



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No.:	216 of 2025
Date of Filing:	13.02.2025
First Date of Hearing:	20.05.2025
Date of Decision:	29.09.2026

Anil Kumar
R/o H. No. 4, Phase-2,
Virat Nagar, Model Town,
Panipat, Haryana, 132103.

....COMPLAINANT

VERSUS

Splendor Landbase Limited
Unit No. 501-511, Splendor Forum,
5th Floor, 03, Jasola, District Centre,
New Delhi.

....RESPONDENT

Present: - Adv. Munish Kumar Garg & Adv. Bhawna Thakur, I.d. Counsel
for the Complainant through VC.

Adv. Shobhit Phutela, I.d. Counsel for the Respondent through VC.

ORDER : DR. GEETA RATHEE SINGH -(MEMBER)

1. Present complaint has been filed by the complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017

Dr. Geeta Rathee

for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the project, details of sale consideration, amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	"The Splendor Grande", Sector-19, Panipat, Haryana.
2.	Nature of the project.	Residential
3.	RERA Registered/Not Registered	Registered vide 362(a) of 2017 dated 01.01.2018
4.	Details of the unit	Apartment No. C5-GF, Ground Floor, Tower-C5, measuring 180.23 sq. mtr.
5.	Date of Builder Buyer Agreement	26.06.2014
6.	Due Date of Possession	25.06.2018
7.	Possession clause 11.2 as per ABA dated 26.06.2014	That the Developer shall, under normal conditions, complete the construction of Said Group



		Housing Colony in which the Said Unit is located within a period of 42 (forty two) months from the start of construction or execution of this Agreement whichever is later beyond which, the Developer shall further be entitled to a grace period of another 6 (Six) months. The construction shall be in accordance with the said Plans and specifications stated herein as Annexure-V subject to such additions, deletions, alterations, modifications in the layout, tower Plans, change in number, dimensions, height, size, area, specification of the Said Unit or change of entire scheme as the Developer may consider necessary or may be required by any competent authority to be made in them or any of them.
8.	Basic Sale Consideration	₹57,23,000/-
9.	Amount paid by the complainant	₹17,69,955/-
10.	Offer of Possession	None

B. FACTS OF THE COMPLAINT AS MENTIONED IN THE COMPLAINT

3. That the complainant namely Anil Kumar is a law-abiding citizen of India having a stellar reputation, who booked a residential apartment with the respondent

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company in its project and was allotted the same, thereby falling within the definition of an 'Allottee' under Sections 2(d) and 2(zg) of the Real Estate (Regulation and Development) Act, 2016.

4. That pursuant to the elaborate advertisements, assurances, representations, and promises made by the respondent company regarding its project namely "The Splendor Grande" situated in Sector-19, Panipat, Haryana, and believing the same to be true and correct, the complainant booked the apartment by making payments of ₹5,00,000/- vide cheque dated 03.02.2014, ₹5,00,000/- vide cheque dated 20.04.2014, ₹3,00,000/- vide cheque dated 08.06.2014, and ₹3,00,000/- vide cheque dated 22.06.2014 from the account of his proprietorship concern namely M/s Falak Janvi Enterprises. Thereby, a total amount of ₹16,00,000/- was paid till 22.06.2014, against which the respondent company issued payment receipts dated 11.06.2014 and 24.06.2014, as well as the provisional allotment letter dated 24.06.2014 along with the payment plan admitting the said receipts.
5. That thereafter, the parties executed an apartment buyer's agreement (ABA) on 26.06.2014, allotting Unit No. C5-GF, Ground Floor, Tower-C5, having a sale area of 180.23 sq. mtrs. (1940 sq. ft.) at a net BSP of ₹2,950/- per sq. ft., amounting to a total sale price of ₹57,23,000/- inclusive of EDC, IDC, and PLC. The said payment of ₹16,00,000/- made till 22.06.2014 is duly corroborated by the bank account statement of Bank of Maharashtra for the period from 01.01.2014 to 30.06.2014.



6. That thereafter, against the demand raised by the respondent company, the complainant paid an additional amount of ₹1,69,955/- vide cheque dated 01.11.2014, taking the total paid-up amount to ₹17,69,955/-, as evidenced by the bank account statement from 01.11.2014 to 20.11.2014 and the ledger account maintained in normal course which tallies with the respondent company's records.
7. That in terms of the apartment buyer's agreement, the unit was to be handed over within 42 months from the start of construction or execution of the agreement, whichever was later, plus a grace period of 6 months, computing the handover date on or before January 2018. However, there was no construction till 2021 except a bare structure standing up to the 7th floor, and despite the project being stalled for more than 8 to 9 years after timely receipt of payments, the respondent company failed to deliver possession.
8. That the complainant was and has always been keen, ready, and willing to pay the remaining dues, but after the payment of November 2014, the complainant neither received any demand notice nor any communication from the respondent company requiring further payments as per the payment plan. True photographs of Tower C-5, dated 25.07.2024 depicting the status of construction are annexed as Annexure C-13.
9. That surprisingly, in February 2024, the complainant came to know that a sum of ₹10,58,045/- had been credited into the bank account of his proprietorship concern M/s Falak Janvi Enterprises without any prior notice, explanation, hearing, or written cancellation letter served with proof of delivery, while an



amount of ₹7,11,910/- was unilaterally retained and forfeited by the respondent company. Upon approaching the respondent company, its officials declined to provide any satisfactory response.

