

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

Complaint no.:	6069 of 2025
Complaint filed on:	21.11.2025
Date of decision:	18.09.2026

Shubhlakshmi Singh
R/o - 114, Vista Villa, Sector-
46, Gurugram

Complainant
Versus

Imperia Structures Ltd.
Registered Office at: - A-25, Mohan
Cooperative Industrial Estate,
Mathura Road, New Delhi-110044

Respondent**CORAM:**

Shri Arun Kumar

Chairman**APPEARANCE:**

Sh. Vishesh Wadhwa (Advocate)
Ms. Priya Sharma (Advocate)

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 allottees 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.N.	Particulars	Details
1.	Name of the project	Mindspace, Sector, 62 Gurugram
2.	Project Area	2.2 acres
3.	Nature of Project	IT Park Colony
4.	RERA registered/not registered	240 of 2017 dated 25.09.2017 valid upto 31.12.2020
5.	DTPC License no.	86 of 2010 dated 23.10.2020
6.	Unit no.	IMP-B-0166 (page 46 of complaint)
7.	Unit measuring	500 sq. ft. (page 46 of complaint)
8.	MoU in the name of ShubhLakshmi and Simran	2011 Undated (page 33 of complaint)
9.	Agreement to sell	Not executed
10.	Assured return clause	4. <i>That the developer will pay Rs.60/- per sq. ft. per month on 500/- sq. ft. as an assured return to the allottees from 16.12.2011 till offer for possession of the space. Thereafter, the developer shall pay Rs.50/- per sq. ft. per month on 500 sq. ft. as an assured rental till the offered space is leased out to intended lessee. The developer has represented to the allottee(s) that the possession of the said unit shall be handed over by the developer to the allottees but in the event of virtual space the space will be registered in favor of allottees and handed over to the</i>

		lessee within a maximum period of two years after approval of building plans of the said project from competent authorities of the said project to force majeure. That the allottees hereby agrees accepts and confirms the authority and power of the developer for any variation or change in location or area of the said unit allotted to him and that the allotment is provisional (page 36 of complaint)
11.	Sale consideration	Rs.15,00,000/- (page 35 of complaint)
12.	Total amount paid by the complainant	Rs.15,00,000/- (page 35 of complaint)
13.	Offer of possession for fit out	15.07.2019 (page 46 of complaint)
14.	Occupation certificate for tower C ground to 13 th floor	02.06.2020 (page 89 of complaint)
15.	Offer of possession	20.06.2020 (page 76 of application for dismissal of complaint)
16.	Letter for execution of conveyance deed by respondent	18.10.2022 (page 55 of complaint)
17.	Assured return paid by the respondent	Till March 2019 (as per the ledger account page 101 of complaint)
18.	Final notice for payment of outstanding dues on account of holding charges	11.04.2025 (page 104 of complaint)

	and maintenance charges (Rs.10,08,900/-)	
19.	Pre cancellation letter (demand of Maintenance Charges Rs.3,71,700/- and holding charges of Rs.7,43,400/-)	18.09.2025 (page 113 of complaint)
20.	Cancellation letter	27.10.2025 (page 158 of application for dismissal of complaint)
21.	Allotment letter in favor of Sagar (Third Party rights created on)	28.10.2025 (page 159 of application for dismissal of complaint)

B. Facts of the complaint.

3. The complainant has pleaded the following facts:

- a. That the complainant herein is a 75 year old lady and a simple law-abiding citizen possessed of limited means and resources. It is submitted that the complainant was desirous to invest its money in a commercial property to earn money and security of her old age life.
- b. The complainant was introduced to respondent company viz. M/s Imperia Structures Limited which is a public limited company incorporated as per the rules and regulation under the Companies Act, 1956, engaged in the business of construction and sale of real estate projects in Delhi NCR.
- c. In the year 2011, the respondent company through its employees made an offer to the complainant for the sale of a Retail Space/Virtual Office Space unit on investment return plan, admeasuring super area of 500 sq. feet, in their "IT/ITES" project named "BYRON" being constructed on portion of

about 2,30,000 sq. feet out of the total land of 9,09,995 sq. feet situated at Sector 62 in the revenue estate of village Maidawas, Tehsil and District, Gurgaon, Haryana.

