

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,  
GURUGRAM****Date of Order: 27.01.2026**

<b>NAME OF THE BUILDER</b>		<b>M/s Neo Developers Private Limited.</b>
<b>PROJECT NAME</b>		<b>Neo Square</b>
<b>S. No.</b>	<b>Case No.</b>	<b>Case title</b>
1.	CR/241/2025	Hari Chand VS NEO Developers Private Limited & Shrimaya Buildcon Private Limited
2.	CR/2519/2025	Abhisekh Lamba and Praveen Kumar Solanki VS NEO Developers Private Limited & Shrimaya Buildcon Private Limited

<b>CORAM:</b>	
Shri Arun Kumar	<b>Chairman</b>
Shri Phool Singh Saini	<b>Member</b>
<b>APPEARANCE:</b>	
Shri Sukhbir Yadav (Advocate)	Complainant
Shri Venkat Rao and Gunjan Kumar (Advocates)	Respondent no. 1
Shri K.P Singh (Advocate)	Respondent no. 2

**ORDER**

1. This order shall dispose of the 2 aforesaid complaints titled above filed before this authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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

its obligations, responsibilities and functions to the allottees as per the agreement for sale/MOU executed inter se between parties.

- The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, Neo Square situated at Sector 109, Gurugram being developed by the same respondents/promoters i.e., M/s Neo Developers Pvt. Ltd and Shrimaya Buildcon Private Limited. The terms and conditions of the buyer's agreements/MoU and fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking possession of the unit along with, assured return, assured rentals and other reliefs.
- The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

<b>Project Name and Location</b>	"Neo Square", sector 109, Gurugram, Haryana
<b>Nature of the project</b>	Commercial
<b>Project area</b>	3.08 acres
<b>Occupation certificate obtained on</b>	14.08.2024

Sr. No.	Complaint No., Case Title, and Date of filing of complaint	Unit no. & size	Date of execution of BBA /MoU	Assured Return Clause	Total Sale Consideration / Total Amount paid by the complainant	Offer of possession	Reliefs Sought
1.	CR/241/2025 Hari Chand VS NEO Developers Private Limited & Shrimaya Buildcon Private Limited	Unit - No. 155, Third floor 400 sq ft (as per pg.58 of	<b>BBA-</b> 05.01.2021 (As per pg. 55 of the complaint) <b>MOU-</b> 05.01.2021	<b>Clause 4.</b> "The Company shall pay a Penalty of Rs. 49,500/- per month on the said unit, on the total amount	<b>TSC -</b> Rs.25,42,352 /- (As per BBA on page no. 73 of the complaint)	<b>O.O.P:</b> 24.12.2024 (page no. 106 of complaint)	Possession Assured returns/penalty Not to charge Fit-outs and

	<p><b>DOF:</b> 23.01.2025</p> <p><b>RR 1:</b> 26.08.2025</p> <p><b>RR2:</b> 29.08.2025</p>	the complaint )	(As per pg. 82 of the complaint)	<p><i>received with effect from 03.01.2022 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 Allottee(s) to the Company in accordance with the payment schedule annexed as Annexure 1. 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></p> <p><i>(As per pg. no. 85 of the complaint)</i></p>	<p><b>AP -</b> Rs. 24,52,352/-</p> <p>(as per SOA on pg. no. 108 of the complaint)</p>		Holding and maintenance charges Execute Conveyance deed
2.	<p><b>CR/2519/2025</b></p> <p>Abhisekh Lamba and Praveen Kumar Solanki</p> <p>VS NEO Developers Private Limited &amp; Shrimaya Buildcon Private Limited</p>	<p>Priority no. 100, 12A<sup>th</sup> Floor 200 sq ft.</p> <p>(As per pg no. 96 of the complaint )</p>	<p><b>BBA:</b> 15.07.2019</p> <p>(as per page no. 55 of the complaint)</p> <p><b>MOU-</b> 15.07.2019</p> <p>(As per pg. 79 of the complaint)</p>	<p>Clause 4. "The company shall pay a penalty of Rs.11,850/- per month on the said unit on the total amount received with effect from 21.06.2020 (effective date II) subject to TDS, taxes, cess or any other Levy which is due and payable by</p>	<p><b>TSC -</b> Rs. 18,14,600/-</p> <p>(As per assured return plan on page no. 71 of the complaint)</p> <p><b>AP -</b> Rs. 13,27,160/-</p> <p>(as per SOA on pg. no. 98 of the reply)</p>	<p><b>O.O.P:</b> 04.10.2024</p> <p>(page no. 96 of complaint)</p>	<p>Possession Assured returns/penalty Not to charge Fit-outs and Holding and maintenance charges Execute Conveyance deed</p>

	<b>DOF:</b> 26.05.2025  <b>RR1:</b> 04.09.2025  <b>RR2:</b> 12.08.2025			<i>allottee and which shall be adjusted in total sale consideration the balance total sale consideration shall be payable by the allottee to the company in accordance with the payments schedule annexed at annexure-I. The penalty shall be paid to the allottee from end of effective date II until the offer of possession letter date, on pro rata basis."</i>  <i>(As per pg. no. 82 of the complaint)</i>			
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**Relief sought by the complainant(s) in abovementioned complaints: -**

- i. To get possession of the fully developed/constructed food court/space/ commercial unit on 5th Floor admeasuring a super area of 200 Sq. Ft. in project "Neo Square", Sector-109, Gurugram.
- ii. To get the assured return for every month as per the terms of the MOU, which amounts to a total of Rs.7,11,0001- (Seven Lakh Eleven Thousand) from June 2020 till May 2025 or physical handover of the unit or First lease.
- iii. To get the assured return for every month as per the terms of the MOU till the actual unit handover.
- iv. To get an order in favor of the Complainants by directing the respondent to get the conveyance deed executed and registered in favor of the complainant.
- v. To get an order in favour of the Complainants by directing the respondent party to arrange the lease for the complainant' s commercial unit.
- vi. To get an order in favor of the Complainants by restraining the respondent from charging Fit-out Charges.
- vii. To get an order in favor of the Complainants by restraining the respondent from charging Maintenance Charges till actual handover of the unit.
- viii. To get an order in favor of the Complainants by restraining the respondent from charging Holding Charges as the demand of Holding Charges is against the principle of natural justice.

**Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:**

Abbreviation	Full form
DOF	Date of filing of complaint
BBA	Builder Buyer's Agreement
TSC	Total sale consideration
AP	Amount paid by the allottee/s
OOP	Offer Of Possession
DOD	Date of lease deed
RR1	Reply received of Respondent 1
RR2	Reply received of Respondent 2

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the builder buyer's agreement/MoU executed between the parties in respect of subject unit for not handing over the possession by the due date, executing conveyance deed, assured return, assured rentals and other charges.
5. The facts of all the complaints filed by the complainant-allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case ***CR/241/2025 Case titled as Hari Chand VS NEO Developers Private Limited & Shrimaya Buildcon Private Limited*** are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

**A. Project and unit related details**

6. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

***CR/241/2025 Case titled as Hari Chand VS NEO Developers Private Limited & Shrimaya Buildcon Private Limited***

S. N.	Particulars	Details
1.	Name of the project	Neo Square, Sector-109, Gurugram
2.	Project area	3.08 acres

3.	Nature of the project	Commercial colony
4.	RERA Registered or not	Registered Vide no. 109 of 2017 dated 24.08.2017 valid upto 22.02.2024
5.	DTCP License no.	102 of 2008 dated 15.05.2008 valid upto 14.05.2025
6.	Name of Licensee	M/s Shrimaya Buildcon Private Limited
7.	Unit no./shop	155, 3 <sup>rd</sup> floor (As per page no. 58 of complaint)
8.	Unit area admeasuring	400 sq. ft. (As per page no. 58 of complaint)
9.	Welcome Letter	29.12.2020 (As per Page 94 of complaint)
10.	Date of buyer's agreement	05.01.2021 (As per page no. 49 of complaint)
11.	MOU	05.01.2021 (As per page no. 82 of complaint)
12.	Possession clause	<i>Clause 3</i> <i>"The company shall complete the construction of the said Building/Complex, within which the said space is located within 36 months from the date of execution of Agreement or from the start of construction, whichever is later and apply for grant of completion/ Occupancy Certificate."</i>
13.	Date of start of construction	The Authority has decided the date of start of construction as 15.12.2015 which was agreed to be taken as date of start of construction for the same project in other matters. In CR/1329/2019 it was admitted by the respondent in his reply that the construction was started in the month of December 2015.
14.	Due date of possession	05.01.2024 (36 months - Calculated from date of agreement being later)

15.	Assured return Clause	<p><i>Clause 4</i></p> <p><i>"The Company shall pay a Penalty of Rs. 49,500/- per month on the said unit, on the total amount received with effect from 03.01.2022 (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 Allottee(s) to the Company in accordance with the Payment Schedule annexed as Annexure I. The penalty shall be paid to the allottee from end of effective date II until the offer of possession letter date, on pro rata basis."</i></p> <p><i>(As per pg. no. 85 of the complaint)</i></p>
16.	Total sale consideration	Rs. 25,42,352/- (As per payment plan on page no. 73 of complaint)
17.	Amount paid by the complainant	Rs. 24,52,352/- (As per MOU at page 84 of complaint)
18.	Occupation certificate	14.08.2024 (As per the DTCP Site)
19.	Offer of possession	24.12.2024 (As per page no. 106 of complaint)

### B. Facts of the complaint

7. The complainant has made following submissions in the complaint:
- That the complainant, Hari Chand, is a law-abiding and peace-loving citizen, and resident of RZ-210/M, Raj Nagar 2, Palam Colony, South West Delhi-110077 (hereinafter called the Complainant/ Petitioner).
  - That the respondents i.e., M/s Neo Developers Private Limited and M/s Shrimaya Buildcon Private Limited are companies incorporated under the companies act, 1956 having their registered office at 32B, Pusa Road, New Delhi, Delhi-110005 and K-1, Green Park Main, New Delhi-110016, respectively. Respondent No. 1 has its corporate office at unit no G-02 and G-

- 03, Neo Square Sector 109, Palam Vihar Gurgaon, Palam Vihar, Haryana, India, 122017 (hereinafter called the Developers/Promoters/Builders/Respondents), and the project in question is known as "Neo Square", Sector - 109, Gurugram (hereinafter called the Project). It is pertinent to note that respondent no. 1 is in collaboration with M/s Shrimaya Buildcon Private Limited, as evidenced by multiple written understandings and agreements as mentioned in the BBA dated 05.09.2021.
- iii. That in December 2020, the complainant received a marketing call from a registered associate of respondent No. 1 namely 'Gromax India' for booking in the commercial project being developed by the respondents in the name of "Neo Square", situated in Sector - 109, Gurugram. The said real estate agent/broker showed a rosy picture of the said project and allured the complainant through lucrative advertisements.
- iv. That the complainant along with his family and the said agent/broker visited the project site and there they met the official staff of the respondent. The marketing staff of the opposite party painted a glittery picture of the project by stating that the 'Neo Square' project situated in Gurgaon is the distinguished residential nest of various spectacular options, located at Dwarka Expressway, Sector-109 of Gurgaon, beautifully designed and crafted spaces of commercial segments depicting with world-class attributes. They further represented that this project targets the high-end market segments. This gigantic commercial development incorporated various commercial spaces such as - retail, a food court, restaurants serviced apartments, a hypermart, a cinema, and a key number of office spaces. The complainant was presented with a glossy, colorful brochure elaborately showcasing the "Neo Square" project's luxurious features, amenities, and services.

