

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

Date of order: 13.02.2026

NAME OF THE BUILDER		M/s Neo Developers Private Limited.	
PROJECT NAME		Neo Square	
S. No.	Case No.	Case title	Appearance
1.	CR/6182/2025	Dayanand Rana and Shakuntla Vs. M/s Neo Developers Private Limited	Sh. Hemant Phogat (Advocate) None
2.	CR/6394/2025	Dharanindhar Jally Vs. M/s Neo Developers Private Limited	Sh. Hemant Phogat (Advocate) None
3.	CR/6395/2025	Shuchi Bansal and Vineet Bansal Vs. M/s Neo Developers Private Limited	Sh. Hemant Phogat (Advocate) None

CORAM:

Shri Arun Kumar

Chairman**ORDER**

1. This order shall dispose of the aforesaid complaints titled above filed before this authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the allottees as per the agreement for sale/MOU executed inter se between parties.

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

Project Name and Location	"Neo Square", sector 109, Gurugram, Haryana
Nature of the project	Commercial
Project area	3.08 acres
Occupation certificate	14.08.2024

Sr. No.	Complaint No., Case Title, and Date of filing of complaint	Unit no. & size	Date of execution of BBA /MoU	Assured Return Clause	Total Sale Consideration / Total Amount paid by the complainant	Offer of possession /Date of lease Deed
1	CR/6182/2025 Dayanand Rana and Shakuntla Vs. M/s Neo Developers Pvt. Ltd. DOF: 09.12.2025 Reply: Not Filed	3 rd floor 400 sq. ft. (page 34 of complaint)	BBA: 07.11.2020 (page 31 of complaint) MOU: 07.11.2020 (page 50 of complaint)	19. The Company shall pay a penalty of Rs. 49,500/- per month on the said unit. On the total amount received with effect from 09.11.2021 Subject to TDS, Taxes, Cess or any other levy which is due and payable by the Allottee(s) and which shall be adjusted in Total Sale Consideration; the balance total sale consideration shall be payable by the Allottee(s) to the Company in accordance with the	T.S.C: Rs. 41,22,000/- (as per payment plan on page no. 49 of complaint) A.P.: Rs. 40,32,000/-	O.O.P: 24.12.2024



				<i>Payment Schedule annexed as Annexure-I. The Penalty shall be paid to the Allottee(s) from the end of effective date II until the offer of possession letter date, on prorata basis.</i>		
2	<p>CR/6394/2025</p> <p>Dharanindhar Jally</p> <p>Vs.</p> <p>M/s Neo Developers Pvt. Ltd.</p> <p>DOF: 24.12.2025</p> <p>Reply: Not filed</p>	<p>5th floor</p> <p>500 sq. ft.</p> <p>(page 28 of complaint)</p>	<p>BBA: 19.12.2018 (page 25 of complaint)</p> <p>MOU: 19.12.2018 (page 44 of complaint)</p>	<p>19. The Company shall pay a monthly assured return of Rs. 32,500/- on the total amount received with effect from 19.12.2018 before deduction of Tax at Source, Cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottee(s) to the Company and the balance slae consideration shall be payable by the Allottee(s) to the Company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee(s) from the end of effective date II until the commencement of firs lease on the said unit. This shall be paid from the effective date.</p>	<p>T.S.C: Rs. 39,51,300/- (as per payment plan on page no. 43 of complaint)</p> <p>A.P.: Rs. 39,51,300/-</p>	<p>O.O.P: 03.10.2024</p>
3	<p>CR/6395/2025</p> <p>Shuchi Bansal and Vineet Bansal</p>	<p>5th floor</p>	<p>BBA: 30.12.2018 (page 27 of complaint)</p>	<p>19. The Company shall pay a monthly assured return of Rs. 14,625/- on the total amount</p>	<p>T.S.C: Rs. 39,51,300/-</p>	<p>O.O.P: 07.10.2024</p>

