

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

Complaint no.	:	4680 of 2025
Date of complaint	:	18.09.2025
Date of order	:	30.01.2026

Anjana Ansani R/o: C-50, 1 st Floor, Mayfield Garden, Sector-50, Gurugram, Haryana	Complainant
Versus	
4S Developers Pvt. Ltd. Office at: IX-63, ILD Trade Centre, Sector-47, Gurugram	Respondent

CORAM:	
Sh. Arun Kumar	Chairman
APPEARANCE:	
Sh. Nitin Jaspal (Advocate)	Complainant
Sh. Dhruv Rohtagi (Advocate)	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 29 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 there under or to the allottee as per the agreement for sale executed inter se.

A. Unit and project related details

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

S. No.	Heads	Information
1.	Name and location of the project	"4S The Aurrum", Sector 59 & 63 A, Gurugram
2.	Nature of the project	Group Housing
3.	Project area	10.071875 acres
4.	DTCP License	225 of 2023 dated 30.10.2023 valid upto 29.10.2028
5.	HRERA registered/ not registered	Registered Vide no. 76 of 2024 dated 15.07.2024 valid upto 31.10.2029
6.	Allotment Letter	24.04.2025 (page no. 19 of complaint)
7.	Agreement for sale	Annexed but not executed
8.	Unit no.	1202, 12 th Floor, T3 (page no. 21 of the complaint)
9.	Unit area	1443.01 sq. ft. (page no. 21 of the complaint)
10.	Possession clause	Not mentioned
11.	Due date of possession	01.11.2029 (as per allotment letter at page no. 19 of complaint)
12.	Sale Consideration	Rs. 4,98,69,120/- (As per payment plan on page no. 24 of complaint)
13.	Total amount paid by the complainant	Rs. 1,48,18,253/-
14.	Occupation Certificate	NA
15.	Offer of possession	NA
16.	Withdrawal email by complainant	23.07.2025 (page no. 102 of complaint)

B. Facts of the complaint:

3. The complainant vide complaint and written submissions has made the following submissions: -
- I. That the complainant came to know the about the project namely "4s the aurrum" located at "sector-59 & 63a, Gurugram" having unit no. "T3-1202" through the brochures and the respondent is "builder" in the present complaint. Presently, the complainant and the respondent are not in talking terms due to under-mentioned immovable property dispute.
 - II. That the complainant booked a residential flat in the project being developed by the respondent on 07.04.2025 by making an initial booking payment of Rs. 25,00,000/-, against the total sale consideration of the said unit amounting to Rs. 4,74,94,400/-.
 - III. That on 21.04.2025 the respondent formally acknowledged receipt of the aforesaid booking amount. Subsequently, on 24.04.2025 the respondent issued an allotment letter in favour of the complainant thereby confirming allotment of a flat in the said project.
 - IV. That after issuance of the allotment letter, the respondent forwarded a builder buyer agreement (BBA) to the complainant. However, the said BBA was one-sided, arbitrary, and wholly biased in favour of the respondent. The clauses of the BBA were drafted in such a manner so as to unjustly enrich the respondent while curtailing the lawful rights and remedies of the complainant.
 - V. That the complainant being a law-abiding purchaser immediately raised genuine objections regarding the discrepancies in the BBA and repeatedly tried to contact the respondent through phone calls and personal visits. Despite such repeated efforts, the respondent neither

corrected the discrepancies nor responded to the complainant's genuine concerns.

- VI. That the delay in execution of the BBA was solely attributable to the respondent, who deliberately refrained from finalizing the agreement despite receiving substantial amounts from the complainant.
- VII. That on 15.07.2025 in further compliance with the payment plan, the complainant made an additional payment of Rs. 1,23,18,253/- through cheque representing 30% of the total sale consideration. Despite receipt of such a huge amount, the respondent failed and neglected to execute the BBA.
- VIII. That being aggrieved by the respondent's non-cooperative and evasive attitude and due to genuine financial concerns arising out of capital Gains tax liability, the complainant vide email dated 23.07.2025 requested cancellation of the flat booking and refund of the amounts paid. However, the respondent failed to even acknowledge the said communication.
- IX. That again on 30.07.2025, the complainant sent a second reminder email seeking cancellation and refund of the amounts, but once again the respondent remained silent and evasive. Numerous phone calls and WhatsApp messages made by
- X. That the complainant was misguided and induced into booking the said unit without being given a clear picture of the possession date in the buyer builder agreement (BBA). Despite having collected an amount of Rs. 1,48,18,253/- out of the total sale consideration of Rs. 4,74,94,400/- the respondent has failed to execute the BBA till date. This deliberate withholding of material facts amounts to misrepresentation and constitutes a violation of Section 12 of the Real Estate (Regulation and Development) Act, 2016, read with Section 13(1) which expressly