10. That aggrieved by this non-responsive behavior, the complainant sent a request letter dated 01.06.2024 through speed post to the respondent's Delhi head office and Panipat site office, as well as via email, demanding the statement of account and a timeline for handover of possession, but no response was received.
11. That regulatory proceedings show that this Hon'ble Authority in its meeting dated 24.04.2024 (Item No. 250.15) granted extension of the Project Registration Certificate No. 362(a) of 2017 up to 31.12.2024 under Section 7(3) of the Act. Further, vide order dated 10.07.2024 (Item No. 2569.03), this Hon'ble Authority rejected the respondent company's application seeking exclusion of Low Rise Blocks 'A' and 'B' from the Phase-1 development plan and directed it to complete the project as per the original registration.
12. That the respondent company deliberately tricked the complainant through false promises, failed to adhere to the completion schedule, adopted unfair and restrictive trade practices with complete lack of transparency, and high-handedly returned part of the amount without issuing any formal cancellation notice or proof of delivery.
13. That the project is situated in Panipat, Haryana, falling within the territorial jurisdiction of this Hon'ble Authority, and the complaint is within limitation as no other case is pending before any other court or forum. Aggrieved by the non-


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delivery of possession and the unilateral remittance of partial funds, the complainant has approached this Hon'ble Authority seeking delivery of possession of Unit No. C5-GF upon payment of remaining balance dues as per the ABA dated 26.06.2014, along with delayed possession charges and statutory interest.

C. RELIEF SOUGHT

14. In view of the facts mentioned above, the complainant has prayed for the following relief(s):-

- i. Direct the Respondent Company to deliver the Apartment No.C5-GF, Ground Floor, Tower-C5 in in the afore-mentioned Group Housing Society i.e., in "Splendor Grande" to the Complainant after in receipt of remaining balance amount, as per Apartment Buyers Agreement dated 26.06.2014 only; And/Or,
- ii. Restrain the Respondent Company from creating Third Party rights in the said Unit till the time the delivery of possession; And/Or,
- iii. Restrain the Respondent Company from cancelling the Allotment, as till date Complainant has neither received any such Letter of Cancellation or any other Notice; And/Or,
- iv. Direct the Respondent Company to pay Delayed Possession Charges as per Clause No.11.4 of the Apartment Buyer's Agreement dated 26.06.2014 to the Complainant; And/Or,



- v. Direct the Respondent Company to pay interest on the amount paid by the Complainant at the rate as specified under the Real Estate (Regulation and Development) Act, 2016 and as per the Haryana Real Estate (Regulation and Development) Rules, 2017; And/Or,
- vi. To pass any other Order/Relief which this Hon'ble Authority deems fits and proper after considering the peculiar facts and circumstances roaming in the instant Complaint in favor of the Complainant, in the interest of justice.

D. REPLY/APPLICATION SUBMITTED ON BEHALF OF RESPONDENT

- 15. That the respondent company has established an impeccable reputation in the real estate sector across Delhi NCR and the Punjab region, and the complainant had voluntarily invested in its project "Splendor Grande" situated at Sector-19, Panipat, Haryana, purely for speculative gains and commercial profits; hence, the complainant is merely an investor and not a genuine consumer.
- 16. That the project was conceived and commenced prior to the enactment of the Real Estate (Regulation and Development) Act, 2016. Following the enforcement of the Act, Phase-1 of the project was duly registered with this Authority under Registration No. 367(a) of 2017 (Annexure R-2), and the registration was subsequently extended up to 31.12.2024, for which a further extension application has also been submitted.



17. That the construction of the project stands complete, and the occupation certificate (OC) was applied for before the Directorate of Town and Country Planning, Haryana, in April 2023. The OC was subsequently approved and granted vide Memo No. ZP-390 Vol-II/AD(GK)/2024/12891 dated 26.04.2024.
18. That the complaint is liable to be dismissed in limine as the complainant has approached this Authority with unclean hands by concealing material facts and payment defaults, attracting the principle laid down by the Hon'ble Supreme Court in *S.P. Chengalvaraya Naidu v. Jagannath* [(1994) 1 SCC 1].
19. That the complainant was a habitual and persistent defaulter who failed to adhere to the Construction Linked Payment Plan. The outstanding dues against the allotted unit accumulated to ₹53,62,247/-, despite repeated demand letters and reminders issued on 24.04.2014, 13.05.2014, 07.07.2014, 20.12.2016, 25.11.2022, 24.12.2022, and 13.02.2023.
20. That the respondent company afforded sufficient opportunities to the complainant to regularize payments, culminating in the issuance of a Pre-Cancellation Notice dated 28.02.2023 giving a final 15-day period to clear the arrears. Upon the complainant's continued failure to clear the dues or respond, the allotment was lawfully cancelled vide Cancellation Notice dated 22.03.2023.
21. That as a consequence of the cancellation, earnest money amounting to ₹7,11,910/- (being 10% of the total consideration) was forfeited in terms of Clauses 7 and 9.2 of the Apartment Buyer's Agreement, and the remaining



balance of ₹10,58,045/- was duly remitted and refunded into the complainant's bank account on 06.02.2024 via RTGS.

