BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.: 2463-2025
Date of filing: 05.08.2025
Date of decision: 19.05.2026

Jai Abhilash
R/o:- BG5/5A, Paschim Vihar, New Delhi-110063 **Complainant**

Versus

Sternal Buildcon Private Limited
Registered office: 13th floor, Dr. Gopal Das Bhawan, 28 Barakhamba Road, Connaught Place, New Delhi Central Delhi DL 110001 **Respondent**

CORAM:

Shri Arun Kumar **Chairman**

APPEARANCE:

Mr. Anil Jain (Advocate) **Complainant**

Mr. Venket Rao (Advocate) **Respondent**

ORDER

1. The present complaint has been filed by the complainants/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 provisions of the Act or the Rules and regulations made thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Project and unit related details

2. The particulars of the project, the details of 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:

Sr. No.	Particulars	Details
1.	Name and location of the project	Signature Global Infinity, Sector 36, Sohna, Gurugram, Haryana.
2.	Project area	2.15 acres
3.	Nature of the project	**Commercial unit** Mall, Virtual Shops under Affordable Housing Policy
4.	RERA registered/ not registered and validity status	Registered 87 of 2021 dated 20.12.2021 valid up to 28.02.2026
5.	DTCP License no.	9 of 2021 dated 05.03.2021 valid up to 04.03.2026
7.	Agreement for sale	10.02.2023 (Page 29 of complaint)
8.	Payment plan	Possession linked payment plan (Page 58 of complaint)
9.	Unit no.	2F-KIOSK-40, Second floor (Page 30 of reply)
10.	Area admeasuring	81.134 Sq.ft. (carpet area) (Page 30 of complaint)
11.	Possession Clause	**Clause 7.1** *The promoter assures to handover possession of the commercial unit as per agreed terms and conditions by **28.02.2026** unless there is delay due to "force majeure", court orders, Government policy/guidelines, decisions affecting the regular development of the real estate project. If, the completion of the project is delayed due to the above conditions, then the allottee agrees that the promoter shall be entitled to the extension of time for delivery of possession of commercial unit.* ***(Emphasis supplied)*** (Page 42 of complaint)
12.	Due date of possession	28.02.2026

13.	Total sale consideration	Rs. 21,02,351/- (page 36 of complaint)
14.	Amount paid by the complainants	Rs. 8,24,200/- (as alleged by the complainant as well as admitted by the respondent at page no. 3 of reply)
15.	Date of Occupation Certificate	Not obtained
16.	Date of offer of possession	Not offered
17.	Reminders for clearing outstanding dues dated	14.01.2025 & 30.01.2025 (page 57-60 of reply)
18.	Surrender Request Letter	12.02.2025 (page 61 of reply).

B. Facts of the complaint

3. The complainant has made following submissions in the complaint:

   a) That the complainant-allottee based on the representations and on being approached by the authorised representatives of the respondent-promoter made the following payments and which were duly received by the respondent-promoter towards a unit bearing no. 2F-KIOSK-40 in the project.

   b) That an agreement for sale dated 10-02-2023 was got signed by the respondent-promoter from and with the complainant-allottee. The complainant-allottee was not afforded any opportunity to amend or have any say in the signing of the said agreement or its terms and the complainant-allottee was made to sign on the dotted lines of the said agreement. There was no free consent procured or obtained or existed with the complainant-allotee to sign the said agreement.

   c) That the complainant-allottee received a pre-intimation letter from the respondent-promoter for making another tranche of payment of an amount bearing last date of payment for 13-02-2025. Imperative to mention here that the amount of Rs. 8,24,200/- received by the

respondent-promoter is also admitted by the respondent -promoter in this intimation letter.

d) That the complainant-allottee preferred to surrender the unit back with the respondent-promoter and accordingly submitted the requisite documents so demanded by the respondent-promoter and surrendered the unit on 12.02.2025.

e) That since 12.02.2025 the complainant-allottee was constrained to follow up with the respondent-promoter for the refund of amount as the respondent-promoter failed to provide any further details and/or date of refund of the requisite amount.

f) That it was vide a credit of an amount of Rs. 4,78,228/- on 16.04.2025 which transpired to have been credited by the respondent-allottee in the bank account of the complainant-allottee.

g) That notwithstanding other facts, the act of forfeiture of amount by the respondent-promoter tantamount to unjust enrichment by the respondent-promoter as because the unit remains with the respondent-promoter and whose escalated valuable consideration remains with the respondent-promoter which the respondent-promoter may take advantage of at any point of time in his favour. In such facts and circumstances forfeiture/deduction of a huge amount of an amount of Rs. 3,45,972/- remains unjust and culminates into nothing except unjust enrichment in favour of the respondent-promoter on the costs of the complainant-allottee. This kind of deduction/forfeiture is not the intent of the applicable laws nor any policy. The whole object of the Act as well is to secure the interests of the allotees which is seriously and severally

infringed due to such kind of deductions and/or forfeiture by the builders.