- d. The respondent company through its employees demanded the sum of Rs.15,00,000/- from the complainant for the allotment of a 500 sq. feet unit bearing No. "IMP-B-0166" in tower B of the A document termed as "Memorandum of understanding" was presented to the complainant enlisting all the terms and conditions of the allotment, assured return, investment plan, assured rents and various aspects.
- e. The complainant consequently, in the year 2011 made the consolidated payment of Rs.15,00,000/- for the allotment of unit No. B-0166 to the respondent company, where Rs.3,00,000/- were paid through cheque bearing No.111946 dated 05.10.2011 of HDFC Bank, Delhi while the remaining amount of Rs. 12,00,000/- were paid through cheque bearing No.483457 dated 13.12.2011 of HDFC Bank, Delhi. The respondent company thereafter, made a additional demand of the sum of Rs.15,00,000/- in cash for the executing the MOU. Consequently, the complainant was coerced to comply with the demand of Rs.15,00,000/- in cash for the execution of the MOU. The complainant till this point paid the sum of Rs.30,00,000/- to the respondent company.
- f. The respondent company as the developer and complainant along with her daughter as allottee entered into a memorandum of understanding in the year 2011. It is germane to state here that despite making the payment of Rs.15,00,000/- in cash the respondent company did not record the same with the bank transfer payments in the MOU. In the MOU, it was stated that the respondent company i.e. developer agreed to allot, and the allottees agreed to purchase on investment return plan, the unit space admeasuring a super

area of 500 sq. feet approximately, in the IT project named "BYRON", the allotted unit was priced at basic rate of Rs.3,000/- per sq. feet of the super area aggregating to a total basic consideration of Rs. 15,00,000/- concealing the cash component of the sale consideration paid by the complainant for the allotment of the unit bearing No. "IMP-B-0166". The bank transfer component of the consideration paid by the complainant was received by the respondent company being the developer.

- g. The respondent company in clause No.16 of the MOU, undertook to execute the sale deed in favour of the allottee after receiving full consideration in respect of the said unit allotted after the receipt of requisite compliances from the government authorities. But the respondent company did not execute any deed transferring ownership of the allotted unit in favour of the complainant due to non-completion of the construction, non fulfillment of unjust demands of additional money by the respondent company, due to lack of statutory permissions like occupation certificate, etc.
- h. It is essential to highlight here that since the unit was allotted/purchased on investment return plan, the MOU at clause No.4 laid down that the developer would pay Rs.60/-per sq. feet per month on the 500 sq. feet as an assured return to the allottee from 16.12.2011 till offer for possession of the space after obtaining the occupancy certificate from the concerned authority. Subsequent to which the developer shall pay Rs.50/- per sq. feet per month on the 500 sq. feet as assured rental till the offered space i.e. the unit is leased out to intended lessee.
- i. It is stated that the offered space/ allotted unit was never leased out by the respondent company. The same is corroborated from the admission of the respondent company made in the written submissions filed by it in compliance of the order dated 23.08.2025 during the adjudication of earlier

complaint filed by the complainant. In the said written submissions, the respondent company stated at clause No.4 that

- j. Since, the respondent company did not lease out the offered space/allotted unit to a lessee, the respondent company is liable to pay the assured rental to the complainant as per the MOU, from its pocket till the allotted unit is leased out to a lessees.
- k. It is germane to state here that the MOU entered between complainant and the respondent company stipulated the timeline for the completion of the project within two years. But despite the repeated assurances of the representatives of the respondent company for timely completion of the project and execution of sale deed with handing over of the possession, the respondent company failed to timely complete the construction work of the project, failed to execute sale deed, and to hand over the possession of the allotted unit within the assured timeline.
- l. It is germane to state here that the respondent company started paying the assured return to the complainant despite the acknowledgement of the payment from March 2012 instead of 16.11.2011 as stipulated in the clause 4 of the MOU.
- m. It is stated that the as per clause No.9 of the MOU the respondent company undertook to put the said unit on lease by negotiating and finalizing arrangement with any suitable tenants. It was also agreed that the lease shall be for a minimum rent of Rs.50/- per sq. foot of the super built-up area per month.
- n. It is germane to state here that the complainant was informed by the representatives of the respondent company that she had to pay outstanding taxes of Rs.38,625/- qua the purchase of the allotted unit; for the payment of

which the respondent company had adjusted the payment of the assured return for the month of December 2011 and January 2012.

- o. The respondent company sent a written letter dated 15.03.2016 to the complainant with the subject "Application/booking in the project BYRON" situated at Sector 62 Gurgaon, wherein the Respondent Company informed that the respondent company/developer had changed the name of the project from "BYRON" to "MINDSPACE".
- p. It is stated that the project with the changed name was registered with the Haryana, RERA Authority vide HRERA No.240 of 2017 dated 25.09.2017.
- q. The respondent company in the year 2018 sent the email dated 16.04.2018 informing that due to the promotion of the bank for digitalization and new banking norms, the monthly rental payment will be received by complainant through ECS from April 2018 onwards.
- r. The respondent company issued the notice dated 15.07.2019 allegedly offering possession for the unit No. "IMP-B-0166" without the grant of occupation certificate to the said project. The said act of superficially offering possession to the complainant in the absence of the occupation certificate is a blatant attempt of the respondent company to defraud and hoodwink its buyers/allotees, in order to not pay the assured return which the respondent company had to pay till the offer to possession was given to the complainant after the grant of valid occupation certificate.
- s. The complainant in the month of August 2019 wrote a letter dated 13.08.2019 to respondent company conveying here dissatisfaction and hardships faced by her being almost 70-year-old women, who was given the assurance that the project would be complete within two years but was later informed that the construction has been delayed. In the said letter, the respondent company was also confronted for making outrageous,

unsubstantiated demand of Rs.4,52,600/- despite not making regular payments of the assured return amounts, moreover, the respondent company withheld the amount of Rs.3,60,000/- of the complainant.

