

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

Complaint No: 826 of 2024
Date of complaint: 12.03.2024
Date of order: 23.12.2025

Sudhir Chandra Mishra

Resident of: House No. K 1474, Block-K, Palam Vihar,
Gurugram, Haryana – 122002.

Complainant

Versus

M/s Parsvnath Developers Limited

Regd. Office At: Parsvnath Metro Tower, Near Shahdara
Metro Station, Shahdara, Delhi-110092.

Respondent

CORAM:

Shri Arun Kumar

Shri Phool Singh Saini

Chairman

Member

APPEARANCE:

Shri Jagjeet Singh, Advocate

Ms. Shanbhavi Singh and Shri Bhavay Sareen, Advocates

Complainant

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 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 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	"IT Park Colony" Sector-48, Gurgaon.
2.	Nature of the project	I.T. Complex
3.	Project area	6.45 acres
4.	DTCP license no.	47 of 2008 dated 11.03.2008
5.	RERA Registered/ not registered	Un-Registered
6.	Unit no.	Not allotted
7.	Unit area admeasuring	1000 sq. ft. (as mentioned in MoU at page 35 of complaint)
8.	Allotment letter	Not on record
9.	Date of execution of MoU	31.12.2009 (page 27 of complaint)
10.	Execution of BBA	Not executed
11.	Possession clause	Not provided
12.	Due date of possession	Cannot be ascertained
13.	Assured/Investment return clause	<p><i>"2. That out of the said total consideration amount the Second Party shall pay to the First Party a sum calculated @ Rs. 2025/- per square foot of the entire super area to be allotted, on or before the signing this Memorandum of Understanding. That First Party shall after receipt of party consideration @ Rs.2025/- per square foot of the entire super area i.e. Rs.20,25,000/- given an investment return @ Rs.42.75 per square foot per month i.e. Rs.42,750/- by way of interest (subject to deduction of tax at source) w.e.f. 01/01/2010 on quarterly intervals at the end of every quarter for which it is due.</i></p> <p style="text-align: right;">[Emphasis supplied]</p> <p>(as mentioned in clause 2 of MoU at page 28 of complaint)</p>

14.	Total sale consideration	Rs.22,50,000/- (as mentioned in clause 1(a) of MoU at page 35 of complaint)
15.	Amount paid by the complainant	Rs.20,25,000/- (as per receipt at page no.35 & 37 of complaint)
16.	Occupation certificate	Not provided
17.	Offer of possession	Not provided
18.	MoU (mutual settlement agreement)	03.04.2019 (page 94 - 99 of complaint)

B. Facts of the complaint:

3. The complainant has made the following submissions: -

- I. This complaint is preferred under Sections 3, 12, 13, 18, 19, 31, 34 (f), 71 and any other applicable provisions of the Real Estate (Regulation and Development) Act, 2016 and Rules 15, 16, 28 and any other applicable Rules of the Haryana Real Estate (Regulation and Development) Rules, 2017.
- II. That the respondent is a company, working in field of construction and development of residential as well as commercial projects across the country in the name of M/s Parsvanth Developers Limited.
- III. That the respondent is a developer/promoter of a project named as IT Park situates in Sector-48, Village Tikri, Tehsil and District- Gurugram, Haryana.
- IV. That the said project which was the subject matter of the present complaint, is situate at Sector-48 Gurugram and therefore this Hon'ble Authority has the jurisdiction to try and decide the present complaint. That the subject matter of the present complaint is with respect to obtain the possession of Unit being IT Space Unit admeasuring 92.90 square meters (1000 square feet) in the project named as IT Park situates in Sector-48, Village Tikri, Tehsil and District- Gurugram, Haryana. As well as the assured returns calculated @42.75 square feet, which the respondent supposed to pay to the complainant till the offer of possession of the said unit along with delayed possession charges. In view thereof, this complaint falls within the provisions of The Real Estate (Regulation and Development) Act, 2016 and

The Haryana Real Estate (Regulation and Development) Rules 2017. Hence, the present complaint.

