

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

Complaint no. :	2419 of 2025
Order reserved on:	09.01.2026
Order pronounced on:	13.02.2026

Neo Developers Private Limited
Address: G-02 and G-03, Neo Square, Sector-
109, Dwarka Expressway, Gurgaon - 122017

Complainant

Versus

Sudesh Behl
Address: Tower 7 - 1402, SDS NRI Residency,
Sector-45, Noida, Uttar Pradesh

Respondent

CORAM:
Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Venket Rao
Sh. Hemant Phogat

Advocate for the complainant
Advocate for the 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 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 complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. N.	Particulars	Details
1.	Name of the project	Neo Square, Sector-109, Gurugram
2.	Project area	2.71 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.	Unit no.	Priority no. 46, 5 th floor (page no. 24 of complaint)
7.	Unit area admeasuring	300 sq. ft. (page no. 24 of complaint)
8.	MOU	09.12.2016 (page no. 44 of complaint)
9.	Buyer's agreement	09.12.2016 (page no. 21 of complaint)
10.	Possession clause	NA
11.	Assured return Clause	<i>4. The Company shall pay a monthly assured return of Rs.19,500/- per month on the said unit. On the total amount received with effect from 09.12.2018 before deduction of Tax at source, cess or any other levy which is due and payable by the Allottee to the Company and, the balance sale consideration which shall be payable by the Allottee to the Company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee from the end of effective date II until the commencement of first lease on the said unit. This shall be paid from the effective date.</i>

		(page no. 47 of complaint)
12.	Due date	20.03.2022 As per Fortune D'lima judgement calculated from the date of agreement including grace period of 6 month due to covid-19)
13.	Basic sale consideration	Rs. 17,22,444/- (as per payment plan at page no. 39 of complaint) Rs. 23,93,534/- (as per SOA at page no. 63 of complaint)
14.	Amount paid by the complainant	Rs. 19,54,170/- (as per SOA at page 63 of complaint)
15.	Occupation certificate	14.08.2024
16.	Offer of possession	06.03.2025 (page no. 60 of complaint)
17.	Lease deed	10.07.2020 (page no. 69 of complaint)

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:
 - I. That Sudesh Behl with the intent to invest in the real estate sector as an investor, approached the complainant and inquired about the project i.e., "NEO SQUARE", situated at Sector-109, Gurugram, Haryana being developed by the complainant. That after being fully satisfied with the project and the approvals thereof, the respondent decided to apply to the complainant by submitting a booking application form thereby seeking allotment of restaurant priority no. 46, admeasuring 300 sq. ft. super area on the fifth floor of the project having a basic sale price of Rs. 16,48,272/-. The respondent, considering the future speculative gains, also opted for the investment return plan being floated by the complainant for the instant project.
 - II. That a builder buyer's agreement was executed between the complainant and the respondent on 09.12.2016 wherein the payment

plan as well as lease clause was explicitly and voluntarily agreed to by the respondent. However, it is pertinent to mention herein that the respondent despite multiple reminders did not come forward to either clear the payments neither approached the complainant for taking the possession of the unit nor came forward to execute the lease assignment form.

- III. That since the respondent had opted for the investment return plan, a memorandum of understanding dated 09.12.2016 was executed between the complainant and the respondent which was a completely separate understanding between the parties in regards to the payment of assured returns in lieu of investment made by the respondent in the said project and leasing of the unit/space thereof. As per the mutually agreed terms between the complainant and the respondent, the returns were to be paid from 09.12.2018 till the commencement of First Lease. As per clause 8 (a) of the MOU, the respondent herein had duly authorised the complainant to put the said unit on lease.
- IV. That in terms of memorandum of understanding, respondent promptly had received a payment of a total of Rs. 1,18,170/- as assured return, against the unit from the respondent.
- V. That the respondent with *malafide* and ulterior motive of evading from the payment of outstanding dues, filed a Complaint before the Ld. Authority bearing Complaint No. 2905 of 2021 titled as "Sudesh Behl vs Neo Developers Pvt Ltd", seeking payments of assured returns and the delayed possession charges. That the above said complaint is pending adjudication before the Ld. Authority. However, it is to be noted that the respondent in the said complaint has very deceitfully framed all of their misconduct against the complainant who have repeatedly tried to

establish communication with the respondent which was deliberately ignored by the respondent for the sake of their convenience and benefits.