- t. Thereafter, the complainant acknowledging the meeting held with the employees of the respondent company wrote the email dated 11.02.2020 stating that the employees of the respondent company informed to have adjust the assured returns of the complainant for the period of September 2018 to July 2019, translating to the adjustment of Rs.2,97,000/- in to the amount of Rs.4,52,600/- leaving a balance of Rs.1,55,600/-outstanding. It is germane to state here that the respondent company withheld the TDS amount of the assured return from the income tax department for 9 months, totaling to Rs.27,000/- which was also adjusted eventually in the total outstanding amount bringing the amount outstanding to Rs.1,28,600/-.
- u. The amount of Rs.1,28,600 was paid vide the full and final payment of Rs.1,28,000/- by the complainant which she transferred in two tranches as the same could not be released in a single day. In response, the respondent company sent an email dated 13.02.2020 to the complainant stating that after the receipt of the outstanding amount against the booking the respondent company would issue a "No Due Certificate" and then start the lease rent within a week, as well as informing that the respondent company has applied for Occupation certificate. But despite receiving the entire demanded amount by the respondent company the "No due certificate" was not handed over to the complainant.
- v. The respondent company thereafter wrote an email dated 07.04.2020 to the complainant stating that respondent company has invoked the clause of force majeure in the reply to which the complainant wrote email dated 09.06.2020 stating that the payments for the period prior to lockdowns

contractually agreed by the respondent company ought to be paid. The company eventually vide email dated 23.11.2020 agreed that the payment of the amounts for the period of 15.02.2020 to 31.03.2020 would be paid by 30.11.2020.

- w. It is stated that after making additional payments to the illegal demands of the respondent company, the complainant was issued a letter dated 18.10.2022 by the respondent company which was received on 25.10.2022. The said letter called the complainant for execution of title document for the unit termed as "Virtual office space" without mentioning the actual unit as well as requesting to pay for required stamp duty, registration fee and other charges but did not mention the relevant details of the execution.
- x. The complainant in response to the letter dated 18.10.2022 received on 25.10.2022; sent an email dated 27.10.2022 to the respondent company, stating her willingness to get the conveyance deed registered for the project and sought the required details on the next step for registration of the conveyance deed such as place and time to appear as well as inquiring about any pre-requisites for the registration of conveyance deed for the unit No. B-0166. The complainant upon receiving no reply sent another letter dated 01.11.2022 to the respondent company seeking response of the respondent company to the email dated 27.10.2022 sent by the complainant. After the complainant did not receive a reply from the respondent company, the complainant again wrote to the respondent company vide letter dated 01.11.2022, reminding the respondent company that a response and requisite information is required of them but to the dismay of the complainant no response was given by the respondent company.
- y. It is illustrative from the demeanor and conduct of the respondent company that it made numerous misrepresentations and false promises to the

complainant keeping a fraudulent conduct over the years, thereby taking the additional sum of Rs. 15,00,000/- in cash, another Rs.1,28,000/- through bank transfer over and Rs.38,625/- by adjusting the assured return of 2 months; while adjusting the sum of Rs.2,97,000/- of the 11 months of assured return with the the adjustment of the TDS amount of 9 months being Rs.27,000/- over and above the consideration price of Rs.15,00,000/- for the allotted unit totaling Rs.34,90,625/-, unilaterally changing the unit allotted to the complainant without informing the same and not honouring its contractual obligations of assured returns and rent nor of executing the conveyance deed in favour of the complainant, etc.

z. Consequently, the complainant in the year 2022 filed a complaint bearing No. Cr. No.6585/2022 before the adjudicating authority of the Haryana RERA, at Gurugram against the respondent company in relation to of the allotted unit in "BYRON" project of the respondent company now referred to as "MINDSPACE" project and of the non fulfillment of the contractual obligations stated in the MOU. The respondent company filed their reply and placed on record several documents being letter dated 15.07.2019, 18.10.2022, 12.12.2022, occupation certificate of Tower C dated 02.06.2020(at page NO. 86). The respondent company during the adjudication of the complaint filed the written submissions in compliance of the order dated 23.08.2025 along with the ledger account of the complainant reflecting the payments of assured returns made to the complainant.

aa. It is also seen from the ledger account that the respondent company at page No. 95 has not paid any assured return amount for the month of November 2011, February 2012, March 2014, and from August 2019 onwards. It is clarified that since the respondent company has not placed any document on record to show that the Tower B that houses the allotted unit

to the complainant i.e. "IMP-B-0166", was granted occupation certificate, the respondent company has in effect, not given the valid offer to possession to the allotted unit. Hence, the respondent company is liable to pay the assured return at the rate of Rs.60 per sq feet per month till a valid offer to possession is given to the complainant.