prohibits acceptance of more than 10% of the sale consideration without entering into a written agreement for sale. Since the transaction is still at a nascent stage and no BBA has been executed, the complainant is well within his rights to demand refund of the entire amount paid along with applicable interest.

- XI. That instead of acting in good faith and honouring their assurances the respondent, vide email dated 30.08.2025, falsely alleged that the complainant had failed to sign the BBA. The respondent further imposed coercive, illegal, and unilateral conditions by stating that unless the complainant accepted a reduced discount of only Rs. 50,00,000/- the booking would be cancelled and 10% of the sale value (approx. ₹50,00,000/-) would be forfeited.
- XII. That the conduct of the respondent is arbitrary, high-handed, and contrary to settled principles of law. The respondent has indulged in deficiency of service, unfair trade practice, and breach of fiduciary duty thereby causing immense mental agony, harassment, and financial loss to the complainant.
- XIII. That the unilateral attempt of the respondent to forfeit a sum of Rs. 50,00,000/- in the absence of any executed builder buyer agreement (BBA) is illegal, void, and unenforceable, being contrary to law as well as the principles laid down by the Hon'ble Supreme Court of India and various Consumer Fora.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - a) Direct the respondent to refund the entire amount of Rs. 1,48,18,253/- paid by the complainant along with interest at the rate prescribed under

Section 18 of the Real Estate (Regulation and Development) Act, 2016 from the respective dates of payment till realization.

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 respondent:

6. The respondent vide its reply and written submissions has contested the complaint on the following grounds:

- I. That the complainant had approached the respondent through brokers and expressed an interest in booking an apartment in the newly launched residential residential colony developed by the respondent known as "4S The Aurrum" situated in Sector - 59 and 63, Gurugram Manesar Urban Complex, Village Ullahawas and Behrampur. Prior to making the booking, the complainant conducted extensive and independent enquiries with regard to the project and it was only after she was fully satisfied about all aspects of the project she took an independent and informed decision, uninfluenced in any manner by the respondent to book the unit in question.
- II. That thereafter the complainant vide an application form dated 07.04.2025 applied to the respondent for provisional allotment of a unit in the project. The complainant in pursuance of the aforesaid application form was allotted an independent unit bearing no T3-1202, 12th Floor, admeasuring 1443.01 sq. ft., in the project vide allotment letter dated 25.04.2025. The respondent had no reason to suspect the bonafide of the complainant and proceeded to allot the unit in question in his favor. The complainant further undertook to be bound by the terms and conditions of the application form/allotment letter.
- III. That as per the allotment letter dated 25.04.2025 the total price of the

unit, excluding the taxes, stamp duty, registration charges etc. was Rs. 4,74,94,400/-, against which the complainant paid a sum of Rs. 25,00,000/- as booking amount on 07.04.2025. The complainant had opted for a flexi payment plan.

- IV. That as per the practice the respondent issued an email dated 24.04.2025 to the complainant welcoming her to the 4S family and apprised her categorically that the next step to her booking would be issuance of the builder buyer's agreement. On the request of the complainant, the spelling of the name of the complainant was corrected and the revised payment receipt was also issued to the complainant vide email dated 25.04.2025.
- V. That thereafter the respondent issued two copies of the buyer's agreement to the complainant for execution, however, the complainant procrastinated from signing the buyer's agreement on frivolous grounds. The complainant continued to negotiate on the pricing despite the fact that it had already agreed and accepted the price and then booked the unit in question.
- VI. That as per the buyer's agreement clause 5.1 it was categorically mentioned that the respondent shall complete the project as per the schedule disclosed at the time of the registration of the project with the HRERA, i.e. by 31.10.2029.
- VII. That in order to satisfy the complainant and give complete clarity, the respondent even issued a comfort letter to the complainant, clearly mentioning the timelines of completion of the project. The Complainant telephonically continued to assure the respondent of signing and sending the buyer's agreement to the respondent.
- VIII. That pursuant thereto the complainant was issued demand letter dated 02.07.2025, under the impression as conveyed by the complainant that it

