

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

Complaint No: 1702 of 2023
Date of complaint: 17.04.2023
Date of order: 27.01.2026

Vivek Chauhan
R/o: H. No.-363/1, Bhim Garh Kheri,
Gurugram-122001.

Complainant

Versus

Vatika Limited
Registered Office at: Unit A-002, INXT City
Centre, Ground Floor, Block A, Sector-83,
Vatika India Next, Gurugram- 122012

Respondent

CORAM:

Shri Arun Kumar

Chairman

Shri Phool Singh Saini

Member

APPEARANCE:

Ms. Monika & Sh. Nikhil (Advocates)

Complainant

Shri Anurag Mishra (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 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 thereunder or to the allottees 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, delay period, if any, have been detailed in the following tabular form:

S. N.	Particulars	Details
1.	Name and location of the project	"Vatika India Next-Aspiration" at Sector-88B, Gurugram.
2.	Nature of Project	Residential Plotted Colony
3.	DTCP license no. and validity status	i. 13 of 2022 dated 24.02.2022 valid up to 23.02.2027 ii. 152 of 2022 dated 29.09.2022 valid up to 28.09.2027
4.	Name of Licensee	Vatika Limited and others
5.	Rera registered/ not registered and validity status	Registered Vide registration no. 130 of 2022 dated 23.12.2022 Valid up to 30.06.2024
	Extension of RERA registration	RC/EXT./2025/02 dated 14.01.2025 valid up to
6.	Unit No.	B3-10 (As per the request for booking of plot dated 03.10.2020 on page no. 22 of the complaint).
8.	Unit area admeasuring	153.36 sq. yds. (As per the request for booking of plot dated 03.10.2020 & 21.10.2020 at page 22 & 23 of complaint).
9.	Request of booking of plot	03.10.2020 (As per page no. 22 of the complaint)
10.	Allotment letter	N.A.
11.	Date of buyer agreement	Not executed
12.	Possession clause	N. A
13.	Due date of possession	N. A

14.	Total Sale Consideration	Rs.80,20,728/- (As per the request for booking of plot dated 03.10.2020 on page no. 22 of the complaint).
15.	Amount paid by complainant	Rs.14,00,000/- (As admitted in reply by the respondent)
16.	Completion certificate	Not obtained
17.	Offer for possession	Not offered
18.	Mail from respondent (for shifting of project to sector 88)	05.03.2021 (As per page no. 29 of the complaint)
19.	Mail from respondent (for cancellation & refund of Rs.14,00,000/-)	02.11.2022 (As per page no. 33 of the complaint)
20.	Demand cum Legal Notice (for providing physical possession & execution of BBA)	Undated & unsigned (As per page no. 34 of the complaint)
21.	Mail by allottee/complainant (to continue with project & execution of BBA)	27.12.2022 & 05.02.2023 (As per page no. 39 of the complaint)

B. Facts of the complaint:

3. The complainant has made the following submissions:
 - I. That the above-mentioned project is a 'Deen Dayal Awas Yojna Affordable Housing Project' and respondent is the developer/promoter of the aforesaid project and have developed, sold and marketed aforesaid project.
 - II. That the respondent always advertised itself a very ethical business group that lives onto its commitments in delivering its housing projects as per promised quality and agreed timelines. The respondent while launching and advertising any new housing project always commits and promises to targeted consumer that their dream home/property will be completed and delivered to them within the time agreed initially in the agreement while selling unit to them. They also assured the consumer like complainant that

they have secured all the necessary sanctions and approvals from the appropriate authorities for the construction and completions of the real estate project sold by them to the consumers in generals.