- bb. It is germane to state here that the respondent company in the reply to the complaint filed, stated to have allotted unit bearing No. A 5th Floor 049 whereas the complainant was originally allotted the unit No. "IMP-B-0166" in tower B and the same was even mentioned in the letter dated 15.07.2019 of the respondent company offering possession to the complainant. The act of hoodwinking by the respondent company is apparent from the fact that the alleged occupation certificate dated 02.06.2020 on record by the respondent company was qua for ground floor to the 13th floor of the tower C and not qua the tower A or tower B.
- cc. It is submitted that there is no proof to show that the alleged occupation certificate dated 02.06.2020 placed on record by the respondent company qua the ground floor to the 13th floor of the tower C was of the said project "MINDSPACE" previously known as "BYRON".
- dd. Even otherwise, if the respondent company is able to prove that it gave a valid offer to possession to the complainant even then the respondent is liable to pay assured rent at the rate of Rs.50 per sq feet per month to the complainant till such date that respondent company leased out the allotted unit of the complainant to the intended lessee, as per the clause No.4 of the MOU.
- ee. It is submitted that the respondent company despite withholding the payment of the assured return on the pretext of invoking Force majeure, issued a letter dated 12.12.2022 informing about the levy of charges for the

alleged upkeep and maintenance of IT building MINDSPACE at Sector 62 Gurugram while the complaint of the complainant No.6585/2022 was sub-judice.

- ff. The respondent company despite still not paying the assured returns or assured rent amount to the complainant and during the pendency of the HRERA complainant Cr. No. 6585/2022, issued her a letter 11.04.2025 demanding the payment of the Rs.3,36,300/- till 30.04.2025 as maintenance charges with additional charges of holding expense worth Rs.6,72,600/-. Therefore, in totality, arbitrarily demanding the sum of Rs.10,08,900/-. The complainant through its advocates replied to the above said letter of the respondent, vide letter dated 29.04.2025 which was also sent via email dated 01.05.2025. It is germane to submit here that the MOU being the memorandum of the agreed terms and condition between the complainant and the respondent company had no provision/ stipulation for the levy of any holding charges, whatsoever. Consequently, the demand of the respondent company for any holding charges is arbitrary and illegal.
- gg. Subsequently, the respondent company issued letter dated 18.09.2025 demanding the payment of Rs.11,15,100/- towards alleged maintenance and holding charges for the allotted unit. The said letter was replied by the complainant through her advocates vide letter dated 04.10.2025 and email dated 04.10.2025. It is submitted that the notices issued by the respondent company were its brazen attempts to instill fear in the age old complainant.
- hh. The adjudicating authority of Haryana, RERA at Gurugram while deciding the amendment application dismissed the application and the complaint bearing Cr. No. 6585/2022 vide order dated 10.10.2025 with the liberty to the complainant to file a fresh complaint.

- ii. The respondent company thereafter, issued another letter dated 27.10.2025 with subject "Final Cancellation against your booked are of 500 Sq. feet in the "MINDSPACE" situated at Sector 62, Gurugram" soon after the dismissal of the HRERA complainant Cr. No. 6585/2022 filed by the complainant against the respondent company. The said cancellation is not only illegal but unwarranted since the complainant has already paid all the required payments for the sale consideration while the respondent company was not complying with its obligations stated in the MOU. Thereby the respondent company cannot seek compliance of the MOU while the respondent company itself doesn't comply with the obligations set out for them in the MOU.
- jj. The complainant in response to the letter dated 27.10.2025 of the respondent company cancelling the allotment of the unit, issued legal notice dated 08.11.2025 through her advocates which was sent through the email dated 08.11.2025. The complainant in the said legal notice sought the withdrawal of the letter dated 27.10.2025 restoring the allotment of the complainant and demanding the payment of the withheld assured return and/or assured rent with interest, compensation for delay in the construction and the handing over of possession, litigation expenses and refund of all the amounts paid vis a vis purchase of the unit "IMP-B-0166" with interest. It is germane to state here that the respondent company has not replied to the said legal notice.
- kk. It is germane to state here that the daughter of the complainant who was the co-allottee to the allotted unit in the MOU has given her no objection on affidavit in favour of the complainant to pursue the present complaint and to receive the reliefs therein, in her name.

C. Relief sought by the complainant:

4. The complainant has sought following reliefs:

a. Direct the respondent to refund the entire paid-up amount along with interest from the date of each payment till its actual realization.

