

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,
HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM**

Complaint No. :4891-2024

Date of Decision: 03.07.2026

Mr. Satyanand Shukla and Ms. Jaya Shukla, both Rs/o Amber-53,
First Floor, Emerald Hills Floors, Sector-65, Gurugram-122002,
Haryana.

.....Complainants

Versus

Emaar India Ltd. Emaar MGF Business Park, Mehrauli Gurugram
Road, Sector-28, Sikanderpur Chowk, Gurugram, Haryana-122002.

.....Respondent

APPEARANCE

For Complainants:
For Respondent:

Mr. Varun Chugh, Advocate.
Mr. Dhruv Rohatgi, Advocate.

ORDER

This is a complaint filed by Mr. Satyanand Shukla and
Ms. Jaya Shukla (allottees) under section 31 of The Real Estate
(Regulation and Development), Act 2016 (in brief Act of 2016),
against Emaar India Ltd. (promoter).

2. According to complainants, they have filed present
complaint against the respondent, constrained by the malafide and


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deceitful acts and malpractices being followed by it (respondent) to dupe and cheat its innocent and bonafide buyers, by grossly violating the terms and conditions set forth in the buyer's agreement and layout plans and in blatant disregard to the provisions enshrined in The Act of, 2016.

3. That, they (complainants) were misled by the respondent to believe that the project in question will be a gated residential community, with all security arrangements in place, however, said commitment was found to be false and misleading, on the face of it, when the possession of the property/floor was offered to them (complainants).

4. That, the property in question i.e. floor bearing no. EHF-267-A-SF-037 (Second Floor) admeasuring 267 sq. yards, in the project of the respondent i.e. M/s Emaar MGF Land Limited, known as "Emaar Hills Floors" (the "Project") situated at Sector-65, Gurugram, Haryana was purchased by them in the year 2012. Physical possession of this property was handed over on 03.09.2019 and the title of the said floor was conveyed by the respondent, in favour of the complainants in December, 2019, in violation of the provisions of Section 14 (1) and (3) of the Act and

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despite registration of a strong protest by the complainants in the said regard.

5. That the possession of the floor was offered by the respondent on 15.06.2019 whereby the complainants were asked to make the requisite payments towards the final instalment, stamp duty charges for registration purposes, meter connection charges, power back up charges, common area maintenance charges etc. Pursuant to the receipt of the intimation through possession letter, they (complainants) visited the site/property to ensure whether the property is ready for occupation and is in a habitable condition. However, they were taken aback, after noticing that the property/floor was not in a live-able condition as the finishing work was yet to be done. Debris were lying in front of the property of the complainants and that the respondent has even compromised with the security of the home buyers by not erecting the entire boundary wall facing the floor of the complainants, apart from the other home buyers.

6. That the complainants in no time, brought this fact to the notice of the respondent vide email dated 23.06.2019 and requested them to rectify the defects at first, so that the complainants could shift in the said property along with family as

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in the absence of the bare minimum security arrangements, the complainants were apprehensive about their security as well as that of their family in view of the fact that it was a vacant land facing the property of the complainants and any untoward event may take place in the absence of a proper boundary wall, fencing and desired security personnel.

7. That when no heed was paid to the request of the complainants, they were constrained to write a series of emails on different dates. Having left with no other option, the complainants were forced to get the conveyance of the floor done and took the possession of the floor, by making the entire payment under protest as he was living in a rented accommodation and has been incurring meaningless expenditure on the rent despite having their own property i.e. the floor in question.

8. That, even after the registration of the conveyance deed, the complainants kept on chasing the respondent for resolution of their problem and were assured every time that their concerns would be looked into at the earliest, but the respondent was reluctant to address the issues of the complainants.

9. That, due to non-construction of the boundary wall on the side of the land belonging to some other land owner/s, facing


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towards the front side of the floor owned by the complainants, some shops were constructed which resulted into substantial value erosion of the property of the complainants in terms of price as well as rentals thereby causing them huge financial loss.

10. That after filing of the report by DTP, Gurugram, the Authority vide its final order/judgement dated 30.04.2024 was pleased to allow the complaint and directed the respondent to complete the construction of the boundary wall in terms of the agreement executed with the complainants, within 90 days, failing which the complainants may approach the Adjudicating Officer in terms of Section 14 of the Act of 2016.

11. That, even after passing of more than 90 days from the date of the above-mentioned order, the respondent has miserably failed to construct the boundary wall and till date the respondent has not complied with the orders of the Authority, hence the present complaint has been filed seeking compensation under the provisions of the Act.