22. That the refunded amount was accepted by the complainant without demur or protest, thereby extinguishing all surviving rights, titles, interests, or liens of the complainant in the subject unit. Furthermore, the cancelled unit has already been re-allotted to third parties, namely Ms. Shefali Jain and Ms. Sangeeta Goel, and physical possession thereof has been delivered upon receipt of due consideration, rendering the prayer for possession infructuous.

23. That any delay in the execution of the project was occasioned due to bona fide reasons and force majeure circumstances completely beyond the control of the respondent company, including:

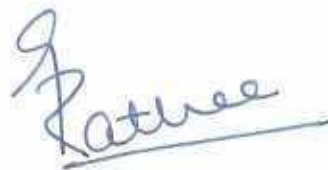
- a. Delays in receiving statutory and regulatory approvals;
- b. Complete bans and stoppages of construction activities for 2 to 3 months each year pursuant to National Green Tribunal (NGT) and Haryana State Pollution Control Board directions, followed by severe labor and material disruptions;
- c. Widespread defaults by multiple allottees in releasing construction-linked installments, which forced the respondent to infuse substantial capital exceeding ₹250 Crores through borrowings from Punjab & Sind Bank and Indiabulls Housing Finance Ltd. while diligently paying all government levies, EDC, and IDC;



- d. A severe market slump and unviability of multi-story towers in Panipat, necessitating a revision of the building scheme (scrapping four high-rise towers to build 108 low-rise row housing flats), which was approved by the department vide Memo No. ZP-390/AD(NK)/2019/17360 dated 22.07.2019 after inviting objections vide letter dated 22.02.2019; and
- e. The outbreak of the COVID-19 pandemic, which halted operations and was duly intimated to the complainant vide letter dated 24.08.2020.

24. That to revive and complete the project, the respondent successfully secured funding under the Government of India's SWAMIH Investment Fund-I through SBICAP Ventures Limited via Non-Convertible Debentures, wherein all customer receipts and disbursements were strictly routed through a RERA Escrow Account. Periodic progress and fund deployment updates were regularly dispatched to the complainant vide letters dated 15.03.2021, 17.11.2021, 03.01.2022, 29.09.2022, 01.11.2022, and 21.01.2023.

25. That no cause of action has accrued in favor of the complainant, and the complaint is hopelessly barred by limitation, having been filed nearly two years after the cancellation of the allotment vide letter dated 22.03.2023; therefore, the complaint is misconceived and liable to be dismissed with costs.



**APPLICATION FOR PLACING ON RECORD ADDITIONAL
DOCUMENTS FILED BY RESPONDNET, DATED 01.05.2026:**

26. That the complainant was a habitual defaulter who failed to adhere to the payment schedule despite repeated opportunities. While copies of the demand letters dated 24.04.2014, 13.05.2014, 07.07.2014, 20.12.2016, 25.11.2022, 24.12.2022, reminder letter dated 13.02.2023, Pre-Cancellation Notice dated 28.02.2023, and Cancellation Notice dated 22.03.2023 were already placed on record, the corresponding proof of delivery (POD) slips are now placed on record.
27. That the said courier proof of delivery slips conclusively establish that the demand letters, reminders, pre-cancellation notice, and cancellation notice were duly dispatched to the correct registered contractual address of the complainant, namely H.No. 04, Virat Nagar, Phase-II, Model Town, Panipat-132103. In terms of Clause 23 of the agreement dated 26.06.2014, dispatch of communications to the contractual address constitutes sufficient proof of service, and therefore the requirement of service stands fully satisfied.
28. That the complainant has misstated the chronology of demands by alleging compliance with a demand dated 01.11.2014, whereas the actual demand was raised on 07.07.2014 under the construction linked payment plan, and payment was made belatedly vide cheque dated 31.10.2014 (receipt issued on 07.11.2014), thereby violating Clause 9.1 wherein punctual payment of instalments is the prime essence of the agreement.



29. That pursuant to lawful cancellation dated 22.03.2023, the respondent company refunded ₹10,58,045/- after forfeiture of earnest money into the complainant's account on 06.02.2024 (Bank Statement, Annexure R-12), which was accepted without protest, thereby extinguishing all surviving rights, title, interest, or lien of the complainant in the subject unit. Under the law laid down by the Hon'ble Supreme Court in *Sangita Sinha v. Bhawana Bharadwaj* (2025 SCC OnLine SC 723), acceptance of refund terminates the agreement, and seeking possession thereafter attracts the bar of approbate and reprobate.
30. That the project was developed bona fide under the regulatory framework of RERA and funded under the Government of India's SWAMIH Investment Fund-I scheme, with escrow cash flows strictly monitored by IDBI Trusteeship Services Limited, through which all financial transactions, including refunds, were routed; hence, the complainant's attempt to portray the project as "halted" or "stagnant" is factually incorrect and contrary to record.
31. That following cancellation, the subject unit was lawfully re-allotted to bona fide third parties, namely Ms. Shefali Jain and Ms. Sangeeta Goel, vide Allotment Letter dated 21.07.2023 and Agreement for Sale dated 19.07.2023, resulting in crystallization of independent third-party rights.
32. That the said subsequent allottees further transferred the unit to Mr. Narender Kumar and Mrs. Neerja Baweja vide Transfer Request Form dated 10.04.2025 and requisite transfer documents (Annexure R-14 Colly.), and actual physical



possession was formally handed over to them on 09.09.2025 vide Possession Handover Letter (Annexure R-15).