h) That inspite of the complainant-allottee requested for an update on the refund on 23.04.2025 have not received any statement of accounts or any details of refund from the respondent-allottee.

i) That the respondent-promoter has deducted an amount of Rs.3,45,972/- out of the total amount received by the respondent-promoter.

j) That in terms clause 5(iii)(h) of the Affordable Housing Policy as amended on 05.07.2019 the respondent-promoter may deduct a maximum of an amount of Rs. 25,000/- only in case of surrender by an allotee.

k) That the deduction and/or forfeiture of an amount of Rs. 3,45,972/- by the respondent-promoter is therefore in contravention and breach of the applicable affordable housing policy terms and conditions inter-alia its own representations as being made to the public.

l) That by any and/or any eventualities whatsoever the respondent-promoter is not entitled to and/or possess any legal rights to enforce any law to enable the respondent-promoter to deduct and/or forfeit any amount more than an amount of Rs. 25000/- on the surrender of the unit by the complainant-allottee. Therefore, the deduction of an amount of Rs. 3,45,972/- is totally unconstitutional, unlawful, illegal and wrongful on part of the respondent-promoter. Accordingly, the respondent-promoter is and has become liable to immediately refund an amount of Rs.3,20,972 i.e., Rs. 8,24,200/-.

m) That the ninety days statutory period for refund of the amount by the respondent-promoter from cancellation of the unit expired on

14.04.2025. The respondent-promoter refunded a partial amount in the bank account of the complainant-allotee on 16.04.2025 i.e. after expiry of 2 days as per statutory requirement and the balance wrongfully held amount is still being used by the respondent-promoter which has caused wrongful loss to the complainant-allottee and wrongful gain to the respondent-promoter for which the respondent-promoter is liable to compensate the complainant-allottee.

C. Relief sought by the complainant

4. The complainant has sought the following relief(s):
   I. Direct the respondent to refund along with the applicable interest on the same at the rate of 24% per annum from 14.04.2025 onward till actual realization of the complete and full amount by the complainant-allottee.

5. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to Section 11(4) (a) of the act to plead guilty or not to plead guilty.

D. Reply by the respondents

a) That on 25.01.2023, the complainant applied for allotment of a commercial unit in the project of the respondent, whereas a commercial unit was allotted vide allotment letter dated 26.05.2025 to the complainant bearing unit no. 2F-KIOSK-40 having carpet area of 81.134 sq. ft., type commercial unit, on the 2nd floor.

b) That on 10.02.2023, a buyer's agreement, was executed for the said commercial unit having sale price of Rs. 23,54,633/- excluding all other charges, taxes etc. as mentioned and agreed by the complainant under the agreement. The said agreement was signed by the complainant voluntarily with free will and consent without any demur.

c) That the complainant had applied for the retail/commercial unit only after the due diligence, verification done, and post being fully satisfied with the project.

d) That as per the agreed terms of the agreement, the respondent sent several demand letters to the complainant in accordance with the agreed payment plan. A demand cum pre-intimation letter dated 14.01.2025 was sent to the complainant to make the payment of upcoming dues and thereafter another demand letter dated 30.01.2025 was sent to the complainant for making the overdue payments as per the payment schedule.5. The complainant had paid a total amount of only Rs. 8,24,200/- towards the total sale consideration of Rs. 21,02,351/- till date.

e) That abruptly, the complainant without any reason on 12.02.2025, issued a surrender letter to the respondent requesting the respondent to accept their request for the surrender the commercial unit allotted to the complainant. Upon the request of the complainant, the respondent initiated the cancellation process and refunded an amount of Rs. 4,78,228/- after deducting the booking amount of Rs. 3,45,971/- in accordance with clause 7.5 of the agreement.

f) That the complainant has not come clean before the Authority and giving false statements before the Authority. At this stage the complainant cannot take a summer sault from his own statement given to the respondent at the time of requesting the respondent for surrender of the commercial unit. The complainant himself states in his surrender request letter dated 12.02.2025, that the complainant on oath states in para 5 that

he accepts the amount which will be refunded to him against cancellation of his booking, after the deductions as per the company policy.

g) That the complainant has enchased the refund amount as per the agreed terms and condition of the agreement without any protest or demur. Hence, it is evident, that present complaint has been filed by the complainant as an afterthought. The complainant is estopped from claiming refund without deductions as he had expressly undertaken to accept the refund amount after deductions vide the surrender letter and further accepted the refund amount without any objections or protest.

h) That the entire case of the complainant is nothing but a web of lies, false and frivolous allegations made against the respondent. The knowledge of the Authority that the complainant is trying to hoodwink the Authority by placing untrue facts and attempting to hide the true colour of intention. Hence, the present complaint under reply is liable to be dismissed with costs for wasting the precious time and resources of the Authority. The present complaint is an utter abuse of the process of law and hence deserves to be dismissed.

6. All other averments made in the complaint were denied in toto.

7. 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 submission made by the parties.

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

9. 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 purposes 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 a complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

10. 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.*

11. 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.

12. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed

by the Hon'ble Apex Court in "***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors.***" and followed in case of "***Ramprastha Promoter and Developers Pvt. Ltd. Versus Union of India and others" dated 13.01.2022 in CWP bearing no. 6688 of 2021*** wherein it has been laid down as under: -

> "86. *From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon Under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication Under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer Under Section 71 and that would be against the mandate of the Act 2016*"

13. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the case mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Findings on the relief sought by the complainants

F.I Direct the respondent to refund along with the applicable interest on the same at the rate of 24% per annum from 14.04.2025 onward till actual realization of the complete and full amount by the complainant-allottee.

14. The factual matrix of the case reveals that the complainants applied for booking a unit in the project of the respondents, namely, "Signature Global Infinity", at Sector-36, Sohna, Gurugram vide application form dated 25.01.2023. On 10.02.2023 an agreement for sale was executed between the

parties and a unit bearing no. 2F-KIOSK-40, second floor, admeasuring 81.134 sq. ft. (super area) for a basic sale consideration of Rs. 21,02,351/- was allotted to the complainant against which the complainant has paid an amount of Rs. 8,24,200/-. The complainant on 12.02.2025, has sent a surrender request letter to the respondent and informed that they wish to withdraw from the project due to some personal reasons. On failure of respondent to refund the same, they have filed this complaint seeking refund of the amount paid along with interest.

15. Herein, the complainant herein intends to withdraw from the project and are seeking return of the amount paid by them in respect of subject unit along with interest as per Section 18(1) of the Act and the same is reproduced below for ready reference:

> *"**Section 18: - Return of amount** and compensation*
> *18(1). **If the promoter fails to complete or is unable to give possession of an apartment, plot, or building. -***
> ***in accordance with the terms of the agreement for sale** or, as the case may be, duly completed by the date specified therein; or*
> *due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,*
> ***he shall be liable on demand to the allottees**, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, **to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed** in this behalf including compensation in the manner as provided under this Act..."*

16. **Due date of handing over of possession:** The due date of possession is to be calculated as per clause 7.1 of the builder buyer agreement executed between the parties on 10.02.2023. The relevant clause is reiterated as under:

> *"The promoter assures to handover possession of the commercial unit as per agreed terms and conditions by **28.02.2026** unless there is delay due to "force majeure",*

court orders, Government policy/guidelines, decisions affecting the regular development of the real estate project. If, the completion of the project is delayed due to the above conditions, then the allottee agrees that the promoter shall be entitled to the extension of time for delivery of possession of commercial unit"

17. Thus, clause 7.1 of the buyer's agreement obligates the respondents to complete the construction of the said unit and hand over possession of the unit by 28.02.2026.

18. **Admissibility of refund along with prescribed rate of interest:** The complainant-allottee intends to withdraw from the project and is seeking refund of the amount paid by him in respect of the subject unit with interest at the prescribed rate. However, the legislature in its wisdom in the subordinate legislation, under the provision of Rule 15 of the Rules, ibid vide notification dated 12.09.2019, has determined that for the purpose of proviso to Section 12; Section 18; and Sub-Sections (4) and (7) of Section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%. the prescribed rate of interest. Therefore, in case the complainant/allottee intends to withdraw from the project after commencement of the Act, 2016, the amount paid by him shall be refunded along with interest at prescribed rate as provided under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

19. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, ibid has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

20. Consequently, as per website of the State Bank of India i.e., https://sbi.co.in, the marginal cost of lending rate (in short, MCLR) as on date i.e., 19.05.2026 is **8.80%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%**.

21. On consideration of documents available on record and submissions made by both the parties, the Authority is of the view that as per clause 7.1 of the builder buyer agreement dated 10.02.2023, the possession of the apartment was to be delivered by 28.02.2026. However, the complainant has already withdrawn from the project by sending letter dated 12.02.2025 and sought refund of the paid-up amount with interest even before the due date of possession. So, in such a situation, the complainants withdrew from the project even prior to the due date. Thus, they are not entitled to refund of the complete amount but only after certain deductions as prescribed under the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, which provides as under.

> ***"5. AMOUNT OF EARNEST MONEY***
> *Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money* ***shall not exceed more than 10% of the consideration amount*** *of the real estate i.e. apartment /plot /building as the case may be in all cases where*

the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."

22. Keeping in view the aforesaid factual and legal provisions, the respondent is directed to refund the paid-up amount of Rs.8,24,200/- after deducting 10% of the sale consideration of Rs.21,02,351/- being earnest money along with an interest @10.80% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of surrender i.e., 12.02.2025 till actual refund of the amount within the timelines provided in Rule 16 of the Haryana Rules, 2017 ibid.

G. 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 respondent/promoter is directed to refund the paid-up amount of Rs.8,24,200/- after deducting 10% of the sale consideration being earnest money along with an interest @10.80% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of surrender i.e., 12.02.2025 till its actual realization.

    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. The complaints stand disposed of.

25. Files be consigned to the registry.

Arun Kumar
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 19.05.2026