

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

Complaint no. : 1935 of 2025
Date of order : 25.08.2026

Devendra Pandey
R/o: 4th Floor, Khothi No.106, Block-D,
Sector-08, Dwarka.

Complainant

Versus

M/s Adani M2K Projects LLP.
Office at: - Adani House, Plot No.-83, Sector-32,
Institutional Area, Gurugram-122001.

Respondent

CORAM:
Shri. Arun Kumar

Chairman

APPEARANCE:
Jagdeep Kumar (Advocate)
Kalyan Kumar Thewar (Advocates)

Complainant
Respondent

HARERA
GURUGRAM

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 provision of the Act or the rules and regulations made thereunder or to the allottee 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 complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.No.	Particulars	Details
1.	Name of project	Adani Oyster Grande Phase II
2.	Nature of project	Residential group housing
3.	Location	Village Kherki Mazra Dhankot, Sector-102/102A, Gurugram, Haryana.
4.	Area of the project	19.238 acres
5.	RERA Registered	Registered Vide Registration no. 37 of 2017 dated-10.08.2017 valid upto 30.09.2024
6.	DTCP License	License no. 29 of 2012 & 30 of 2012
7.	Allotment letter	Not on record
8.	Agreement For Sale	14.06.2024 (As on page no. 42 of complaint)
9.	Unit no.	G-2301, Type -C, 5 bhk-Penthouse, Floor-23 rd , Block-G (As on page no. 46 of complaint)
10.	Unit area	3837 sq.ft. [Carpet Area]

		(As on page no. 46 of complaint)		
11.	Possession clause	Clause -5 TIME IS ESSENCE The Promoter shall abide by the time schedule for completing the Project as disclosed at the time of registration of the Project with the Authority and towards handing over the Apartment for Residential usage along with the parking to the Allotee(s) and the common areas to the Association of Allottees or the Competent Authority, as the case may be, as provided under Rule2(1)(f) of Rules, 2017. [Emphasis supplied] (As on page no. 52 of complaint)		
12.	Due date of possession	30.09.2024		
13.	Payment Plan	Particulars At the time of Booking Within 30 days of Booking (Less booking amount) Within 60 days of Booking Offer of Possession 150 days of booking + 100% IFMS	% of Instalments Application Money 15% of Sales Price 10% of Sales Price 75% of Sales Price + 100% IFMS	Amount 25,00,000 79,87,520 69,91,680 5,31,65,900
14.	Sale consideration	Rs.7,06,45,100/- (As on page no. 72 of complaint)		

15.	Amount paid	Rs. 1,73,04,408/-
16.	Occupation certificate	26.07.2023 (As on page no. 29 of reply)
17.	Pre Cancellation Letter	30.06.2024 (As on page no. 120 of reply) 17.07.2024 (As on page no. 92 of complaint)
18.	Offer of possession	12.08.2024 (As on page no. 139 of reply)
19.	Reminders	25.09.2024 (As on page no. 118 of reply)
20.	Cancellation letter	08.11.2024 (As on page no. 94 of complaint) 14.01.2025 (As on page no. 123 of reply)
21.	3 rd party rights on the unit	30.05.2025

B. Facts of the complaint

3. The complainant has made the following submission: -

- I. That in February 2024, the complainant received a marketing call from a real estate agent who represented himself as an authorized agent of the respondent and marketed the project. The complainant visited the Gurugram office and project site of the respondent. The marketing staff of the respondent assured the complainant that possession of the unit would be handed over within 36 months of the booking.

- II. That the respondent gave advertisements in various leading newspapers about their project, promising various advantages, like world-class amenities and timely completion/execution of the project, etc. Believing on the representation and assurances of the respondent, the complainant booked a flat/ unit bearing no. G-2301 located on the 23rd floor % BHK Pent House admeasuring tentative super area of 7.283 sq. ft and apartment tentative area of 4.582 sq. ft. and paid a booking amount of Rs.25,00,000/- vide cheque bearing no. 692402 dated 31.03.2024 amount to Rs. 10,00,000/- and cheque bearing no. 692403 dated 01.04.2024 amount to Rs. 15,00,000/- drawn on IDBI bank made a booking amount and the complainant also paid some other payments as per payment plan Schedule -C opted by them. A Copy of the booking Payment Receipt dated 31.03.2024 and 1.04.2024.
- III. That after the provisional allotment of the apartment, the complainant visited the respondent's office, the officials of the respondent induced the complainant to purchase the apartment promising that the construction of the said project would be completed within a period of 3 years as detailed in all the Buyers Agreement. As per the Apartment Buyer's Agreement for the flat/unit of the complainant nowhere is mention the time limit for handing over the possession of the unit.
- IV. That the complainant, after having paid an amount of Rs.1,73,04,408/-, approximately 32%(approx.) of the total sale consideration, to the respondent was not provided with any documents other than mere receipts for the said payment. No document confirming the allotment of the flat was handed over to the complainant at that time.
- V. Despite repeated requests and several visits to the office of the respondent, including multiple meetings with its director, the

