

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

Complaint no. : 6490 of 2024
Date of complaint : 09.01.2025
Date of decision : 27.01.2026

Smita Khurana
R/o: - 395, Second Floor, Sector 46

Complainant

Versus

1. M/s M3M India Private Limited
2. M/s Martial Buildcom Private Limited
Both Regd. Office at: Office No. 1221a,
Devika Tower, 12th floor, 6, Nehru Place,
New Delhi-110019

Respondents

CORAM:

Shri Arun Kumar
Shri Phool Singh Saini

Chairman
Member

APPEARANCE:

Nipun Rao (Advocate)
Shriya Takkar (Advocate)
Meenal Khanna (Advocate)

Complainant

Respondents

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 complainants, 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	M3M Urbana, Sector-67, Gurugram
2.	Project area	8.225 acres
3.	DTCP license no. and validity status	i. 100 of 2010 dated 26.11.2010 valid up to 25.11.2027 ii. 101 of 2010 dated 26.11.2010 valid up to 25.11.2022 iii. 11 of 2011 dated 28.01.2011 valid up to 27.01.2028 36 of 2013 dated 31.05.2013 valid up to 30.05.2017
4.	RERA Registered/ not registered	35 of 2019 dated 18.06.2019 valid up to 31.12.2021
5.	Unit no.	SB/C/2L/OFFICE/016, 2 nd Floor, Block-Office (As per page no. 59 of the reply)
6.	Unit area	688.38 sq. ft. (super area) (As per page no. 60 of the reply)
7.	Date of provisional allotment letter in the name of original allottee	16.11.2015 (As per page no. 48 of the reply)
8.	Date of buyer's agreement	16.12.2015 (As per page no. 56 of the reply)
9.	Possession clause	15. POSSESSION OF THE COMMERCIAL UNIT 15.1 The company, based upon its present plans and estimates, and subject to all exceptions, proposes to handover possession of the commercial unit within a period of twelve (12) months from the date of the execution of this agreement ("Commitment Period"). <i>Should the possession of the commercial unit not be given within the commitment period, the allottee</i>

		<p><i>agrees to an extension of one hundred and eighty (180) days("Grace Period") after expiry of the commitment period for handing over the possession of the commercial unit....</i></p> <p>(As per page no. 77 of the reply)</p>
10.	Due date of possession	<p>16.06.2017</p> <p>(Note: Due date of possession to be calculated 12 months from the date of execution of the agreement i.e., 16.12.2015 plus grace period of 180 days)</p>
11.	Total sale consideration	<p>Rs.47,87,734/- (including EDC, IDC, IFMS and cark parking charges)</p> <p>(As per payment plan on page no. 97 of the reply)</p>
12.	Amount paid by the complainant	<p>Rs.52,82,895/-</p> <p>(As per SOA on page no. 19 of the complaint)</p>
13.	Occupation certificate	<p>23.02.2017</p> <p>(As per page no. 105 of the reply)</p>
14.	Notice of offer of possession	<p>23.02.2017</p> <p>(As per page no. 107 of the reply)</p>
15.	Transfer of ownership in the name of the complainant	<p>30.07.2018</p> <p>(As per page no. 120 of the reply)</p>

B. Facts of the complaint

3. The complainant vide complaint have made the following submissions:
 1. That the complainant qualifies as an "allottee" within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016 hereinafter referred to as the "Act"). The respondent, M3M India Pvt. Ltd., is a company incorporated under the provisions of the Companies Act, 1956 and is inter alia engaged in the business of real estate development and construction. Initially, one Mr. Ashwani Sareen was allotted Unit No. SB/C/2L/OFFICE/016 located in the project "M3M Urbana", Sector-67, Gurugram, Haryana, by the respondent company, vide allotment letter dated 16.11.2015.