[As clarifies by the complainant vide proceedings dated 17.07.2026]

5. On the date of hearing, the authority explained to the respondents /promoter about the contravention 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. Written arguments submitted by the respondent:

6. The respondent has contested the complaint on the following grounds:

- I. That, it is pertinent to mention that the complainant had previously filed a complaint in respect of the same subject matter, wherein a similar change in the relief sought had taken place. initially, the complainant had sought refund; however, at a later stage, she expressed her intention to seek possession of the said unit, pursuant to which the said complaint came to be dismissed. The repeated change in the reliefs sought by the complainant clearly demonstrates the inconsistent stand being taken by her in respect of the same subject matter.
- II. That, without prejudice to the aforesaid, the subject matter of the present complaint pertains to a virtual space, which does not constitute an identifiable and physically deliverable unit as contemplated under the provisions of the RERA Act, 2016, and therefore the present complaint is not maintainable before this Authority.
- III. That, further and without prejudice to the aforesaid objections, the claim towards lease rent, being a monetary claim arising out of the contractual arrangement between the parties, does not fall within the jurisdiction of this Authority and is liable to be adjudicated, if at all, by the competent Adjudicating Officer under section 71 of the Act.
- IV. That the complainant has erroneously misinterpreted the client id, i.e., IMP-B-0166, as the unit number and has incorrectly assumed that the said number pertains to Unit No. 166 in Tower B. The said number is merely an

internal client ID allotted for identification purposes and does not denote the unit number or its location. It is further pertinent to clarify that the complainant's allegations regarding the occupation certificate are wholly misplaced, since the allotted unit/space is situated in tower c, and the occupation certificate has duly been obtained for the said tower.

- V. That it is respectfully submitted that the respondent, developed only one tower on a larger land parcel belonging to M/s Baakir Real Estate Pvt. Ltd., which comprised three towers - Tower A, Tower B, and Tower C, allocated among different promoters based on the permissible floor space index. The respondent developed only Tower C. Since the respondent had only one tower in its portion of the project "Mindspace," the said tower was designated as Tower A for ease of reference and internal nomenclature. However, the application for the grant of occupation certificate dated 07.10.2019, filed by M/s Baakir Real Estate Pvt. Ltd. for the entire land parcel, refers to the same structure as Tower C.
- VI. That the variation in nomenclature between Tower A and Tower C arose solely from the manner in which the overall land development was structured and the manner in which the land parcel was divided among different promoters. Despite this administrative distinction, the physical structure, its location, height, configuration, and identity have at all times remained unchanged. The Occupation certificate received on 02.06.2020, clearly records that the building comprises the ground floor up to the 13th floor, and the approved building plan further confirms that the said structure forms part of the "Mindspace" project as Tower C.
- VII. That the offer of possession for fit-out dated 15.07.2019 was issued in anticipation of the grant of the occupation certificate and was intended only to enable the complainant to undertake fit-out and preparatory works. The

same cannot be equated with the final offer of possession. The occupation certificate was subsequently obtained on 02.06.2020, following which the respondent company issued the formal communication dated 20.06.2020 offering possession and calling upon the complainant to clear the outstanding dues and complete the necessary formalities.

- VIII. That this issue has previously arisen in another matter relating to the same project of the respondent company, wherein this Authority duly acknowledged and accepted the correct factual position regarding the tower nomenclature.
- IX. That the complainant has alleged that the offer of possession for fit-out dated 15.07.2019, issued by the respondent company, is illegal and invalid on the ground that the occupation certificate had not been obtained at that time. It is respectfully submitted that the aforesaid letter was issued at a stage when the respondent was in anticipation of the grant of the Occupation Certificate. It is a settled and customary practice in the real estate industry to issue an offer of possession for fit-out well in advance, prior to the issuance of the occupation certificate, so as to enable allottees to undertake fit-outs, minor touch-ups, and preparatory works before the formal offer of final possession. Accordingly, the issuance of the said letter cannot be termed illegal or invalid.
- X. That, as already explained hereinabove, the number referred to by the complainant as the unit number is in fact only a client ID and does not denote the tower or location of the allotted space. Accordingly, the occupation certificate for the relevant project, namely tower C, was duly obtained on 02.06.2020. Thereafter, possession of the unit was lawfully offered to the complainant vide communication dated 20.06.2020, wherein the complainant was duly informed about the receipt of the occupation

- certificate and was called upon to clear the outstanding dues and proceed with the execution of the conveyance deed.
- XI. That it is most respectfully submitted that, in terms of section 19(10) of the Real Estate (Regulation and Development) Act, 2016, it is the statutory obligation of the allottee to take possession of the unit within two months from the date of receipt of the OC. In the present case, despite repeated communications and requests made by the respondent for executing the conveyance deed, the complainant failed to comply with the same. Therefore, the complainant is in a clear breach of her obligations under the act and is liable to be treated as a defaulter in law.
- XII. That it is pertinent to mention that as per section 19(10) of the Act, an allottee is required to take possession of the unit within two months from the date of receipt of the OC, and under Section 19(11), the allottee is further obligated to participate in and complete the execution of the conveyance deed in accordance with the agreement for sale. In the present case, despite receipt of the OC and repeated communications issued by the respondent company, the complainant neither completed the possession-related formalities nor came forward for execution of the conveyance deed. It is pertinent to mention that while on the one hand seeking possession, and on the other hand admitting the virtual nature of the space, the complainant has acted in a self-contradictory manner and have failed to comply with her obligations under both sections 19(10) and 19(11) of the Act. Accordingly, the complainant is in clear breach of her statutory duties and is liable to be treated as defaulter in law.
- XIII. That it is a settled principle that the statutory obligations under the RERA Act are reciprocal in nature, and while the promoter is under an obligation to deliver possession of the unit within the stipulated time, the allottee is