complainant was subjected to undue delay and harassment for a period of five months post-payment. It was only after such persistent efforts that the complainant received a call from the sales team of the answering respondent company, informing him to visit their head office on 14.06.2024 to execute the Builder-Buyer Apartment Agreement.

- VI. That the complainants were allotted a residential apartment bearing unit no.- G-2301 located on the 23rd floor measuring a tentative super area is 7.283 sq. ft. and the tentative apartment area is an area of 4.582 sq. ft. and for a total sale consideration of Rs.7,06,45,100/- which includes BSP, IFMS, etc. including PLC and Other Taxes and paid the booking amount of Rs.25,00,000/- and the complainant also paid an amount of Rs.1,48,04,408/- to the respondent, duly acknowledged by the respondent and the Builder Buyer Apartment Agreement for the said unit was executed between both the parties.
- VII. That soon after the respondent entered into a builder-buyer apartment agreement with the complainant within all the terms and conditions as mentioned in the builder-buyer apartment agreement were again reiterated and the said builder-buyer apartment agreement dated 14.06.2024 was duly executed and signed by both parties. The respondent further mentioned that they have conceived a plan for a residential apartment at Oyster Grande on the property mentioned in the heading "Developers Representations" on page no. 3 of the builder buyer apartment agreement.
- VIII. That the Agreement to sell/Apartment Buyers Agreement For apartment/flat was duly executed between the complainant and the respondent. The said agreement was signed between the complainant and respondent on 14.06.2024. The agreement contained one-sided terms and conditions favouring only the respondent. Further, as per

clause 31 of the said agreement, the respondent is liable to deliver the possession to the complainant within a period of 3 years from the date of the approval of the company's present plan.

- IX. That while executing the Builder-Buyer Agreement, the respondent raised a demand of Rs.5,33,40,692/-, from the complainant. As per the payment plan Schedule- C of the agreement, the complainant has paid an amount of Rs.1,73,04,408/- till date. The respondent duly acknowledged the receipt of the said amount by issuing a receipt in favour of the complainant. Subsequently, merely ten days after the aforesaid payment, the respondent raised an additional demand of Rs.75,33,40,692/-.
- X. In adherence to the respondent's demand and without any delay, the complainant made the payment of the said amount through cheque and via RTGS, which was also duly received by the respondent. This consistent compliance by the complainant demonstrates bona fide conduct and trust placed in the respondent, which the respondent has failed to reciprocate appropriately. Additionally, the complainant has deposited Rs.7,00,000/- towards Tax Deducted at Source (TDS) based on the total sale consideration.
- XI. That to ensure timely payments towards the booking of the aforesaid unit, the complainant had to sell two properties demonstrating their commitment to honouring financial obligations under the agreement. The complainant has suffered significant financial and mental distress due to the arbitrary, coercive, and unlawful actions of the respondent, which are in breach of the Builder Buyer agreement and violate the principles of equity and natural justice.
- XII. Despite repeated visits to the respondent's office and requests for updates, including photographs or status reports of the unit's progress,

the respondent has failed to provide any information or proof of completion. On 25.09.2024, the respondent issued a letter to the complainant demanding payment of an alleged outstanding amount of Rs.5,33,40,692/-, along with interest to clear purported balance dues. That upon receipt of the said letter dated 25.09.2024, the complainant was shocked and aggrieved to learn of such an illegal and baseless demand, as the complainant had been consistently making payments in accordance with the Schedule -C linked payment plan outlined in the Apartment Buyer Agreement.

