

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

Complaint no.	:	2403 of 2025
Date of Filing:		13.05.2025
Date of Decision:		13.02.2026

1. Kunal Jain
2. Rohit

R/o: D-441, Palam Extension, Sector-7,
Dwarka Delhi-110077, India

Complainants

Versus

M/s Neo Developers Pvt. Ltd.
Office: 32-B, Pusa Road, New Delhi - 110005

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Sukhbir Yadav
None

Advocate for the complainants
Advocate for the respondent

ORDER

1. The present complaint has been filed by the complainants/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	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. 45 of complaint)
7.	Unit area admeasuring	300 sq. ft. (page no. 45 of complaint)
8.	Date of MOU	30.11.2019 (page no. 30 of complaint)
9.	Buyer's agreement	30.11.2019 (page no. 42 of complaint)
10.	Possession clause	NA
11.	Assured return Clause	<i>19. The Company shall pay a penalty of Rs. 29,973/- per month on the said unit. On the total amount received with effect from 01.12.2020 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. (page no. 33 of complaint)</i>

12.	Basic sale consideration	Rs. 15,00,000,- (as per BBA at page 45 of complaint) Rs. 19,73,890/- (As per SOA at page no. 64 of complaint)
13.	Amount paid by the complainants	Rs. 16,80,000/- (As per SOA at page no. 64 of complaint)
14.	Occupation certificate	14.08.2024
15.	Offer of possession	04.12.2024 (page no. 62 of complaint)

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:
- I. That complainants entered into memorandum of understanding and builder buyer agreement with the company on 30.11.2019. Mr. Ashish Anand Director of the company explained the site plan wherein it was provided that the third and fourth floor of the building consists of restaurant and food court which is above the floors consisting of retail stores. It was explained that the 3rd & 4th floor would be solely dedicated to modern restaurants, lounge and food court. Mr. Ashish Anand, Director of the Company again assured that there will be no delay in making payment towards the assured return under any circumstances and the property would be constructed and delivered within 36 months period from entering of the MoU since Company has already entered into agreements with big brands such as Pizza Hut, McDonald's, KFC, Nike, Inox Cinema etc.
 - II. Further, it was assured that the respondent company would pay a penalty to the complainants until the possession of property is not offered, if respondent fails to offer possession within a year. Mr. Ashish Anand, Director, assured the complainants that the project would be state-of-the-art and that the company had obtained all the mandatory

permissions/clearances to construct the project, which would be constructed strictly in conformity with the sanctioned plan. The complainants purchased a commercial unit (restaurant) on the third floor and executed the memorandum of understanding dated 30.11.2019 having area admeasuring 300 sq. ft. super built up area at the rate of Rs. 5,000/- per sq. ft. wherein commercial unit no. 115 was assigned on 3rd floor.

- III. That the complainants paid a sum of Rs. 16,80,000/- towards consideration of the commercial unit no. 115. It was agreed under the MOU that a monthly penalty of Rs. 29,973/- shall be payable to allottee from 01.12.2020, if company fails to offer possession by 01.12.2020 and it was also agreed by the company that responsibility of assured return to be paid by company shall cease on commencement of first lease of the said unit.
- IV. That the company sent an Email dated 09.04.2020 to the complainants in order to oblivate itself from its responsibility of paying monthly assured return, the company invoked force majeure clause despite the fact that no such clause pertaining to force majeure exist either in MOU.
- V. That despite assurance of completion of construction of project within 36 months of purchasing the unit or from the commencement of construction, the construction has still not been completed even after passage of almost 6 years. The structure of only office building is constructed but which is also nowhere near to completion.
- VI. The company has issued a demand notice and offer of possession dated 04.12.2024 stating that the occupation certificate (OC) has been received and possession is now being offered, subject to clearance of outstanding dues and required documentation. Despite previously



committing to assured returns, the company haven't paid even a single penny and is now demanding full payment for possession, warning that delays will incur holding charges, CAM charges and interest per the builder buyer agreement. The company also sent reminder letter - 1 and reminder letter - 2 dated 14.02.2025 and 25.02.2025 respectively to the complainants for payment of the alleged amount due against the complainants.

- VII. That the respondent vide demand notice dated 04.03.2025 titled as "possession final reminder for demand notice payment and offer of possession" demanded an amount of Rs. 3,12,857/- allegedly due on 12.12.2024. The respondent further stated that failure to make the said payment would result in the cancellation and termination of the allotment of the said unit. It is submitted that the payment towards the unit has already been done by the complainants and therefore the respondent cannot cancel and or terminate the allotment of the unit.
- VIII. That the original annexure-1 for payment annexed with the MoU dated 30.11.2019 explicitly stated that at the time on offer of possession the company would charge IFMS, Registration, Stamp Duty, Other Charges as applicable, and EDC+IDC (Not Applicable). However, the new demand raised via email dated 04.12.2024 is not in consonance with the original Annexure-1 of the payment plan and is therefore illegal, null and void as the respondent company cannot charge as to what is not included in the MOU and BBA.
- IX. Despite receiving the OC, the respondent failed to handover the possession as well as convey the title of the property in favour of the complainants. Further, without paying the assured return pending

since December, 2019, the respondent is illegally demanding the money such as development charges, FTTH charges.

