

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

**Complaint no.:** 3161 of 2024

**Date of decision:** 31.10.2025

Anju Bhardwaj  
**R/o:** RZF 759 Gali no 1 Palam Colony  
Raj Nagar Part 2 New Delhi

**Complainant**

Versus

HCBS Developments Limited  
**Regd. Office at:** 137, sector 27

**Respondent**

**CORAM:**

Shri Arun Kumar

**Chairman**

**APPEARANCE:**

Sh. Manish Yadav (Advocate)  
Arpita (Advocate)

**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 provision 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. | Heads                                       | Information  |
|--------|---|--|
| 1.     | Project name and location                   | Auroville, Sector-103  |
| 2.     | Nature of the project                       | Affordable group housing   |
| 3.     | Rera registration no.                       | 67 of 2021 dated 12.10.2021 valid upto 31.08.2025                                  |
| 4.     | DTCP license                                | 02 of 2021 dated 21.01.2021  |
| 5.     | Allotment letter dated                      | 21.01.2022<br>(page 22 of reply)   |
| 6.     | Email for confirmation of allotment of unit | 18.01.2022<br>(page 61 of complaint)   |
| 7.     | Unit no.                                    | 67D, 6 <sup>th</sup> floor, Tower-D  |
| 8.     | Unit area                                   | 4200 sq. ft. (carpet area)<br>1000 sq. ft. (balcony area)                          |
| 9.     | <b>BBA executed</b>                         | <b>BBA not executed</b>  |
| 10.    | Approval of building plans                  | 23.07.2021<br>(as stated by respondent)  |
| 11.    | Environment clearance date                  | 30.07.2022<br>(page 29 of reply)   |
| 12.    | Due date of possession                      | 30.07.2026<br>[Four years from Environment clearance as per the affordable policy] |
| 13.    | Basic sale price                            | Rs. 28,18,722/-<br>(as per allotment letter on page 23 of reply)                   |
| 14.    | Amount received                             | Rs. 16,91,233/-<br>(as per payment receipts annexed by the complainant)            |
| 15.    | Reminders/demand letters dated              | 22.02.2023,01.12.2023,18.03.2024, 05.04.2024 and 27.04.2024                        |

|     |                               |   |
|-----|-------------------------------|---|
| 16. | Cancellation letter dated     | 29.05.2024<br>(page 72 of complaint)                                    |
| 17. | Publication in newspaper      | 27.04.2024<br>(page 47 of reply)  |
| 18. | Unit allotted to third person | 12.08.2024<br>(page 3 of application filed by respondent on 06.10.2025) |

**B. Facts of the complaint:**

3. The complainant has made the following submissions: -
- i. Somewhere about the month of November – December 2021, complainant became aware about the advertisement of the respondent / opposite party for their Affordable Group Housing Project namely HCBS Auroville located at Sector 103, Gurugram and showed interest in the project and applied online for the same.
  - ii. That the complainant became a successful applicant in the draw of lot organised by the HUDA in the list of draws for affordable Housing 2022 and posted on 12.01.2022 and was allotted unit no 67 D, 6<sup>th</sup> Floor on Tower D in Affordable Group Housing Project – HCBS Auroville, Sector 103, Gurugram Haryana.
  - iii. That the complainant received email from the respondent confirming and congratulating her unit allotment in their project in the draw of lots organised by HUDA and further clarifying for issuing and dispatching the allotment letter and demand letter within a week time and to get the BBA registered within 30 days from the issuance of the allotment letter.
  - iv. That the complainant wrote an email dated 02.02.2022 to the respondent that she has not received any allotment letter and demand letter till date and to clarify the stand of the respondent but did not receive any reply from the respondent.

- v. That the respondent kept on ignoring the just and genuine request of the complainant and did not issue any allotment letter and the complainant also did not get any demand letter. That the complainant's husband many a time visited the office of the respondent to issue the allotment letter and to get the BBA registered in her name but all genuine request fell on deaf ears. That the complainant made various payment against the allotted unit demands raised by the respondent despite not receiving any demand letter and even not being issued allotment letter and BBA registered on the name of the complainant, only by personally visiting the office of the respondent.
- vi. That the complainant was informed about the cancellation of the allotted unit vide cancellation dated 29.05.2024 through email dated 06.06.2024.
- vii. That the complainant wrote various emails citing humanitarian ground of ill health and even paid the last outstanding and showed her intention to continue with the project, to revert order of cancellation of unit by the respondent. That the complainant even met with the higher officials of the respondent but all genuine request fell on deaf ears and it seems that they have already made their mind from the very beginning to harass the allottees by withholding the allotment letter and not registering the BBA on the name of successful allottees and not properly raising the demand letter of payment to the allottees address properly to somehow take a fake ground of cancellation due to non-payment by the allottees. That the respondent wants to sell the allotted unit at inflated prices in the open market, which would be prejudicial to the interests of the complainant.
- viii. The respondent /opposite party has unilaterally cancelled the allotment of the flat without any lawful reason or consent from the complainant. The

cancellation of the allotment is in clear violation of the terms and provisions of the RERA Act.