- XIII. That the complainant visited various times to the office of the respondent and asked about the sudden illegal, baseless demand without as per the terms and conditions Schedule -C payment plan and asked about stopping and not raising the illegal demands which violates the terms and conditions of the agreement to sale.
- XIV. That even after requesting the respondent for cancellation of the illegal, baseless demand of the apartment, the respondent kept sending the messages and kept misleading the complainant. The respondent and their sales team are further forcing the complainant to pay the illegal demands by the respondent which is against the construction payment plan, which is not acceptable to the complainant. It is pertinent to mention here that the respondent misused his dominant possession and used the hard-earned money of the complainant.
- XV. Despite compliance with the payment plan, the respondent has arbitrarily raised illegal demands amounting to Rs.5,33,40,692/- without any basis or reference to the agreed Schedule-C of the Builder-Buyer Agreement. The respondent, vide notice has threatened to cancel the allotment of the unit for non-payment of these illegal demands, which is contrary to the terms of the agreement and in violation of

Section 11(4)(a) of the Real Estate (Regulation and Development) Act, 2016.

- XVI. That the complainant never refused to pay the demands that the respondent raised as per "Schedule C" of the payment plan. An illegal and baseless demand was raised pre-cancellation letter by the respondent vide their letter dated 17.07.2024. The respondent arbitrarily sent the cancellation letter of the apartment allotted to the complainant vide their letter dated 19.11.2014.
- XVII. As per the BBA dated 14.06.2024 the complainant has already paid an amount of Rs.1,73,04,408/- to the respondent, which constitutes approximately 32% of the total sale consideration. Furthermore, under the Schedule-C payment plan, the complainant has made payments as per the scheduled plan. Despite the complainant's adherence to the payment terms and fulfilment of obligations, the respondent has harassed the complainant by raising illegal and baseless demands, ultimately leading to the cancellation of the allotted apartment. To date, the respondent has failed to cancel the illegal demands which violates the terms and conditions of the agreement, thereby violating the principles of fairness and the statutory obligations under the RERA Act.
- XVIII. That the complainants have paid a total sum of Rs.1,73,04,408/-/- since the booking till 28.06.2013. That complainant had not defaulted in any payment and it was made as and when the demand was raised by the respondent. The complainant has invested his hard-earned lifetime savings with the respondent company for the purchase of the aforesaid apartment. Despite the complainant having made the approx. 32% payment as per the agreed terms, and the respondent has illegally raised the demands and illegally cancelled the allotment of the

apartment, thereby causing the complainants undue hardship, mental agony and financial stress.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - i. Direct the respondent to withdraw the cancellation notice dated 08.11.2024 and refrain from taking any steps to cancel the allotment of the complainant.
 - ii. Direct the respondent to waive off the interest levied on the complainant for the alleged delay in payment.
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 respondent.

6. The respondent has contested the complaint on the following grounds: -
 - I. That the complainant has booked a residential unit. no. G-2301 in "Adani Oyster Grande", situated at Sector-102/102A, Gurugram, Haryana (Phase-II). The complainant had initially made timely payments towards the first few instalments as per the agreed payment schedule. However, subsequent to these initial payments, the complainant defaulted in making further payments. Despite repeated reminders and opportunities provided by the respondent, the complainant continued to remain non-compliant in fulfilling the financial obligations. Owing to the continuous and repeated non-payment of the due instalments, the respondent was left with no option but to cancel the allotment in accordance with the terms and conditions of the allotment agreement.
 - II. That the respondent has also issued offer of possession, however, the complainant defaulted in making the payment of the instalments. Due to

non-payment of instalment in accordance with the terms and condition of the Agreement, the respondent was compelled to cancel the allotment.

- III. That as per clause (6) of the Application -Form, the complainant has expressly agreed to make payment as and when demanded by the promoter. Clause (6) of Application form is reproduced hereinbelow:

(6). The Applicant/s hereby agrees to pay, as and when demanded by the Promoter, the charges in addition to the sale consideration as specified in the Agreement for Sale.

