

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

**Complaint no.** : 5919 of 2024  
**Date of complaint** : 29.11.2024  
**Date of decision** : 20.01.2026

1. Mrs. Raj Kumari,  
2. Harish Chandra,  
**Both R/o:** - Block A-1, House no. 3A, 2<sup>nd</sup> floor,  
Chattarpur Extn, South Delhi.

**Complainants**

Versus

M/s St. Patricks Realty Pvt. Ltd.  
**Registered office:** The room, Wing 2 & Wing 1,  
Central Park-II, Sector 48, Sohna road, Gurgaon-  
122001.

**Respondent**

**CORAM:**

Sh. Arun Kumar  
Sh. Phool Singh Saini

**Chairman  
Member**

**APPEARANCE:**

Sh. Rishabh Kumar (Advocate)  
Ms. Anjalika Sharman (Advocate)  
Sh. Lokesh MAdan

**Complainants  
Respondent  
AR of the company**

**ORDER**

1. The present complaint has been filed by the complainant/allottees 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 there under or to the allottees 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 complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

Sr.no.	Particulars	Details
1.	Name and location of the project	Flamingo Floors "Central Park Flower Valley" (Earlier known as Central Park III), Sector- 29, 30, 32 and 33 of village Dhunela and Berka, Tehsil Sohna, District Gurugram
2.	Project area	10.925 acres
3.	Nature of the project	Group housing colony- Independent floor
4.	DTCP license no. and validity status	54 of 2014 dated 20.06.2014 valid upto 19.06.2024 28 of 2016 dated 23.12.2016 valid upto 22.12.2021
5.	Name of the licensee	Chandiram Pratap Singh s/o Shivcharan and 3 others
6.	RERA registered/ not registered and validity status	Registered Registered vide no. 95 of 2017 dated 28.08.2017 Valid upto 31.07.2022
7.	Application form	30.06.2018 (page 17 of reply)
8.	Welcome letter	02.07.2018 (page 28 of reply)
9.	Date of buyer's agreement	BBA placed on record but not executed by the parties *Note: Incomplete BBA is annexed
9.	Floor details	Independent floor (Flamingo) G+2 D-73, admeasuring 1093 Sq.ft. Super area
13.	Possession clause	<b>7.1 Schedule for possession of the said unit</b>



"The company and allottee(s) agree and understand that timely payment of instalments by the Allottee(s) as per payment plan and timely delivery of possession of the unit along with parking (if applicable) to the Allottee(s) are the essence of the agreement. The company assured to handover possession of the unit along with parking (if applicable) as per agreed terms and conditions **on or before 30.01.2023**, however upon receiving the entire payment of sale price and other charges as per this agreement unless there is delay due to "force majeure", court orders, government policy/guidelines, decisions, refusal or withdrawal or cancellation or withholding of grant of any necessary approvals by any authority for the said project for any reason other than the noncompliance by the company, non-availability of necessary infrastructure facilities viz. roads, water, power, sewer lines to be provided by government for carrying out development activities, strikes, lack out and industrial disputes affecting the regular development of the real estate project. If, however, the completion of the project is delayed due to the above conditions then the Allottee(S) agrees that the company shall be entitled to the extension of time for delivery of possession of the unit. the allottee agrees and confirms that, in the event it becomes impossible for the company to

		<p>implement the project due to “force majeure” and above-mentioned conditions, then this allotment shall stand terminated and the company shall refund to the allottee(s) the entire amount received by the company from the Allottee(S) within ninety days. The Company shall intimate the Allottee(S) about such termination at least thirty days prior to such termination. After refund of the money paid by the Allottee(S), the Allottee(s) agrees that he/she shall not have any rights, claims etc. against the company and that the company shall be released and discharged from all its obligations and liabilities under this Agreement.” <b>(Emphasis Supplied)</b> (Taken from another file of the same project Cr. No. 5566/2023).</p>
14.	Due date of possession	30.01.2023
15.	Total sale consideration	Rs.1,07,42,474/- (As per Annexure 3 of BBA at page 30 of complaint)
16.	Amount paid by complainants	Rs.10,74,247/- (9.99%)
17.	Reminder letter for execution of BBA	22.01.2022 & 09.02.2022 (page no 29-30 of complaint)
18.	Final notice through letter and email	27.04.2022
19.	Reply by the complaint w.r.t. seeking refund	27.04.2022
20.	Cancellation letter	22.09.2022 (page 34 of reply)
21.	Forfeiture & Release of unit	22.09.2022 (page 35 of reply)
18.	Occupation Certificate	12.02.2024
19.	Offer of possession	Not offered

