BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.	**:**	**5111 of 2024**
Date of filing:		**29.10.2024**
Date of decision	**:**	**17.07.2026**

Rachit Sharma
R/o: - C-57 Shivaji Park Punjabi Bagh,
West Delhi **Complainant**

Versus

Millennium Diplomats Private Limited.
Regd. Office at: C-109, Ground Floor, Clock Tower,
New Delhi-110064 **Respondent**

CORAM:
Sh. Arun Kumar **Chairman**

APPEARANCE:
Mudita Sharda (Advocate) Complainant
Shanker Wig (Advocate)
Sanya Arora (Advocate) Respondent

ORDER

1. The present complaint dated 29.10.2024 has been filed by the complainant/allottees 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 provision 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	"Diplomats Golf link", Sector 110 Gurugram
2.	Nature of the project	Affordable group housing
3.	DTCP license	100 of 2019 dated 05.09.2019 valid up to 04.09.2024
4.	RERA registered or not registered	322 of 2017 dated 17.10.2017 valid up to 31.12.2021
5.	Unit no.	1605, 16th floor and T-8 (As per page no. 21 of the complaint)
6.	Unit admeasuring	645.73 sq. ft. (carpet area) and 100 sq. ft. (balcony area) (As per page no. 21 of the complaint)
7.	Allotment letter	19.04.2022 (As per page no. 38 of the complaint)
8.	Date of agreement for sale	21.04.2022 (As per page no. 19 of the complaint)
9.	Building Plans	28.07.2016 (Information taken from the planning branch)
10.	Environment clearance	27.09.2016 (Information taken from the planning branch)
11.	Possession clause	7. POSSESSION OF THE APARTMENT FOR RESIDENTIAL: 7.1 Schedule for possession of the said apartment for residential- *The promoter agrees and understands that*

		timely delivery of possession of the apartment for residential along with 1 two wheeler parking to the allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017 is the essence of the agreement. (As per page no. 25 of the complaint)
12.	Due date of possession	27.03.2021 (4 years taken from the date of environment clearance being later plus 6 months of covid)
13.	Total Sale Consideration	Rs.28,12,066/- (As per page 21 of the complaint)
14.	Amount paid by the complainant	Rs. 20,41,692/- (As per the ledger account dated from 01.01.2022 to 28.02.2026)
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered
17.	Demand letter	08.01.2024, 13.01.2024, 19.04.2024, 23.04.024, 21.06.2024 and 08.07.2024 (As per page no. 49, 51, 54, 56, 58 and 60 of the complaint)
18.	Cancellation letter	09.07.2024
19.	Intimation of cancellation of unit and publication in the newspaper	13.07.2024 (As per page no. 82 of the complaint)
20.	Refund given by the respondent on 30.08.2024	Rs: 18,92,228/-

B. Facts of the complaint

3. The complainant has made the following submissions: -

I. That the complainant submitted an application for a residential apartment in the respondent's project titled "Diplomats Golf Link," vide application no. 19906, Customer ID: MDPL/T-8/0700 dated 19.01.2022, and was subsequently allotted apartment no. 1605, comprising a carpet area of 645.73 square feet and a balcony area of 100.00 square feet, situated on the 16th floor of tower/block/building no. t-8, along with one two-wheeler parking space, through a draw of residential flats conducted in the presence of Government officials from the Directorate General of Town and Country Planning (DGTCP) and a representative of the Deputy Commissioner, Gurugram.

II. That the complainant entered into an agreement for sale with the respondent on 21.04.2022 for the purchase of the abovementioned apartment in the respondent's project titled "Diplomats Golf Link," which was designated for the development of an Affordable Group Housing Colony under the Affordable Housing Policy, 2013. The total consideration for the aforementioned residential apartment, calculated on the basis of its carpet area, was fixed at Rs. 28,12,066/- with the rate per square foot of carpet area established at Rs. 4,200/. The complainant remitted a sum of Rs. 1,35,262/- towards the aforementioned total consideration at the time of entering the agreement of sale.