12. Contending all this, complainants have sought following compensation/reliefs: -

- a) to direct the respondent to pay Rs.25,00,000/- as compensation for non-construction of the

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boundary wall facing the front of the floor in question.

- b) to direct the respondent to pay a sum of Rs.5,00,000/- on account of harassment and mental agony caused for non-construction of the boundary wall.
- c) to direct the respondent to pay a sum of Rs.1,00,000/- towards the cost of the litigation.
- d) to pass such order or further order as this Authority may deem fit and proper in the facts and circumstances of the present case.

13. The respondent contested the claim of complainants by filing a written reply. It is averred that the present complaint is not maintainable in law or on facts. The reliefs claimed in the complaint are beyond the purview of the buyer's agreement, conveyance deed and the Act of 2016.

14. That the contractual relationship between the complainants and the respondent is governed by the Buyer's Agreement dated 26.02.2010. Recital (G), Clauses 1.2 (a) and (b), 10(b) of the Buyer's Agreement specifically provide that the Buyer's Agreement is only confined to the Floor allotted to the complainants and the Plot upon which the unit is constructed and that all the other land, area, facilities and amenities are specifically excluded from the scope of the Buyer's Agreement. Thus, it is not

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permissible for the complainants to allege that the timelines for delivery of possession of the unit should also be extended towards timeline for provision of all the amenities and facilities in the project.

15. That the complainants cannot transpose the timeline for delivery of the unit to the timelines for completion of other development work in the project. More so, when the Buyer's Agreement specifically excludes other areas, facilities, amenities etc. from the scope of the Buyer's Agreement. The unit purchased by the complainants, forms part of a large project comprising group housing, commercial spaces, plots, villas and independent floors. The entire project has been conceptualized as a gated project. In so far as the amenities and facilities of the project are concerned, the timelines for development of the same are not concurrent with the timeline for delivery of possession of the unit.

16. That the registration of project under the Act is until 28.08.2022. Subject to force majeure conditions and circumstances beyond the control of the respondent, the respondent proposals to complete development of the project within the period of registration/extended registration, if any, under the Act. The present complaint is liable to be dismissed on this ground alone.

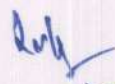
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17. That the complainants are not allottees but investors who have purchased the unit/floor in question as an investment and not with a view to reside in the same. The complainants have purchased for resale, another unit in the same project, in the same block, in respect of which complaint no. 3050/2020 had been filed before this Authority. The aforesaid complaint had been dismissed by this Authority vide its order dated 09.04.2024.

18. Denying all allegations of complainants, the respondent prayed for dismissal of complaint.

19. Both of the parties filed affidavits in support of their claims. I have heard learned counsels appearing for both of parties and perused the record.

20. As reproduced above, grievance of the complainants is that the respondent did not construct boundary wall as was agreed and represented by the same. On the other hand, the respondent in its written statement claimed that there was no such agreement. The respondent filed an affidavit in evidence sworn by one Manish Mahajan, its authorised representative, who stated on oath that agreement between the parties was confined to floor allotted to the complainants and the plot upon which the unit is constructed. All the other land, areas, facilities and amenities were specifically


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excluded from the scope of the Buyer's Agreement. The complainants by filing a complaint No.603 of 2019 approached the Authority seeking delay possession charges (DPC), which was allowed by the Authority and the respondent was directed to pay interest at the rate of 10.20% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e. 26.11.2012 till offer of possession i.e. 10.06.2019.

21. The complainants again approached the Authority through complaint No.3031 of 2020 seeking several other reliefs including direction to the respondent to construct the boundary wall facing front of the property/apartment of the complainants, in a time bound manner. The said complaint was also allowed vide order dated 30.04.2024. The respondent was directed to complete construction of the boundary wall in terms of the agreement executed with the complainants, within 90 days, failing which, the complainants would approach the Adjudicating Officer seeking compensation. The Authority did not find merit in the same plea taken by the respondent.

22. It is contended by learned counsel for the respondent that firstly it was not liability of his client (respondent) to construct any boundary wall, moreover, the respondent failed to construct

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such a wall as some unauthorized construction has come up and the respondent has already lodged a complaint in this regard to District Town Planner, Gurugram, copy of such a complaint has been put on the file.