33. That the respondent company cannot be compelled to divest lawfully created third-party rights nor can this Hon'ble Authority grant relief prejudicing persons who are not even arrayed as parties to the present proceedings, rendering the relief of possession wholly infructuous and incapable of being granted.

34. That the documents sought to be placed on record go to the root of the matter by conclusively establishing due service of notices, lawful cancellation, refund of amount, and crystallization of third-party rights; and since no prejudice shall be caused to the complainant, the application deserves to be allowed in the interest of justice.

**WRITTEN ARGUMENTS FILED BY THE RESPONDENT ON
29.05.2026:**

35. Written submissions filed on behalf of the respondent pursuant to the Order dated 05.05.2026 passed by this Hon'ble Authority granting liberty to file written arguments.

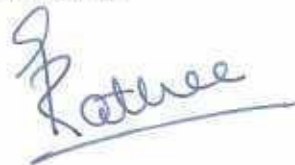
36. The present complaint is wholly misconceived, devoid of cause of action, and not maintainable in law or on facts. The complainant seeks possession and consequential reliefs in respect of Unit No. C5, Ground Floor, in the project "Splendor Grande," Sector-19, Panipat (allotted vide apartment buyer's agreement dated 26.06.2014), despite the fact that the allotment stood lawfully



cancelled long prior to the institution of the complaint, valid third-party rights have crystallized, and the entire refundable amount consequent to such cancellation was accepted by the complainant without demur or protest.

37. Complainant was a persistent and habitual defaulter who continuously failed to adhere to the agreed Construction Linked Payment Plan, remaining in substantial arrears of approximately ₹53,62,247/-. Despite repeated demand letters and reminders issued on 24.04.2014, 13.05.2014, 07.07.2014, 20.12.2016, 25.11.2022, 24.12.2022, and 13.02.2023, the complainant failed to clear the outstanding dues. Consequently, after serving a Pre-Cancellation Notice dated 28.02.2023, the allotment was lawfully cancelled vide Cancellation Notice dated 22.03.2023.

38. Complainant's persistent defaults violate Clause 9.1 of the Agreement, which expressly makes punctual payment the essence of the contract, as well as the statutory mandate under Section 19(6) of the Real Estate (Regulation and Development) Act, 2016. Having failed to discharge reciprocal contractual obligations, the Complainant is barred from seeking equitable or discretionary relief under Section 16(c) of the Specific Relief Act, 1963 and Section 51 of the Indian Contract Act, 1872. This settled legal position is fortified by the Hon'ble Supreme Court in *Mehboob-Ur-Rehman v. Ahsanul Ghani* (2019) 19 SCC 415, *J.P. Builders v. A. Ramadas Rao* (2011) 1 SCC 429, *N.P. Thirugnanam v. Dr. R. Jagan Mohan Rao* (1995) 5 SCC 115, and the Hon'ble Delhi High Court in *Royal Orchids v. Kulbir Singh Kohli*, 2022 SCC OnLine Del 2519.



39. Respondent, vide Application dated 30.04.2026, has placed on record the postal and courier receipts proving dispatch and service of all demands, reminders, and notices at the contractual address recorded in the Agreement ("H.No. 04, Virat Nagar, Phase-II, Model Town, Panipat-132103"). Pursuant to Clause 23 of the Agreement, dispatch to this address constitutes conclusive proof of service. The complainant's denial of service and attempt to misstate demand chronologies such as alleging an unissued demand on 01.11.2014 instead of the actual demand raised on 07.07.2014 and paid with severe delay on 31.10.2014 are demonstrably false and contrary to the record.

40. Consequent to the lawful cancellation, the respondent remitted the refundable sum of ₹10,58,045/- on 06.02.2024 (after deducting forfeitable earnest money per contractual and legal norms) from the Project Escrow Account (No. 57500000804502, HDFC Bank) monitored by IDBI Trusteeship Services Ltd. under the SWAMIH Investment Fund-I Scheme. The amount was credited directly into the Complainant's proprietorship account (M/s *Falak Janvi Enterprises*, A/c No. 60063413940, Bank of Maharashtra) the original originating account and was accepted without protest.