equally bound to take possession thereof within the prescribed period. It is submitted that the complainant, by willfully abstaining from taking possession of the said unit, has frustrated the contractual arrangement. It is further submitted that such conduct on the part of the complainant clearly disentitles her from invoking the equitable jurisdiction of this Authority, as a party who has failed to discharge its own statutory obligations cannot be permitted to seek performance, relief, or compensation from the respondent.

- XIV. That despite nearly five years after receipt of the OC, instead of discharging the admitted liabilities and proceeding with the execution of the conveyance deed, the complainant has chosen to institute the present complaint, in an apparent attempt to unjustly enrich themselves. It is pertinent to note that the applicant company has issued multiple reminders, calling upon the Complainant to fulfil her contractual obligations; however, she has consistently failed to comply.
- XV. That it is further submitted that the complainant was duly intimated about the grant of the occupation certificate for the subject space. Even assuming, without admitting, that the complainant had any confusion regarding the tower or the validity of the occupation certificate, it is pertinent to note that at no point did the complainant seek any clarification from the respondent company by way of email or written communication. On the contrary, despite having received repeated communications clearly informing her about the tower and the grant of the occupation certificate, the complainant has chosen to raise objections at a belated stage and has now begun questioning the tower as well as the validity of the occupation certificate.
- XVI. That the complainant has alleged that the lease rent has not been paid and thereby she has allegedly sought refund, it is important to highlight that the respondent company has been maintaining the building and the subject

space from its own resources ever since the grant of the oc and continues to incur substantial maintenance expenses solely due to the complainant's failure to come forward the necessary formalities for execution of conveyance deed. It is evident that despite communications and reminders, including letter dated 18.10.2022, the complainant has deliberately withheld herself from taking possession. A letter dated 12.12.2022 was again sent to the complainant, calling upon her to appear for the execution of the conveyance deed.

XVII. That it is pertinent to mention that the execution of the conveyance deed was a necessary prerequisite for the complainant to avail the benefit of lease rent under the terms agreed between the parties. In this regard, the respondent company has repeatedly followed up with the complainant for completion of the necessary formalities for execution of the conveyance deed; however, the complainant has failed to take the requisite steps in this regard. Further, as specifically provided under the MoU, the complainant was required to confer the requisite rights in favour of the respondent company through execution of the conveyance deed. The execution of the conveyance deed was therefore necessary not only for giving effect to the terms of the mou but also for establishing the complainant's ownership and enabling the respondent company to create and deal with the leasehold rights in respect of the said premises. Despite repeated requests and follow-ups, the complainant has failed to execute the conveyance deed or otherwise complete the requisite formalities. Therefore, the complainant cannot seek to claim the benefit of lease rent while simultaneously failing to fulfil the corresponding obligation which was necessary for the same to be given effect.

XVIII. That further the respondent company entered the corporate insolvency resolution process vide order dated 31.08.2023, passed by the Hon'ble

National Company Law Tribunal. During the period of the moratorium, which lasted for six months, all operations of the respondent company were suspended. The respondent company was subsequently discharged from the CIRP by the order of the Hon'ble National Company Law Appellate Tribunal dated 01.02.2024.

- XIX. That during the period when the respondent company was under moratorium, a letter dated 09.11.2023 was duly issued after verification by the interim resolution professional appointed in respect of the respondent company. The said letter clearly sets out the outstanding amount payable by the complainant and was duly communicated to her. It is pertinent to note that the IRP was appointed by the Hon'ble Court, thereby ensuring complete neutrality, authenticity, and credibility to the verification process.
- XX. Such conduct clearly violates the statutory duty imposed under section 19(6) of the Real Estate (Regulation and Development) Act, 2016, which obligates the allottee to make necessary payments, including maintenance charges, in accordance with the terms of the agreement. In view of the continued default and non-cooperation on the part of the complainant, the respondent is constrained to claim holding charges and maintenance dues, which as of date cumulatively amount to Rs. 10,34,500/-.
- XXI. That the complainant has been duly intimated on multiple occasions regarding the outstanding maintenance charges, as already submitted above. Since these charges remain unpaid, the respondent company has been constrained to bear the expenses from its own resources. Any allegation seeking to attribute fault to the respondent company is therefore misplaced and appears to be an attempt to create an incorrect impression before the Authority. The respondent company, however, remains ready and willing to

execute the conveyance deed immediately upon clearance of the outstanding dues by the complainant.