## B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:

- I. That the respondent advertised about its new township project namely "Flamingo Floors" situated at Central Park Flower Valley. The respondent painted a rosy picture of the project in their advertisement making tall claims and representing that the project aims at providing world class apartments/ floor/ villa/ commercial space, etc with all the luxuries and amenities in a gated society located in a premium location.
- II. That believing the false assurances and misleading representations of the respondent in their advertisements and relying upon the goodwill of the respondent, the complainants Mrs. Raj Kumari along with her husband, Mr. Harish Chandra (*co-allottee*) applied for a floor in the said project and booked an apartment in the said project of the respondent company by paying an amount of Rs.10,74,247/- towards said booking against the total sale consideration Rs. 1,07,42,474/-.
- III. That the complainant upon paying the sum of Rs.10,74,247/- against the booking, the complainants kept requesting the respondent telephonically as well as through personal visits to get the BBA executed. However, at initial stage the respondent was reluctant for executing the BBA and caused the delay in executing the BBA. Then, the complainant i.e Mrs. Raj Kumari suffered from illness and was not in the condition to visit the Tehsil for registration of the BBA. So, the BBA between the parties could not be executed due to the reason stated above.
- IV. That thereupon after few months the complainants received first "REMINDER" letter from the respondent on 22.01.2022 regarding the reminder for immediate execution and registration of BBA and payment reminder for overdue amount. However, due to adverse circumstances in the complainant's lives, they were under no capacity to pay the

further instalments and immediately visited the office of the respondent and requested them to refund the amount of Rs.10,74,247/- which was paid at the time of the booking. However, the respondent refused to the requested and stated that if the complainants failed to make the rest of the payment, they will be breaching the contract and the amount of Rs.10,74,247/- will be forfeited. However, it is also pertinent to mention that the complainants had several times asked the respondent to execute the BBA to which no heed was paid and now the respondent is taking the benefit of their wrong by blackmailing the complainants. The respondent which had first breached the essence of the contract. The respondent has always acted at their own whims and fancies and is taking an advantage of their superior position.

- V. That the respondent simply duped the complainants of her hard-earned money and life savings. The aforesaid arbitrary and unlawful acts on the part of respondent have resulted into extreme kind of financial hardship, mental distress, pain and agony to the complainants. The respondent even failed to consider the personal loss of the complainants and also the consequent financial hardship through which she has been going as the bread winner of her family is no more.
- VI. That the present complaint has been filed in order to seek refund of the principal amount paid by the complainant along with interest at the prescribed rate in accordance with RERA, 2016 and HRERA, 2017 from the date of payments till the date of actual receipt of refund.

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

4. The complainant has sought following relief(s).
- I. Direct the respondent to refund the entire paid-up amount along with interest @24% per annum.

5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

**D. Reply by the respondent**

- i. That in the year 2018, Mrs. Raj Kumari & Mr. Harish Chandra being in search of an apartment, learned about the residential project titled *Flamingo Floor* in Central Park Flower Valley to be developed by the respondent. Thereafter, the complainants applied for booking of an apartment and expressed interest for booking an independent floor in the aforesaid project vide application dated 30.06.2018.
- ii. That pursuant to the application form, the respondent vide welcome letter dated 02.07.2018, allotted an independent floor bearing no. D-73, GF having super area of about 1093 sq.ft. in the project Flamingo Flowers at Central Park Flower Valley towards the sale price of Rs. 1,07,42,474/-.
- iii. That along with the respondent sent a copy of the agreement to sale to the complainant to sign and execute the same whereby the complainant failed to come forward and execute the agreement. It is evident that the complainants were provided with the draft agreement that they were required to sign and return, and they themselves have annexed a copy of the draft of the agreement in their complaint. Moreover, total cost of the unit and payment plan (Subvention Plan) was opted by the complainant as mentioned in annexure - 3 of the agreement for sale attached by the complainants themselves which implies that they possess the agreement For Sale provided by the respondent from the very beginning.