- v. That being relied on representation & assurances of the respondents and the said real estate agent/broker/ registered associate i.e., Gromax India, the complainant decided to book a commercial unit in the said project of the respondents. Subsequently, the complainant applied for the booking of one commercial unit no. 155 having an area of 400 sq. ft. on the 3rd floor or food court in the respondents' project. Along with the booking application, the complainant made a payment of Rs. 10,00,000/- (ten lakhs) through cheque bearing no. 000349 dated 23.12.2020 drawn on hdfc bank limited.
- vi. The respondent no. 1 issued the welcome letter in the name of the complainant and the said payment was duly acknowledged by the respondent and a receipt dated 29.12.2020 was issued by the respondent no.1 in respect to the said transaction made by the complainant. It is germane to highlight here that the complainant booked the unit under the "down payment plan cum assured return payment plan", which was a crucial factor in his decision-making process.
- vii. That, respondent no. 1 issued payment receipts for both transactions on 02.01.2021, acknowledging receipt of the funds.
- viii. That on 05.01.2021, a unilateral, ex-facie, and arbitrary builder buyer agreement for the complainant's unit was executed between respondent no. 1 and the complainant which was duly registered on 09.02.2021. it is pertinent to note here that clause 5.2 of the BBA stipulated that the respondents would deliver physical possession of the commercial unit within 36 months from the BBA execution date. the BBA was executed on 05.01.2021, making the possession due date 05.01.2024. however, the respondents failed to deliver possession of the unit to the complainant, despite the due date lapsing over a year ago.

- ix. Thereafter on the same date i.e., 05.01.2021, a memorandum of understanding was also executed between the respondent and the complainant. As per clause 3 of the said MOU, the respondent allotted a commercial unit/food court space on the 3rd floor, with a super area of 400 sq. Ft. in the "Neo Square" project. The total consideration of the complainant's unit as per Annexure-I of the said MOU is Rs.25,42,352/- (Twenty-Five Lakhs Forty-Two Thousand Three Hundred and Fifty-Two) out of which the complainant had paid more than 95% of the consideration amounting to Rs.24,52,352/- (Twenty-Four Lakhs Fifty-Two Thousand Three Hundred and Fifty-Two) at the time of booking.
- x. Further, clause 4 of the said MOU stipulates that:
- "The company shall pay a penalty of Rs.49,500/- (Forty-Nine Thousand Five Hundred) per month on the said unit, On the total amount received with effect from 03.01.2022 (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 plan annexed as Annexure-I. The penalty shall be paid to the Allottee(s) from the end of effective date-II until the offer of possession letter date, on a prorated basis".*
- xi. That, consequently, the complainant is entitled to receive the investment return, in the form of assured returns, from 03.01.2022 onwards.
- xii. That despite fulfilling over 95% of his financial obligations, the complainant never received assured returns from the respondents, commencing from effective date-II (03.01.2022). This cessation of payments has caused significant financial hardship. As per the memorandum of understanding dated 05.01.2021, the respondents were obligated to pay Rs.49,500/- monthly assured returns/penalty until possession or lease commencement. Since neither condition has been met, the respondents' actions constitute a

- clear contractual breach. Furthermore, the respondents failed to provide formal communication or notice regarding non-payment, leaving the complainant without explanation or justification for this sudden action.
- xiii. That since May 2023, the complainant has been diligently pursuing respondent no. 1 via email, seeking payment of the assured return/penalty of Rs.49,500/-, as stipulated in the MOU and due since 03.01.2022. Unfortunately, all emails sent by the complainant have been consistently ignored, with respondent no. 1 failing to provide any acknowledgment, explanation, or resolution. This lack of response has not only exacerbated the complainant's financial hardship but also demonstrates respondent no. 1's deliberate disregard for their contractual obligations and the complainant's legitimate concerns.
- xiv. That on 24.12.2024, respondent no. 1 issued a demand notice cum offer of possession for the complainant's commercial unit, despite the due date having expired. It is germane to highlight here that although the respondents had received over 95% of the consideration, they unjustly demanded an additional Rs. 3,92,860/-.
- xv. That the respondent failed to pay assured returns to the complainant for even a single month since 03.01.2022 - a period spanning over three years. consequently, the outstanding assured returns exceed the respondent's additional demand in the offer of possession. the respondent's actions are, in fact, preventing the complainant from taking possession. consequently, as stipulated in the additional terms of the offer of possession, the respondent is not entitled to levy holding charges for the complainant's unit. the respondent's failure to fulfill their obligations, including payment of assured

returns, cannot be used as a pretext to impose additional charges on the complainant.

- xvi. It is noteworthy that the respondents' offer of possession was sent without the occupancy certificate attached. although the respondents obtained the occupancy certificate dated 14.08.2024 from the competent authority, crucially, it was issued in the name of respondent no. 2, Shrimaya Buildcon Pvt Ltd.
- xvii. That the complainant has invested his entire life savings in the respondent's project, hoping to receive the assured returns as a steady source of income. however, when the respondent did not pay these returns since the initial date i.e., 03.01.2022, the complainant faced severe financial difficulties.
- xviii. That the complainant have paid a sum of Rs.33,61,994/- out of the total sale consideration of Rs.29,58,250/-. The said fact is evident from the account statement issued by the respondent on 08.10.2020.
- xix. That the main grievance of the complainant in the present complaint is that despite the complainant having paid almost 100% of all the demands raised by the respondent against the office space/commercial unit in question and is ready and willing to pay the remaining amount (justified) (if any), the respondent party has defaulted on their commitments, failing to pay assured returns, deliver physical possession of the office space, arrange a lease, and execute and register a conveyance deed in favor of the complainant.