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

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

- i. Direct the respondent /opposite party to reinstate the allotment of the flat in favour of the complainant and to complete construction and deliver possession on time. Direct the respondent to withdraw the cancellation letter dated 29.05.2024.
- ii. Direct the respondent /opposite party to register BBA in favour of the complainant and issue allotment letter in favour of the complainant.
- iii. Direct the respondent /opposite party to refrain from creating any third-party interests or selling the unit allocated to the complainant in the open market until the resolution of this dispute.

**D. Reply by the respondent**

5. The respondent has made the following submissions in the reply:

- i. That at the very outset, it is submitted that the instant complaint is untenable both in facts and in law and is liable to be rejected on this ground alone. The present complaint is based on an erroneous interpretation of the provisions of the RERA Act, rules and regulations of Affordable Housing Policy, 2013 as well as an incorrect understanding of the terms and conditions of the Allotment letter dated 21.02.2022 as shall be evident from the submissions made in the following paras of the present reply. The respondent craves leave of this hon'ble authority to refer and rely upon the terms and conditions set out in the allotment letter and the provisions of the act in detail at the time of hearing of the present complaint, so as to bring out mutual obligations and responsibilities of the respondent as well as the complainant.

- ii. That the complainant is estopped by their own acts, conduct, acquiescence, laches, omissions etc. from filing the present complaint. That the allotment of the unit of the complainant was cancelled on 29.05.2024 due to the repeated defaults of the complainant.
- iii. That the respondent had already obtained the approval of the building Plan on 23.07.2021. Moreover, the environment clearance has also been obtained by the respondent on 30.07.2022.
- iv. That the complainant being interested in the real estate development of the respondent, known under the name and style of "HCBS Auroville" at Sector 103, Village- Tikampur, District Gurugram approached the respondent to purchase the unit and applied for the allotment under the scheme of Affordable Housing Policy, 2013. That upon the draw of lots and acceptance of his application for allotment of the unit, a flat bearing no. 67D on 6<sup>th</sup> floor, Tower D tentatively admeasuring carpet area of 640.67 sq. m and 110.44 sq. m. of the balcony area was allotted to the complainant vide allotment letter dated 21.01.2022.
- v. Thereafter, respondent as per the terms and conditions of allotment letter requested the complainant to pay the allotment demand and further requested to complainant to visit the office to sign the 'agreement for sale' within 15 days from the date of issue of the allotment letter. But despite multiple correspondences made, the complainant has failed to sign the "agreement to sale" as per the allotment letter and also failed to pay the demand raised along the allotment letter within the prescribed time limit. It is submitted that the complainant has defaulted in timely payments from the very beginning as evident from the SOA.
- vi. The complainant had defaulted/delayed in making the due payments, upon which, reminders were also served to the complainant. That the

- bonafide of the respondent is also essential to be highlighted at this instance, who had served a number of demand letters and reminders to the complainant to ensure that the payments are made in a timely fashion.
- vii. That the complainant is a habitual defaulter who has been in default of payments at various instances since the very beginning and had stopped making payments of the instalments on 21.01.2022 i.e., at the stage "At the time of allotment of unit and BBA registration". That the complainant willingly and voluntarily stopped making the payments even after receipt of multiple reminders and notices from the respondent.
- viii. That the respondent issued the demand letter for 3<sup>rd</sup> instalment i.e. at stilt level on 22.02.2023 which is unpaid by the complainant. It is pertinent to mention here that on request of the complainant, the respondent on 8.11.2023 has also shared the SOA which clearly mentions the outstanding and total amount payable as on that date was Rs. 8,42,948/- which also remains unpaid before the date of cancellation. Thereafter the respondent issued another demand letter of 4<sup>th</sup> instalment i.e. at completion of 20% of structure (31 floors) dated 01.12.2023 however, the complainant had failed to make payment of this instalment also. That thereafter respondent on 01.05.2024 issued demand letter for 5<sup>th</sup> instalment i.e. at completion of 40% of structure (62 floors), which remains unpaid along with previous 2 instalments till the date of cancellation of the unit.
- ix. That it is pertinent to mention here it again that since the very beginning the complainant had stopped making payments of the instalments and the last payment received before the date of cancellation from the complainant was on 29.01.2024 against the allotment demand i.e., at the stage "At the time of allotment of unit and BBA registration". It is pertinent to mention that the demand raised along with allotment was not paid till