- XXII. That it is respectfully submitted that the respondent company has thoroughly complied with all its obligations in good faith, strictly adhering to the applicable laws, contractual stipulations, and directions of the Authority. It is evident that the present proceedings are nothing but a mala fide attempt to evade her own liabilities and shift the blame onto the respondent. In light of the above, the present complaint, being frivolous, vexatious, and devoid of any merit, is liable to be dismissed with exemplary costs, as the sole default lies squarely with the complainant.
- XXIII. That without prejudice to the other grounds raised herein, the present complaint is also liable to be dismissed as being barred by limitation, inasmuch as the same has been instituted after an inordinate and unexplained delay of more than three years from the accrual of cause of action.
- XXIV. That as per the complainant's own annexures, the total consideration of the unit was Rs. 15,00,000/- exclusive of other charges, as clearly stipulated in the memorandum of understanding. However, the complainant has deliberately suppressed and selectively omitted the relevant portions of the said MoU while annexing it to the complaint, only to falsely claim that an amount of Rs. 34,63,625/- was paid by her, which amount was never paid at any point of time. Such conduct reflects a mala fide and falsified approach towards this Authority and amounts to a clear abuse of the process of law. On this ground alone, the present Complaint is liable to be dismissed with exemplary costs for wasting the valuable time of this Authority.
- XXV. That, further, as recorded in the last order, an allegation has been raised that the complainant has not been paid the assured returns. However, it is

pertinent to mention that the complainant has, in fact, received a total amount of Rs. 23,84,840/- towards assured returns, which is itself more than the consideration paid by the complainant. The company has duly released the payment of assured returns in accordance with the MoU.

- XXVI. That the complainant continued to avail the benefit of the assured returns for more than 9 years from the date of the agreement and for more than 6 years even after the obtainment of the occupation certificate. Despite having availed such benefits for a substantial period, the complainant has now sought refund along with interest. The conduct of the complainant clearly demonstrates that the present claim for refund has been raised only after the obligation towards payment of maintenance charges arose. The complainant cannot be permitted to continue to retain and enjoy the benefits received under the arrangement while, at the same time, seeking refund with interest upon the accrual of her corresponding obligations.
- XXVII. That without prejudice to the aforesaid submissions and in the alternative, the complainant is seeking refund after the grant of the occupation certificate and after having duly availed the benefits of the assured returns for a substantial period. Therefore, even if the complainant's prayer for refund is considered, the same cannot be granted without taking into account the amounts already received by her under the arrangement between the parties. Accordingly, the refund amount, if any, would necessarily be subject to deduction of the applicable earnest money and adjustment of the assured returns already paid to the complainant, which amount to Rs. 23,84,840/- and are, in fact, more than the sale consideration paid by her.
7. All other averments made in the complaint were denied in toto.

8. 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 undisputed documents.

E. Jurisdiction of the authority

9. The authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I. Territorial jurisdiction

10. 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

11. 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.

12. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations

by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

13. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in *Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022(1) R.C.R. (Civil) 357* and reiterated in case of *M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022* wherein it has been laid down as under:

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

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

F. Findings on the relief sought by the complainants.

F.I Direct the respondent to refund the entire paid-up amount along with interest from the date of each payment till its actual realization.

[As clarifies by the complainant vide proceedings dated 17.07.2026]

15. The complainant submitted that she booked unit no. B-0166, Tower B, in the project "Mindspace", Sector-72, Gurugram and paid an amount of Rs.

15,00,000/- to respondent in the year 2011 pursuant to an investment return arrangement for a 500 sq. ft. virtual office space in the project initially represented as "BYRON", with the respondent undertaking, inter alia, to pay assured returns and thereafter assured rental until the space was leased to an intended lessee. The complainant alleges that despite receipt of the entire agreed consideration and despite the respondent's contractual assurances regarding timely completion, possession and payment of assured returns, the respondent failed to duly perform its corresponding obligations, including execution of the conveyance deed and leasing of the allotted space. The complainant further asserts that the respondent subsequently withheld the assured return and raised demands towards maintenance and holding charges, which according to the complainant were neither contemplated under the MOU nor legally recoverable. The dispute culminated in the respondent issuing the cancellation letter dated 27.10.2025, shortly after dismissal of the complainant's earlier proceedings, which cancellation is alleged to be arbitrary and legally unsustainable, particularly when the complainant had already paid the agreed consideration and the respondent itself had allegedly failed to discharge its obligations under the arrangement. The complainant consequently seeks refund of the entire amount paid along with interest from the respective dates of payment till realization.