III. That on 18.01.2022, the respondent issued an Intimation of allotment letter, wherein a demand of Rs. 5,73,669.20/- was raised in favour of "mdpl-diplomats golf link master," payable on or before 05.02.2022. In response to this demand, the complainant remitted a sum of Rs. 5,73,670/- via demand draft no. 022337 dated 05.02.2022. This payment, as per the agreed payment plan, constituted 20% of the total consideration due at the time of allotment. Consequently, as of 05.02.2022, the complainant had effectuated payments amounting to 25% of the total consideration, inclusive of the previously remitted sum of Rs. 1,35,604/-.

IV. That subsequent to the aforementioned payments and in accordance with the agreed payment plan, the respondent issued multiple demand letters to the complainant. These demands were as follows:

(i) On 13.08.2022, a demand of Rs. 3,41,594/- was raised. In response, the complainant tendered a cheque dated 30.09.2022, bearing cheque no. 000039, for the full amount of Rs. 3,41,594/-. This cheque was not encashed by the respondent, however receiving of the same was given at the time of handing over of the cheque to the respondent.

(ii) On 05.09.2022, a demand of Rs. 772/- was raised.

(iii) On 08.01.2024, a demand of Rs. 6,82,418/- was raised.

(iv) On 13.01.2024, communicated via email dated 16.01.2024, a demand of Rs. 8,81,231/- was raised.

(v) That on 20.03.2024 the complainant visited the office of the respondent and handed over 3 cheques of HDFC Bank Janakpuri New Delhi Branch bearing No. 000045 of Rs. 3,41,594, Cheque No. 00047 of Rs. 1,70,412 and another Cheque of Rs. 1,70,412. However, the respondent failed to deposit these cheques and never communicated the said fact to the applicant/complainant. Due to the said reason the complainant was under the impression that the arrears of dues was already cleared by him and there is no default on his part.

(vi) On 19.04.2024, communicated via email dated 20.04.2024, a demand of Rs. 11,34,763/- was raised.

(vii) On 23.04.2024, communicated via email of the same date, a demand of Rs. 11,34,763/- was raised.

(viii) On 21.06.2024, communicated via email of the same date, a demand of Rs. 13,21,959/- was raised.

(ix) Lastly, on 08.07.2024, communicated via WhatsApp on the same date, a demand of Rs. 13,31,949/- was raised. The due date on the same demand letter was 05.07.2024 but the same was supplied to the complainant on 08.07.2024 whereby on enquiry from the respondent, it was stated that there is a mistake with respect to the same due date and the payment can be done within a period of 1 month from the issuance of the demand letter.

V. That the complainant was rendered unable to satisfy the aforementioned monetary demands issued by the respondent due to extenuating circumstances beyond his control, specifically, the complainant's father was afflicted with severe health issues, necessitating the complainant's full attention and financial resources for medical care and treatment of the father of the complainant. The aforementioned health issues of the complainant's father unfortunately culminated in his demise on 17.06.2024, further exacerbating the complainant's personal and financial difficulties during this period. These unforeseen and unavoidable circumstances significantly impaired the complainant's ability to meet the financial obligations as per the payment schedule, despite his willingness and intention to fulfil the same under normal circumstances.