the date of cancellation. That the complainant willingly and voluntarily stopped making the payments even after receipt of multiple reminders and notices from the respondent. That it is submitted that as the complainant failed to make timely payment of the instalments, the complainant was served with reminder letters dated 18.03.2024, 05.04.2024. That despite having received the reminder, the default of the complainant continued which compelled the respondent to cancel the allotment of the unit allotted to the complainant. Hence, the respondent in compliance of the Affordable Housing Policy, 2013 issued two public notices in one in Nav Bharat Times and another one in Times of India on 27.04.2024. That it is pertinent to mention herein that the respondent was obligated to issue the reminders to the complainant as per the Affordable Housing Policy, however in their Bonafide conduct, the respondent had issued multiple reminders to the complainant to which the complainants glad no heed and chose to ignore the demand so raised in complete contravention of RERA Act and in grave violation of Affordable Housing Policy, 2013. That due to the continuous defaults of the complainant since the 2<sup>nd</sup> instalment i.e. at the time of allotment, the respondent was constrained to cancel the allotment of the complainant and the same was communicated to the complainant vide cancellation letter dated 29.05.2024. That it is pertinent to note that the unit was cancelled not for the non-payment on the demand of 5<sup>th</sup> instalment i.e. at completion of 40% structure dated 01.05.2024 but for the non-payment of the demand pending since the 2<sup>nd</sup> instalment i.e. at the time of allotment. That accordingly, after termination of the allotment of the unit of the complainant, the complainant has been left with no right, title, interest, charge or lien over the unit. That after the termination of the allotment of

the unit of the complainant, solely due to the default of the complainant, the respondent is well within their right to deduct the amount as per the Affordable Housing Policy Haryana which provides the forfeiture for an amount of Rs 25,000, along with the applicable GST amount of interest accrued and payable on outstanding instalments as per the terms of the allotment letter. That further in addition of Rs 25,000 the respondent is also entitled to the delayed payment interest till the date of termination and other non-refundable amount including the statutory dues paid against the unit. Further in the present case the respondent is entitled to deduct further 3% of the cost of the flat as the unit has been cancelled on 29.05.2024 that is within 2 years from the date of commencement of the project i.e. 30.07.2022.

- x. That upon conjoint reading of clause 5(iii)(h) with clause 5(iii)(i), the object of the policy becomes clear that when there is any default on the part of the Allottee, whether the allottee surrenders the unit or the unit is cancelled, both scenarios lead to the reallocation of units, which requires additional resources and a stringent process. In the interest of justice, and considering the facts and circumstances of this case, it is reasonable to allow the further deduction of 3% of the cost of the flat along with an amount of Rs. 25,000/-.
- xi. Without prejudice, it is submitted that the complainant has contended to have paid Rs. 16,91,233/- to the respondent, however, the payment of Rs. 11,56,692/- was made by the Complainant after cancellation of the unit and only an amount of Rs. 5,34,541/- was paid against the demand of Rs.16,91,232/- after the allotment of the unit of the complainant till the unit was cancelled on 29.05.2024 due to the default of the complainant. Moreover, the complainant had made the said payment of Rs. 11,56,692/-

to the respondent through RTGS/NEFT without the consent or knowledge of the respondent hence, the same does not amount to revocation of the cancelation whatsoever.

- xii. Thereafter the respondent sent a letter on 09.08.2024, informing the complainant to collect the refund of the balance amount. The letter also stated that the respondent had made multiple attempts to contact the complainant via various letters and calls, but received no response. As a result, the respondent issued a fresh cheque for the refund amount of Rs. 15,62,938/-, which was enclosed with this letter.

**E. Jurisdiction of the Authority:**

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

**E. I Territorial jurisdiction**

7. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

**E. II Subject matter jurisdiction**

8. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

***Section 11(4)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common*

areas to the association of allottee 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 promoter, the allottee and the real estate agents under this Act and the rules and regulations made thereunder.

9. 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 relief sought by the complainants:**
- F.I Direct the respondent /opposite party to reinstate the allotment of the flat in favour of the complainant and to complete construction and deliver possession on time. Direct the respondent to withdraw the cancellation letter dated 29.05.2024.**
- F.II Direct the respondent /opposite party to register BBA in favour of the complainant and issue allotment letter in favour of the complainant.**
- F.III Direct the respondent /opposite party to refrain from creating any third-party interests or selling the unit allocated to the complainant in the open market until the resolution of this dispute.**
10. The above-mentioned relief sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
11. In the present complaint, the complainant intends to continue with the project and is seeking possession of the unit as per section 18(1) of the Act and the same is reproduced below for ready reference:

***"Section 18: - Return of amount and compensation***

*18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building. -*

*(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or*

*(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,*

*he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."*

*(Emphasis supplied)*

12. The complainant booked a unit in the affordable group housing colony project of the respondent known as "ROF Ananda" Sector-95, Gurugram, Haryana and was allotted a unit bearing no. 67-D, 6<sup>th</sup> floor, on in tower-D of the project vide Allotment letter dated 14.01.2022 for a total sale consideration of Rs. 28,18,722/- out of which the complainant had paid an amount of Rs. 16,91,233/- which is more than the total sale consideration, towards the subject unit.
13. The respondent raised demand letters dated 22.02.2023 ,01.12.2023 ,18.03.2024, 05.04.2024 and 27.04.2024 towards alleged outstanding dues and publication in newspaper dated 27.04.2024 thereafter proceeded to cancel the unit vide letter dated 29.05.2024.
14. In line with the aforesaid facts, the documents and submissions placed on record, the main question which arises before the authority for the purpose of adjudication is that "whether the said cancellation is a valid in the eyes of law?"
15. Clause 5(iii) (i) of the Affordable Group Housing Policy, 2013 talks about the cancellation. The relevant part of the clause is reproduced below: -

*"If any successful applicant fails to deposit the instalments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due instalments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State for*

*payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs.25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list".*

16. Before advertng to the validity of the cancellation, it is necessary to examine the statutory framework governing such cancellation. Clause 5(iii)(i) of the Affordable Housing Policy, 2013 lays down a specific procedure to be followed before cancellation of allotment, which includes issuance of reminder, granting of time to cure default and publication in a regional newspaper. These safeguards are not merely procedural formalities but are substantive protections intended to ensure fairness and transparency in dealings with allottees.
17. Upon perusal of the record, it is observed that the respondent has accepted more than 10% of the total sale consideration from the complainant without executing a builder buyer agreement. Such conduct is in direct violation of Section 13 of the Act, which mandates that a promoter shall not accept more than 10% of the cost of the apartment without first entering into a written agreement for sale. The failure of the respondent to execute the builder buyer agreement despite receipt of substantial payment strikes at the very root of the contractual relationship between the parties. The relevant portion of Section 13(1) are reproduced hereunder: -
- 13. No deposit or advance to be taken by promoter without first entering into agreement for sale. -*
- (1) A promoter shall not accept a sum more than ten per top cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.*
18. It is further observed that the demand process adopted by the respondent lacks consistency and transparency. The complainant has placed on record

that payments were made despite non-execution of the agreement and without a clearly structured and communicated demand schedule. In such circumstances, the allegation of default on the part of the complainant cannot be examined in isolation, particularly when the foundational obligation of the promoter to execute the agreement for sale has itself not been fulfilled. The procedure for cancellation is required to be followed in a fair, reasonable and bona fide manner. In the present case, the cancellation appears to have been affected in a mechanical manner without curing the prior illegality committed by the respondent.


19. It is a settled principle that a party cannot be permitted to take advantage of its own wrong. The respondent, having failed to execute the builder buyer agreement and having accepted substantial payments from the complainant in violation of statutory provisions, cannot subsequently rely upon alleged defaults to justify cancellation of the allotment. Such conduct is arbitrary and contrary to the spirit of the Act as well as the Affordable Housing Policy.
20. The authority is of the considered view that the respondent /builder has not followed the prescribed procedure as per clause 5(iii)(i) of the Policy, 2013 and in view of the same, the cancellation letter dated 29.05.2024 is held to be invalid. The respondent is directed to reinstate the allotted unit of the complainants and if the same is not available then allot an alternate unit of the same size, similar location and same price as originally booked by the complainants within a period of 60 days from the date of this order.

**G. Directions of the authority:**

21. Hence, the Authority hereby passes this order and issue 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 cancellation letter dated 29.05.2024 is hereby set aside. The respondent is directed to re instate the allotted unit of the complainant as per BBA and if the same is not available then allot an alternate unit of the same size, similar location and same price as originally booked by the complainant within a period of 60 days from the date of this order.
  - ii. The respondent is also directed to execute the builder buyer agreement of the allotted unit within a period of 30 days from the date of this order.
  - iii. The respondent is directed to hand over the possession of the allotted unit to the complainant complete in all respects as per specifications of the builder buyer agreement within a period of one month from the date of this order.
  - iv. The respondent shall not charge anything from the complainant which is not part of the builder buyer agreement and the Affordable Housing Policy, 2013.
  - v. A period of 90 days is given to the respondent/builder to comply with the directions given in this order and failing which legal consequences would follow.
22. Complaint stands disposed of.
23. File be consigned to registry.

**Dated: 31.10.2025**



**(Arun Kumar)**  
Chairman  
Haryana Real Estate  
Regulatory Authority,  
Gurugram