- V. That the respondent assured the customers that they have secured all necessary sanctions and approvals from appropriate authorities for construction and completion of the real estate project.
- VI. That the respondent was fully aware about the fact that presently most of the builders, especially in NCR Region fail to deliver the projects within the time period. It therefore plays with the emotional side of the gullible customers including the complainant and promised to deliver the unit within the agreed timeline.
- VII. That the respondent through its marketing executives and advertisement done through various mediums and means approached the complainants with an offer to sell a unit in the said project. Being induced by the said offer and the representations made by the executive of the respondent to be true and correct, the complainants agreed to purchase a unit in the said project. That the respondent stated an amount of Rs.22,50,000/- towards the total sale consideration of the said unit.
- VIII. That in order to purchase the aforesaid unit, the complainant paid an amount of Rs.20,25,000/-.
- IX. That on 31.12.2009, memorandum of understanding (MoU) has been executed between the complainant and the respondent which contains the following terms.
- X. Although, as per the aforesaid MOU, the respondent has to pay monthly amount of Rs.42,750/-towards assured returns to the complainant on quarterly basis till the possession of the said IT Space/Unit. Thus, the respondent was paying an amount towards assured return to the complainant on quarterly basis through cheques.

- XI. It is further important to state that the respondent has promised and assured to the complainant that the said IT Space/Unit would be handed over to the complainant within 60 Months from the date of MOU i.e., due date of possession would be around 30.12.2014.
- XII. It is to be stated that the respondent has miserably failed to complete the construction of the said unit till the due date of possession of the said unit. It is important to note that the complainant has requested the respondent to provide allotment letter and execute Builder Buyer Agreement in his favor but the respondent assured that all other necessary documents shall be executed as soon as possible.
- XIII. That the complainant has already paid a sum of Rs.20,25,000/-towards consideration of the said unit and now only balance amount of Rs.2,25,000/- has been left which should be paid at the time of offer of possession as per the clause-3 of the aforesaid MOU.
- XIV. That it is important to note that the respondent has not only failed to execute the aforesaid documents such as allotment letter, builder buyer agreement etc. but started making default in payment of monthly assured returns. Unfortunately, the respondent has paid only Rs.26,54,775/- towards monthly assured returns and therefore, an amount of Rs.13,85,100/- which is equivalent to 48 month assured returns is due against the respondent till 30.09.2018 and thus, the outstanding amount is still recurring. However, the respondent is legally bound to pay and clear the balance amount towards the assured returns to the complaint.
- XV. That the complainant has many times approached the office of the respondent where as requested him to execute Builder Buyer agreement and all other necessary documents and further, demanded the payment of balance amount which is Rs.13,85,100/- i.e. towards assured return along with interest but all such requests went into vain.

- XVI. That the complainant many times visited the office of the respondent and met the officials and complained about their arbitrary, illegal act and also enquired about the time frame in which the IT space/ unit will be delivered to the complainant. However, the respondent did not pay any heed to the request of the complainants and refused to adhere the genuine and lawful request of the complainant in any manner or under any circumstances. The complainant had also delivered a letter by hand in this regard to the respondent mentioning their grievances.
- XVII. That the committing delay in delivering the possession of the aforesaid IT space/ unit, has violated the terms and conditions of the MoU. The respondent has also failed to fulfill the promises and representation made to the complainants while selling the said IT space/ unit to the complainant.
- XVIII. That the conduct on part of respondent regarding delay in delivery of possession of the said IT space/ unit has clearly manifested that the respondent never ever had any intention to deliver the said IT space/ unit time as agreed. It has also cleared the air on the fact that all the promises made by the respondent at the time of sale of involved IT space/ unit were fake and false. The respondent had made all those false, fake, wrongful and fraudulent promises just to induce the complainant to buy the said IT space/ unit basis its false and frivolous promises, which the respondent never intended to fulfill. The respondent in its advertisements had represented falsely regarding the area, price, quality and the due date of possession and resorted to all kind of unfair trade practices while transacting with the complainants.
- XIX. That the respondent has committed grave deficiency in services by delaying the delivery of possession and false promises made at the time of sale of the said IT space/ unit which amounts to unfair trade practice which is immoral as well as illegal. The respondent has also criminally misappropriated the

money paid by the complainants as sale consideration of said IT space/ unit by not delivering the unit by agreed timelines. The respondent has also acted fraudulently and arbitrarily by inducing the complainants to buy the said IT space/ unit basis its false and frivolous promises and representations about the delivery of the said unit.