41. By unconditionally accepting the refund, the privity of contract and all surviving rights, titles, or liens of the Complainant stood completely extinguished. As held by the Hon'ble Supreme Court in *Sangita Sinha v. Bhavana Bharadwaj* (2025 SCC OnLine SC 723), encashment of a refund leads to the irresistible conclusion



that the agreement stands cancelled, and a party cannot subsequently approbate and reprobate by seeking restoration or possession.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

42. Ld. Counsel for the complainant submitted that pursuant to Clause 11.2 of the Apartment Buyer's Agreement (ABA) dated 26.06.2014, the respondent promoter was contractually obligated to complete construction and offer possession of the allotted unit within 42 months plus a 6-month grace period, which expired in January 2018. He contended that the complainant had duly paid an aggregate sum of ₹17,69,955/- by November 2014, but the respondent abandoned construction work for nearly 8 to 9 years. He further submitted that no demand notices or cancellation intimations were ever served upon the complainant, and the promoter unilaterally transferred ₹10,58,045/- into the complainant's bank account on 06.02.2024 via RTGS while unlawfully forfeiting ₹7,11,910/- without any prior show-cause notice or opportunity of hearing. During the course of hearing, Ld. Counsel for the complainant also submitted that in the event the subject unit cannot be restored, the complainant is ready and willing to accept an alternative unit.
43. In rebuttal, ld. counsel for the respondent submitted that the complainant's prayer for physical possession has become completely infructuous, as the subject unit was lawfully cancelled on 22.03.2023 on account of persistent default in payment of construction-linked dues amounting to ₹53,62,247/-, despite repeated



demand and reminder notices. He submitted that dispatch of these notices along with the Pre-Cancellation Notice dated 28.02.2023 and Cancellation Notice dated 22.03.2023 at the address and has been conclusively proven by placing courier proof of delivery (POD) slips on record, which satisfies the requirement of deemed service under Clause 23 of the ABA. He further emphasized that subsequent to the cancellation, bona fide third-party rights crystallized in the subject unit, as it was re-allotted to Ms. Shefali Jain and Ms. Sangeeta Goel on 21.07.2023, who subsequently transferred it to Mr. Narender Kumar and Mrs. Neerja Baweja on 10.04.2025, and actual physical possession was formally delivered to the subsequent purchasers on 09.09.2025. Therefore, since third-party rights were created and possession was handed over long before the filing of the complaint, the promoter cannot be compelled to divest settled third-party rights. Addressing the complainant's submission regarding the allotment of an alternative apartment, Ld. Counsel for the respondent categorically submitted that the project stands completely sold out and there is no vacant or alternative unit available in the project for allotment.

F. ISSUE FOR ADJUDICATION

44. Whether the complainant in the above captioned complaint is entitled to possession along delay interest on the amount deposited by him in terms of Section 18 of RERA Act of 2016?



G. FINDING ON OBJECTIONS RAISED BY THE RESPONDENT

G.1 Objection under Section-16(c) of Specific Relief Act.

45. Respondent has raised preliminary objection that complainants failed to demonstrate readiness and willingness as required under Section 16(c) of the Specific Relief Act, 1963, and therefore are not entitled to the relief sought, relevant extract of which reads as under:

Section 16- Personal Bars to Relief-

Specific Performance of a contract cannot be ordered in favor of person clause c:- who fails to aver and prove that he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him, other than terms the performance of which has been prevented or waived by the defendant.

Authority observes that the rights of an allottee under Sections 18 and 19 of the Act arise by operation of statute once delay in handing over possession is established. Such statutory rights cannot be curtailed by importing principles applicable to civil suits for specific performance. It is a settled legal position that RERA is a special legislation enacted to protect the interests of homebuyers and provides an independent adjudicatory mechanism, and the remedies under the Act cannot be defeated by technical objections based on civil law doctrines.



Further, Section 89 of the Real Estate (Regulation and Development) Act, 2016, expressly provides that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for time being in force. In view of the overriding effect accorded to the Act, any reliance placed by the respondent upon Section 16(c) of the Specific Relief Act, 1963 to restrict the statutory entitlement of allottee, is wholly misplaced and untenable in law.

Accordingly, the objection of the respondent based on Section 16(c) of the Specific Relief Act is misconceived and is hereby rejected.

G.2 Objection with regard to whether the complainant is an investor or not.

46. The respondent has taken a stand that the complainant is an investor who has booked the unit for resale purposes and for this reason did not make complete payment on time. In this regard, Authority observes that "any aggrieved person" can file a complaint against a promoter if the promoter contravenes the provisions of the RERA Act, 2016 or the rules or regulations. In the present case, the complainant is an aggrieved person who has filed a complaint under Section 31 of the RERA Act, 2016 against the promoter for violation/contravention of the provisions of the RERA Act, 2016 and the Rules and Regulations made thereunder. Here, it is important to emphasize upon the definition of term allottee under the RERA Act of 2016, already reproduced in aforesaid paragraph. In view of the afore-mentioned definition of "allottee" as well as upon careful perusal of apartment buyer agreement dated 26.06.2014 it is clear that complainant is an



"allottee" as Apartment No. C5-GF, Ground Floor, Tower-C5, measuring 180.23 sq. mtr. in the real estate project "The Splendor Grande", Panipat as allotted to him by the respondent promoter. The concept/definition of investor is not provided or referred to in the RERA Act, 2016. As per the definitions provided under section 2 of the RERA Act, 2016, there will be "promoter" and "allottee" and there cannot be any party having a status of an investor. Further, the definition of "allottee" as provided under RERA Act, 2016 does not distinguish between an allottee who has been allotted a plot, apartment or building in a real estate project for self-consumption or for investment purpose. The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled as *M/s Srushti Sangam Developers Ltd. Vs Sarvapriya Leasing (P) Ltd. and Anr.* had also held that the concept of investors not defined or referred to in the Act. This issue has also been discussed by this Authority in its order dated 13.11.2025 passed in complaint no. 321 of 2025 against the respondent promoter namely, *Harpreet Singh Chona v. Vatika Ltd and Ors.* Thus, the contention of the promoter that the allottee being investor is not entitled to protection of this Act also stands rejected.

H. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

47. Upon perusal of the pleadings, the application for additional documents, the written arguments, and the documentary record placed on file, the Authority observes that the complainant, Anil Kumar, booked a residential unit in the project of the respondent namely "The Splendor Grande" situated at Sector-19,



Panipat, Haryana. An Apartment Buyer's Agreement (ABA) was executed between the parties on 26.06.2014 with respect to Unit No. C5-GF, Ground Floor, Tower-C5, admeasuring a sale area of 180.23 sq. mtrs. (1,940 sq. ft.) for a total sale consideration of ₹57,23,000/- inclusive of EDC, IDC, and PLC. Against the said agreed consideration, the complainant admittedly deposited an aggregate sum of ₹17,69,955/- up to 01.11.2014. However, subsequent to November 2014, the complainant did not make further payments and consequently, respondent promoter proceeded to cancel the allotment of the subject unit vide Cancellation Notice dated 22.03.2023.

48. In view of these facts, the primary question that arises for determination before this Authority is whether the cancellation of the subject unit effected by the respondent promoter vide notice dated 22.03.2023 is legal or illegal.
49. Turning first to the contractual obligations regarding delivery, under Clause 11.2 of the apartment buyer's agreement dated 26.06.2014, respondent was obligated to complete the construction of the unit within 42 months from the start of construction or execution of the agreement, whichever was later, with an additional grace period of 6 months, computing the committed possession timeline to 25.06.2018. The exact portion of Clause 11.2 of the ABA dated 26.06.2014, is reproduced below for ready reference:

"11.2 That the Developer shall, under normal conditions, complete the construction of Said Group Housing Colony in which the Said Unit is located within a period of 42 (forty two) months from the



start of construction or execution of this Agreement whichever is later beyond which, the Developer shall further be entitled to a grace period of another 6 (Six) months. The construction shall be in accordance with the said Plans and specifications stated herein as Annexure-V subject to such additions, deletions, alterations, modifications in the layout, tower Plans, change in number, dimensions, height, size, area, specification of the Said Unit or change of entire scheme as the Developer may consider necessary or may be required by any competent authority to be made in them or any of them."

50. It is an admitted position that the respondent failed to complete construction within the promised timeline of 25.06.2018, and the project suffered substantial delays spanning multiple years. However, record demonstrates that the project was not abandoned; construction continued under the monitored financial framework of the SWAMIH Investment Fund-I, and the respondent ultimately achieved completion of the project. The promoter applied for an occupation certificate (OC) before the Directorate of Town & Country Planning, Haryana, in April 2023, and the competent authority granted the Occupation Certificate vide Memo No. ZP-390 Vol-II/AD(GK)/2024/12891 on 26.04.2024.

51. The respondent has alleged that the complainant himself was at default in making payments and that non-payment by the complainant and other allottees adversely affected the pace of construction. The said contention has been considered in the light of the payment record and the apartment buyer agreement dated 26.06.2014 as well as the correspondence placed on record. The Authority observes that



while the development remained delayed, clause 9.1 of the apartment buyer's agreement explicitly made the punctual payment of instalments under the construction linked payment plan the prime essence of the contract. The exact portion of Clause 9.1 of the ABA dated 26.06.2014 is reproduced below for ready reference::

"9.1 That punctual payment of instalments as stated in Schedule of Payments annexed as Annexure - III to this Agreement and applicable stamp duty, registration fee and other charges payable under the Agreement is the prime essence of this Agreement and notwithstanding anything contained herein, breach of this condition by the Allottee shall disentitle the Allottee from raising any claims in respect of delay in handing over of possession of the Said Unit to the Allottee in addition to other consequences as provided in this Agreement."

52. Under Section 19(6) of the Act of 2016, an allottee is bound by a statutory obligation to make timely payments in the manner and within the time schedule specified in the agreement for sale. To examine the rival claims regarding default and breach, the correspondence and demand notices placed on record by the respondent promoter require a bifurcation across three distinct chronological stages:

- a) Initial Demands during 24.04.2014 to 07.07.2014: During the inception of the allotment and the execution of the ABA, the respondent raised demands on 24.04.2014, 13.05.2014, and 07.07.2014. Against these initial stages, the complainant deposited

payments totaling ₹16,00,000/- up to June 2014, followed by an installment of ₹1,69,955/- cleared on 01.11.2014 (totaling ₹17,69,955/-).