- VI. That the complainant received an occupation certificate for the said project owing to applications dated 23.01.2023 and 15.05.2024 made before DTCP, Haryana via letter dated 14.08.2024 following which an offer of possession letter was issued to the respondent dated 06.03.2025 which was again not responded to at all by the respondent. That through the above letter, a demand of payment of Rs. 6,48,736/- was raised against unit and a demand of Rs. 8,85,000/- was raised against the fit outs on leasing and Rs. 1,40,390/- against the stamp duty and registration charges totalling to Rs. 16,74,126/- which has also not been complied with by the respondent.
- VII. That the complainant from time-to-time issued demand request/reminders to the respondent to clear the outstanding dues against the booked unit. However, the respondent delayed the same for one or the other reasons. This should make it clear enough as to how there has been failure and delay on part of the respondent in clearing the outstanding dues and failure to take the possession by not complying with timely requests of the complainant.
- VIII. That the respondent has failed to comply with clause 8(b) of the MoU by not acting upon the lease assignment request dated 01.10.2020, 10.12.2020 and 07.12.2021 wherein the respondent was requested to sign the lease assignment form that was to be executed.
- IX. That the first lease of the premises wherein the priority unit no.46 of the respondent is situated has already been executed with M/s Game Zone (72 Mad Street) dated 10.07.2020. Thereby, the complainant has

duly fulfilled its obligations of execution of the first lease in terms of the MOU.

- X. That in the memorandum of understanding, there was never any pre-condition of obtaining the occupation certificate for the invitation to lease. The complainant has already executed the first lease deed and duly sent the invitation to lease to the respondent with the above said reminders, as per the terms of the MOU. However, the respondent have failed to come forward for the execution of the same.
- XI. That the notice of demand letter and offer of possession letter dated 06.03.2025 is issued in consonance with the mutually agreed terms and conditions of the BBA dated 09.12.2016. That the respondent under clause 11 of the BBA has specifically agreed to pay the charges/demands raised in the demand letter dated 06.03.2025.
- XII. That as per clause 7 (d) of the MOU the respondent explicitly agreed to the complainant that in case the tenant desires any infrastructural changes in form of separate sewage arrangement or the gas pipeline or any other charges which involves expense on the part of the allottee(s), then in that event the same shall be paid by the respondent, strictly within the period of 15 days from the day of written notification by the company and if the respondent fails to come forward to tender the payment as demanded by the complainant then in that event the complainant shall bear the same from its own pocket.
- XIII. That the as per clause 8 (e) of the MOU it was explicitly agreed between the complainant and the respondent that the as and when the unit will be constructed and completed by the company the same shall be handed over to the lessee directly. The respondent duly authorized the complainant to enter into a lease deed with the lessee of their choice

either before or after the execution of the sale deed in favor of the respondent. Further agreed to undertake to not raise any objection regarding the same at any stage and bear all costs and expenditure for leasing.

- XIV. That from a mere perusal of the aforementioned clauses of the BBA it is evident that the demand letter and notice of possession dated 06.03.2025 is issued in consonance with the mutually agreed terms and conditions of the BBA & MOU. Furthermore, it is pertinent to mention herein that it is well established principle of law that a person who signs a contract is bound by them. Therefore, in the present case, the complainant is bound to pay outstanding dues as intimated in the demand letter and notice of possession.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s).
- Direct the respondent to clear the outstanding dues as per demand notice and offer of possession letter dated 06.03.2025.
 - Direct the respondent to clear the dues against fit outs charges on leasing as raised by the complainant.
 - Direct the respondent to clear the stamp duty and registration charges as raised by the complainant.
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.

6. The respondent contested the complaint by filing reply on the following grounds: -

- I. That the complainant has not approached this Hon'ble Authority with clean hands and has concealed the true, material and vital facts from this Hon'ble Authority, because the instant complaint is nothing but a counterclaim of the complaint no. 290 of 2021 filed by the respondent seeking assured returns in which the Hon'ble Authority was pleased to pass the order in favour of the respondent directing the complainant to pay the assured returns as per the terms of the MOU.
- II. That the complainant after obtaining the occupation certificate has raised unlawful and illegal demands which were not the part of buyer's agreement dated 09.12.2016 and further the complainant illegally and unlawfully has refused to get the conveyance deed of the unit registered in favour of respondent herein on the pretext of the unlawful demand, beyond the scope of buyer's agreement dated 09.12.2016.
- III. That there are no dues pending in respect of the unit and as per the payment plan of the buyer's agreement the respondent against the total basic sale price of Rs.19,32,144/- has paid an amount of Rs.19,54,170/- which is evident from the offer of possession letter dated 06.03.2025.
- IV. That from bare perusal of occupation certificate annexed by the complainant with the complaint it transpires that it has been issued only for TOWER-C not for the entire project. The respondent has already paid the total sale price of the unit and the Hon'ble Authority in the identical cases no. CR/755/2025, CR/756/2025 and CR/760/2025 vide order dated 16.09.2025, in respect of the said project i.e., Neo Square has declared the demands raised in the letter dated 05.03.2025 on the pretext of Labour Cess and FTTH Charges as Non-Maintainable/Invalid and has further held that, in respect of the development charges, the Hon'ble Authority has directed the

Complainant to provide the proof of all the development charges paid to the concerned department along-with a computation proportionate to the allotted unit before demanding money from the respondent /allottee(s). The proof with regard to the development charges has not yet been provided by the complainant to the respondent as per directions issued by the Hon'ble Authority in the aforesaid cases.