- was signing and sending the buyer's agreement. The complainant duly made the payment of the amount of Rs. 1,23,11,129/- however did not sign and execute the buyer's agreement or send the same to the complainant.
- IX. That instead of signing the buyer's agreement the complainant started re-negotiating on the pricing of the unit and asking for unnecessary discounts and rebates which he was otherwise never promised or assured.
- X. That when the said issue was brought up a refused to the complainant, she sent an email dated 23.07.2025 seeking cancellation and full refund of the amounts paid. That such a malafide tactic of the complainant ought to be taken note of, wherein despite agreeing to the payment terms in the application form as well as the allotment letter, the complainant was arm-twisting the respondent by not signing the buyer's agreement and threatening to the cancel the allotment. It needs to be noted that if the complainant was not agreeable to the pricing, it ought to not have signed the application form, accepting the pricing and the payment plan and further not made the payment against the 2nd Demand of 02.07.2025. clearly, the conduct of the complainant was unbecoming of a genuine bonafide purchaser.
- XI. That the complainant through her husband renegotiated that she wanted to make the complete payment in one go and sought early payment rebate. Be that as it may, the respondent made it clear to the complainant in office discussions that the pricing had already been crystallized, whereafter the booking was done and it was not possible to modify the terms at this stage. The complainant, in order to pressurize the respondent to succumb to the extortionist demand again sent an email dated 30.07.2025, clearly citing that she wanted to cancel her booking for

the reason that she was not being given early payment rebate. That later vide another email dated 26.08.2025 (Page 102 of Complaint), filed by the complainant herself the complainant now stated another reason for seeking refund of issue with respect to her and her husband's capital gains tax which reason was solely on her own account. Thus, it becomes abundantly clear that there was no fault on the part of the Respondent and the complainant was citing self created and concocted reasons to cancel the allotment, without there being any fault on the part of the respondent.

- XII. That in order to amicably resolve the illegitimate grievance of the complainant and as a customer friendly organization, the respondent, re-considered the request of the complainant and vide email dated 30.08.2025, the respondent offered a hefty discount of Rs. 50,00,000/- to the complainant on the condition that she would pay the entire sale consideration in one go. The respondent clearly asked the complainant to opt for either the discount and make the balance payment and simultaneously execute the buyer's agreement or to continue with the existing payment plan and execute the buyer's agreement. It is a matter of record that it was also made clear to the complainant that in case of non-complying with the requests to execute the buyer's agreement, the same may lead to cancellation of allotment and forfeiture of the 10% earnest money.
- XIII. That clearly the complainant was taking advantage of her position and arm-twisting the respondent to succumb to her illegal demands citing frivolous reasons. However, what is clear from the whatever has transpired that there was never any default on the part of the respondent. The respondent had been honouring its part of the obligations, while it was the complainant who was shifting her stance and blowing hot and

cold, trying to project the respondent in bad light. It needs ponderance as to if there was any illegality in the conduct of the respondent or any issue with any term of the buyer's agreement, there was no reason for the complainant to make the further payment of Rs. 1,23,11,129/- to the respondent despite having a copy of the buyer's agreement.

- XIV. That the respondent issued several reminders by virtue of email dated 05.09.2025, 15.09.2025 and 19.09.2025 calling upon the complainant to execute the buyer's agreement but to no avail.
- XV. That the complainant is not an "allottee" but is an investor who has booked the apartment in question as a speculative investment in order to earn rental income/profit from its resale. The apartment in question has been booked by the complainant as a speculative investment and not for the purpose of self-use as their residence. Therefore, no equity lies in favour of the complainant.
- XVI. That even after sending the buyer's agreement to the complainant, the complainant gave no heed to the said letters and reminders. The complainant consciously and maliciously chose to ignore the letters issued by the respondent and flouted in complying with her obligations. The complainant chose to ignore all these aspects and willfully defaulted in execution of the buyer's agreement. The respondent despite breach and default of the complainant, even went out of the way and offered a huge discount of Rs. 50,00,000/- to the complainant, yet the complainant failed to honour its obligations and execute the buyer's agreement. Thus, no fault can be attributed to the respondent.
- XVII. The complainant has preferred the instant complaint in complete contravention of their earlier representations and documents executed by them. The complainant has filed the instant false and frivolous complaint in order to mount undue pressure upon respondent in order

to make it succumb to their unjust and illegitimate demands.