- II. That subsequently, a builder buyer agreement was executed between Mr. Ashwani Sareen and the respondent on 16.12.2015. Around May 2018, the complainant entered into an agreement to Sell with Mr. Ashwani Sareen in respect of the aforementioned unit. Thereafter, the unit was transferred in the name of the complainant, which is evident from the documentation and formalities carried out by the respondent.
- III. That ever since the transfer of the said unit in favour of the complainant, the respondent has failed to offer or hand over actual physical possession of the said unit to the complainant. The complainant has been denied possession continuously despite fulfilling all obligations under the agreement.
- IV. That the respondent subsequently demanded payment of Common Area Maintenance (CAM) charges, and assured the complainant that upon such payment, physical possession of the unit would be delivered. Relying on such assurances, the complainant paid CAM charges amounting to Rs. 10,00,000/- in the month of October 2024. However, despite receiving the said amount, the respondent has failed to deliver possession of the unit.
- V. That even till date, the respondent has not executed the conveyance deed in respect of the said unit in favour of the complainant, despite the complainant having paid 100% of the sale consideration. Numerous reminders and communications were addressed by the complainant to the respondent regarding both possession and execution of the conveyance deed, but the same have remained unresponded to.
- VI. That the complainant later discovered discrepancies in the area of the unit as reflected on the Municipal Corporation of Gurugram (MCG)



- portal, which does not correspond with the actual area agreed upon at the time of transfer. This incorrect area listing has led to inflated outstanding dues being levied on the said property.
- VII. That the complainant has, on multiple occasions, approached the respondent for clarification regarding various wrongful demands raised by the respondent, including charges under heads such as CAM, IMFS, and possession charges. However, the respondent has failed to provide any satisfactory response.
- VIII. That as per the terms of the BBA, the respondent was obligated to complete construction and hand over possession of the said commercial space within 12 months from the date of execution of the agreement, with an additional grace period of 180 days. Despite this, the respondent has defaulted in performing its obligations.
- IX. That during visit to the project site, the complainant was shocked to learn that, while most other allottees had been granted possession of their respective units, her unit remained the only one for which possession was being withheld, without any justification.
- X. That the respondent has thus failed to hand over possession of the unit to the complainant in accordance with the terms and conditions agreed upon, despite having received substantial payment towards the sale consideration.
- XI. That the complainant has, from 2018 till date, paid a total amount of Rs. 52,82,895/- towards the purchase of the said unit. However, the respondent has not responded to repeated requests for handing over possession, thereby compelling the complainant to file the present complaint.
- XII. That the respondent made various representations and commitments regarding timely completion and handover of possession of the said



project. Contrary to such representations, the respondent failed to honour its commitments and instead withheld possession and the complainant's hard-earned money for an extended period, thereby causing wrongful loss to the complainant and unlawful enrichment to itself. The acts and omissions of the respondent amount to gross negligence, arbitrariness, and breach of trust, resulting in severe financial hardship, mental agony, and harassment to the complainant.

- XIII. That the present complaint is being filed seeking, inter alia, physical possession of the said unit, interest on the delayed possession as per the applicable provisions of law, refund of CAM charges wrongfully collected or adjustment after the actual physical possession, execution of the conveyance deed, and other reliefs as detailed in the prayer clause of the complaint.
- XIV. That in view of the above, the complainant is entitled to receive interest on the amounts paid, at the rate prescribed under the Haryana Real Estate (Regulation and Development) Rules, 2017, from the due date of possession till the date of actual handing over of possession.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s).
- I. Direct the respondent to pay delayed possession charges on the principal amount paid by the complainant towards the said unit at prescribed rate of interest from the due date of possession till actual handing over of possession.
 - II. Direct the respondent to handover the actual physical possession of the subject unit and execute conveyance deed of the said unit in favour of the complainant after obtaining the occupation certificate.
 - III. Direct the respondent to refund the CAM charges of Rs. 10,00,000/- or adjust the already paid CAM charges towards the advance maintenance charges after the physical possession.