- III. That in year 2020, the respondent through its agents approached the complainant with an offer to invest in its above mentioned residential plots and the respondent promised the complainant that if complainant booked the plot they will allot the said plot in the name of the complainant by executing the builder buyer's agreement immediately upon the booking and in just couple of months they will provide physical possession. It was also assured by the respondent that they will not accept any payment before the execution of B.B.A. with the complainant for the said plot.
- IV. That the plot booked in year 2020 and the total sale consideration of plot is Rs.80,20,728/-.
- V. That in month of September, 2020 at the time of booking of the plot property, respondent asked to pay only the booking amount of Rs.4,00,000/-. Subsequently, the complainant paid above said amount through cheque dated 25.09.2020 in the name of Vatika Limited.
- VI. That after booking above said property respondent provided the letter "Expression of Interest", which is provided in two copies.
- VII. That in the Month of October, 2020, the representatives of the respondent pressurized the complainant for making further payment, but when complainant asked for allotment letter and to execute builder buyer's agreement first, at that time, respondent promised for allotment letter as well as to execute builder buyer's agreement immediate after this payment. Therefore, after receiving assurance from the respondent, the complainant gave Rs.10,00,000/- through (RTGS) and Rs.16,00,000/- in cash.
- VIII. That at the time of selling the said plot to the complainant it was represented by the respondent that it has already secured the development license from

the office of DTCP for the said project, but now the complainant got to know from other sources that the respondent accepted the payment for the booking of the said plot in month of September, 2020 and currently they don't not even holding any license for the development of the said project and the respondent therefore committed the fraud with the innocent complainant.

- IX. That no construction/plotting of whatsoever nature has been started at the said project by the respondent till today despite receiving the major portion of the payment towards the sale consideration for the said plot and therefore have committed fraud with the complainant in contravention of the provisions of the Act of 2016.
- X. That said project is not even registered with the Authority as complainant booked the plot, which proves that the main objective of the respondent was to cheat and defraud the complainant amongst many other such innocent buyers.
- XI. That the respondent assured the complainant that they would issue the allotment and execute the builder buyer's agreement. However, the respondent did not fulfill its promise even after taking numerous installments and have not executed the agreement to sell (BBA) as agreed by it till today. These acts of the respondent clearly showcase the respondent's scheme to extract of the payment from the complainant without carrying out any sort of construction and development work at the said project.
- XII. That the respondent, neither executed builder buyer's agreement nor issued allotment letter for the said plot in favor of complainant in the most illegal and arbitrary manner, but to extort more money without delivery any of its promise. Even has threatened to cancel the allotment of said plot, though no allotment is issued by the respondent for the said plot till now.
- XIII. That on 05.03.2021, the complainant got utter shock after receiving a mail through respondent that they shifted property from Sector-89 to Sector-88B

without any information and without any consent taken by the complainant, as complainant went to the site with family for selecting plot at the time of booking.

- XIV. That the respondent has accepted more than 40% payment towards the sale consideration of the said plot without executing the agreement to sell as prescribed in Act, 2016 and thus contravened the provisions of the law and liable to be prosecuted under the relevant provisions of Act, 2016 for such contraventions.
- XV. That upon receiving such illegal threats for cancellation of the said plot, the complainant met the representatives of respondent's and told them that they are ready to make further payment provided the builder buyer's agreement is executed and the respondent assured that the allotment letter and builder buyer's agreement for the said plot would be executed at earliest.
- XVI. That after waiting for a couple of months the complainant sent a mail regarding execution builder buyer agreement but no reply received from respondent. The complainant sent again a mail for follow up on 17.10.2022 but again no reply received from the respondent.
- XVII. That respondent now illegally arbitrarily started demanding money towards the sale consideration of the said plot despite knowing that it is not legally entitled to demand any payment in excess of 10% of the sale consideration without executing the builder buyer's agreement with the complainant.
- XVIII. That the complainant again got utter shock after receiving a mail of cancellation of plot/property from respondent project. When the complainant went to meet representatives of the respondent, they were not even interested in meeting the complainant. These kinds of malpractice cannot be accepted by the repudiated company like Vatika Group. The complainant received mental shock after reading this mail.
- XIX. That after receiving cancellation mail from the respondent, the complainant

sent a legal notice on 12.01.2023. However, the respondent did not reply to legal notice.

- XX. That even after sending legal notice, the respondent did not call/send reply of legal notice, subsequently the complainant sent another mail on 05.02.2023 regarding need of booked property.
- XXI. That the conduct on part of the respondent has clearly manifested that the respondent never ever had any intention to deliver the said plot or execute any of its documents in favor of the complainant and always wanted to extort illegal money from the complainant. It has also cleared that respondent intentionally committed fraud with innocent complainant.