- iv. That despite several reminders and letter, the complainants failed to come forward and execute the matter. The respondent time and again reminded the complainant to execute the agreement.
- v. That the respondent vide reminder letters dated 22.01.2022 and 09.02.2022 requested the complainant to execute the agreement for sale. However, the complainants blatantly ignored the said reminder letters and never turned up for execution of the agreement to sale. The complainants having ill intentions had never replied or made any representation regarding the execution of the agreement and always kept mum of all the requests of the respondent.
- vi. That the complainant paid no heed to the letters issued by the respondent and resultantly, respondent was constrained to issue final notice for execution of the agreement and payment of the overdue amount subsequent thereto vide final notice dated 27.04.2022.
- vii. That the complainants have no intention to execute the agreement for sale from the very beginning and the same is proved from the act and conduct of the complainant, that when the respondent had issued several reminders, letters and a final notice dated 27.04.2022 sent via email and as well as letter thereby asking the complainants to execute agreement for sale, the complainant replied to the said email vide email dated 27.04.2022 and sought refund of booking amount of rupees ten lakh eighty thousand and further asked the respondent to confirm about the refund of said booking amount and once the same is confirmed then complainant can go forward with the cancellation of their unit.
- viii. Since the complainants failed to execute the agreement for sale the respondent was constrained to issue the notice for cancellation dated

22.09.2022 & forfeiture letter Dated 22.09.2022 informing the complainants that the unit allotted to them has been cancelled due to inaction on account of the complainants to abide by the terms and conditions of the application form and non-execution of the agreement to Sale, and accordingly, the booking amount of Rs.10,80,000/- and brokerage paid by the complainants was forfeited as per the relevant provisions of the Act of 2016 and Rules and Regulations made thereunder.

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 parties.

**E. Jurisdiction of the authority**

7. The respondent has raised a preliminary submission/objection the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. 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**

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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 allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

**Section 11.....**

*(4) The promoter shall-*

*(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*

**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 complainants at a later stage.

**F. Findings on the relief sought by the complainant.**

**F.I Direct the respondent to refund the entire paid-up amount along with interest @24% per annum.**

11. In the present case, the complainants booked a residential independent floor no. 4F, tower M11, 4<sup>th</sup> floor, admeasuring 578.813 sq. ft. carpet area and 101.39 sq. ft. balcony area in the project of the respondent namely "Flamingo Floors" situated at Sector- 29,30,432,33 of Village Dhunela and Berka, Tehsil Sohna District, Gurugram and an application form dated 30.06.2018 was issued in their favour. The total sale consideration of the allotted floor is Rs. 1,07,42,474/- against which the complainant has paid an amount of Rs. 10,74,247/- i.e., (9.99%). A buyer's agreement was placed on record but was not executed between the parties. Therefore, for calculating the due date of

possession, clause no. 7 relating to possession has been taken from another file of the same project, **complaint no. 5566 of 2023**. As per clause 7 of the buyer's agreement, the company assured that possession of the unit, along with parking (if applicable), would be handed over as per the agreed terms and conditions **on or before 30.01.2023**. Accordingly, the due date comes out to be 30.01.2023.