Vs. M/s Neo Developers Pvt. Ltd. DOF: 24.12.2025 Reply: Not filed	500 sq. ft. (page 30 of complaint)	MOU: 30.12.2018 (page 46 of complaint)	<i>received with effect from 28.12.2018 before deduction of Tax at Source, Cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottee(s) to the Company and the balance slae consideration shall be payable by the Allottee(s) to the Company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee(s) from the end of effective date II until the commencement of firs lease on the said unit. This shall be paid from the effective date.</i>	(as per payment plan on page no. 45 of complaint) A.P.: Rs. 17,86,680/-	
Relief sought by the complainant(s) in abovementioned complaints: -					
<ol style="list-style-type: none"> 1. Direct the respondent to restore the unit of the complainants and to get the conveyance deed executed in favor of the complainants as the total price of the unit has been paid by the complainants as per the offer of possession letter. 2. Direct the respondent to pay the monthly assured returns as per terms of the MOU dated 07.11.2020. 3. Direct the respondent to withdraw and waive off the demands in respect of development charges, FTTH charges, labour cess charges raised in offer of possession. 4. Direct the respondent to withdraw and waive off the demands towards fit out charges raised. 5. Direct the respondent not to charge anything which is not the part of payment schedule of buyer's agreement. 					
Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:					
Abbreviation	Full form				
DOF	Date of filing of complaint				
BBA	Builder Buyer's Agreement				
MOU	Memorandum of Understanding				
TSC	Total sale consideration				
AP	Amount paid by the allottee/s				
OOP	Offer Of Possession				

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the builder buyer's agreement /MoU

executed between the parties in respect of subject unit for not handing over the possession by the due date, seeking the delayed possession charges, assured return and other charges.

5. The facts of all the complaints filed by the complainant-allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case **CR/6182/2025 titled as Dayanand Rana and Shakuntla Vs. M/s Neo Developers Pvt. Ltd.** are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

A. Project and unit related details.

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

CR/6182/2025 titled as Dayanand Rana and Shakuntla Vs. M/s Neo Developers Pvt. Ltd.

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.	3 rd Floor (page no. 34 of complaint)
7.	Unit area admeasuring	400 sq. ft. (page no. 34 of complaint)
8.	Buyer's agreement	07.11.2020 (page no. 31 of complaint)
9.	MOU	07.11.2020 (Page no. 50 of complaint)

10.	Possession clause	NA
11.	Due date of possession	07.11.2023 (calculated from the date of agreement)
12.	Assured return clause	<i>19. The Company shall pay a penalty of Rs. 49,500/- per month on the said unit. On the total amount received with effect from 09.11.2021 Subject to TDS, Taxes, Cess or any other levy which is due and payable by the Allottee(s) and which shall be adjusted in Total Sale Consideration; the balance total sale consideration shall be payable by the Allottee(s) to the Company in accordance with the Payment Schedule annexed as Annexure-I. The Penalty shall be paid to the Allottee(s) from the end of effective date II until the offer of possession letter date, on prorata basis.</i>
13.	Basic sale consideration	Rs. 41,22,000/- (as per payment plan at page 49 of complaint) Rs. 44,21,690/- (as per SOA at page no. 60 of complaint)
14.	Amount paid by the complainant	Rs. 40,32,000/- (as per SOA at page no. 60 of complaint)
15.	Occupation certificate	14.08.2024
16.	Offer of possession	24.12.2024 (page no. 58 of complaint)

B. Facts of the complaint.

7. The complainants have made following submissions in the complaint:

- i. That after going through the advertisement published by respondent in the newspapers and as per the brochure /prospectus provided by it, the complainants booked a commercial "space" bearing priority no. 146 on 3rd floor, measuring super area of 400 sq. feet in the upcoming project of the respondent named "NEO SQUARE" situated in Sector-109, Dwarka Expressway,

Gurugram for a total basic sale consideration of Rs. 36,00,000/- and total sale price of Rs. 41,22,000/- and the complainants have paid a sum of Rs. 44,21,796/- in respect of said unit.