- b) Demand Raised Prior to the expiry of the due date of possession (Demand dated 20.12.2016): Admittedly, the contractual timeline for delivery of possession was 25.06.2018. On 20.12.2016, well within the agreed construction period the respondent promoter issued a demand notice calling upon the complainant to clear the dues of ₹34,910/-. Under the agreed Construction Linked Payment Plan, the complainant was under an absolute contractual duty to make milestone payments as the work progressed. However, the complainant failed to honor the demand dated 20.12.2016 and remitted no payment whatsoever. While the complainant has contended that he withheld payments because construction had stalled at the 7th floor, this bald assertion is unsupported by any documentary proof. The complainant has failed to place on record that construction had halted at that time. It is a well-settled principle of evidence that the burden of proving that construction had ceased lay squarely upon the complainant who asserted it. Having failed to discharge this onus, the complainant cannot retrospectively justify his unilateral cessation of payments from November 2014 onwards.



c) Demands and Final Notices raised after the expiry of the due date of possession (25.11.2022 onwards): Subsequent to the expiry of the committed delivery timeline, the respondent promoter approached SBICAP Ventures Limited for last-mile funding under the Special Window for Affordable and Mid-Income Housing Projects (SWAMIH Investment Fund) an initiative launched by the Ministry of Finance, Government of India, on 06.11.2019 to revive stressed and stalled project. The respondent secured final investment approval through the subscription of Non-Convertible Debentures (NCDs) by SBICAP Ventures Limited, with project operations and cash flows subjected to strict escrow monitoring under IDBI Trusteeship Services Limited. A foundational prerequisite and policy core of the SWAMIH framework is the principle of collective stakeholder participation and mutual commitment, wherein allottee consent and reciprocal cash-flow compliance are paramount. The scheme is structured to infuse debt capital strictly on the premise that existing buyers will also contribute their due milestone receivables into the project escrow account to ensure viable completion. In furtherance thereof, the respondent promoter raised demands and reminder notices dated 25.11.2022, 24.12.2022, and 13.02.2023, demanding outstanding arrears of ₹53,62,247/-, followed by a Pre-Cancellation Notice dated 28.02.2023 affording a final 15-day



window to regularize the account. To substantiate service, the respondent placed on record consignment booking receipts issued by DTDC courier. However, upon scrutiny, the Authority observes that while consignment receipts showing dispatch have been placed on file, the respondent has failed to attach the corresponding online tracking reports, evidencing actual delivery upon the addressee. In the absence of verifiable proof of delivery, mere booking receipts cannot be elevated to the status of conclusive service especially when the courier company is a private entity, and the Authority cannot place reliance upon these courier slips to establish that the complainant had actual notice of these demands.

53. Nevertheless, the subsequent conduct and timeline of the parties reveal material circumstances that go to the very root of the dispute. Following the complainant's non-responsiveness, the respondent promoter cancelled the allotment on 22.03.2023 and, in terms of clauses 7 and 9.2 of the apartment buyer agreement dated 26.06.2014, and remitted a refund of ₹10,58,045/- directly into the complainant's bank account via RTGS on 06.02.2024, while forfeiting ₹7,11,910/-.

54. The conduct of the complainant subsequent to receiving the refund is telling. The complainant received the refund of ₹10,58,045/- in his bank account on 06.02.2024. Yet, he chose to maintain absolute silence and waited for nearly four months before issuing a request letter on 01.06.2024. Record reveals that between



the last instalment paid on 01.11.2014 and the letter dated 01.06.2024, i.e., almost ten years, the complainant did not make a single communication with the promoter. He neither visited the site, nor enquired about the construction status, nor addressed any written grievance regarding the progress of his apartment.

55. The critical stage and timing at which the complainant suddenly woke from his decade-long slumber and issued the letter dated 01.06.2024 cannot be overlooked. The occupation certificate (OC) for the project was granted by the competent authority on 26.04.2024. It was only after the OC was issued and, after holding the refund money for four months without protest, the complainant issued the letter dated 01.06.2024 claiming possession and a statement of account.

56. This sequence of events raises an iota of doubt regarding the bona fide intentions of the complainant. It indicates that having abandoned the contract for years while the developer struggled through financial hardship, the complainant chose to resurface only when the project was completed, and the real estate market was experiencing a substantial upward boom, with the sole objective of reaping unearned gains. Contrary, complainant has failed to produce any cogent explanation or contemporaneous record to justify why he maintained complete dormancy for nearly a decade and why no protest was lodged immediately upon receiving the refund in February 2024.

57. Further, the primary relief sought by the complainant in the present complaint is for the delivery of physical possession of Unit No. C5-GF, Ground Floor, Tower-C5. However, as observed hereinabove, the allotment of the subject unit was



cancelled by the respondent company vide Cancellation Notice dated 22.03.2023 and amount of ₹10,58,045/- after forfeiture of earnest money (₹7,11,910/-) were refunded on 06.02.2024. The records further reveal that subsequent to such cancellation, third-party rights were created in respect of the said unit. The respondent re-allotted the unit to third-party purchasers, namely Ms. Shefali Jain and Ms. Sangeeta Goel, vide Allotment Letter dated 21.07.2023 and Agreement for Sale dated 19.07.2023, and the crystallization of third-party interest, took place prior to the institution of the present complaint. Thereafter, the said purchasers transferred the unit in favor of Mr. Narender Kumar and Mrs. Neerja Baweja vide transfer request form dated 10.04.2025.

