

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

Complaint no.:	5935 of 2025
Date of complaint:	17.11.2025
Date of order:	25.08.2026

Santosh Gupta

R/o: - 317/18, Civil Lines, Gurugram

Complainant

Versus

Mahendra Buildways Private Limited

Having Regd. Office at: 410 N-5, Pocket 6 Sector D,
Vasant Kunj, New Delhi

Respondent

CORAM:

Sh. Arun Kumar

Chairman

APPEARANCE:

Sh. Manoj Kataria (Advocate)

None

Complainant

Respondent

ORDER

1. The present complaint has been filed by the complainant/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions as provided

under the provision of the Act or the Rules and regulations made there under 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 complainants, 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 and location of the project	"Mahendra Meadow" Sector-67, Gurgaon.
2.	Nature of the project	Cannot be ascertained
3.	Project area	NA
4.	DTCP license no.	NA
5.	RERA Registered/ not registered	NA
6.	Unit no.	Tower 5, Ground floor (At page 21 of complaint)
7.	Unit area admeasuring	1780 sq. ft. (At page 21 of complaint)
8.	Date of Booking	NA
9.	Allotment letter	NA
10.	Buyers' agreement	NA
11.	Possession clause	Cannot be ascertained
12.	Due date of possession	Cannot be ascertained
13.	Total sale consideration	NA
14.	Amount paid by the complainant	Rs.6,50,000/- (as per cheque at page 20 & receipt at page 41 of complaint)
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions: -

1. That, somewhere in the year 2011, the respondent through its marketing executives had advertisement done through various medium and means approached the complainant with an offer to invest and buy a residential unit in the proposed project of respondent, which the respondent was going to launch the project under the name and style of "Mahendra Meadow" situated at Sector-67, Gurugram. The respondent had represented to the complainant that the respondent is very ethical business house in the field of construction of residential and commercial project and in case, the complainant would invest/buy a unit in the project of respondent then respondent would deliver the possession of proposed residential unit on the assured delivery date as per the best quality assured by the respondent. The respondent had further assured the complainant that the respondent has already secured all the necessary sanctions and approvals from the appropriate and concerned authorities for the development and completion of said project on time with the promised quality and specification. The respondent had also shown the brochures and advertisement material of the said project to the complainant given by respondent and assured that the allotment letter and builder buyer agreement for the said project would be issued to the complainant within one week of booking to be made by the complainant. The complainant while relying on the representations and warranties of the respondent and believing those to be true had agreed to the proposal of the respondent to book the residential unit in the

project of respondent. The representative of the respondent had also shown the brochures to the complainant.

- II. That relying upon the assurances and believing them to be true, the complainant booked a residential flat no.05/003 measuring an area of 1780 sq. ft. on ground floor in the project Mahendra Meadow at Sector-67, Gurugram, for a total sale consideration of Rs.29,10,300/-.
- III. That, while booking the said unit, it was represented by the respondent that the respondent has already secured all necessary permissions, sanctions and approvals from the competent authorities and since the complainant has booked the unit, the complainant was assured by the respondent that it would allot the said unit in favor of the complainant well within a period of maximum one week. However, the respondent miserably failed in issuing any allotment letter to the complainant despite repeated requests made by complainant in this regard. Thereafter, the respondent started raising the demand of money /installments from the complainant as per the agreed timelines and the complainant has paid an amount of Rs.13,00,000/- against the sale consideration.
- IV. That, at the time of booking of the said unit, it was assured and represented by the respondent that it would deliver the possession of the dwelling unit to the complainant within a period of 4 (four) years, from the date of booking. The date of possession was 2015 and respondent miserably failed in delivering the possession of the said unit to the complainant and has therefore, miserably defaulted in fulfilling its commitment as per the terms of the agreement. From the date of booking and till today, the respondent had raised various demands for

the payment of installments on complainant towards sale consideration of the said unit and the complainant has duly paid and satisfied all those demands without any default or delay on her part and have also fulfilled otherwise also her part of obligations but the respondent having fraudulent intention never started.