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

8. The complainant has sought the following relief(s):
- i. To get possession of the fully developed/constructed food court/space/commercial unit on 155 on 3rd floor admeasuring a super area of 400 Sq. Ft. in project "Neo Square", Sector-109, Gurugram.

- ii. To get the assured return for every month as per the terms of the MOU, which amounts to a total of Rs.17,82,000/- from January 2022 to December 2024.
  - iii. To get the assured return for every month as per the terms of the MOU till the actual unit handover.
  - iv. To get an order in favor of the complainant by restraining the respondent from charging fit-out charges.
  - v. To get an order in favor of the complainant by restraining the respondent from charging maintenance charges till actual handover of the unit.
  - vi. To get an order in favor of the complainant by directing the respondent to get the conveyance deed executed and registered in favor of the complainants.
  - vii. To get an order in favour of the complainant by directing the respondent party to arrange the lease for the complainant's commercial unit.
  - viii. To get an order in favor of the complainant by restraining the respondent from charging holding charges as the demand of holding charges is against the principle of natural justice.
9. 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 1.**

10. The respondent has contested the complaint on the following grounds:
- I. That the complainant with an intention of earning a lease rental and assured return invested in the instant project and submitted a booking application form in dec 2020, requesting the respondent to allot a unit/space, admeasuring 400 sq. ft. super area in the project "NEO Square".

- II. That, considering the request of the complainant, the respondent allotted a unit bearing priority no.155, on 3rd floor, admeasuring 400 sq. ft. super area.
- III. That, thereafter, the respondent made multiple requests to the complainant to visit the office of the respondent for executing the builder buyer's agreement and other agreements/documents with respect to lease rental, assured return etc.
- IV. That after much persuasion by the respondent, the complainant came forward and executed the builder buyer's agreement on 05.01.2021.
- V. Since, the complainant has invested in the project to earn assured returns and lease rental by getting the unit leased out through respondent, therefore a memorandum of understanding dated 05.01.2021 (hereinafter referred to as the "MOU") was executed between the parties, recording the lease grant rights in favor of respondent, terms and conditions of payment of assured return and lease rental, fit-out charges etc.
- VI. That since the building was completed way before the grant of the occupation certificate, therefore, prospective lessees were approaching the respondent for taking the units in the project. That the respondent was anticipating that the occupation certificate would be granted by the competent authority shortly, and leased out the subject unit and *vide* letter dated 01.10.2020, requested the complainant to forward to complete the formalities with respect to leasing of the unit.
- VII. The occupation certificate of the project was granted by the competent Authority on 14.08.2024.
- VIII. Thereafter, the respondent sent an offer of possession letter dated 24.12.2024, wherein the respondent requested the complainant to clear the outstanding amounts payable against the unit.

- IX. Despite receiving the offer of possession, the complainant failed to come forward to complete the formalities of possession and payment of outstanding dues. Therefore, the respondent was constrained to issue reminders dated 14.02.2025, 25.02.2025 and 22.03.2025 requesting the complainant to do the needful.
- X. That the respondent vide letter dated 02.04.2025, requested the complainant to make payment of the fit-out charges as per the agreed terms and conditions of the MOU.
- XI. That the complainant, despite receiving the aforementioned demands/reminders, failed to come forward to fulfil his obligations under the MOU and BBA.
- XII. That by no stretch of imagination it can be concluded that the complainant herein is "allottee/consumer." The complainant are simply investors who approached the respondent for investment opportunities and for a steady assured returns and rental income.
- XIII. That the present complaint has been preferred by the complainants before the Ld. Authority on frivolous and unsustainable grounds and the complainant has not approached the Id. authority with clean hands and is trying to suppress the material facts relevant to this matter. the complainant is making false, misleading, fatuous, baseless and unsubstantiated allegations against the respondent with malicious intent and with the sole purpose of extracting unlawful gains from the respondent. The instant complaint is not maintainable in the eyes of the law, is devoid of merit and is fit to be dismissed in limine.
- XIV. That the complainant has invested in the project with the sole intent of earning an assured return and lease rental by leasing the unit through the respondent. Since, the understanding between the parties was very clear

that the unit was to be leased out to a prospective lessee and the parties being aware of the fact that whenever any shop/office/space/unit is leased out to a lessee, there may arise a situation where the lessee wants some infrastructural changes or any other change which involves the expenses on part of the complainant, inside the shop/office/space/unit, that the cost of such changes/modification inside the shop/office/space/unit has to be borne by the owner. Therefore, the complainant, under clause 9(d) of the mou, has categorically agreed that in case the lessee desires any infrastructural changes in the unit, then the complainant shall be bound to pay for the expenses to be incurred for making the unit ready as per the requirement of the lessee. It is further agreed that in case the complainant fails to pay the same, then the respondent shall pay the expenses on behalf of the complainant and deduct the same from the lease rental payable to the complainant, along with a monthly interest of 2 per cent. clause 9 (d) of the mou is reproduced herein below:

*"That the Allottee(s) further agrees and understand that in case the tenant desires any infrastructural changes in the form if separate sewage arrangement or the gas pipeline or any other change which involves expenses 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 rent 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 8(b) after the expense incurred by the company along with the monthly interest of 2% is recovered by the company from the rent received."*

- XV. That the obligation of the payment of fitout charges is nothing but an understanding between the parties that whenever the units get leased out,

any infrastructural modifications/requirements such as installation of separate gas pipelines, sewage connection or any other changes for which an expense is required to cover such modification/requirement, such expenses shall be paid by the complainant as per clause 9 (d) of the mou. it is further clarified herein that the expenses on account of such fit-outs are agreed to be paid by the complainant, as the same are recoverable from the owner of the unit, if not, then from the lease rental itself. thus, as per clause 9 (d) of the MOU, the respondent has the right to recover the expenses incurred for getting the unit ready for leasing.