- V. That no such lease assignment form or any lease deed has yet been shared by the complainant to the respondent after obtaining occupation certificate. The Hon'ble Authority in complaint no. 2905 of 2021 filed by the respondent in the said project i.e., Neo Square, has already held that the any lease deed made by the complainant company made before receiving of occupation certificate is invalid and non-maintainable in the eyes of law. Therefore, the complainant by leasing out the unit before receiving /obtaining of occupation certificate is not maintainable and be termed as invalid. Therefore, the complainant has not fulfilled its part of obligations to lease out the unit of the respondent and to grant her the assured lease rentals as per the conditions of the MOU.
7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

9. 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

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 complainant at a later stage.

F. Findings on the relief sought by the complainant:

- (i) Direct the respondent to clear the outstanding dues as per demand notice and offer of possession letter dated 06.03.2025.
- (ii) Direct the respondent to clear the dues against fit outs charges on leasing as raised by the complainant.

(iii) Direct the respondent to clear the stamp duty and registration charges as raised by the complainant.

12. The above mentioned reliefs are interrelated to each other. Accordingly, the same are being taken up together for adjudication.

Maintainability of complaint:

13. That in the present complaint, the respondent/allottee had booked a unit bearing priority no. 46 situated on the 5th floor of the project in question. The builder buyer agreement as well as a memorandum of understanding were executed between the parties on 09.12.2016. The respondent/builder obtained the occupation certificate for the said project on 14.08.2024 and thereafter offered possession of the said unit to the respondent/allottee vide letter dated 06.03.2025.
14. That the complainant/builder has filed the present complaint seeking specific relief with respect to the alleged outstanding dues payable by the respondent/allottee. It is the case of the complainant/builder that the project has been duly completed and the occupation certificate was obtained on 14.08.2024 pursuant to which the unit was offered for possession on 06.03.2025. It is further alleged that the respondent/allottee has failed to clear the outstanding amounts towards fit-out charges, development charges and other allied charges.
15. The plea of the respondent/allottee is otherwise and has stated that he had earlier filed a complaint bearing no. CR/2905/2021 seeking payment of assured returns which already stands adjudicated by the Learned Authority vide order dated 30.05.2023 and the execution petition arising therefrom is presently pending. It is further contended that the complainant/builder is illegally demanding amounts towards FTTH charges, Labour Cess, development charges and other similar

charges despite the fact that the issues pertaining to the said charges have already been adjudicated and decided by the Learned Authority in Complaint Nos. CR/755/2025, CR/756/2025 and CR/760/2025 vide order dated 16.09.2025. In view thereof, the respondent/allottee has contended that the present complaint is not maintainable and is liable to be dismissed.

16. The Authority observes that the respondent/allottee has previously filed a complaint bearing no. CR/2905/2021 against the subject unit before the Authority seeking payment of assured return as well as delay possession charges. Thereafter, vide order dated 30.05.2023, the complainant/builder was directed to pay assured return being on higher side than DPC, @ 19,500/- per month from 09.12.2018 till the commencement of first lease of the said unit. The complainant/builder was further directed to not to charge anything from the respondent/allottee which is not part of the buyer's agreement.
17. After considering the documents available on record as well as submissions made by the parties, the Authority is of the view that the present complaint is not maintainable before the Authority as is barred by the principle of res-judicata as the matter in issue between the parties has already been heard and decided by the Authority vide order dated 30.05.2023 in the former complaint bearing no. CR/2905/2021. Further, there was a direction to the respondent in the said order that they shall not charge anything which is not part of buyer's agreement. If any party fails to abide by the directions mentioned in the said order, then the same shall be enforced by the executing authority as provided under Section 40 of the Act of 2016 read with Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017, in such manner

as may be prescribed. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be fetched to an extent that basic principles of jurisprudence are to be ignored. Therefore, subsequent complaint on same cause of action is barred by the principle of res-judicata as provided under Section 11 of the Code of Civil Procedure, 1908(CPC). Section 11 CPC is reproduced as under for ready reference:

"11. Res judicata.—No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.—*The expression "former suit" shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.*

Explanation II.—*For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.*

Explanation III.—*The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.*

Explanation IV.—*Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.*

Explanation V.—*Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.*

Explanation VI.—*Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating .*

1[Explanation VII.—*The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.*

Explanation VIII. —An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.]”

18. The Authority is of view that though the provisions of the Code of Civil Procedure, 1908 (CPC) is, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the Authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the Act if such provision is based upon justice, equity and good conscience. Thus, in view of the factual as well as legal provisions, the present complaint stands dismissed being not maintainable.
19. Complaint as well as applications, if any, stands disposed off accordingly.
20. File be consigned to registry.

HARERA
GURUGRAM



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.02.2026