7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority:

8. 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

9. 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

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee's 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 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.

F. Findings on the objections raised by the respondent:

F.1 Objection regarding the complainant being investor.

12. The respondent has taken a stand that the complainant is an investor and not a consumer. Therefore, he is not entitled to the protection of the Act and are not entitled to file the complaint under section 31 of the Act. 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;"

In view of above-mentioned definition of "allottee" as well as all the terms and conditions of the agreement, it is crystal clear that the complainant is an allottee as the subject unit was allotted to him by the promoter. Further, the concept of investor is not defined or referred in the Act. Moreover, the Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled as *M/s Srushti Sangam Developers Pvt. Ltd. Vs. Sarvapriya Leasing (P) Lts. And anr.* has also held that the concept of investor is not defined or referred in the Act. In view of the above, the contention of promoter that the allottee being investor is not entitled to protection of this Act stands rejected.

G. Findings on the relief sought by the complainant.

G.I Direct the respondent to refund the entire amount of Rs. 1,48,18,253/- paid by the complainant along with interest at the rate prescribed under Section 18 of the Real Estate (Regulation and Development) Act, 2016 from the respective dates of payment till realization.

13. In the present complaint, the complainant booked a unit in the project of the respondent namely, '4S The Aurrum' situated at Sector-59 & 63-A, Gurugram. The complainant was allotted a unit bearing no. 1202 on 12th Floor, in Tower T3 admeasuring 1443.01 sq. ft. vide allotment letter dated 24.04.2025. The buyer's agreement was not executed between the parties. As per the allotment letter dated 24.04.2025 the possession of the unit was to be handed over by 01.11.2029.
14. In the present complaint, the complainant intends to withdraw from the project and is seeking return of the amount paid by her in respect of subject unit along with interest under section 18(1) of the Act. Sec. 18(1) of the Act 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)

15. **Due date of handing over of possession:** The allotment letter dated 24.04.2025 specifically mentions the due date of possession as 01.11.2029 at page 19 of complaint.

16. **Admissibility of refund along with prescribed rate of interest:** The complainant/allottee intends to withdraw from the project and is seeking refund of the amount paid by her in respect of the subject unit with interest. However, the legislature in its wisdom in the subordinate legislation, under the provision of rule 15 of the rules vide notification dated 12.09.2019, has determined that for the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%. the prescribed rate of interest. Therefore, in case the complainant/allottee intends to withdraw from the project after commencement of the Act, 2016, the amount paid by him shall be refunded alongwith interest at prescribed rate as provided under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

17. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
18. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 30.01.2026 is **8.80%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%**.

19. On consideration of documents available on record and submissions made by both the parties, the authority is of the view that as per allotment letter dated 24.04.2025, the possession of the apartment was to be delivered by 01.11.2029. However, the complainant has already withdrawn from the project by sending email dated 23.07.2025 and sought refund of the paid-up amount with interest even before the due date of possession. So, in such a situation, the complainant withdrew from the project even prior to the due date. Thus, she is not entitled to refund of the complete amount but only after certain deductions as prescribed under the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, which provides as under.

"5. AMOUNT OF EARNEST MONEY

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

20. Keeping in view the aforesaid factual and legal provisions, the respondent is directed to refund the paid-up amount of Rs.1,48,18,253/- after deducting 10% of the sale consideration being earnest money along with an interest @10.80% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of filing of present complaint i.e.,

18.09.2025 till actual refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

H. Directions of the Authority:

21. 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 functions entrusted to the Authority under Section 34(f) of the Act of 2016:
- i. The respondent/promoter is directed to refund to refund the paid-up amount of Rs.1,48,18,253/- after deducting 10% of the sale consideration being earnest money along with an interest @10.85% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of filing of present complaint i.e., 18.09.2025 till its realization.
 - ii. A period of 90 days is given to the respondent 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 the registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 30.01.2026