- IV. That as per clause (7) of the Application Form, 10% of the basic sale price will be considered as the earnest money and complainant promises to make the payment as per the payment plan mentioned in Agreement for Sale. The clause (7) of Application form is reproduced hereinbelow:

(7). The Applicant/s agrees that out of the amount/s paid/payable by him/them towards the sale consideration and other charges. 10% (Ten Percent) of the Basic Price shall be treated as Earnest Money to ensure fulfilment of the terms and conditions by the Applicant/s, as contained herein and in the Agreement for Sale. The Applicants hereby promises to make the payment as per the payment plan set out herein or mentioned in Agreement for sale

- V. That the complainant on his own will agreed to make the payment as per payment plan, however, despite issuing several demand notices and reminder letters, the complainant failed to comply with the payment obligations in accordance with the terms and conditions agreed upon in the Application Form. The repeated failure in making payment even after issuing various demand letters, shows the clear intention of the breach of contract on part of the complainant.
- VI. That the complainant has not complied with the payment plan, which was accepted by him voluntarily and without any coercion. Despite agreeing on the payment plan, the complainant has failed to adhere with

the same. The complainant has consistently made irregular and delayed payments, failing to adhere the agreed payment plan. Notwithstanding the repeated defaults, the respondent has accepted the irregular payments from the complainant. As per the Application Form, the complainant is required to adhere and comply with the agreed terms and conditions and is liable to make the payment of the total sale consideration on time.

- VII. As per clause 9.3(ii) of Agreement for Sale, if the Allottee fails to make the payment as per agreed terms and conditions the promoter may cancel the allotment of the Apartment and refund the amount paid by the allottee, and further forfeit the booking amount.

“...
ii. In case of Default by Allottee under the condition listed above continues for a period beyond ninety days after notice from the Promoter in this regard, the Promoter may cancel the allotment of the Apartment for Residential usage along with parking in favour of the Allottee and refund the money paid to him by the Allottee by forfeiting the booking amount paid for the allotment and interest component on delayed payment (payable by the Allottee for breach of Agreement and non-payment of any due payable to the Promoter). The rate of interest payable by the allottee to the Promoter shall be the State Bank of India highest marginal cost of lending rate plus two percent, as applicable from time to time. The balance amount of money paid by the Allottee shall be returned by the Promoter to the Allottee within ninety days of such cancellation. On such default, the Agreement and any liability of the Promoter arising out of the same shall thereupon, stand terminated. Provided that, the Promoter shall intimate the Allottee about such termination at least thirty days prior to such termination.”

- VIII. That the respondent has issued multiple reminder letters and provided ample opportunity to the complainant to comply with terms and conditions of agreement and fulfil their obligations. The respondent has issued reminder letters dated 26.07.2024, 31.08.2024 and 25.09.2024. However, despite issuance of repeated reminders, the complainant has consistently failed to make the timely payment of the outstanding amount.

- IX. That the respondent had on every occasion given various opportunities to the complainant to pay the outstanding amounts on time, however despite issuing multiple reminder letters to the complainant, the complainant miserably failed to pay the outstanding amounts within the stipulated time. As a result of the complainant's failure to clear the outstanding dues despite issuing multiple reminders and giving ample opportunities, the respondent was left with no option but to initiate the process of cancellation of the allotment.
- X. That the respondent issued pre-cancellation notice dated 30.06.2024 and again apprised the complainant of the various demands and reminder letters that have been issued to make the payment along with the penal charges, but despite this the complainant has failed to make the payments. As a result, the respondent was left with no choice but to issue the Cancellation Notice dated 26.07.2024, informing the complainant that if he failed to make the payment, the allotment will be cancelled without any further notice. Thereafter, as the complainant had not complied with the terms and conditions of the agreement, even after sending multiple reminders and notices, the respondent has again issued the cancellation notice dated 08.11.2024. As the complainant has not paid the outstanding amount even after giving multiple opportunities, the respondent was compelled to finally and formally cancel the allotment vide letter dated 14.01.2025 in accordance with the provisions of the Agreement.
- XI. That in accordance with the agreement, after the cancellation of allotment, the respondent has lawfully refunded the amount paid by the complainant after duly forfeiting the earnest money. It is pertinent to note that the respondent has rightfully forfeited the earnest money in compliance with the terms and conditions of the Agreement. However,

upon refunding the amount to the complainant (after due forfeiture of the earnest money), the transaction was reversed by the complainant, and the refunded amount was credited back to the respondent by the complainant.

