can charge from the complainant under the MoU.
23. Further, the respondent shall not charge anything which does not form a part of buyer's agreement or MoU.

**G.V Direct the respondent not to charge holding charges/ maintenance charges as unit has not been handed over/ leased out yet.**

24. In the present complaint, the respondent has obtained the occupation certificate on 14.08.2024 and the unit was leased out to Ayaan Foods on 24.03.2025. On perusal of the buyer's agreement placed on record, the authority observed that the complainant has not placed the complete copy of BBA on record, thus the Authority has taken the maintenance clause from the buyer's agreement from another complaint of the same project. As per clause 10.3 of the said agreement, it was agreed between the complainant and the respondent that the expenses of the maintenance charges shall be borne and paid by the allottee. The relevant portion of the said clause is reproduced below for the ready reference:

**10. Maintenance Charges:**



10.3 That the company shall look after the maintenance and upkeep of the common areas and facilities of the said complex and such areas in basement as may be declared to be common areas by the company until these are handed over by the company at its sole discretion to its nominee for preservation and maintenance. The maintenance and common service charges and also any other government taxes or levies/charges as determined by the company or its nominee shall be borne and payable by the allottee on a pro-rata basis.

25. In view of the above-mentioned facts, the maintenance charges are to be paid by the complainant-allottee in terms of above-mentioned clause of the agreement.

**G.VI Direct the respondent to allot agreed area i.e., 466 sq. ft. (super area) and 233 sq. ft. (covered area) instead of 437.34 sq. ft. (super area).**

26. The Authority after on careful perusal of the documents placed on record observed that though the complainant was allotted initially a unit admeasuring 466 sq. ft. (super area) but the same has been revised to 437 sq. ft. The complainant has been informed about the revision in the area vide demand letter cum offer of possession dated 28.03.2025 and the complainant never objected the same before filing of this complaint. Thus, the complainant cannot seek such relief at a belated stage. In view of the same, no directions to this effect.

**G.VII As the property has not been leased out (no lease money paid to the complainant) as such no 'upside charges' payable'. No lease money has been paid and no lease agreement has been shared/ consented.**

27. After careful perusal of the documents placed on record, the Authority observed that the unit has been leased out to Ayaan Foods vide letter dated 24.03.2025 issued by the respondent. Thus, the respondent is directed to pay the lease rentals to the complainant as per terms and conditions of the letter dated 24.03.2025.

**H. Directions of the authority:**

28. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):



- i. The respondent is directed to pay the assured return/penalty at the rate i.e., Rs.50,794/- per month as per agreed terms of MoU from the date i.e., 23.07.2020 till offer of possession i.e., 28.03.2025. Further, the respondent is directed to pay the lease rentals as per letter dated 24.03.2025.
  - ii. The respondent is directed to pay arrears of accrued assured return as per MoU dated 22.07.2019 till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainant and failing which that amount would be payable with interest @ 8.80% p.a. till the date of actual realization.
  - iii. The respondent is directed to execute the conveyance deed of the allotted unit in terms of Section 17 of the Act, 2016 on payment of requisite stamp duty by the complainant.
  - iv. The respondent shall not charge anything from the complainant which is not the part of the builder buyer's agreement and no holding charges shall be levied as per law settled by **Hon'ble Supreme Court in Civil Appeal no. 3864-3899/2020 decided on 14.12.2020.**
  - 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.
29. Complaint stands disposed of.
30. File be consigned to registry.

  
**(Phool Singh Saini)**  
**Member**

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.03.2026