- X. That the respondent has no intention to complete the project since no permission is available to construct the project beyond the office tower. Further, by refusing to give assured return, it is abundantly clear that the respondent has not abide by the terms and conditions of the agreement.
- XI. The respondent under the garb of force-majeure is delaying the completion of the project. It is submitted that no fresh construction has been carried out in the project since 2019. The completion certificate of the respondent has been denied on several occasion, and on 15.12.2021 the representative of the respondent has admitted before the Senior Town Planner, Gurugram that the project is not complete and they had withdrawn the application seeking completion certificate in the year 2020.

C. Relief sought by the complainants:

4. The complainants in the present complaint are seeking the following relief(s).
- (i) Direct the respondent to pay assured returns @ Rs. 81.75/- per sq. ft. per month amounting to Rs. 24,525/- for unit no. 115, since December, 2019 till handing over the possession/leasing out the property after completion.
- (ii) Restrain the respondent from entering the lease deed with 3rd party till the completion of project and handing over the possession to the complainants.

- (iii) Direct the respondent to pay the penalty charges Rs. 29,973/- per month shall be payable to allottee from 01.12.2020 with interest as per RERA Act.
 - (iv) Restrain the respondent from terminating or cancelling the unit of the complainants and to set aside the final reminder dated 04.03.2025.
 - (v) To execute the sale deed in favour of the complainants for the unit immediately.
5. The present complaint was filed on 13.05.2025. The counsel for the respondent has not filed the reply in the registry of the Authority and none appearing on behalf of respondent. The authority sent notice which is duly served to the respondent-builder to appear and argue in the matter but on hearing dated 26.09.2025, 28.11.2025, 09.01.2026, 06.02.2026 and 13.02.2026 it failed to appear and argue the matter. It shows that the respondent was intentionally delaying the procedure of the Authority by avoiding to file written reply. Therefore, the authority assumes/ observes that the respondent has nothing to say in the present matter and accordingly the authority proceeds the case exparte against the respondent.
6. 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

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

D.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.

D.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 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 reliefs sought by the complainants:

- i. Direct the respondent to pay assured returns @ Rs. 81.75/- per sq. ft. per month amounting to Rs. 24,525/- for unit no. 115, since

- December, 2019 till handing over the possession/leasing out the property after completion.**
- ii. Restrain the respondent from entering the lease deed with 3rd party till the completion of project and handing over the possession to the complainants.**
 - iii. Direct the respondent to pay the penalty charges Rs. 29,973/- per month shall be payable to allottee from 01.12.2020 with interest as per RERA Act.**
 - iv. Restrain the respondent from terminating or cancelling the unit of the complainants and to set aside the final reminder dated 04.03.2025.**
11. In the instant complaint, the complainants duly booked a unit located on the Third Floor admeasuring 300 sq. ft. in the respondent's project namely, Neo Square situated at Sector-109, Gurugram. The Memorandum of Understanding (MOU) was executed between the parties dated 30.11.2019 and on the same date the builder buyer agreement was also got executed between the parties.
12. The complainants in the present complaint are seeking relief w.r.t payment of assured return as per the terms of the MoU dated 30.11.2019. The complainants have submitted that as per clause 19 of the said MoU, it was agreed that the respondent would pay monthly penalty charges of Rs.29,973/- with effect from 01.12.2020 until the offer of possession of the said unit. The complainants are seeking unpaid assured return on monthly basis as per the MoU dated 30.11.2019 at the rates mentioned therein. It is pleaded by the complainants that the respondent has not complied with the terms and conditions of the said MoU.

13. In the present complaint, the assured return was payable as per clause 19 of the MoU dated 30.11.2019, which is reproduced below for the ready reference:

19. The Company shall pay a penalty of Rs. 29,973/- per month on the said unit. On the total amount received with effect from 01.12.2020 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. .

14. Thus, the assured return was payable @Rs.29,973/- per month w.e.f. 01.12.2020, till the offer of possession of the said unit.
15. In light of the reasons mentioned above, the authority is of the view that as per the MoU dated 30.11.2019, it was obligation on part of the respondent to pay the assured return. It is necessary to mention here that the respondent has failed to fulfil its obligation as agreed inter se both the parties in MoU dated 30.11.2019. Further, it is to be noted that on 14.08.2024 the occupation certificate for the unit was received and thereafter the possession of the unit was offered on 04.12.2024. Hence, the respondent/promoter is liable to pay assured return to the complainants at the agreed rate i.e., @Rs.29,973/- per month from the date i.e., 01.12.2020 till the offer of possession of the said unit i.e., 04.12.2024.
16. The complainants are also seeking direction w.r.t the non cancellation of unit. The respondent/promoter shall not charge anything from the complainants which is not part of the MoU or buyers' agreement.
- v. **To execute the sale deed in favour of the complainants for the unit immediately.**

17. 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.
18. 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.

F. Directions of the authority

19. 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 30.11.2019 at the agreed rate i.e., @Rs.29,973/- per month from the date i.e., 01.12.2020 till offer of possession i.e., 04.12.2024 after deducting the amount already paid on account of assured return to the complainants.
 - ii. 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.
 - iii. The respondent shall not charge anything from the complainants which is not part of the MoU or buyers' agreement.

- iv. 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.
20. Complaint as well as applications, if any, stands disposed off accordingly.
21. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.02.2026