- XX. That the complainants have undergone severe mental harassment due to the negligence on the part of the respondent to deliver his IT space/ unit on time agreed. The complainant had faced all these financial burdens and hardships from their limited income resources, only because of respondent's failure to fulfill its promises and commitments. Failure of commitment on the part of respondent has made the life of the complainant miserable socially as well financially as all their personal financial plans and strategies were based on the date of delivery of possession as agreed by the respondent. Therefore, the respondent has forced the complainant to suffer grave, severe and immense mental and financial harassment with no fault on their part. The complainant being common person just made the mistake of relying on respondent's false and fake promises, which lured them to buy a unit in the aforesaid project of the respondent.
- XXI. That the respondent has acted in a very deficient, unfair, wrongful, fraudulent manner by not handing over the possession of the said IT Space/Unit situated in Sector-48 Village Tikri, Gurugram within the timelines agreed in the memorandum of understanding.
- XXII. That by having intentionally and knowingly induced and having falsely misrepresenting to the complainants and thereby making them to act in accordance to its misrepresentations, and owing to all the deliberate lapses /delays on the part of the respondent, the respondent is fully liable to complete the said unit and hand it over to the complainant along with delay possession charges which must be calculated from the due date of

possession till realization. Secondly, the respondent should also be liable to make payment of balance amount which is Rs.13,85,100/-towards the monthly assured return along with interest.

XXIII. That the respondent is guilty of deficiency in service, unfair trade practice, giving incorrect and false statement while selling the said unit to the complainant within the purview of provisions of The Real Estate (Regulation & Development) Act, 2016 and applicable rules. The complainant has suffered loss on account deficiency in service, unfair trade practice, giving incorrect and false statement. As such the respondent is fully liable to complete the said unit in all perspective and pay an amount of assured returns along with interest calculated with interest to the complainant.

XXIV. That feeling aggrieved due to illegal acts and conduct of the respondent, the complainant had approached the Authority bearing complainant no. 1146 of 2018 wherein seeking the reliefs mentioned herein below: -

- i. Direct the respondent to issue allotment letter and execute builder buyer agreement of the IT/Space unit booked by the complainant.
- ii. Direct the respondent to construct, developed and handover actual physical possession of the IT/Space unit to the complainant within six months.
- iii. Direct the respondent to make payment of balance amount of Rs.13,85,000/- of assured returns along with interest @18% per annum along with other reliefs.

XXV. That during the pendency of the aforesaid complaint, the respondent had approached the complainant and requested him to settle the matter. It is to be stated that a settlement has been taken place between the complainant and respondent vide MoU dated 03.04.2019 on the following terms. The relevant clauses are set out herein below for convenience of Authority:

- a. *That as per the mutual settlement, the Second Party/builder has handed over following Cheques for a total sum of Rs.12,69,675/- towards the pending assured returns for the period from April-June,2016 till December,2018 which was duly accepted by the First Party/complainant.*
- b. *It has also been agreed between the parties that the Second Party shall handover the following postdated cheques to the First Party in advance towards the*

investment return for the 4 quarters from January-March-2019 till October-December-2019, total amounting to Rs.4,61,700/-

- c. That it has been agreed that the Second Party shall also pay the delay interest @12% on the pending interest return of Rs.12,69,675/- i.e., for 11 quarters amounting to Rs.2,75,178/- including TDS to the First Party.*
- d. That it has been further agreed between the parties that the parties shall execute the agreement to sell with respect to the said office space within six months from the date of execution of present Memorandum of Understanding, failing which on the sole discretion of the first party, the Second Party shall pay a sum of Rs.42,75,000/- in lieu of the amount of the consideration paid by the First Party in respect of said office space to the Second Party. That on receipt of the said amount of Rs.42,75,000/-, the First Party shall have no lien or claim on the said office space.*

- XXVI. That even after the execution of aforesaid MoU, the respondent paid assured returns till 3rd Quarter of 2022 and thereafter the respondent has again started committing default and has violated the terms and conditions of the MoU.
- XXVII. That the respondent has again defaulted in making payment of assured return from 4th Quarter of 2022. That the outstanding amount on account of assured returns comes to the tune of Rs.5,77,124/- till 4th Quarter of 2023 and is still recurring which should be payable by the respondent to the complainant along with interest calculated @ 12 % per annum from date of default October, 2022 till realization to the complainant.
- XXVIII. That the complainant has also issued a legal notice vide dated 1307.2023 to the respondent wherein seeking the recovery of the outstanding dues and informed him to comply with all the clauses mentioned in MOU.
- XXIX. That recently, the complainant has visited the project site of the respondent wherein he has seen that the construction of the said project has been completed and still, the respondent has failed to offer the possession of the said unit to the complainant.
- XXX. That the cause of action firstly accrued in favour of the complainant and against the respondent on 30.12.2014 when the respondent failed to complete the construction of the said unit. It again arose on 03.04.2019

when the respondent has executed another MoU but failed to comply with the same. The cause of action is still subsisting and continuing one.