- XVI. That the respondent after completing the construction and meeting the requirements of the grant of the occupation certificate, has applied for the same before the competent authority on 24.02.2020 and reapplied on 29.06.2021. It is noted herein that the building was completed and all the requirement for the grant of the occupation certificates were fulfilled and the respondent anticipated the grant of the occupation certificate in the year 2020 itself, and since the prospective lessee were showing interest in taking the units in the project on lease, therefore, the respondent anticipating that the occupation certificate will be granted by the competent authority, entered into a 1st lease with the lessee.
- XVII. It is reiterated herein that the complainant under clause 10 (a) of the mou has authorized the respondent to finalize the terms and conditions of the lease with any prospective lessee and agreed not to raise any objections with respect to terms and conditions of the lease, the amount of lease, usage or to who the unit is leased out.
- XVIII. It is noted herein that under clause 10 (b) of the mou, it is categorically agreed between the complainant and the respondent that upon the finalization of terms and conditions with respect to leasing of the unit

between the respondent and the prospective lessee, the complainant, if required, shall execute a separate lease deed with the prospective lessee. that in case, the complainant fails to come forward to execute the lease deed within 7 working days from the date of receipt of the communication in regard to the same, then the respondent shall be entitled and authorized to execute the lease deed on behalf of the complainant. it is further noted herein that under the said clause the complainant authorized the respondent to execute the lease deed or agreement with the third party with prior intimation to the complainant. at the cost of repetition, clause 10 (b) of the mou is reproduced herein below:

*"(b) That as and when the terms are finalize between Company and any prospective lessee to lease the unit, the lessee may, if advised by Company, separately execute the lease deed with the Allottee(s). In case the allottee(s) fails to come forward within a period of 07 (Seven) working days from the date of receiving the written communication from the company at the address provided in the agreement then in that case, the company shall be entitled and authorized to sign the lease deed on behalf of the allottee(s)...."*

- XIX. It is pertinent to mention herein that in the present case, it was agreed under the MOU, that a fixed amount shall be paid to the complainant as an assured return from effective date as mentioned in the MOU till commencement of first lease and thereafter the complainant shall be entitled to receive the lease rental as mentioned in the MOU.
- XX. That in clause 9 (b) of the MOU it is categorically agreed by the complainant that in case of any increase in monthly lease rental in excess of the assured return, the sale consideration shall be enhanced by Rs. 66.66/- per sq. ft. for each rupee increase in the monthly lease rental and likewise, in case the monthly lease rental is reduced from the Assured Return, then for each decreased rupee per sq. ft. per month, the sale consideration shall stand decreased by Rs. 133.33/- per sq. ft. That under

the said clause, it was also agreed that the final sale consideration shall be calculated in terms of clause 9 (b) of the MOU. Relevant clauses of the MOU are reproduced herein below:

*"9.(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 81.75/- Per Sq. Ft. per month.*

*(b) In case of any increase in the monthly rental in excess of the Assured Return, the allotment consideration shall be enhanced by Rs. 66.66/- per sq. ft. for each rupee increase in the monthly rental of per sq. ft. per month. Similarly, in case the monthly rental is reduced from the Assured Return, then for each decreased rupee of per sq. ft. per month, the allotment consideration shall stand decreased by Rs. 133.33/- per sq. ft. The allottee(s) agrees to settle the final sale consideration in terms of the present clause (b)."*

XXI. That in view of the aforementioned clauses of the MOU, it is evident that the complainant has categorically agreed to pay increased sale consideration in circumstances where the unit is leased out at a higher rate in comparison to the assured return which was paid to the complainant. Similarly, the sale consideration shall be reduced in circumstances where the lease rentals are less in comparison to the assured return which was paid to the complainant. In fact, it is necessary to point out herein that when the sale consideration of the unit is increasing on account of higher lease rental, the increment occurs at the rate of Rs. 66.66/- per sq. ft. Conversely, when the sale consideration is decreasing on account of lower lease rental, then the same is decreasing at the rate of Rs. 133.33/- per sq. ft. Accordingly, it is evident that the rights of the complainants are not being compromised under any circumstances. Therefore, the complainant is bound to fulfil the terms and conditions with respect to the increase in sale consideration as agreed under clause 9 (b) of the MOU. It is noted herein that the sale consideration of the subject Unit was negotiated on the

- basis of the guaranteed returns to be received by the complainant and any change in payments of guaranteed return will result in change in the sale consideration of the unit in terms with the mutually agreed terms and conditions of the MOU.
- XXII. That the complainant, vide the present complaint, is seeking payment of assured return. However, it is most humbly submitted that the issue of assured return does not fall within the ambit of the RERA Act, 2016.
- XXIII. That without prejudice to the foregoing, it is submitted that subsequent to the coming into force of the Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act) on 21.02.2019, any scheme involving Assured Return/Penalty akin to an unregulated deposit scheme has been rendered impermissible in law. Therefore, even otherwise, the continuation of such Assured Return/Penalty arrangements post-enactment would be contrary to statutory provisions and against public policy, and the Respondent is legally barred from honouring such commitments beyond the said date.
- XXIV. It is pertinent to mention herein that in the present complaint, the complainant has failed to annexe any demand letters wherein maintenance charges are demanded by the respondent. It is noted herein that though the Respondent has not raised any demand of maintenance charges. However, it is pertinent to mention herein that as per clauses 10, 11 and 12 the complainant is contractually obligated to pay all lawful charges pertaining to the maintenance, upkeep, repairs, security, insurance, stamp, registration, development charges and allied services in relation to the said unit and the project as a whole. The said clauses expressly provide that the complainant shall be liable to make timely payment of maintenance charges and other related dues.