23. The respondent filed an affidavit sworn by one of its authorized representative Manish Mahajan. This witness of respondent (Manish Mahajan) further stated that adjacent to the project land, there exists a pocket of unlicensed land over which unauthorised construction have been raised. The respondent is unable to construct the wall on the portion of land which has been illegally occupied by shop owners. The unauthorized construction exists outside the project land and the respondent is not responsible for the same. This witness also mentioned about the complaint lodged by the respondent with DTP (Enforcement) Sector-14, Gurugram.

24. Admittedly, outer boundary wall of the project is not complete. Similar was finding given by the Authority, while allowing the complaint filed by the complainants. Although I am not able to find any averment in the copy of Flat Buyer's Agreement, copy of which is put on the file, having mentioned of such boundary wall, according to the complainants, this fact was

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represented before them at the time of agreement for sale. Moreover, the Authority also admitted this fact and allowed their complaint. The order passed by the Authority has become final in the absence of filing of any appeal etc. It is not plea of the respondent even that same has constructed boundary wall, now. The Authority had given 90 days' time to the respondent to complete the construction and admittedly they failed to complete it. The complainants are thus entitled for compensation. It does not lie in the mouth of the respondent to claim that same failed to complete the construction due to some unauthorized construction, having been raised by some persons or same has already been filed a complaint in this regard before DTP (Enforcement), Gurugram.

25. According to the respondent, the complainants are not entitled for any compensation being investors in the project and they did not purchase the same for their own use. The complainants are stated to have already taken possession of their unit. In this way, it is not proved that they purchased it as investors and not the users. Even otherwise, the law does not make any difference between an user and an investor, for the purpose of seeking compensation. No merit in this objection, raised by the respondent.


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26. As stated earlier, the complainants have claimed compensation of Rs.25 lakhs for non-construction of the boundary wall facing front of their floor. It is not explained as to how the complainants are entitled to compensation of Rs.25 lakhs. Learned counsel representing them submitted that due to non-construction of boundary wall, market value of their unit has been depreciated. Moreover, there is security issue also as any intruder/trespasser can enter through the space, which remains unconstructed.

27. Section 72 of the Act of 2016 prescribes the factors which are to be taken into account by the Adjudicating Officer, while adjudging quantum of compensation and the same are: -

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default;
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.

28. Admittedly, the respondent received sale consideration, but did not fulfil its promise to complete the construction of boundary wall. Same can be termed as

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disproportionate gain or unfair advantage received by the same. Although no pecuniary loss has been caused to the complainants, I find weight in the contention of learned counsel claiming that in the absence of boundary wall, market value of their unit has been depreciated and there remains security issue also. Even if no reliable evidence has been adduced by the complainants to substantiate the amount of compensation sought by same. When the complainants are found entitled for compensation, their case cannot be thrown away, simply for want of conclusive evidence, in this regard. This Forum is legally obliged to assess the amount of compensation.

29. The complainants have claimed lump sum amount of Rs.25 lakhs as loss, caused to them for non-construction of boundary wall. In my opinion, lumpsum amount of compensation will not be enough, to absolve the respondent from its duty to complete the boundary wall. Moreover, it is recurring loss to the allottee/residents. Due to this reason, I do not think it proper to allow lump sum compensation as prayed by the complainants.

30. Keeping in view the facts of the case and also recurring loss to the complainants, I allow compensation at the rate of Rs.10,000/- per month till the respondent completes the

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construction of boundary wall. The respondent is thus directed to pay Rs.10,000/- per month as compensation to the complainants for non-construction of a boundary wall facing their unit, from 30.07.2024 (time allowed by the Authority) till boundary wall is complete.

31. The complainants have also prayed for compensation of Rs.5 lakhs on account of harassment and mental agony. Apparently when the respondent failed to construct the boundary wall despite order of the Authority, it caused mental harassment and agony to the complainants. Same are allowed a sum of Rs.one lakh as compensation in this regard.

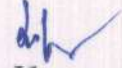
32. The complainants have prayed for Rs.one lakh towards cost of litigation. No court fee is required to be paid to the Authority, while filing such complaint. Even then, it is evident that the complainants were represented by a lawyer during the proceedings of this case, same is allowed a sum of Rs.50,000/- as litigation expenses to be paid by the respondent.

33. The respondent is directed to pay said amounts of compensation to the complainants along with interest at the rate of 11% per annum from the date of this order, till realization of amount.

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34. This complaint stands disposed of accordingly. File be
consigned to the record room.

Announced in open court today i.e. **on 03.07.2026**



(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory Authority,
Gurugram

Present: Mr. Varun Chugh, Advocate for the complainants.
Mr. Dhruv Rohtagi, Advocate for the respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
HARERA, Gurugram
03.07.2026