- XXXI. That the complainants further declare that the matter regarding which this complaint has been filed is not pending before any court of law and any other authority or any other tribunal.
- XXXII. The complainant hereby seeks to redress the various forms of legal omissions and illegal commissions perpetuated by the respondent which amounts to unfair trade practices, breach of contract and are actionable under the Real Estate (Regulation and Development) Act, 2016 and the Haryana Real Estate (Regulation and Development) Rules, 2017. In the present circumstances, the complainant has been left with no other option but to approach and seek justice at Haryana Real Estate Regulatory Authority at Gurugram, Haryana.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- I. Direct the respondent not to sell/alienate or create any third party right in the unit being "IT Space Unit", admeasuring 92.90 sq. mtrs. (1000 sq. ft.) in the project named as IT Park situates in sector-48, Village Tikri, T&D Gurugram, Haryana.
 - II. Direct the respondent to handover the actual physical possession of a unit being IT Space Unit situates in sector-48, Village Tikri, T&D Gurugram, Haryana.
 - III. Direct the respondent to issue allotment letter and execute builder buyer agreement and all other necessary documents in favor of complainant.
 - IV. Direct the respondent to make payment of Rs.6,92,550/- on account of assured returns along with interest @18% p.a. calculated from date of default till realization.
 - V. Direct the respondent to pay delay possession charges @18% p.a. calculated form due date of possession i.e., 30.12.2014 till realization.
 - VI. Any other relief which the Hon'ble Authority may deem fit and proper in the facts and circumstances of the present case.

5. On the date of hearing, the Authority explained to the respondents/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.
6. The respondent put in appearance through its counsel and marked attendance on 02.05.2024, 25.07.2024, 12.12.2024, 27.03.2025 and 14.07.2025. Despite given ample opportunities & specific direction for filing reply in the matter, no reply has been received from the respondent with regard to the present complaint till date. It shows that the respondent is intentionally delaying the procedure of the court by avoiding filing of reply in the matter. In view of the above, the defence of the respondent is hereby struck off.
7. 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 those undisputed documents and submissions made by the parties.

D. Jurisdiction of the Authority:

8. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for reasons given below:

D.I Territorial jurisdiction

9. As per notification no. **1/92/2017-1TCP dated 14.12.2017** issued by the 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.

D.II Subject matter jurisdiction

10. 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) 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.

11. 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.

E. Maintainability of complaint:

12. The Authority observes that the present complaint is based on an MoU dated 31.12.2009 vide which the respondent.1 assured the complainant that it is planning to put up an I.T. Park Complex at Sector-48, Gurugram. Vide Clause 1(a) of the MoU dated 31.12.2009, it was agreed that the respondent agrees to sell/allot tentatively a super area of 1000 sq. ft. subject to final confirmation of area on completion of the building in the proposed complex of I.T Space in Sector 48, Gurugram. Further, vide clause 12 of the said MoU, it was agreed that the complainant shall execute the flat buyer's agreement with the respondent in respect of the proposed premises as and when demanded by the respondent which shall include other terms and conditions as detailed in the agreement. However, as per record, neither any formal allotment has been made in favour of the complainant nor any buyer's agreement has been executed between the parties till date. Thus, the transaction between the

parties never progressed beyond the stage of memorandum of understanding and did not culminate into allotment of any plot, apartment or building.

13. During proceedings dated 23.12.2025, the counsel for the respondent has contended that the complainant had filed a complaint former bearing no.1146 of 2018, before the Authority and on 17.05.2019, the same was dismissed as withdrawn, in view of the memorandum of understanding dated 03.04.2019, as all the disputes between the complainant and the respondent herein were mutually settled, therefore both the parties entered into a separate memorandum of understanding on 03.04.2019. Further states that as per clause 7 of said MoU dated 03.04.2019, the complainant himself agreed to not to raise any claim in present or in the future in respect of booking of the said office space except the terms and conditions as agreed in the present MoU. The said clause is reproduced for ready reference:

7. That the First party shall not raise any claim, demand towards any interest, compensation, whatsoever in nature etc., in present or future in respect of said booking of the office space except the terms and conditions as agreed in the present memorandum of understanding.