- ii. That the respondent is in right to exclusively develop, construct and build commercial building, transfer or alienate the unit's floor space and to carry out sale deed, agreement to sell, conveyance deeds, letters of allotments etc.
- iii. That the buyer's agreement and memorandum of understanding were executed between the respondent and the complainants on 07.11.2020.
- iv. That the complainants have abided by all the terms of MOU and builder buyer agreement dated 07.11.2020 and have made all the payments/ installments in a timely manner as and when demanded by the respondent and there are no dues pending in respect of the total basic sale price of the unit/space.
- v. That as per clause-4 of the MOU dated 07.11.2020, the respondent was/is under legal obligation and was bound to pay the monthly assured return of Rs. 49,500/- on the total amount receipt w.e.f. 09.11.2021 until the possession letter.
- vi. That the respondent/ developer has failed to honour its own commitment of paying the monthly assured returns and has not paid a single installment towards the monthly assured return. The complainants have been communicating with the respondent/ developer and have made several requests in respect of the payment of the assured returns by visiting the respondent/ developer personally but the respondent/ developer has not paid any heed to the just and genuine demands of the complainants and has been lingering on the demands of the complainants on one pretext or the other.
- vii. That the respondent after receiving of occupation certificate issued demand notice and officer of possession letter dated 24.12.2024, wherein contravention to the terms of builder buyer agreement and MOU dated 07.11.2020 has raised

unlawful demands on account of development charges to the tune of Rs. 2,83,000/-, FTTH Charges to the tune of Rs. 6490/-, Labour Cess to the tune of Rs. 10,000/-. The demands raised by the respondent in the said demand notice are not part and parcel of the payment schedule (Annexure-1) of the buyers agreement and these demands are being raised illegally and in an arbitrary manner by the respondent with the sole intention to extort more money from the complainants.

- viii. That the complainants visited the office of the respondent for seeking clarification on the additional charges related to development charges, labour cess and FTTH Charges as they were not part of the payment schedule, but the respondent pressurized the complainants to pay the above said demands in order to get the conveyance deed executed in their favour.
- ix. That the complainants believing upon their representations and assurances of the respondent under protest paid the final installment amount of Rs. 3,89,769/- as demanded by the respondent in the offer of possession letter dated 24.12.2024.
- x. That the respondent in contravention of the buyers agreement and MOU dated 07.11.2020 has raised a unlawful demand for fitout charges to the tune of Rs. 16,52,000/- vide letter dated 28.02.2025, despite of the fact that such charges are not part and parcel of the buyers agreement and MOU dated 07.11.2020 and neither such charges were disclosed to the complainants at the time of booking of their unit/space.
- xi. That the complainants after receiving the letter for fitout charges contacted the respondent and also sent a letter dated 11.03.2025, requesting the respondent for seeking clarifications on the breakdown of costing of the fitout charges, particulars of the contract executed with the contractor for carrying of fitout works, quantum of lease rent received on the lease executed by the respondent,

and the due payment of their monthly assured returns, but the respondent failed to response and kept complete silence to any of the valid and genuine justifications sought by the complainants in respect of their unit.

- xii. That the respondent instead of replying to the grievances of the complainants sent a reminder letter dated 17.04.2025 for seeking fitout charges and is bent upon to extort money illegally from the complainants on the account of fitout charges.
- xiii. That when the complainants did not received any reply from the respondent on the grievances made in the above said letter dated 11.03.2025 and by continues intimidating threats via reminder letter for seeking fitout charges, the complainants sent a legal notice dated 02.05.2025 to the respondent, which was duly received by the respondent directing the respondent to provide details justification and breakup of fitout charges, to disclose the rent amount received on the lease made by the respondent and to compensate the complainants on account of pending assured returns, but the respondent again failed to respond to the legal notice and has continued to keep silence and has not bothered to address any grievances of the complainants made in the said legal notice.
- xiv. That the complainants have made umpteen efforts to the respondent to seek clarification upon the fitout charges and to get their conveyance deed executed as they have paid the final installments as demanded by the respondent vide offer of possession letter dated 24.12.2024, but the respondent has not paid any heed to the just and genuine request of the complainants.
- xv. That the respondent even after multiple and genuine request of the complainants refused to get the conveyance deed executed and is further pressurizing the complainants to pay the fitout charges in order to get the conveyance deed executed in their favour.