VI. That subsequent to the aforementioned events and extenuating circumstances, the complainant, in good faith, approached the respondent with the express intention of settling all outstanding dues and regularizing the account. Upon receiving the demand letter dated 08.07.2024 and after receiving the explanation on the due, the partial due payment along with the pending interest of Rs. 6,82,418/- was done by the complainant on 12.07.2024 vide Fund Transfer No. 000000000058, 000000000060 & 000000000059 NEFT. However, to the utter shock of the complainant, it was initially informed by the respondent that the allotment of the said residential apartment had been unilaterally cancelled, citing the complainant's failure to effect timely payments as per the agreed schedule. However, during subsequent discussions, the respondent agreed to reinstate the allotment of the flat in question, providing assurances to the complainant that upon full payment of the outstanding balance, including all dues and applicable interest, the property would be reinstated to the complainant's name. Relying on these assurances and in demonstration of good faith, the complainant proceeded to remit the full balance payment of Rs.6,50,000/-as demanded by the respondent, done on 16.07.2024 vide Fund Transfer No. 000000000061 NEFT, which was inclusive of all dues and interest as demanded by the respondent. Notwithstanding the complainant's full compliance with the respondent's demands and the prior assurances given, the respondent has failed to honour its commitment to reinstate the property to the complainant. This failure to reinstate the property despite full payment raises serious concerns about the respondent's adherence to its own commitments and the principles of fair dealing, potentially constituting a breach of the understanding reached between the parties.

VII. That it is pertinent to note that the parties had entered into a valid agreement, which was further governed by the Affordable Housing Policy, 2013. Instead, it allows for the publication of a list of defaulters in a regional Hindi newspaper, which may not effectively come to the attention of the complainant, particularly in light of the extenuating circumstances surrounding the ill health and subsequent demise of the complainant's father. This method of notification raises questions about the fairness and adequacy of the cancellation process, potentially infringing upon the complainant's right to be duly informed of such a significant action affecting his property rights.

VIII. That the agreement entered into by the parties is a valid and binding contract. The respondent's unilateral decision to cancel the allotment without adhering to the contractual provision is prima facie bad in law. The complainant submits that no such notice of termination, as mandated by Clause 9.3(ii) of the agreement, was ever received. This failure to provide the requisite notice not only contravenes the express terms of the agreement but also potentially infringes upon the principles of natural justice and fair dealing. Consequently, the cancellation of allotment, executed without proper notice and opportunity for the complainant to address any alleged default, stands on legally tenuous ground and may be deemed void and against the interest of Justice. Despite the fact that on 08.07.2024 the respondent raised the demand and sent the demand letter on the WhatsApp used by the complainant on his mobile and a part payment being made on 12.07.2024 after seeking the clarification on the due date wrongly mentioned as 05.07.2024, the respondent illegally and arbitrary cancelled the unit of the complainant on 13.07.2024. Pursuant to which the complainant approached the office of respondent, wherein it was told by the office of respondent that the complainant can ignore the cancellation letter dated 13.07.2014 and make the balance payment at the earliest.

IX. That upon instructions the complainant made the payment towards the balance due along with the interest on 16.07.2024 and communicated the said fact of payment to the office of the respondent. The office of the respondent conformed that the reinstatement of allotment shall be communicated to the complainant within a week. The complainant after waiting for a week again visited the office of the respondent, and to his utter shock the employees of the respondent refused to reinstate the allotment of the complainant and stated that the cheque with respect to the refund of the amount so paid till date shall be returned to him by way of cheque in the near future. Since the actions of the respondent are illegal, arbitrary and in violation of clause 9.3(ii) which provides that the promotor shall intimate the allottee about termination at least 30 days prior of such termination. Therefore, the respondent could not have cancelled the allotment of the complainant as it has failed to communicate the notice informing that upon non-payment of dues the allotment of the complainant shall be terminated after 30 days from receipt of the particular notice.

X. That the complainant now apprehends that despite making the payment toward the dues and interest and after the cancellation of the unit/flat/apartment, the respondent would sell the same to a prospective buyer after making extra money. If the allotment is made to a 3rd party, the right of the complainant would be defeated which cannot be compensated in terms of money. Though the respondent issued reminder payment letter on 06.06.2024 and 29.06.2024, but it only provides for imposition of interest and does not intimate about the cancellation or termination of the allotment. Further, the same is superseded by the subsequent demand of 08.07.2024 rendering it ineffective.