- XXV. That from a bare perusal of the aforementioned clauses of the BBA, it is evident that the complainant is bound to fulfil his part of the obligation under the BBA.
- XXVI. That without admitting or acknowledging in any manner the truth or legality of the allegations levelled by the complainants and without prejudice to the contentions of the respondent, it is submitted that construction/ completion of the project got hampered due to force majeure situations beyond the control of the respondent.
- XXVII. That from the facts indicated above, it is comprehensively established that a period of 582 days was consumed on account of circumstances beyond the power and control of the respondent, owing to the passing of orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of force majeure, as stated above. Thus, the Respondent has been prevented by circumstances beyond its power and control from undertaking the implementation of the Project during the time period indicated above and therefore the same is not to be taken into reckoning while computing the completion period as has been provided in the Agreement. In a similar case where such orders were brought before the Hon'ble Authority in the Complaint No. 3890 of 2021 titled "Shuchi Sur and Anr vs. M/S Venetian LDF Projects LLP" decided on 17.05.2022, the Hon'ble Authority was pleased to allow the grace period and hence, the benefit of the above affected 582 days need to be rightly given to the Respondent builder.
- XXVIII. It is clear from the aforementioned submissions that the construction/ completion work of the project was hampered due to Force Majeure situations beyond the control of the Respondent. That the Respondent despite facing the force majeure situations beyond its control, has

completed the construction/development of the Project, obtained the Occupation Certificate and offered possession of the Subject Unit in terms with MOU.

XXIX. All other averments made in the complaint were denied in toto.

**E. Reply/Application by the respondent 2.**

a. Respondent no. 2, instead of filing its reply on merits to the present complaint, has moved an application under Order I Rule 10(2) of the Code of Civil Procedure, 1908 on 12.08.2025, seeking its deletion from the array of parties. In the said application, it is contended that the complaint is not maintainable against respondent No. 2, as it is neither the promoter of the project namely "Neo Square", Sector 109, Gurugram, nor does it fall within the definition of "promoter", "allottee" or "real estate agent" as envisaged under the Real Estate (Regulation and Development) Act, 2016. It has been averred that the project stands registered exclusively in the name of respondent no. 1, who has been issued the registration certificate as the promoter, and that all contractual documents, including the buyer's agreement, memorandum of understanding, payment receipts, demand notices and correspondence, are solely between the complainant and respondent no. 1. It is further pleaded that respondent no. 2 is not a signatory to any agreement executed with the complainant, has no privity of contract, and has no role whatsoever in the development, marketing or execution of the said project. on these grounds, respondent no. 2 has asserted that no cause of action arises against it and has prayed for its deletion from the array of parties

11. 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.

**F. Jurisdiction of the Authority**

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

**F.I Territorial jurisdiction**

13. 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.

**F.II Subject matter jurisdiction**

14. 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.*

15. 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.

**G. Findings on the objections raised by the respondent:**

**G.I Objection regarding maintainability of complaint on account of complainants being the investors.**

16. The respondent no.1 took a stand that the complainant is investor and not the consumer and therefore, he 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 MoU, it is revealed that the complainants are the buyers, and have paid a considerable amount to the respondent-promoter towards purchase of unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

*"2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"*

17. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the MoU executed between the parties, it is crystal clear that the complainant is the allottee as the subject unit was allotted to them by the

promoter vide said MoU dated 05.01.2021. The concept of investor is not defined or referred to in the Act. As per the definition given under Section 2 of the Act, there will be “promoter” and “allottee” and there cannot be a party having a status of an “investor”. Thus, the contention of the promoter that the allottees being the investors are not entitled to protection of this Act also stands rejected.

**G. II Objection regarding liability of respondent no. 2.**

18. While filing the complaint the complainant sought relief against respondent no. 1 and respondent no. 2 both. A perusal of various documents placed on the record shows that BBA and MoU are executed between respondent no. 1 and the complainant only. It is pertinent to note that there no contractual obligations of respondent no. 2. In view of the same, the Authority is of that view that the respondent no.1 is solely liable to develop and complete the said unit.

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

**I. To get possession of the fully developed/constructed food court/space/commercial unit No. 155 on 3rd Floor admeasuring a super area of 400 Sq. Ft. in project “Neo Square”, Sector-109, Gurugram.**

19. The occupation/completion certificate has already been obtained by the respondent on 14.08.2024. Since the subject unit form part of a commercial project, individual physical possession cannot be granted to the allottee. However, the respondent no. 1 is directed to hand over virtual possession of the subject unit to the complainant and is further restrained from creating any third-party rights or interests in respect of the said unit. Therefore, the respondent no. 1 is directed to handover the possession of the unit to the complainant/allottee in terms of the MoU as well as buyer’s agreement executed between them on payment of outstanding dues if any, within 60 days.