- xvi. That the respondent in an arbitrary and illegal manner sent a letter dated 24.11.2025 for the cancellation of the allotment on the account of non-payment of fitout charges, raised via letter dated 25.10.2025, despite the fact that the fitout charges are not part of the sale consideration of the unit and are only for the lease facilitation and despite of paying the entire total sale price as demanded by the respondent in the offer of possession letter dated 24.12.2024.
- xvii. That the respondent has illegally cancelled the allotment of the unit despite of receiving the entire sale consideration amount in respect of the unit and even after satisfying the entire demands raised by the respondent in the offer of possession letter dated 24.12.2024 which is immoral, illegal and amounts to unfair trade practice.
- xviii. That the respondent is further holding the unit of the complainants unlawfully and has denied to get the conveyance deed executed in favour of the complainants on account of fitout charges and has now illegally cancelled the allotment of the complainants in order to extort the money from the complainants on pretext of fitout charges, even though the complainants have sent written and verbal intimations to the respondent to adjust the fitout expenses as allowed by the Hon'ble Authority in the related cases towards their pending assured returns.

C. Relief sought by the complainants

8. The complainants have sought the following relief(s):

- I. Direct the respondent to restore the unit of the complainants and to get the conveyance deed executed in favor of the complainants as the total price of the unit has been paid by the complainants as per the offer of possession letter.
- II. Direct the respondent to pay the monthly assured returns as per terms of the MOU dated 07.11.2020.

- III. Direct the respondent to withdraw and waive off the demands in respect of development charges, FTTH charges, labour cess charges raised in offer of possession.
- IV. Direct the respondent to withdraw and waive off the demands towards fit out charges raised.
- V. Direct the respondent not to charge anything which is not the part of payment schedule of buyer's agreement.

9. The present complaint was filed on 09.12.2025. The counsel for the respondent has not filed the reply in the registry of the Authority. Despite multiple opportunities for filing reply on 19.12.2025, 09.01.2026, 13.02.2026. Despite specific directions, it failed to comply with the orders of the authority. It shows that the respondent was intentionally delaying the procedure of the Authority by avoiding to file written reply. Therefore, in view of order dated 13.02.2026, the defence of the respondent was struck off..

10. 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.

D. Jurisdiction of the Authority

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

D.I Territorial jurisdiction

12. 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.

D.II Subject matter jurisdiction

13. 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.

14. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

E. Findings on the relief sought by the complainants.

E.I Direct the respondent to pay the monthly assured returns as per terms of the MOU dated 07.11.2020.

15. The complainants are seeking unpaid assured returns on monthly basis as per the terms of the MoU at the rates mentioned therein. It is pleaded that the respondent has not complied with the terms and conditions of the said MoU.

16. The respondent has submitted that the complainants in the present complaint is claiming the reliefs on basis of the terms agreed under the MoU between the parties which is a distinct agreement than the buyer's agreement and thus, the MoU is not covered under the provisions of the Act, 2016. Thus, the said complaint is not maintainable on this basis that there exists no relationship of

builder-allottee in terms of the MoU, by virtue of which the complainants are raising their grievance.

17. It is pleaded on behalf of respondent/builder that after the Banning of Unregulated Deposit Schemes Act of 2019 came into force, there is bar for payment of assured returns to an allottee. But the plea advanced in this regard is devoid of merit. Section 2(4) of the above mentioned Act defines the word 'deposit' as *an amount of money received by way of an advance or loan or in any other form, by any deposit taker with a promise to return whether after a specified period or otherwise, either in cash or in kind or in the form of a specified service, with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include:*

(i) *an amount received in the course of, or for the purpose of business and bearing a genuine connection to such business including*