XI. That the complainant has filed a Consumer complaint before the District Consumer Dispute Redressal Forum, Gurgaon on 24.07.2024 wherein the complainant has prayed for setting aside the cancellation letter dated 13.07.2024 and also for reinstating the allotment of flat/unit No. 1605, TYPE-III (3 BHK) in tower T8 owned by the complainant and also prayed for award for compensation and damages in favor of the complainant. The matter is pending before the Ld. the District Consumer Dispute Redressal Forum, Gurgaon.

XII. That it is pertinent to note that after the filing of the Consumer complaint before the District Consumer Dispute Redressal Forum, Gurgaon on 24.07.2024, the respondent on 30.08.2024 remitted a sum of Rs. 18,92,228/- via RTGS to the complainant without any explanation and without any due notice. The total payment till date has been made by the complainant is Rs. 20,41,692/- which is inclusive of the interest. The respondent accepted the interest and returned the amount after the deduction which is statutorily not permissible.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s).

i. Setting aside of cancellation letter dated 13.07.2024 and direct the respondent to reinstate the allotment.

ii. Restrain the respondent from entering the agreement to sale with 3rd party.

iii. Accept the payment so returned to the complainant along with future payment as are due and payable by the complainant towards the allotment.

iv. Direct the respondent to compensate 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.

D. Application for dismissal filed by the respondent

6. The respondent contested the complaint on the following grounds: -

i. That the complainant has already approached the Hon'ble State Consumer Disputes Redressal Commission, Gurugram in the year 2024 by filing a consumer complaint bearing complaint no. CC/912/2024 against the respondent seeking similar reliefs alleging the same cause of action. The said complaint is still pending adjudication before the Hon'ble Consumer Forum.

ii. That the cause of action and reliefs sought by the complainant before the Consumer Forum and in the present complaint before this Hon'ble Authority are identical, as both complaints pertain to the same subject matter, i.e., despite regarding the maintenance of the flat as well as compensation.

iii. That the complainant has already approached the appropriate forum to seek the remedies available and the matter is pending adjudication before the Hon'ble Consumer Forum. The complainant is precluded to file any other complaint in a different forum with respect to same cause of action.

iv. That in light of the same, once the complainant has chosen to pursue a remedy before the Consumer Forum, it is impermissible for the complainant to simultaneously invoke the jurisdiction of this Hon'ble Authority for the same cause of action. Such dual proceedings are contrary to the principles of Double Jeopardy and amount to an abuse of the process of law.

v. That it is well settled law that a respondent cannot be vexed twice for the same.

vi. That the Hon'ble Supreme Court, in a catena of judgments, has reiterated that a party cannot be permitted to litigate the same cause of action in multiple forums to seek the same relief. The principle of election mandates that once a party has chosen a remedy, it cannot pursue an alternative remedy for the same grievance.

vii. That in the present case, the complainant has exercised the option of filing a complaint before the Hon'ble Consumer Forum and, therefore, is barred by the doctrine of election from initiating parallel proceedings before this Hon'ble Authority.

viii. That subjecting the respondent to defend the same allegations and claims in multiple forums simultaneously would lead to harassment and cause unnecessary prejudice to the respondent.

ix. That if the complainant has sought any additional reliefs in the present complaint, the same shall be barred by the principles envisaged in the order II rule 2 of the Code of the Civil Procedure, 1908, creating a bar for the complainant who had earlier claimed particular relief for a breach of his rights, from filing a second suit, with a view to claim other reliefs as not claimed earlier, based on the same cause of action. Further the complaint before the State Commission is pending adjudication and any further relief / additional relief can be sought in the ongoing proceedings.

x. That allowing the present complaint to proceed would not only defeat the ends of justice but also encourage forum shopping, which has been consistently deprecated by the Hon'ble Courts.