C. Relief sought by the complainant:

4. The complainant has sought following relief:
- i. Direct the respondent to handover the possession after completing requirements of the plot in all aspects to the complainant as soon as possible.
 - ii. Direct the respondent, not to cancel/alienate the allotment of the unit.
 - iii. Restrain the respondent from raising any fresh demand with respect to the project.
 - iv. Direct the respondent to provide allotment letter as well as direct to execute the BBA/conveyance deed/sale deed.
 - v. Direct the respondent not to change the location and charge anything irrelevant which has not been agreed to between the parties, which in any case is not payable by the complainant.
 - vi. Direct the respondent not to ask for the monthly maintenance charges for before giving actual possession of plot completed in all aspects.
 - vii. Direct the respondent not to force the complainant to sign any Indemnity cum undertaking indemnifying the builder from anything legal as a precondition for signing the conveyance deed.

- viii. Direct the respondent to kindly handover the possession of the plot after completing in all aspect to the complainant.
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.
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.

D. Reply by the respondent:

7. The respondent has contested the complaint on the following grounds:
- I. That the complaint is *prima facie* not maintainable and must be dismissed for being vexatious to law. The complainant has approached the Hon'ble Authority with unclean hands and has tried to mislead this Hon'ble Authority by making incorrect and false averments and stating untrue and/or incomplete facts.
 - II. That the complaint is liable to be dismissed as the complainant has come before this Hon'ble Authority with unclean hands and has hidden facts with an attempt to mislead the Authority. The complainant has tried to mislead this Hon'ble Commission by false and frivolous averments.
 - III. That the complainant has filed the present compliant with oblique motive of harassing the respondent and to extort illegitimate money while making absolutely false and baseless allegations against the respondent.
 - IV. That the complainant has not been allotted any plot till date and thus admittedly the complainant has not mentioned any specific plot number that he is asking for possession from the respondent. The case of the complainant is only limited that he had expressed interest in booking a plot with the respondent and had made a pre-deposit of Rs.4,00,000/-

towards the same however, unfortunately as the said project was already booked the respondent was not in the position to allot any plot to the complainant and the same was informed by the respondent to the complainant during his visit to the office of the respondent. It was only thereafter that the complainant requested that he intends to continue to invest the said amount in any other project of the respondent. Accordingly, the respondent had emailed the complainant for his consent to adjust his investment against its other project in Sector-88B. However, no confirmation has been received by the respondent against the said email.

- V. That the investment of the complainant to the tune of Rs.14,00,000/- is lying with the respondent which was never been adjusted against any confirmed booking as due to the non-confirmation of the complainant himself. Therefore, there arises no occasion of delayed possession and thus this complaint at hand is devoid of any cause of action. The only valid inference that can be drawn out of the futile attempt of the complainant by filing this complaint is that the complainant is an investor and seeks speculative gains.
- VI. That the complainant has not even annexed any payment receipts along with his complaint. As a matter of fact, the respondent always issued a payment receipt to all its homebuyers and never accepts any cash amount from any homebuyer. However, in the present case as the complainant has alleged that he has given Rs.16,00,000/- to some person at Westin Hotel, Gurugram, this in itself states that the complainant is trying to build up a false and fabricated story to entangle the respondent and to extract and extort money from the respondent. It grossly false and hence denied that any such payment of Rs.16,00,000/- was ever paid. It is matter of record that the respondent has never received any amount in cash. The

respondent is a reputed organization and has its office in Gurugram and it shall never ask anyone to give any cash amount against the booking. Furthermore, the respondent has never demanded the said amount of Rs.16,00,000/- from the complainant. The complainant should be put to strict proof to provide the demand letters raised by the respondent to the complainant. This entire bundle of lies is made up by the complainant to misled this Hon'ble Authority.

- VII. That allegedly the complainant transfers a sum of Rs.10,00,000/- on 21.10.2020 to the respondent via banking transactions and on the same date the complainant is alleging to have paid Rs.16,00,000/- cash to some unnamed person. This fact in itself raises serious doubt on the complainant and the complainant must be put to strict proof of the payment and demand made by the complainant.
- VIII. That the respondent had vide email dated 02.11.2022 had offered the complainant to take refund of Rs.14,00,000/- without any deduction however, the complainant has never come forward to take the refund of the said amount till date and is now making this complaint just to harass the respondent.
- IX. That the respondent has never received any legal notice from the complainant or his counsel and thus the contents of the said legal notice is denied in toto.
- X. That the respondent has just received Rs.14,00,000/- from the complainant which the respondent has offered to refund in November, 2022 and therefore the respondent is liable to refund of the said amount to the complainant without interest as it is the complainant who had never come forward to take the refund of the said amount and therefore the penalty of interest cannot be levied upon the respondent.