- IV. Direct the respondent to correct the area of the said unit in the MCG department in the property ID of the said unit and reflect the actual area of the said unit in the property ID or he proper execution of the conveyance deed.
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 respondents

5. The respondents contested the complaint vide its reply on following grounds: -
- i. That the present complaint has been filed with malafide intentions to wriggle out of contractual obligations as there is no cause of action in favour of complainant for the relief sought that has been made out in the present complaint. The original allottee one Mr. Ashwani Sareen applied for booking of commercial unit in M3M Urbana, Sector 67 Gurugram after conducting his own due diligence and market research. In due consideration of the original allottee's to make timely payment the respondent allotted unit bearing no. SB/C/2L/office/016 in M3M Urbana vide allotment letter dated 16.11.2015. The cost of the unit for super area admeasuring 688.38 sq.ft. was Rs. 47,87,734.12/- plus other charges. The original allottee opted for the specific payment plan. The buyers agreement was executed between the original allottee and respondent on 16.12.2015.
 - ii. The possession of the unit was to be handed over 12 months from the date of the execution of the buyers agreement plus 6 months grace period. It is submitted that the buyers agreement for the said unit was executed between the parties on 16.12.2015 and the possession date comes out to be 16.06.2017 (12 months + 6 months from 16.12.2015).

- iii. That the occupation certificate for the unit in question was granted by the competent Authorities on 23.02.2017 i.e. much before the RERA ACT, 2016 came into force. Thus by the time RERA Act, 2016 came into force, the project of the respondent herein had lost its stage of being an ongoing project. The respondent vide letter dated 23.02.2017 offered the possession of the unit bearing no. SB/C/2L/Office/016 to the original allottee vide offer of possession dated 23.02.2017 and requested him to come forward and clear his pending dues and take possession of the unit. The respondent vide offer of possession dated 23.02.2017 informed the original allottee that on the basis of final measurements, the Super Area of the unit in question stands revised from earlier communicated and that all the sums payable have been calculated on the basis of final super area of the unit i.e. 737.46 sq. ft. The increase in area was about 7% and was within the 10% parameter as stated in Clause 12.6 of the buyers agreement. In the present case there is no delay in offering possession of the unit in question.
- iv. That thereafter the unit in question was purchased by the complainant from the original allottee vide agreement to sell executed on 11.05.2017 wherein it was specifically mentioned that the expenses to be incurred for the execution of transfer deed/sale deed, stamp duty, registration fees; and any other expenses etc. shall be borne by the buyer in whole.
- v. Subsequently, on 29.05.2018, a joint request letter was submitted by the original allottee and the subsequent allottee to transfer the unit in question in the name of the subsequent purchaser, the Complainant herein. Thus, the complainant stepped in to the shoes of the original allottee and is bound by the terms of provisional allotment, buyers agreement.

- vi. That the complainant also executed indemnity cum declaration in this regard. Upon completion of the requisite formalities and documentation, the respondent proceeded with the transfer process. Accordingly, vide letter dated 30.07.2018, the allotment of the unit bearing no. SB/C/2L/Office/016 was transferred in the name of complainant herein. Accordingly, all the documentation pertaining to the unit i.e. receipts, allotment letter, buyers agreement were endorsed in the name of the subsequent allottees.
- vii. That the complainant was requested to clear her outstanding dues and take possession of the unit in question, however, the complainant did not come forward to clear her dues for the reasons best known to her. The respondent vide email dated 22.10.2024 requested the complainant to clear her dues towards property tax, but to no avail.
- viii. That the complainant has duly paid the common area maintenance charges only up to the month of October, 2024. However, as on date, a sum of Rs. 62,534.54/- remains outstanding on account of unpaid CAM charges.
- ix. That the respondent vide email dated 02.11.2024 requested the complainant to come forward and pay the outstanding dues with respect to CAM charges and property tax and to take possession of the unit in question and get the conveyance deed executed post payment of stamp duty and registration charges.
- x. That the respondent, once again vide email dated 07.11.2024 duly informed the complainant that the payment of stamp duty and registration fees is a mandatory pre-requisite in order to get the conveyance deed executed. In the said communication, the complainant was specifically requested to make the necessary payments in order to facilitate the completion of the registration