- II. **To get the assured return for every month as per the terms of the MOU, which amounts to a total of Rs.17,82,000/- (Seventeen Lakhs Eighty-Two Thousand) from January 2022 to December 2024.**
- III. **To get the assured return for every month as per the terms of the MOU till the actual unit handover.**

20. The above two reliefs are interconnected hence taken up together. The complainant is seeking unpaid assured returns on monthly basis as per the terms of the MoU dated 05.01.2021 at the rates mentioned therein. It is pleaded that the respondent has not complied with the terms and conditions of the said MoU.
21. The respondent no. 1 has submitted that the complainant in the present complaint is claiming the reliefs on basis of the terms agreed under the MoU between the parties which is a distinct agreement than the buyer's agreement and thus, the MoU is not covered under the provisions of the Act, 2016. Thus, the said complaint is not maintainable on this basis that there exists no relationship of builder-allottee in terms of the MoU, by virtue of which the complainant is raising her grievance.
22. It is pleaded on behalf of respondent/builder that after the Banning of Unregulated Deposit Schemes Act of 2019 came into force, there is bar for payment of assured returns to an allottee. But the plea advanced in this regard is devoid of merit. Section 2(4) of the above mentioned Act defines the word 'deposit' as *an amount of money received by way of an advance or loan or in any other form, by any deposit taker with a promise to return whether after a specified period or otherwise, either in cash or in kind or in the form of a specified service, with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include:*
- (i) *an amount received in the course of, or for the purpose of business and bearing a genuine connection to such business including*

*(ii) advance received in connection with consideration of an immovable property, under an agreement or arrangement subject to the condition that such advance is adjusted against such immovable property as specified in terms of the agreement or arrangement.*

23. A perusal of the above-mentioned definition of the term 'deposit', shows that it has been given the same meaning as assigned to it under the Companies Act, 2013 and the same provides under section 2(31) includes any receipt by way of deposit or loan or in any other form by a company but does not include such categories of, amount as may be prescribed in consultation with the Reserve Bank of India. Similarly rule 2(c) of the Companies (Acceptance of Deposits) Rules, 2014 defines the meaning of deposit which includes any receipt of money by way of deposit or loan or in any other form by a company but does not include:

*(i) as an advance, accounted for in any manner whatsoever, received in connection with consideration for on immovable property*

*(ii) as an advance received and as allowed by any sectoral regulator or in accordance with directions of Central or State Government;*

24. So, keeping in view the above-mentioned provisions of the Act of 2019 and the Companies Act 2013, it is to be seen as to whether an allottee is entitled to assured returns in a case where he has deposited substantial amount of sale consideration against the allotment of a unit with the builder at the time of booking or immediately thereafter and as agreed upon between them.

25. The Government of India enacted the Banning of Unregulated Deposit Schemes Act, 2019 to provide for a comprehensive mechanism to ban the unregulated deposit schemes, other than deposits taken in the ordinary course of business and to protect the interest of depositors and for matters connected therewith or incidental thereto as defined in section 2 (4) of the BUDS Act 2019.

26. The money was taken by the builder as a deposit in advance against allotment of immovable property and its possession was to be offered within a certain

period. However, in view of taking sale consideration by way of advance, the builder promised certain amount by way of assured returns for a certain period. So, on his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of his grievances by way of filing a complaint.

27. The Authority under this Act has been regulating the advances received under the project and its various other aspects. So, the amount paid by the complainant to the builder is a regulated deposit accepted by the latter from the former against the immovable property to be transferred to the allottee later on. If the project in which the advance has been received by the developer from an allottee is an ongoing project as per section 3(1) of the Act of 2016 then, the same would fall within the jurisdiction of the authority for giving the desired relief to the complainant besides initiating penal proceedings. 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.
28. In the present complaint, the assured return was payable as per clause 04 of the MoU dated 05.01.2021, which is reproduced below for the ready reference:

*Clause 4.*

*"The company shall pay a penalty of Rs.49,500/- per month on the said unit on the total amount received with effect from 03.01.2022 (effective date II) subject to TDS, taxes, cess or any other Levy which is due and payable by allottee and which shall be adjusted in total sale consideration the balance total sale consideration shall be payable by the allottee to the company in accordance with the payments schedule annexed at annexure-I. The penalty shall be paid to the allottee from end of effective date II until the offer of possession letter date, on pro rata basis."*

29. Thus, as per the abovementioned clause the assured return was payable @Rs.49,500/-per month w.e.f. 03.01.2022, till the offer of possession letter date.

30. In light of the above, the Authority is of the view that as per the MoU dated 05.01.2021, it was obligation on part of the respondent to pay the assured return till the offer of possession letter on the subject unit. The occupation certificate for the project in question was obtained by the respondent on 14.08.2024. Accordingly, the respondent/promoter is liable to pay assured return to the complainant at the agreed rate i.e., @Rs.49,500/- from the date i.e., 03.01.2022 till the offer of possession letter i.e., on 24.12.2024, after deducting the amount already paid on account of assured return to the complainant.

31. In light of the reasons mentioned above, the authority is of the view that as per the MoU dated 05.01.2021, it was obligation on part of the respondent to pay the assured return. The occupation certificate for the project in question has already been obtained by the respondent on 14.08.2024, and accordingly the respondent/promoter is liable to pay assured return to the complainant at the agreed rate i.e., @Rs.49,500/- from the date i.e., 03.01.2022 till the offer of possession i.e., 24.12.2024.

**IV. To get an order in his favor by directing the respondent to get the conveyance deed executed and registered in favor of the complainant.**

32. Further the complainant is seeking relief w.r.t execution of conveyance deed of the unit in question in his favour. The Authority observes that as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. Whereas, as per Section 19(11) of the Act of 2016, the allottees are also obligated to participate towards registration of the conveyance deed of the unit in question.