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

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

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

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

19. So, keeping in view the above-mentioned provisions of the Act of 2019 and the Companies Act 2013, it is to be seen as to whether an allottee is entitled to assured returns in a case where he has deposited substantial amount of sale consideration against the allotment of a unit with the builder at the time of booking or immediately thereafter and as agreed upon between them.
20. The Government of India enacted the Banning of Unregulated Deposit Schemes Act, 2019 to provide for a comprehensive mechanism to ban the unregulated deposit schemes, other than deposits taken in the ordinary course of business and to protect the interest of depositors and for matters connected therewith or incidental thereto as defined in Section 2 (4) of the BUDS Act 2019.
21. The money was taken by the builder as a deposit in advance against allotment of immovable property and its possession was to be offered within a certain period. However, in view of taking sale consideration by way of advance, the builder promised certain amount by way of assured returns for a certain period. So, on his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of his grievances by way of filing a complaint.
22. The Authority under this Act has been regulating the advances received under the project and its various other aspects. So, the amount paid by the complainants to the builder is a regulated deposit accepted by the latter from the former against the immovable property to be transferred to the allottee later on. If the project in which the advance has been received by the developer from an allottee is an ongoing project as per Section 3(1) of the Act of 2016 then, the same would fall within the jurisdiction of the authority for giving the desired relief to the complainants besides initiating penal proceedings. The promoter is liable to pay that amount as agreed upon. Moreover, an agreement/MoU defines the builder-buyer relationship. So, it can be said that the agreement for assured

returns between the promoter and allottee arises out of the same relationship and is marked by the said memorandum of understanding.

23. In the present complaint, the assured return was payable as per clause 19 of the MoU dated 07.11.2020, which is reproduced below for the ready reference:

19.

The Company shall pay a penalty of Rs. 49,500/- per month on the said unit. On the total amount received with effect from 09.11.2021 Subject to TDS, Taxes, Cess or any other levy which is due and payable by the Allottee(s) and which shall be adjusted in Total Sale Consideration; the balance total sale consideration shall be payable by the Allottee(s) to the Company in accordance with the Payment Schedule annexed as Annexure-I. The Penalty shall be paid to the Allottee(s) from the end of effective date II until the offer of possession letter date, on prorata basis.

24. Thus, as per the abovementioned clause the assured return was payable @Rs.49,500/- per month w.e.f. 09.11.2021, until the offer of possession letter.

25. In light of the above, the Authority is of the view that as per the MoU dated 07.11.2020, it was obligation on part of the respondent to pay the assured return till the possession of said unit. The occupation certificate for the project in question was obtained by the respondent on 14.08.2024 and offer for possession was made on 24.12.2024. Accordingly, the respondent/promoter is liable to pay assured return to the complainants at the agreed rate i.e., @Rs. 49,500/- per month from the date i.e., 09.11.2021 till the date of offer of possession after deducting the amount already paid on account of assured return to the complainants.

E.II. Direct the respondent to restore the unit of the complainants and to get the conveyance deed executed in favor of the complainants as the total price of the unit has been paid by the complainants as per the offer of possession letter.

26. The complainants are seeking relief w.r.t the restoration of unit as the respondent has cancelled his their unit vide cancellation letter dated 24.11.2025. the authority observes that the complainants has already paid an amount of Rs. 40,32,000/- out of total sale consideration of Rs. 41,22,000/- which is a substantial amount. Therefore, the cancellation of the unit is invalid. Similarly, in other cases CR/6394/2025 and CR/6395/2025 also the cancellation of the unit is invalid.
27. Further, as per Section 11(4)(f) and Section 17(1) of the Act, 2016 the promoter is under obligation to get the conveyance deed executed in favour of the complainants. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
28. Since the respondent promoter has obtained occupation certificate on 14.08.2024. The respondent is directed to get the conveyance deed executed within a period of three months from the date of this order.
- E.III Direct the respondent to withdraw and waive off the demands in respect of development charges, FTTH charges, labour cess charges raised in offer of possession.**
- E.IV Direct the respondent to withdraw and waive off the demands towards fit out charges raised.**
- E.V Direct the respondent not to charge anything which is not the part of payment schedule of buyer's agreement.**
29. The complainants have raised objection towards the fit out charges raised by the respondent and is seeking relief to waive off the demand of the same as they were not part of agreement nor the MoU executed between parties. The respondent submitted that as per the Clause 8 of the MoU executed between the parties the complainants have agreed to pay such charges. The said clause is reiterated below for ready reference:

(d)

That the Allottee(s) further agrees and understands that in case the tenant desires any infrastructural changes in form of separate sewage arrangement or the gas pipeline or any other change which involves expense on the part of allottee(s), then in that event the same shall be paid by the Allottee, strictly within the period of 15 days from the day of written notification by the company on the registered e-mail address of the allottee(s). In case the allottee(s) fails to come forward to tender the payment as demanded by the Company then in that event the company shall bear the same from its own pocket and deduct the same from the rental payable to the allottee(s) with monthly interest of 2%. The allottee(s) shall not register any protest towards the deductions from the rental. The rent shall be paid to the allottee(s) in the above mentioned arrangement defined at clause 7(b) after the expense incurred by the company along with the monthly interest of 2% is recovered by the company from the rent received.

30. Upon understanding of the said clause, it is clear that Clause 8(d) of the MoU do mention about the allottee being responsible for certain additional charges, such as when a tenant requires like a separate sewage arrangement, gas pipeline, or other infrastructural changes. However, the clause has been worded in very broad terms and does not define any extent for determining such charges. This creates a grey area. Also, the complainants should have taken note of this clause while executing the MoU, as it reflects an understanding between the parties that such additional charges may arise. The clause also refers to expenses for infrastructural changes which may fall within the scope of fit out charges. However, the respondent cannot use the clause terms to impose demands in an excessive manner.
31. Therefore, if the respondent seeks to levy fit out charges it must first intimate the allottee about the request of the tenant or lessee for such work and the necessity of carrying it out. Without such prior intimation, the allottee cannot be made liable for additional financial burden after the work has already been executed. Further, the respondent is required to provide full justification of the charges by submitting a proper breakup of costs, supporting invoices and other relevant documents, and preferably a certification from a competent architect or engineer confirming both the necessity of the works and the reasonableness of

the expenditure. Only when such proof, along with evidence of intimation to the allottee about the lessee's request and the necessity of the work, is furnished, can the fit-out charges be considered as falling within the scope of Clause 8(d) of the MoU. In the absence of such substantiation, the demand raised in its present form cannot be imposed on the complainants.

32. Further, the complainants are seeking relief with regard to the waiver of the Development charges, Labour Cess, FTTH charges.

- **Labour cess**

33. Labour cess is levied @ 1% on the cost of construction incurred by an employer as per the provisions of sections 3(1) and 3(3) of the Building and Other Construction Workers' Welfare Cess Act, 1996 read with Notification No. S.O 2899 dated 26.09.1996. It is levied and collected on the cost of construction incurred by employers including contractors under specific conditions. Moreover, this issue has already been dealt with by the authority in complaint bearing no.962 of 2019 titled as "**Mr. Sumit Kumar Gupta and Anr. Vs Sepset Properties Private Limited**" wherein it was held that since labour cess is to be paid by the respondent, as such no labour cess should be charged by the respondent. The authority is of the view that the allottee is neither an employer nor a contractor and labour cess is not a tax but a fee. Thus, the demand of labour cess raised upon the complainants are completely arbitrary and the complainants cannot be made liable to pay any labour cess to the respondent and it is the respondent builder who is solely responsible for the disbursement of said amount.

- **Development charges**

34. The undertaking to pay the development charges was comprehensively set out in the buyer agreement in clause 11. The said clause of the agreement is reproduced hereunder: -

"11.