12. The respondent raised a plea that a copy of the agreement to sale was sent to the complainant to sign and execute whereby the complainant failed to come forward and execute the agreement. Despite several reminders and letter, the complainants failed to come forward and execute the matter. The respondent vide reminder letter dated 22.01.2022 and 09.02.2022 requested the complainant to execute the agreement for sale. However, the complainant ignored the said reminder letters and never turned up for execution of the agreement to sale. The complainant paid no heed to the letters issued by the respondent. The respondent was constrained to issue final notice for execution of the agreement and payment of the overdue amount subsequent thereto vide final notice dated 27.04.2022. The respondent had issued several reminders, letters and a final notice dated 27.04.2022 sent vide email and as well as letter thereby asking the complainants to execute agreement for sale, the complainant replied to the said email vide email dated 27.04.2022 and sought refund of booking amount and further asked the respondent to confirm about the refund of said booking amount and once the same is confirmed then complainant can go forward with the cancellation of their unit. Thereafter, on 22.09.2022 a cancellation notice was issued by the respondent. Now, the question before the authority is whether the cancellation letter dated 18.04.2025 is valid or not, in the eyes of law?.

13. Perusal of documents placed on record the complainant has made a payment of Rs. 10,80,000/- till 25.07.2018. After this the complainant has neither made any payment nor come forward for execution of BBA. The respondent made several reminders notice to the complainant to execute the BBA. On 27.04.2022, the respondent sent a final notice letter as well as email to the complainant for execution of buyer's agreement the complainant replied to the said email and sought refund of booking amount and once the same is confirmed then complainant can go forward with the cancellation of their unit. Thereafter, the respondent issued a notice for cancellation dated 22.09.2022 & forfeiture letter informing the complainant that the unit allotted to them has been cancelled due to inaction on account of the complainant to abide by the terms and conditions of the application form and non-execution of the agreement to sale.
14. On considering the documents available on record as well as submissions made by the parties, it can be ascertained that the complainants have paid an amount of Rs. 10,80,000/- (which is less than 10% of the sale consideration). The respondent has sent reminder letter for execution of BBA on 22.01.2022 & 09.02.2022. Thereafter on 27.04.2022 final notice through letter and email to execute the BBA and clearing the outstanding dues was sent by the respondent to the complainant. The complainant replied that email and sought refund of the paid-up amount i.e., prior to the lapse of due date of possession which shows that the complainant does not want to continue with the project. Therefore, the respondent sent a cancellation letter and forfeiture & release of unit letter to the complainant on 22.09.2022.
15. The Authority is of the view that the possession of the apartment was to be delivered by 30.01.2023. However, the respondent has cancelled the unit due to non-execution of BBA as well as non-payment of outstanding dues.

Furthermore, the complainant replied the email of respondent on 27.04.2022 to withdrawn from the project and sought refund of the paid-up amount with interest even before the due date of possession. So, in such a situation, the complainants withdrew from the project even prior to the due date. Thus, they are not entitled to refund of the complete amount but only after certain deductions as prescribed under the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, which provides as under: -

**"5. AMOUNT OF EARNEST MONEY**

*Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment /plot /building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."*

16. It is important to note that the amount paid by the complainant i.e., Rs. 10,74,247/- constitutes to only 9.99% of the sale consideration of Rs. 1,07,42,474/-. So, keeping in view the law laid down by the Hon'ble Apex court and provisions of Regulation 11 of 2018 framed by the Haryana Real Estate Regulatory Authority, Gurugram, the respondent can forfeit the entire amount paid by the complainant i.e., Rs.10,74,247/- against the allotted unit as it is less than the earnest money as well as 10% of the consideration amount. Accordingly, upon cancellation, the said amount was forfeited by the respondent as earnest money, and no refund was found to be due.

**H. Directions of the Authority:**

17. Hence, in view of the above, the Authority is of the considered view that the complainant is not entitled to any refund, as the amount paid was less than 10% of the sale consideration, and the unit was cancelled in 2022. Thus, the complaint is hereby dismissed.
18. Complaint stands disposed of.
19. File be consigned to the registry.



**Phool Singh Saini**  
(Member)



**Arun Kumar**  
(Chairman)

Haryana Real Estate Regulatory Authority, Gurugram  
Dated: 20.01.2026