- XII. That the complainant was free to obtain finance from any financial institute/ bank or any source but the obligation of the complainant to purchase the said residential unit pursuant to this Agreement is not to be contingent on the ability or the competency of the complainant to obtain such financing, and the complainant shall remain bound under this agreement whether or not he is able to obtain such financing.
- XIII. That the complainant had read the Application Form as well as the Agreement for Sale and only upon understanding the terms and conditions of the said allotment chose to sign the same and stepped into the shoes of the original allottees. The financial contingency ought to have suffered by the complainant is not expected to affect the agreement entered into between the parties.
- XIV. That the complainant's failure to pay the outstanding amount due to financial contingency is not respondent's responsibility. As per the terms and conditions of the Agreement, the complainant is liable to pay the outstanding amounts as per the payment plan. Vide email dated 26.09.2025, and 03.01.2025, the complainant informed the respondent of his inability to make the outstanding payments within stipulated time and requested for extension. Thereafter, the respondent, acknowledged the complainant's difficulties and granted additional time to the complainant to make the payment. However, despite giving ample opportunities the complainant failed to make the payments even after being granted extended periods which the respondent had no obligation

to grant to the complainant. The respondent simply granted the extensions as a goodwill gesture being a customer centric company.

XV. That the respondent had already transferred the property in favor of third party on 30.05.2025 i.e., a month prior to the Order dated 25.06.2025 passed by the Hon'ble Authority. Following the cancellation of the complainant's allotment, the respondent was under no obligation to retain the property and was well within its rights to sell it to someone else. It is pertinent to note that the registration of the property in favour of the third party was also completed prior to the aforementioned order dated 25.06.2025.

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 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

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)(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;

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.

F. Findings on the reliefs sought by the complainant:

F.I. Direct the respondent to withdraw the cancellation notice dated 08.11.2024 and refrain from taking any steps to cancel the allotment of the complainant.

F.II. Direct the respondent to waive off the interest levied on the complainant for the alleged delay in payment.

12. In the present complaint, the complainant intends to continue with the project and is seeking withdrawal of the Cancellation Notice dated 08.11.2024 and refrain the respondent from taking any coercive action against the complainant's unit.

13. The complainant has submitted that an apartment bearing No. G-2301, situated on the 23rd Floor of the project namely, "Oyster Grande", located at Sector 102/102A, Gurugram, was allotted to the complainant for a total sale consideration of Rs. 7,06,45,100/-. It has been averred that a Builder-Buyer Agreement was executed between the parties on 14.06.2024 and that the complainant has paid a sum of Rs. 1,73,04,408/- towards the sale consideration. The complainant has further averred that, vide demand letter dated 25.09.2024, the respondent raised a demand for payment of Rs.

5,33,40,692/-, which, according to the complainant, was contrary to the payment plan stipulated in Schedule-C of the Builder-Buyer Agreement. Consequently, the complainant declined to make the aforesaid payment. It has been further alleged that, in response to the complainant's refusal to comply with the aforesaid demand, the respondent cancelled the allotment of the apartment on 31.03.2024. The complainant has also alleged that the respondent levied interest on the purported outstanding amount, notwithstanding that the demands raised were allegedly unlawful and contrary to the terms of the agreement.

14. The respondent has submitted that several reminder letters were issued to the complainant, affording the complainant sufficient opportunities to comply with the terms and conditions of the agreement and discharge the obligations arising therefrom. However, despite being granted repeated opportunities, the complainant failed to make timely payment of the outstanding dues. Consequently, the respondent, having no other option, issued a Cancellation Notice dated 08.11.2024. It has further been submitted that, despite the aforesaid opportunities, the complainant failed to clear the outstanding dues, compelling the respondent to cancel the allotment vide cancellation letter dated 14.01.2025. The respondent has stated that, subsequent to the cancellation, the amount paid by the complainant was duly refunded after forfeiture of the earnest money in accordance with the terms of the agreement. However, the said refund was subsequently returned by the complainant. It is further the case of the respondent that the subject unit was thereafter allotted/sold to another allottee on 30.05.2025.
15. The Authority observes that the complainant was allotted an apartment bearing No. G-2301, situated on the 23rd Floor of the respondent's project, for a total sale consideration of Rs.7,06,45,100/-. The Builder-Buyer

Agreement was executed between the parties on 14.06.2024. As per Clause 5 of the said Agreement, the respondent had undertaken to complete the construction of the project within the timeline disclosed at the time of registration of the project. Accordingly, the due date for handing over possession of the subject unit falls on 30.09.2024. Against the total sale consideration, the complainant had paid a sum of Rs. 1,73,04,408/- to the respondent. The payment plan agreed between the parties is as follows:

<i>Particulars</i>	<i>% of Instalments</i>	<i>Amount</i>
<i>At the time of Booking</i>	<i>Application Money</i>	<i>25,00,000</i>
<i>Within 30 days of booking (less booking amount)</i>	<i>15% of Sales Price</i>	<i>79,87,520</i>
<i>Within 60 days of Booking</i>	<i>10% of Sales Price</i>	<i>69,91,680</i>
<i>Offer of Possession 150Days of booking + 100% IFMS</i>	<i>75% of Sales Price + 100% IFMS</i>	<i>5,31,65,900</i>

[Emphasis supplied]

16. As per the aforesaid payment plan, the complainant was required to make payments in four stages, namely: (i) at the time of booking; (ii) within 30 days from the date of booking; (iii) within 60 days from the date of booking; and (iv) upon offer of possession. The respondent obtained the Occupation Certificate from the competent authority on 26.07.2023 and thereafter issued the Offer of Possession to the complainant on 12.08.2024. The respondent issued a reminder dated 31.08.2024 calling upon the complainant to clear the outstanding dues. Thereafter, the complainant approached the respondent seeking additional time for making payment of the outstanding amount. Again, vide communication dated 05.11.2024, the complainant sought extension of time for discharging the outstanding payment obligations. The respondent has relied upon the aforesaid communications to contend that the complainant was unable to make the

requisite payments within the stipulated time. Consequently, the respondent issued a Cancellation Notice dated 08.11.2024, informing the complainant that failure to clear the outstanding dues would result in cancellation of the allotment. Thereafter, vide email dated 03.01.2025, the complainant once again sought additional time for making the outstanding payment. However, according to the respondent, despite repeated opportunities and requests, the complainant failed to discharge the payment obligations under the agreement. Accordingly, the respondent issued the formal and final cancellation letter dated 14.01.2025. Consequently, upon cancellation of the allotment, a sum of Rs. 97,53,394/-, after forfeiture of the earnest money, was refunded to the complainant. However, the said amount was subsequently returned by the complainant to the respondent.

17. Upon consideration of the documents placed on record and the submissions advanced by the parties with regard to the alleged contravention of the provisions of the Act, the Authority is of the considered view that the complainant was in default of the payment obligations and failed to adhere to the payment schedule agreed between the parties. The respondent has placed on record reminder letters dated 26.07.2024, 31.08.2024 and 25.09.2024, whereby the complainant was called upon to discharge the outstanding payment obligations.
18. Section 19(6) of the Act, 2016 casts an obligation upon the allottee to make payments in the manner and within the time stipulated in the agreement executed between the allottee and the promoter. In the present case, the complainant failed to make the requisite payments in accordance with the agreed payment schedule. The material placed on record further indicates that, prior to cancellation of the allotment, the respondent issued reminder letters and pre-cancellation notices, followed by the Cancellation Notice.

Thus, the cancellation of the allotment was effected after extending the requisite opportunities to the complainant and upon following the procedure contemplated under the agreement and the applicable provisions of law.

19. Hon'ble National Consumer Disputes Redressal Commissions in **CC/435/2019 Ramesh Malhotra VS. Emaar MGF Land Limited** (decided on 29.06.2020) and **Mr. Saurav Sanyal VS. M/s IREO Private Limited** (decided on 12.04.2022) and followed in **CC/2766/2017** in case titled as **Jayant Singhal and Anr. VS. M3M India Limited decided on 26.07.2022**, held that 10% of basic sale price is reasonable amount to be forfeited in the name of "earnest money". Keeping in view the principles laid down in the first two cases, a regulation known as the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, was framed providing 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."

20. Thus, the cancellation is valid in eyes of the law and the respondent is directed to refund the paid up amount to the complainant after deducting 10% of the sale consideration, alongwith interest at the prescribed rate i.e., 10.80% per annum under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the balance amount from the date of

cancellation of the unit till the date of actual realization. Any amount if already been refunded, shall be adjusted.

H. Directions of the authority: -

21. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the authority under sec 34(f) of the Act: -

- i. The respondent/promoter is directed to refund to refund the paid-up amount 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 cancellation i.e., 14.01.2025 till its realization.

22. Complaint stands disposed of.

23. File be consigned to the registry

Dated: 25.08.2026



(Arun Kumar)

Chairman
Haryana Real Estate
Regulatory Authority,
Gurugram