58. In light of the above facts, the unit has been cancelled by the respondent, and third party rights already created before institution of the present complaint, therefore, the primary prayer for possession stands frustrated. However, the Authority observes that in prayer clause (vi) of the complaint, the complainant has prayed for *"any other Order/Relief which this Hon'ble Authority deems fit and proper after considering the peculiar facts and circumstances... in favor of the Complainant, in the interest of justice"*. To prevent miscarriage of justice and avoid leaving the allottee remediless, the Authority deems this case fit to allow the relief of refund under Section 18 of the Act of 2016 read with Rule 15 of the Rules of 2017. Out of the total paid amount of ₹17,65,955/-, respondent has already refunded ₹10,58,045/- after forfeiting ₹7,11,910/-.



59. It is an undisputed fact that the complainant has paid ₹17,69,955/- out of the total sale consideration of ₹57,23,000/-, which constitutes approximately 30 % of the overall purchase price. While Clause 7 read with Clause 9.2 of the apartment buyer's agreement dated 26.06.2014 provides for cancellation and forfeiture of earnest money upon default, however, the pivotal question that demands scrutiny is whether the respondent promoter is at all entitled to forfeit any earnest money in the facts and circumstances of the present case. The Authority observes that under Clause 11.2 of the agreement, the committed due date for handing over physical possession expired on 25.06.2018. Admittedly, the respondent failed to complete construction within the promised timeframe, and the project lingered incomplete for nearly six years beyond the stipulated date until the occupation certificate was finally granted on 26.04.2024.
60. Hence, the respondent promoter sat in default of its delivery obligation from June 2018 onwards. Where the promoter is itself in fundamental breach of the delivery schedule, the right to forfeit earnest money stands extinguished in equity as well as in law.
61. Consequently, the Authority holds that the respondent promoter is not entitled to forfeit any amount towards earnest money, and the unilateral deduction and forfeiture of ₹7,11,910/- is wholly unjustified, and legally unsustainable. The respondent is bound to refund the entire deposited sum of ₹17,69,955/- to the complainant, subject to the adjustment of the partial amount already remitted



62. Authority hereby concludes that complainant is entitled to receive a refund of the paid amount along with interest as per Rule 15 of RERA Rules 2017 on account of failure on part of the respondent. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. Section 18 of RERA Act, 2016 is reproduced below for reference:

"If the promoter fails to complete or is unable to give possession of an apartment, plot or building,- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) 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: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed"

Further, the definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.-For the purpose of this clause-

(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any



part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15: "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 (NCLR) 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"

63. Hence, Authority directs the respondent to refund to the complainant the paid amount along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the rate of SBI highest marginal cost of lending rate SBI (MCLR)+ 2 % which as on date works out to 10.80% (8.80% + 2.00%) from the date amounts were paid till the actual realization of the amount.

64. To ascertain the exact liability, Authority has got calculated the interest on total paid amount from date of payments till date of order and same is depicted in the table below:



Sr. no.	Principal amount	Date of payments	Date of refund	Interest from date of payments till date of refund
1.	₹5,00,000/-	03.02.2014	06.02.2024	₹5,40,888/-
2.	₹5,00,000/-	20.04.2014	06.02.2024	₹5,29,644/-
3.	₹3,00,000/-	08.06.2014	06.02.2024	₹3,13,437/-
4.	₹3,00,000/-	22.06.2014	06.02.2024	₹3,12,194/-
5.	₹1,69,955/-	01.11.2014	06.02.2024	₹1,70,225/-
	₹17,69,955/-			₹18,66,388/-

When the respondent effected the partial refund on 06.02.2024, it remitted only ₹10,58,045/- while retaining ₹7,11,910/- under the guise of earnest money. However, as held above, respondent is not liable to forfeit the earnest money. The respondent has continued to hold this principal amount from 07.02.2024 to date. Therefore, the complainant is entitled to the refund of this retained principal amount of ₹7,11,910/-, along with interest at the prescribed rate of 10.80% per annum from 07.02.2024 up to the date of this order (29.09.2026).

Sr.no	Retained Amount	Date of retention	Date of order	Interest from date of retention till date of order i.e. 29.09.2026
1.	₹7,11,910/-	07.02.2024	29.09.2026	₹2,03,485/-
Total amount to be refunded to the complainant = ₹7,11,910 + ₹18,66,388 + ₹2,03,485 = ₹27,81,783/-				

65. Further, the complainant is seeking compensation on account of mental harassment caused to the complainant and litigation expenses. It is observed that 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 U.P. & ors.*"



(supra.), 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 learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned 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, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

H. DIRECTIONS OF THE AUTHORITY

66. Hence, the Authority hereby passes this order and issue following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

(i) Respondent is directed to refund the amount of ₹27,81,783/- comprising the retained principal of ₹7,11,910/- and total accrued interest of ₹20,69,873/- to the complainant as specified in the table provided in para 66 of this order. It is further clarified that respondent will remain liable to pay the interest on the unpaid principal balance of ₹7,11,910/- to the complainant till the actual date of realization of the amount.

(ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate



(Regulation & Development) Rules, 2017, failing which legal consequences would be taken against the respondent.

67. **Disposed of.** Files be consigned to the record room after uploading of the order on the website of the Authority.



DR. GEETA RATHEE SINGH
[MEMBER]