14. Upon careful consideration of the documents placed on record, the Authority observes that the present complaint is not maintainable for the following reasons: *Firstly*, it emerges that the parties have already arrived at a Memorandum of understanding in respect of the subject unit/ space. A Memorandum of understanding dated 03.04.2019 has been executed between the parties, whereby the complainant has accepted the terms as mentioned in the memorandum of understanding dated 03.04.2019 and the dispute was mutually settled between the complainant and the respondent. The relevant clauses of the memorandum of understanding dated 03.04.2019, for ready reference, are reproduced as under: -

- 1. That as per the mutual settlement, the Second Party/builder has handed over following Cheques for a total sum of Rs.12,69,675/- towards the pending assured returns for the period from April-June,2016 till December,2018 which was duly accepted by the First Party/complainant.*

- 2. It has also been agreed between the parties that the Second Party shall handover the following postdated cheques to the First Party in advance towards the investment return for the 4 quarters from January-March-2019 till October-December-2019, total amounting to Rs.4,61,700/-*
 - 3. That it has been agreed that the Second Party shall also pay the delay interest @12% on the pending interest return of Rs.12,69,675/- i.e., for 11 quarters amounting to Rs.2,75,178/- including TDS to the First Party.*
 - 4. That it has been further agreed between the parties that the parties shall execute the agreement to sell with respect to the said office space within six months from the date of execution of present Memorandum of Understanding, failing which on the sole discretion of the first party, the Second Party shall pay a sum of Rs.42,75,000/- in lieu of the amount of the consideration paid by the First Party in respect of said office space to the Second Party. That on receipt of the said amount of Rs.42,75,000/-, the First Party shall have no lien or claim on the said office space.*
 - 5. That it has been agreed between the parties that the Second party shall handover the physical possession of the said office space to the first party by the end of the December, 2019 failing which on the sole discretion of the First party, the Second party shall pay a sum of Rs.42,75,000/- in lieu of the amount of consideration paid by the first party in respect of the said office space to the Second party.*
15. From a bare perusal of the aforesaid clauses, it is evident that the parties consciously and voluntarily entered into the Memorandum of understanding dated 03.04.2019, wherein the disputes with respect to the said booking of the office space were mutually settled and the complainant had accepted and received some part of consideration till September, 2022, as per the agreed terms of the MoU.
16. The principal issue that arises for consideration is whether, in the presence of a duly executed Memorandum of understanding dated 03.04.2014, the dispute between the parties survives for adjudication by the Authority or not? The relevant clauses of the settlement agreement categorically stipulate that the payment of the settled amount were agreed in full satisfaction of the complainant, thereby extinguishing all subsisting disputes between the parties.
17. It is well settled principle that when parties voluntarily enter into a settlement and act upon the same, such settlement is binding in nature and operates as a bar to any subsequent claims arising from the same cause of action. In the

present case, the complainant has neither pleaded nor demonstrated that the settlement agreement was vitiated by fraud, coercion, undue influence, or misrepresentation. In the absence of any such averment, the Memorandum of understanding dated 03.04.2019 remains valid and enforceable in law.

18. Once the parties have consciously resolved their disputes through a settlement, the Authority cannot reopen or re-adjudicate the settled issues, nor can it modify or rewrite the contractual terms agreed upon between the parties. Any interference with such settlement, in the absence of proven illegality, would amount to substituting judicial wisdom in place of the parties contractual autonomy, which is impermissible in law.
19. The jurisdiction of the Authority under the Act is limited to adjudicating disputes arising out of subsisting allotments and statutory violations, and not to unsettling concluded contracts which have attained finality by mutual consent.
20. In view of the above stated facts, the Authority is of the view that both the parties shall strictly abide by the terms and conditions of the mutual settlement vide memorandum of understanding dated 03.04.2019, therefore, the present complaint is not maintainable under the provisions of the Act, 2016 and the same is hereby dismissed.
21. Complaint as well as applications, if any, stands disposed of accordingly.
22. Files be consigned to the registry.


(Phool Singh Saini)

Member

Haryana Real Estate Regulatory Authority, Gurugram



(Arun Kumar)

Chairman

Dated: 23.12.2025