- V. That the respondent has not even issued allotment letter to the complainant even after their repeated requests, which itself is sufficient to prove that the respondent had never intention to deliver the possession of the said unit to the complainant and the respondent has misused and misappropriated the funds paid by the complainant. When nothing fruitful came out, the complainant through his counsel served a legal notice dated 15.04.2024 upon respondent vide which the respondent was called upon to handover the possession of the said flat to the complainant within 15 days from the receipt of the notice. The legal notice deemed to be served upon respondent, as neither the respondent has handed over the possession of the said unit to the complainant nor any reply thereof.
- VI. That the complainant tried her level best to reach the representatives of the respondent to seek a satisfactory reply in respect of the said unit but all in vain. The complainant had also informed the respondent about her financial hardship due to delay in getting possession of the said unit. The complainant requested the respondent to deliver the said unit citing the extreme financial and mental pressure she was going through but respondent never cared to listen to her grievances and left her with the suffering and pain on account of its default and negligence.

- VII. That the complainant has undergone severe mental harassment due to the negligence on the part of the respondent to deliver her home on time agreed. The complainant had faced all these financial burdens and hardship from her limited income resources, only because of respondent's failure to fulfill its promises and commitments.
- VIII. That the respondent committed grave deficiency in services by not delivering the possession of the unit, which is still not near completion. On top of that the respondent has charged heavy rate of interest on delayed payment, which is at the rate of 18 percent per annum but miserably failed to perform its part of the agreement. The cause of action accrued in favor of the complainant and against the respondent in year 2011, when complainant had booked the said unit and it further arose when respondent failed /neglected to deliver the said unit. The cause of action is continuing and is still subsisting on day-to-day basis.

C. Relief sought by the complainant:

4. The complainant has sought following reliefs:
- Direct the respondent to handover the possession of the unit to the complainant with immediate effect.
 - Direct the respondent to pay the penalty to the complainant on account of delay possession charges in delivering possession of the unit.
 - Direct the respondent to pay an amount of Rs. 55,000/- to the complainant as cost of the present litigation.
5. The respondent/promoter never put in appearance till date. Despite giving specific directions to file reply, it has failed to comply with the orders of the authority. It shows that the respondent is intentionally

avoiding filing of the written reply. Therefore, the defence of the respondent is hereby struck off for not filing the reply.

6. Copies of all the documents have been filed and placed on record. The authenticity is not in dispute. Hence, the complaint can be decided on the basis of these documents as well as submissions made by the parties.

D. Jurisdiction of the Authority

7. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

D.I. Territorial jurisdiction

8. 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.

D.II. Subject matter jurisdiction

9. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all

the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

10. 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.

E. Maintainability of complaint

11. The Authority observes that the present complaint is based on an un-executed and un-dated document which states the details of the unit and the general terms and conditions. However, there is no date mentioned in the document. As per record, neither any formal allotment has been made in favour of the complainant nor any buyer's agreement has been executed between the parties till date. Thus, the transaction between the parties never progressed beyond the stage of the document and did not culminate into allotment of any plot, apartment or building.
12. The document placed on record does mention the unit no. GF, Tower T-5, super area 1780 sq. ft. However, there is no date mentioned in the document or any project as to which project the unit was ever allotted to the complainant. The complainant has stated that the complainant has paid an amount of Rs. 13,00,000/-. A cheque is placed on record dated 26.11.2010 for an amount of Rs. 6,50,000/-. The complainant remained silent for around 15 years and has approached this Authority without offering any sufficient cause for such extraordinary delay. The cause of action, if any, arose in 2010, and has long since become time-

barred under the provisions of the Limitation Act, 1963. The complainant, having failed to pursue his alleged claim for more than a decade, cannot now seek revival of a stale and extinguished right. The claim sought to be revived after more than a decade is, therefore, legally untenable.