**V. To get an order in his favour by directing the respondent party to arrange the lease for the complainant's commercial unit.**

33. The complainant is seeking additional reliefs w.r.t putting the unit on lease as well as lease rental as per MoU. The Authority observes that vide Clause 8(a) of the MoU dated 05.01.2021, it was agreed that the respondent would make payment of lease rentals at Rs.101.25/- per sq. ft. per month to the complainant from commencement of first lease. Further, vide clause 9(a) of the MoU that the respondent was to finalize the terms for leasing the premises with a perspective lessee. Since, the occupation certificate of the project in question has already been received by the respondent-promoter from the competent authority on 14.08.2024, the respondent is directed to pay lease rental at the agreed rate as per the terms of the memorandum of understanding dated 05.01.2021.

**VI. To get an order in his favor by restraining the respondent from charging holding charges as the demand of holding charges is against the principle of natural justice.**

**• Holding charges**

34. The term holding charges or also synonymously referred to as non-occupancy charges become payable or applicable to be paid if the possession has been offered by the builder to the owner/allottee and physical possession of the unit not taken over by allottee, but the flat/unit is lying vacant even when it is in a ready-to-move condition. Therefore, it can be inferred that holding charges is something which an allottee has to pay for his own unit for which he has already paid the consideration just because he has not physically occupied or moved in the said unit.

35. In the case of *Varun Gupta Vs Emaar MGF Land Limited*, Complaint Case no. **4031 of 2019 decided on 12.08.2021**, the Hon'ble Authority had already decided that the respondent is not entitled to claim holding charges from the complainant at any point of time even after being part of the builder buyer agreement as per law settled by the *Hon'ble Supreme Court in Civil Appeal*

**nos. 3864-3899/2020 decided on 14.12.2020.** The relevant part of same is reiterated as under-

3. *“134. As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. Therefore, the **holding** charges will not be payable to the developer. Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, the developer shall not be entitled to any holding charges though it would be entitled to interest for the period the payment is delayed.”*

36. Therefore, in view of the above the respondent is directed not to levy any holding charges upon the complainant.

**VII. To direct the Respondent not to charge/demand any amount towards the Fitout charges from the Complainant.**

37. The complainant has raised objection towards the fit-out charges raised by the respondent vide letter dated 15.04.2024 and 03.03.2025 is seeking relief to waive off the demand of the same as they were not part of agreement nor the MoU executed between parties. As per the written statement submitted by the respondent, Clause 8(d) is existing in the MoU executed between the parties the complainant has agreed to pay such charges. The said clause is reiterated below for ready reference:

*8(d) The allottee confirms that he shall not be entitled to revoke, cancel, extend, terminate, neither shall be authorised to negotiate on terms of lease. The decision taken and terms of lease. The decision taken and terms negotiated by the company shall be final and binding on 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.*

38. 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.
39. Therefore, if the respondent seeks to levy fit out charges, it must first intimate the allottee about the request of the tenant or lessee for such work and the necessity of carrying it out. Without such prior intimation, the allottee cannot be made liable for additional financial burden after the work has already been executed. Further, the respondent is required to provide full justification of the charges by submitting a proper breakup of costs, supporting invoices and other relevant documents, and preferably a certification from a competent architect or engineer confirming both the necessity of the works and the reasonableness of the expenditure. Only when such proof, along with evidence of intimation to the allottee about the lessee's request and the necessity of the work, is furnished, can the fit-out charges be considered as falling within the scope of Clause 8(d) of the MoU. In the absence of such substantiation, the demand raised in its present form cannot be imposed on the complainant.

**VIII. To get an order in favor of the complainant by restraining the respondent from charging maintenance charges till actual handover of the unit.**

- **Maintenance charges**

40. In the case of *Varun Gupta vs Emaar MGF Land Limited, Complaint Case no. 4031 of 2019 decided on 12.08.2021*, the Hon'ble Authority had already decided that the respondent is right in demanding maintenance charges at the rates' prescribed in the builder buyer's agreement at the time of offer of possession. However, the respondent no. 1 shall not demand the advance maintenance charges for more than one year from the allottee even in those cases wherein no specific clause has been prescribed in the agreement or where the AMC has been demanded for more than a year.
41. Further, the respondent no. 1 shall not charge anything which does not form a part of buyer's agreement or MoU.
42. Since the respondent no. 1 has obtained occupation certificate on 14.08.2024. The respondent no. 1 is directed to get the conveyance deed executed within a period of three months from the date of this order

**I. Directions of the Authority**

43. 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 no.1 is directed to pay the penalty/assured return to the complainant at the agreed rate i.e., @Rs.49,500/- from the effective date as per clause 4 of the MoU i.e., 03.01.2022 till offer of possession letter date i.e., 24.12.2024, after deducting the amount already paid on account of assured returns to the complainant.
  - ii. The respondent no.1 is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any,

- failing which that amount would be payable with interest @8.80% p.a. till the date of actual realization.
- iii. The respondent no. 1 shall not charge anything from the complainant which is not part of the MoU or buyers' agreement. The respondent no. 1 is not entitled to charge holding charges from the complainant/allottee at any point of time even after being part of the builder buyer's agreement as per law settled by *Hon'ble Supreme Court in Civil Appeal nos. 3864-3889/2020 on 14.12.2020.*
- iv. The respondent no. 1 is directed to get the conveyance deed executed within a period of three months after depositing necessary payment of stamp duty and registration charges as per applicable local laws from the date of this order.
- v. The respondent no. 1 is directed to supply a copy of the updated statement of account after adjusting Assured Returns within a period of 30 days to the complainant.
44. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
45. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
46. Files be consigned to registry.

  
(Phool Singh Saini)  
Member

  
(Arun Kumar)  
Chairman

**Haryana Real Estate Regulatory Authority, Gurugram**

**Dated:27.01.2026**