process. That vide the said email the complainant was further requested to clear her outstanding dues, but the complainant did not come forward for the reasons best known to her. Despite several reminders and repeated requests made by the respondent the complainant herein has failed and neglected to come forward to clear the afore-stated outstanding dues and take possession of the unit in question and get the conveyance deed registered on payment of stamp duty of Rs. 3,61,400/- and registration charges of Rs. 40,003/-. The complainant vide email dated 20.11.2024 was requested to make payment towards stamp duty and registration charges, but to no avail.

- xi. That the conveyance deed as per the agreed terms of the buyers agreement can only be executed once all outstanding dues are cleared by the complainant. On enquiry from the Maintenance Agency it has transpired that the complainant after constant follows up only came forward in the month of October, 2024 to clear charges towards common area maintenance charges. Thus, the delay was on the part of the complainant to complete the formalities.
- xii. That the complainant is still liable to pay an amount of Rs. 62,534/- towards maintenance charges as on date. It is submitted that the complainant herself is not coming forward to take possession of the unit in question post payment of all pending amounts and completion of necessary formalities. The respondent has fulfilled all its contractual obligations under the buyers agreement. The complainant is in default of her contractual obligations and is raising these frivolous issues in order to escape the liability cast upon her by the virtue of the terms of the buyers agreement.
- xiii. That vide email dated 22.10.2024, the respondent expressly advised the complainant to independently approach the office of the Municipal

Corporation, Gurugram, for the purpose of seeking rectification in respect of the recorded area of the said unit. The respondent made it clear that such rectification lies within the exclusive domain and jurisdiction of the municipal corporation. Without prejudice to the foregoing, and purely as a gesture of goodwill and cooperation, the respondent has, on its own initiative, raised objections regarding the matter before the appropriate municipal corporation.

- xiv. That the complainant is required to acknowledge and appreciate that the role of the respondent the rectification of the area, as recorded by the Municipal Corporation, Gurugram, is limited. The complainant was duly informed about the same vide email dated 23.11.2024. The complainant needs to take up the aforesaid issue with Municipal Corporation Gurugram as per the Municipal Corporation Act, 1994. The issue qua rectification of the area specification does not fall within the domain of this Hon'ble Authority.
- xv. That the complainant as per the terms of the buyers agreement is still liable to pay the following charges:

S.No.	CHARGES PAYABLE	AMOUNT PAYABLE	RELEVANT CLAUSE
1.	Common area maintenance (on enquiry from Maintenance Agency)	Rs. 1,73,561.54 as on 16.01.2023- as on date	Clause 17.6
2.	Property Tax	Rs. 2,00,691/- . Copy of the documents evidencing the aforesaid amount is	Clause 3.5(II)



		marked as annexure R-15	
3.	Stamp duty	Rs. 3,61,400/-	Clause 16.4
4.	Registration charges	Rs. 40,003/-	Clause 16.4

- xvi. That the complainant herein has sought reliefs against the maintenance agency i.e. M Worth Facility Services Private Limited and Municipal Corporation, Gurugram, however, have failed to make the maintenance agency M Worth Facility Services Pvt. Ltd. as well as the Municipal Corporation, Gurugram a party to the present list.
- xvii. Thus, the complaint is clearly defective in nature and is liable to be dismissed on the ground of non-joinder of necessary parties.
6. 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 these undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority

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

E.I Territorial jurisdiction

8. 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

9. 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.

10. 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 relief sought by the complainant.

F. I Direct the respondent to pay delayed possession charges on the principal amount paid by the complainant towards the said unit at prescribed rate of interest from the due date of possession till actual handing over of possession.