XI. That the respondent has clearly and categorically requested the complainant to take the refund of its amount that too without any deductions which shows the bonafide of the respondent and therefore the respondent should not be made to suffer for the wrongs done by the complainant.

XII. That the respondent has never issued any allotment letter to the complainant as the complainant had never confirmed for booking his investment in Sector-88B, Gurgaon and therefore the issue of handing over of possession does not arise in this case.

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

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 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 completed territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

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

Section 11....

(4) 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.

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

F. Maintainability of the complaint.

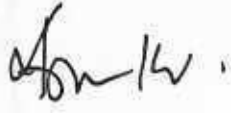
10. The complainant booked a unit in the project of the respondent namely, "Vatika India Next-Aspiration", situated at Sector-88B, Gurugram. The complainant has request for booking of the plot/unit on 03.10.2020 (annexed on page no. 22 of the complaint) and the complainant in furtherance of the said booking paid an amount of Rs.14,00,000/- to the respondent and Rs.30,00,000/- in cash alleged by the complainant in the facts of the complaint.
11. The respondent in its reply dated 04.01.2024 mentioned that the booking amount of Rs.14,00,000/- paid by the complainant is lied with the respondent and the same has never been adjusted due to non-confirmation of booking in the project and the respondent vide email dated 02.11.2022 offered the complainant to take the refund of Rs.14,00,000/- without any deductions but the complainant never turned up to take the same.
12. On perusal of the documents placed on record and facts stated above, the Authority observed that the transaction between the parties never progressed beyond the stage request for booking and did not culminate into allotment of any plot, apartment or building.
13. The counsel for the complainant vide proceedings of the day dated 13.11.2025 stated that an amount of Rs.16,00,000/- was paid to the respondent in cash

but failed to substantiate the same. Thus, an amount of Rs.14,00,000/- is considered as paid-up amount as admitted by both the parties.

14. In the present complaint, the complainant has made a payment of Rs.14,00,000/- in furtherance of the request for booking dated 03.10.2020. Keeping in view all the above-stated facts, the Authority presumes that the respondent has never entered into any agreement with the complainant nor issued any allotment letter to the complainant. And as per the provisions of the Act of 2016, only an allottee can approach the Authority for his grievances. Section 2(d) of the Act of 2016 defines an "allottee" as under:
- "...the person to whom a plot, apartment or building...has been allotted, sold...or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment... but does not include a person to whom such plot...is given on rent."*
15. In the present complaint, neither any allotment has ever been made nor any agreement for sale has been executed. Mere a welcome letter and making the payment of booking amount, in the absence of any proper allotment letter and builder buyer's agreement, does not confer the status of an allottee upon the complainant. Thus, the complainant does not even fall under the definition of allottee as per section 2(d) of The Real Estate (Regulation and Development) Act, 2016 and thus, cannot file the complaint under section 31 of the RERA Act, 2016.
16. This Authority further observes that for a legally enforceable contract to come into existence, there must be consensus *ad-idem* on essential terms such as identification of the unit, consideration, payment schedule, rights and obligations of the parties which are ordinarily crystallized through an allotment letter and a builder buyer agreement. In the absence of such documents, no concluded contract for sale came into existence between the parties.

17. Since no concluded contract was formed and no allotment was made, the dispute raised by the complainant essentially relates to refund of money paid pursuant to an application form, is a matter falling outside the scope and jurisdiction of this Authority under the RERA Act, 2016.
18. In the light of the above stated facts and applying aforesaid principles, the Authority is of the view that the present complaint is not maintainable as the complainant do not fall within the definition of "allottee" as defined under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016. Consequently, the present complaint is not maintainable under the provisions of the Act. Thus, the present complaint is dismissed accordingly.
19. Complaint as well as applications, if any, stand disposed off accordingly.
20. File be consigned to the registry.


(Phool Singh Saini)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 27.01.2026