16. On contrary, the respondent submits that the complainant has taken inconsistent and shifting stands in respect of the same subject matter, having earlier sought possession and subsequently seeking refund. It is further contended that the subject arrangement relates to a virtual space and, therefore, does not constitute an identifiable and physically deliverable unit so as to attract the jurisdiction of the Authority in the manner alleged. Without prejudice, the respondent maintains that the complainant had been duly

offered possession dated 20.06.2020 after obtaining the occupation certificate from the competent authority dated 02.06.2020 and was repeatedly called upon to discharge outstanding liabilities and complete the formalities for execution of the conveyance deed through letter dated 18.12.2022 but failed to do so. According to the respondent, the complainant's failure to take possession and execute the conveyance deed constituted a breach of statutory and contractual obligations, disqualifying the complainant from claiming relief against the respondent. The respondent further submits that the demands towards maintenance and holding charges through demand letters were raised in consequence of the complainant's failure to complete the requisite possession related formalities and that the present complaint has been instituted belatedly and with the object of avoiding liabilities.

17. The Authority has considered the submissions made by the parties and the documents placed on record. It is evident from the record that the respondent obtained the Occupation Certificate in respect of the relevant tower on 02.06.2020 and had thereafter issued an offer of possession dated 20.06.2020 to the complainant. The complainant was consequently called upon to come forward and complete the necessary formalities for taking possession of the allotted space. Thereafter, the respondent again addressed the complainant vide letter dated 18.10.2022 calling upon the complainant to complete the requisite formalities for execution of the conveyance deed. Despite the aforesaid communications and repeated opportunities afforded to the complainant, the complainant did not come forward either to take possession of the allotted space or to complete the formalities for execution of the conveyance deed. The record further reflects that the respondent thereafter raised demands towards the outstanding maintenance and holding charges, including the demand dated 11.04.2025 for an amount of Rs.10,08,900/-,

followed by the pre-cancellation letter dated 18.09.2025 demanding maintenance charges of Rs.3,71,700/- and holding charges of Rs.7,43,400/-. The aforesaid sequence of communications ultimately culminated in the cancellation of the allotment vide letter dated 27.10.2025. In this regard, the statutory scheme under Section 19 of the Act casts corresponding obligations upon the allottee. Section 19(10) specifically mandates that every allottee shall take physical possession of the apartment, plot or building within a period of two months from the issuance of the Occupation Certificate, while Section 19(11) requires the allottee to participate towards registration of the conveyance deed. The relevant sections are reproduced hereunder :-

19. Rights and duties if allottees.

(10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be.

(11) Every allottee shall participate towards registration of the conveyance deed of the apartment, plot or building, as the case may be, as provided under sub-section (1) of section 17 of this Act.

18. Thus, once the Occupation Certificate had been obtained and a valid offer of possession had been made, the complainant could not indefinitely withhold herself from taking possession and completing the consequential conveyance formalities. In the present case, the complainant was afforded sufficient opportunity to come forward and complete the possession related formalities, and the repeated communications issued by the respondent demonstrate that the respondent did not proceed to cancellation without first calling upon the complainant to comply with the requisite formalities and clear the outstanding dues. The subsequent demands, pre-cancellation notice and eventual cancellation were therefore not an isolated or abrupt action but formed part of a continuous course of correspondence extending over a considerable period.

19. Accordingly, in view of the material available on record, the Authority finds that the complainant failed to discharge the corresponding statutory obligations under Section 19(10) and Section 19(11) of the Act despite having been afforded sufficient opportunity to take possession and complete the conveyance formalities. The continued failure on the part of the complainant to come forward for taking possession, coupled with failure to complete the requisite conveyance formalities and discharge the outstanding dues despite repeated communications, constitutes sufficient ground for the respondent to proceed with cancellation of the allotment. The cancellation letter dated 27.10.2025 is, therefore, held to be valid.
20. The issue with regard to deduction of earnest money on cancellation of a contract arose in cases of *Maula Bux VS. Union of India, (1970) 1 SCR 928* and *Sirdar K.B. Ram Chandra Raj ors. VS. Sarah C. ors., (2015) 4 SCC 136*, and wherein it was held that forfeiture of the amount in case of breach of contract must be reasonable and if forfeiture is in the nature of penalty, then provisions of section 74 of Contract Act, 1872 are attached and the party so forfeiting must prove actual damages. After cancellation of allotment, the flat remains with the builder as such there is hardly any actual damage. 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.”

21. So, keeping in view the law laid down by the Hon'ble Apex court and provisions of regulation 11 of 2018 framed by the Haryana Real Estate Regulatory Authority, Gurugram, the respondent is directed to refund the paid-up amount of Rs.15,00,000/- 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 of the unit i.e. 27.10.2025 till its realization within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

G. Directions of the Authority.

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

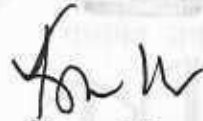
- I. The cancellation letter dated 27.10.2025 is held to be valid, accordingly the respondent is directed to refund the paid-up amount i.e. Rs.15,00,000/- to complainant after deducting 10% of the sale consideration being earnest money along with interest at the rate of

10.80% per annum on such balance amount from the date cancellation of the unit i.e. 27.10.2025 till its actual realization.

II. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.

23. The complaint stands disposed of.

24. Files be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory
Authority, Gurugram

Dated: 18.09.2026

HARERA
GURUGRAM