E. Written submissions filed by the respondent: -

7. The respondent contested the complaint on the following grounds by filing written submissions: -

i. That the present complaint is not maintainable and is a gross abuse of the process of law. The complaint has been filed with unclean hands, suppressing material facts, and is barred by the principles of estoppel and acquiescence. The complainant, having defaulted on his contractual obligations, accepted the refund amount post-cancellation, and engaged in blatant forum shopping, is not entitled to any relief from this Hon'ble Authority.

ii. That the said unit no. 1605, Tower-8, admeasuring approximately 645.73 sq. ft., along with a balcony area of approximately 100 sq.

ft., was allotted to the complainant vide allotment letter dated 19.04.2022, under the Affordable Housing Policy, 2016 for a total sale consideration of Rs.28,12,066/-. only which was to be paid as per the agreed payment plan.

iii. That the complainant has paid only a total sum of 19,65,362/- only, and even the said amount was paid after considerable delay and repeated defaults. The complainant, on one pretext or another, consistently failed to make timely payment of the instalments as per the agreed terms.

iv. That the complainant is guilty of forum shopping. It is an admitted position that the complainant initially approached the Consumer Forum by filing a complaint dated 24.07.2024 on identical facts and seeking identical reliefs. During the course of those proceedings, the respondent, vide reply dated 08.10.2024, clearly apprised the Consumer Forum as well as the complainant that third-party rights had already been created in respect of the subject unit.

v. Thereafter immediately upon gaining such knowledge, the complainant, in a calculated move, within a span of seven days, filed the present complaint before this Hon'ble Authority on 15.10.2024, which clearly demonstrates a calculated and deliberate attempt to shift forum upon realizing that no relief could be obtained in the Consumer proceedings. The subsequent withdrawal of the consumer complaint on 12.01.2026 further establishes that the complainant has adopted a trial-and-error approach to litigation, which is impermissible in law.

vi. That in the present case, valid demands were raised by the respondent on 21.06.2024 and 08.07.2024, in accordance with the agreed payment plan and applicable policy. Despite the same, the complainant failed to make the requisite payments, thereby attracting the consequences of default under the agreement. The complainant had a history of default which is long and undisputed. The complainant was not isolated but continuous and persistent. A demand dated 13.08.2022 for an amount of Rs. 83,41,594/- was payable by 31.08.2022; however, the complainant issued a cheque only on 30.09.2022, after a delay on one month which further amounts to an interest amount of delay. Shockingly, the complainant himself requested the respondent not to present the said cheque, citing financial constraints, which is a clear admission of his inability to pay.

vii. That the complainant's lack of bona fides is further evidenced by the fact that the same liability was again sought to be discharged through a cheque dated 29.12.2023, which was re-issued on 20.03.2024, when it was on the verge of expiring. This clearly reflects a pattern of recycling unpaid liabilities and lack of bona fide intention.

viii. Further additionally, multiple cheques issued by the complainant, including those routed through his relatives, were dishonoured upon presentation due to insufficiency of funds. This repeated dishonour of cheques unequivocally establishes the complainant's lack of financial capacity and continuous breach of contractual obligations.

ix. That the complainant's lack of financial capacity is not merely evident from his conduct but stands expressly admitted in the complaint itself. In Para 7 of the complaint, the complainant has categorically stated that he was "unable to satisfy the monetary demands" due to personal and financial constraints arising from his father's medical condition and eventual demise on 17.06.2024. While the respondent does not dispute the personal circumstances faced by the complainant, the said admission unequivocally establishes that the complainant lacked the financial ability to comply with the agreed payment schedule. It is a settled position that contractual obligations cannot be suspended or avoided on account of personal difficulties, howsoever genuine they may be, particularly in a time-bound payment structure under an allotment agreement. The said admission, therefore, reinforces the respondent's case that the default was real, continuous, and attributable solely to the complainant, and the consequent cancellation of allotment was justified, lawful, and in strict compliance with the terms of the builder buyer agreement.

x. That the respondent, on the other hand, acted in a fair, transparent, and bona fide manner and provided ample opportunities to the complainant to regularize his account. Several reminders were issued, including letters dated 20.03.2023, 18.11.2023, and a final reminder dated 08.03.2024.