13. Moreover, it is observed that, till filing of the complaint which is around 15 years from the date of the cheque, neither any formal allotment has been made in favour of the complainant nor any buyer's agreement has been executed between the parties. The complainant remained dormant of his rights for more than 15 years and he didn't approach any forum to avail his rights. There has been such a long unexplained delay in pursuing the matter. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be fetched to an extent that basic principles of jurisprudence are to be ignored.
14. One such principle is that delay and laches are sufficient to defeat the apparent rights of a person. In fact, it is not that there is any period of limitation for the authority to exercise their powers under the section 37 read with section 35 of the Act nor it is that there can never be a case where the authority cannot interfere in a manner after a passage of a certain length of time but it would be a sound and wise exercise of discretion for the authority to refuse to exercise their extraordinary powers of natural justice provided under section 38(2) of the Act in case of persons who do not approach expeditiously for the relief and who stand by and allow things to happen and then approach the court to put

forward stale claims. Even equality has to be claimed at the right juncture and not on expiry of reasonable time.

15. Further, as observed in the landmark case i.e. ***B.L. Sreedhar and Ors. V. K.M. Munireddy and Ors. [AIR 2003 SC 578]*** the Hon'ble Supreme Court held that "*Law assists those who are vigilant and not those who sleep over their rights.*" Law will not assist those who are careless of his rights. In order to claim one's right, one must be watchful of his rights. Only those persons, who are watchful and careful of using his/her rights, are entitled to the benefit of law.
16. In the absence of a defined allotment, the complainant cannot be treated as an 'allottee' within the meaning of Section 2(d) of the Act. However, before examining the merits of the case, it is necessary to determine whether the complainant fall within the definition of allottee or not under the Real Estate (Regulation and Development) Act, 2016. Section 2(d) of the RERA Act, 2016 defines an "allottee" as under:

"...the person to whom a plot, apartment or building...has been allotted, sold...or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment... but does not include a person to whom such plot...is given on rent."

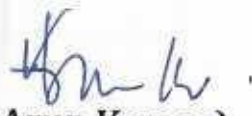
17. As per Section 2(d) of the RERA Act, 2016, an "allottee" means a person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the promoter. In the present case, admittedly no allotment of any unit was ever made in favour of the complainant. In

the absence of an allotment letter or agreement for sale, does not confer the status of an allottee upon the complainant.

18. Since no concluded contract was formed and no allotment was made, the dispute raised by the complainant relating to the handover of possession and payment of delay possession charges pursuant to a un-executed and un-dated document, falls outside the scope and jurisdiction of this Authority under the RERA Act, 2016.
19. Moreover, Section 29 of the Indian Contract Act, 1872, provides that agreements whose meaning is not certain, or cannot be made certain, are void and therefore not legally enforceable. This Authority further observes that for a legally enforceable contract to come into existence, there must be consensus ad idem on essential terms such as identification of the unit, consideration, payment schedule, rights and obligations of the parties which are ordinarily crystallized through an allotment letter and agreement for sale. In the absence of such documents, no concluded contract for sale came into existence between the parties.
20. In the light of the above stated facts and applying aforesaid principles, the Authority is of the view that the present complaint wherein seeking handover of the possession and delay possession charges, is not maintainable **firstly**, after such a long period of time as the law is not meant for those who are dormant over their rights. **Secondly**, the Authority only adjudicate the matters which are undisputed in nature and **thirdly**, the complainant does not fall under the definition of Allottee. The Act has been established to regulate real estate sector and awarding relief in the present case would eventually open pandora box

of litigation. It is a principle of natural justice that nobody's right should be prejudiced for the sake of other's right, when a person remained dormant for such an unreasonable period of time without any justifiable cause.

21. In view of the above, the complaint is not maintainable and is hereby dismissed with liberty to the complainant to seek appropriate remedies before the appropriate forum in accordance with law. However, with regard to the relief of compensation, the complainant is at liberty to file a fresh complaint before the Adjudicating Officer.
22. Complaint as well as applications, if any, stands disposed of accordingly.
23. Files be consigned to the registry.


(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 25.08.2026