11. The present complainant is a 1st subsequent allottee who has purchased the subject unit from the original allottee and vide letter dated 30.07.2018 the allotment of the unit was transferred in the name of the subsequent allottee i.e., Ms. Smita Khurana i.e., at such a time when the possession of the subject unit has already been offered to the original allottee.
12. As per clause 15 of the buyer's agreement, the possession was to be given within twelve (12) months from the date of the execution of this agreement along with 180 days of grace period so the due date comes out to be 16.06.2017.

13. The occupation certificate for the subject unit has been obtained by the respondent promoter on 23.02.2017 and the possession has been offered on 23.02.2017 to the original allottee i.e Mr. Ashwani Sareen. The present complainant is a 1st subsequent allottee who has purchased the subject unit from the original allottee and got endorsed on 30.07.2018 i.e., at such a time when the possession of the subject unit has already been offered to the original allottee. It simply means that the present complainant was well aware about the fact that the construction of the subject project and unit has already been completed and the possession of the same has been handed over. Moreover, she has not suffered any delay as the subsequent allottee comes only picture on 30.07.2018 after offer of possession which was made on 23.02.2017 to the original allottee. In the light of the facts mentioned above the present complainant who has become a subsequent allottee at such a later stage is not entitled to any delayed possession charges as he has not suffered any delay in the handing over of possession.
14. The authority is of view that the present allottee never suffered any delay and also respondent builder had neither sent any payment demands to the complainant nor complainant paid any payment to the respondent. So, keeping in view all the facts, the complainant is not entitled for delay possession charges and other reliefs. Hence, the complaint filed by the complainant for the relief of delayed possession charge is not admissible.

F.II Direct the respondent to handover the actual physical possession of the subject unit and execute conveyance deed of the said unit in favour of the complainant after obtaining the occupation certificate.

12. Further, 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 allottees. 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.
13. The occupation certificate for the tower in question has already been obtained by the respondent on 23.02.2017. Therefore, the respondent/promoter is directed to handover physical possession of the unit to the complainants and to get the conveyance deed of the allotted unit executed in her favour in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months from the date of this order.

F.III Direct the respondent to refund the CAM charges of Rs. 10,00,000/- or adjust the already paid CAM charges towards the advance maintenance charges after the physical possession.

14. Advance Common Area Maintenance- The respondent shall not demand the advance maintenance charges for more than one (1) 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 one (1) year. As per buyer agreement dated 16.12.2015 clause 17.6 speaks about maintenance charges. The same is reproduced below for ready reference: -

Clause 17.6 Maintenance charges shall be fixed by the Maintenance Agency based upon an estimate of the maintenance costs to be incurred for the Commercial Complex for every financial year and would be levied from the date of Notice of Possession regardless of the actual date of possession or otherwise and the Allottee undertakes to promptly pay the same. The estimates of the Maintenance Agency shall be final and binding

upon the Allottee. The maintenance charges shall be recovered on such estimated basis on monthly or at quarterly intervals or as may be decided by the Maintenance Agency and reconciled against the actual expenses as may be determined at the end of the financial year and any surplus/deficit thereof shall be carried forward and adjusted in the maintenance bills of the subsequent financial year. The Allottee agrees and undertakes to pay all maintenance bills on or before the due dates as may be intimated by the Maintenance Agency.

F.IV Direct the respondent to correct the area of the said unit in the MCG department in the property ID of the said unit and reflect the actual area of the said unit in the property ID or the proper execution of the conveyance deed.

15. The Municipal Corporation of Gurugram (MCG) acts as the central authority for validating, updating, and rectifying property data, including the area of a unit in a Property ID (PID) under statutory provisions laid down in relevant legislations. Therefore, in this case, if the complainant has any grievances in this regard, she may approach the MCG for redressal of the same.

G. Directions of the authority

16. 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 complaint filed by the complainant for the relief of delayed possession charges is not admissible.
 - ii. The respondent/promoter is directed to handover physical possession of the unit to the complainant and to get the conveyance deed of the allotted unit executed in her favour in

terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months.

17. Complaint stands disposed of.
18. File be consigned to registry.


(Phool Singh Saini)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 27.01.2026

HARERA
GURUGRAM