xi. That despite the aforesaid opportunities and repeated requests, the complainant neither cleared the outstanding dues nor raised any dispute regarding the demands, thereby acquiescing to the liability. In view of the continued defaults and non-payment of dues, the respondent was left with no other alternative, the respondent was constrained to cancel the allotment vide letter dated 09.07.2024. The cancellation was carried out strictly in accordance with Clause 9.3(i) of the builder buyer agreement and the governing Affordable Housing Policy, 2016, which empowers the promoter to cancel the allotment for non-payment of instalments.

xii. That even after issuance of the cancellation letter dated 09.07.2024, the respondent acting in a fair and bonafide manner, issued a public notice dated 13.07.2024 which was duly published in widely circulated newspapers, namely Hari Bhoomi, The Morning Standard, and Dainik Savera, thereby granting an additional opportunity to the complainant and any concerned party to come forward and clear the outstanding dues. In terms of the applicable policy, a period of 15 days was provided to remedy the default. However, despite the lapse of the said period and despite having full knowledge, the complainant failed to make payment of the outstanding amount or take any steps to regularize the allotment. Consequently, having exhausted all opportunities and remedies, the respondent was left with no other option but to treat the cancellation as final and proceed with refund strictly in accordance with the builder buyer agreement and Affordable housing policy.

xiii. That the contention of the complainant regarding payments made after cancellation is wholly misconceived. It is a settled position of law that any payment made after lawful cancellation does not revive a terminated contract nor does it create any fresh rights in favour of the defaulting allottee.

xiv. That the sanctity of the payment schedule under the Affordable Housing Policy cannot be overstated. This is a time-bound social welfare scheme where the financial viability of the entire project depends on the timely inflow of funds from allottees. The default of one allottee has a cascading effect, jeopardizing the project's completion and adversely affecting the interests of hundreds of other compliant allottees. The complainant cannot be permitted to hold the project to ransom due to his financial indiscipline. It is further submitted that the respondent processed the refund of 18,92,228/- on 30.08.2024 in accordance with the terms of the builder buyer agreement. The complainant accepted the said refund without any protest or demur. This act of acceptance signifies the complainant's acquiescence to the cancellation and results in a full and final settlement of all claims, thereby extinguishing the builder buyer agreement and any rights flowing therefrom. The complainant is now estopped from challenging the cancellation or seeking any further relief. Upon acceptance of the refund, the contractual relationship between the parties stood fully and finally extinguished. It is a settled principle that once refund is accepted, no right survives for reinstatement, possession, or any other relief.

xv. That subsequent to the lawful cancellation and refund, third-party rights have already been created in respect of the subject unit. Any interference at this stage would not only be legally impermissible but would also prejudice the rights of bona fide third parties. The complainant, having defaulted in his obligations and accepted the refund, cannot now seek equitable relief. It is a well-established principle that "he who seeks equity must come with clean hands," which the complainant has failed to do.

8. 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

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

E.I Territorial jurisdiction

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

11. 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.*

12. 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 objection raised by the respondent: -

F.I The complaint is not maintainable as the complainant has filed another complaint.

13. The respondent has filed an application for dismissal of complaint on 25.03.2025 stating that the complainant has already approached the Hon'ble State Consumer Disputes Redressal Commission, Gurugram in the year 2024 by filing a consumer complaint bearing complaint no. CC/912/2024 against the respondent seeking similar reliefs alleging the same cause of action. The said complaint is still pending adjudication before the Hon'ble Consumer Forum.

14. That in light of the same, once the complainant has chosen to pursue a remedy before the Consumer Forum, it is impermissible for the complainant to simultaneously invoke the jurisdiction of this Hon'ble Authority for the same cause of action. However, the complainant has also accepted this same fact in his complaint.

15. Vide proceedings dated 20.01.2026 the counsel for the complainant submitted a copy of order dated 12.01.2026 of the DCDRC, Gurugram withdrawing the complaint pending before the Hon'ble State Consumer Disputes Redressal Commission, Gurugram. Hence, the objection of the respondent that complaint is not maintainable stands rejected.