*That the Allottee agrees to pay all taxes, charges, Levies, cesses, applicable as on dated under any name or category heading and or levied in future on the land and or the said complex and/or the said space at all times, these would be including but not limited to GST. **Development charges, Stamp Duties, Registration Charges, Electrical Energy Charges, EDC Cess, IDC Cess, BOW Cess, Registration Fee, Administrative Charges, Property Tax, Fire Fighting Tax and the like. These shall be paid on demand and in case of delay. these shall be payable with interest by the Allottee"***

35. In light of the aforementioned facts, the Authority is of the view that the said demand for development charges is valid since these charges are payable to various departments for obtaining service connections from the concerned departments including security deposit for sanction and release of such connections in the name of the allottee and are payable by the allottee. Hence, the respondent is justified in charging the said amount. In case instead of paying individually for the unit if the builder has paid composite payment in respect of the development charges, then the promoter will be entitled to recover the actual charges paid to the concerned department from the allottee on pro-rata basis i.e. depending upon the area of the unit allotted to the complainants viz- à- viz the total area of the particular project. The complainants will also be entitled to get proof of all such payment to the concerned department along with a computation proportionate to the allotted unit, before making payment under the aforesaid head.

- **FTTH Charges**

36. The respondent apprised the Authority that the respondent is liable to raise the said demands under clause 11 as had been agreed between the parties. The

Authority takes a note that Clause 11 as already elaborated above does not mention about the FTTH charges being payable by the complainants. Hence, the respondent shall only raise demand as per the agreed terms of the agreement and MoU executed between the parties.

- **Holding charges**

37. The term holding charges or also synonymously referred to as non-occupancy charges become payable or applicable to be paid if the possession has been offered by the builder to the owner/allottee and physical possession of the unit not taken over by allottee, but the flat/unit is lying vacant even when it is in a ready-to-move condition. Therefore, it can be inferred that holding charges is something which an allottee has to pay for his own unit for which he has already paid the consideration just because he has not physically occupied or moved in the said unit.
38. In the case of *Varun Gupta vs Emaar MGF Land Limited, Complaint Case no. 4031 of 2019 decided on 12.08.2021*, the Hon'ble Authority had already decided that the respondent is not entitled to claim holding charges from the complainants at any point of time even after being part of the builder buyer agreement as per law settled by the *Hon'ble Supreme Court in Civil Appeal nos. 3864-3899/2020 decided on 14.12.2020*. The relevant part of same is reiterated as under-

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

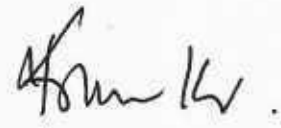
39. Therefore, in view of the above the respondent is directed not to levy any holding charges upon the complainants.

F. Directions of the authority

40. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondent/promoter is directed to pay the assured return to the complainants per month as per the MoU dated 07.11.2020 at the agreed rate i.e., @Rs.49,500/- per month from the date i.e., 09.11.2021 till the date of offer of possession of the unit after deducting the amount already paid on account of assured return to the complainants.
- ii. In CR/6394/2025 the respondent/promoter is directed to pay assured return to the complainant per month as per the MoU dated 19.12.2018 at the agreed rate i.e., @Rs.32,500/- from the date i.e., 19.12.2018 till the commencement of first lease after deducting the amount already paid on account of assured return to the complainant.
- iii. In CR/6395/2025 the respondent/promoter is directed to pay assured return to the complainants per month as per the MoU dated 30.12.2018 at the agreed rate i.e., @Rs.14,625/- from the date i.e., 28.12.2018 till the commencement of first lease after deducting the amount already paid on account of assured return to the complainants.
- iv. The respondent/promoter is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, failing which that amount would be payable with interest @8.80% p.a. till the date of actual realization.

- v. The respondent shall not charge anything from the complainants which is not part of the MoU or buyers' agreement. The respondent is not entitled to charge holding charges from the complainants/ allottee at any point of time even after being part of the builder buyer's agreement as per law settled by *Hon'ble Supreme Court in Civil Appeal nos. 3864-3889/2020 on 14.12.2020*.
- vi. The respondent is directed to get the conveyance deed executed within a period of three months after depositing necessary payment of stamp duty and registration charges as per applicable local laws from the date of this order.
41. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
42. The complaints stand disposed of.
43. Files be consigned to registry.



(Arun Kumar)
Chairman

HARERA
Haryana Real Estate Regulatory Authority, Gurugram
Dated:13.02.2026