G. Findings on the relief sought by the complainant

G.I Setting aside of cancellation letter dated 13.07.2024 and direct the respondent to reinstate the allotment.

G.II Restrain the respondent from entering the agreement to sale with 3rd party.

G.III Accept the payment so returned to the complainant along with future payment as are due and payable by the complainant towards the allotment.

16. The above-mentioned relief are being taken together as the findings in one relief will definitely affect the result of the order relief. Accordingly, the same are being taken up together for adjudication.

17. The complainant was allotted unit no. T8-1605 having carpet area of 645.73 sq. ft, in the project "Diplomats Golf Link" by the respondent/builder for a total consideration of Rs.28,12,066/- under the Affordable Group Housing Policy 2013 vide allotment letter dated 19.04.2022. The complainant has paid a sum of Rs.20,41,692/-.

18. It is observed that the complainant has failed to pay the remaining amount as per schedule of payment and which led to issuance of notice for cancellation by the respondent/builder after issuance of notice in the newspaper.

19. Now, the question before the authority is whether this cancellation is valid or not. According to clause 5(iii)(i) of the Affordable Group Housing Policy, 2013 which produce as under:

> *"If any successful applicant fails to deposit the installments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due installments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State for payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs 25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list".*

20. It is observed that the complainant failed to pay the remaining amount as per schedule of payment. The respondent has sent various demand letter dated 08.01.2024, 13.01.2024, 19.04.2024, 23.04.2024,

21.06.2024 and 08.07.2024 and then published a notice in three newspapers namely Hari Bhoomi, the Morning Standard and Dainik Savera on 13.07.2024 which led to issuance of notice for cancellation by the respondent. The respondent has informed the complainant that their unit was cancelled on 09.07.2024 and then on 13.07.2024.

21. The respondent has cancelled the unit as per the provisions of the policy and is valid one. As per proceedings dated 07.04.2026 the counsel for the respondent has stated that the respondent has refunded the amount of Rs.18,92,228/-. The said amount is given to the complainant on 30.08.2024. However, the same is not in compliance as per the as per the provisions of clause 5(iii)(i) of the Affordable Housing Policy, 2013 wherein the respondent is liable to deduct only Rs. 25,000/-. However, in the present case the respondent deducted more than Rs. 25,000/-. Therefore, the respondent is directed to refund the entire paid-up amount of Rs.20,41,692/- to the complainant after deduction of Rs.25,000/- as per the provisions of clause 5(iii)(i) of the Affordable Housing Policy, 2013 along with interest at the prescribed rate i.e., 10.80% per annum as prescribed under rule 15 of the Rules, 2017, on such balance amount from the date of cancellation i.e., 13.07.2024 till its actual realization. The amount of Rs.18,92,228/- already refunded by the respondent shall be deducted from the amount so assessed.

GIV. Direct the respondent to compensate the complainant.

22. The complainant is seeking relief w.r.t. compensation in the above-mentioned relief. Hon'ble Supreme Court of India in ***civil appeal nos.***

6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors., has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, for claiming compensation under sections 12, 14, 18 and section 19 of the Act, the complainant may file a separate complaint before Adjudicating Officer under section 31 read with section 71 of the Act and rule 29 of the rules.

H. Directions of the authority

23. 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 cancellation dated 13.07.2024 is hereby held valid. Therefore, the respondent is directed to refund the entire paid-up amount of Rs.20,41,692/- to the complainant after deduction of Rs.25,000/- as per the provisions of clause 5(iii)(i) of the Affordable Housing Policy, 2013 along with interest at the prescribed rate i.e., 10.80% per annum as prescribed under rule 15 of the Rules, 2017, on such balance amount from the date of cancellation i.e., 13.07.2024 till its actual realization. The amount of Rs.18,92,228/- already refunded by the respondent shall be deducted from the amount so assessed.

ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

24. Complaint stands disposed of.

25. File be consigned to registry.

(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority,

Gurugram

Dated: 17.07.2026