

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

Complaint No. 202-2024

Date of Decision: 30.09.2026

Mrs. Chakresh Jain W/o Satish Kumar Jain, R/o H. No. 1038, Sector 4, Gurugram- 122001, Haryana.

....Complainant

Versus

M/s Vatika Limited, Registered Office At Vatika Triangle, 7th Floor, Sushant Lok Phase-1, Gurugram-122002, Haryana.

....Respondent

APPEARANCE

For Complainant:

Mr. Kanish Bangia, Advocate

For Respondent:

Mr. Dhruv Dutt Sharma, Advocate.

ORDER

This is a complaint, filed by Mrs. Chakresh Jain (allottee), under Section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016), against M/s. Vatika Limited (promoter).

2. Briefly stated, according to complainant, she approached the respondent for booking of Unit No. 01, D, street D2.2, measuring 300 sq. yds., in its commercial Project namely 'Vatika India Next' Sector-82A, Gurugram, Haryana, on 10.03.2010. The Builder Buyer Agreement (BBA) was executed between the parties on 07.09.2010. The due date of

possession as per BBA was 07.09.2013. The delay in handing over possession till date of filing complaint is more than 10 years. The total sale consideration of the said unit was agreed to be Rs.52,74,481/-. The total amount paid by the complainant till date was Rs.51,92,308/-.

3. That the respondent took the money from her (complainant) and utilized the same for some other purposes/ making investments in some other properties but not executing the project for which the money was collected from the allottee. This has caused the complainant and her family members physical torture, mental stress, pain and anxiety issues because of the uncertainty in the delivery of the unit, emotional trauma and pain to the entire family, the torture of not staying in their own dream house. Neither offer of possession has been given even till date nor has an alternate plot been given to the complainants. The cause of action is a continuous cause of action. There has been a delay of 10 years and 6 months as on date and the delay is a continuous process.

4. That the respondent is in violation of Section 11 (4) of the Act. The respondent company has resorted to unfair practices by way of making incorrect, false and misleading statements over the possession and thereby violated provisions of Section 12 of Act of 2016. The respondent has failed to provide requisite facilities, amenities and services as agreed at the time of booking. The respondent, by using its dominant position is

dictating its unreasonable demands to the complainant without showcasing any proficient progress. The respondent had substantially failed to discharge its obligations imposed upon it under the Act of 2016 and rules and regulations made thereunder.

5. That as per Section 18 (3) of said Act, if the promoter fails to discharge any other obligation imposed on him under this Act or the Rules or regulations made thereunder or in accordance with the terms and conditions of the Agreement for sale, it is liable to pay such compensation to the allottees in the manner as provided under this Act and as per Section 71 of Act of 2016, an adjudicating officer is empowered to adjudge compensation under Section 12,14,18 & 19 of the Act.

6. Citing the facts as mentioned above, the complainant has prayed for following reliefs: -

- I. To award compensation towards mental agony, physical torture and pain suffered by the complainant at the hands of the respondent, to the tune of Rs.5,00,000/-;
- II. To award compensation towards legal fees and expenses for prosecution, to the tune of Rs.3,00,000/-;
- III. To award compensation towards the loss of rent for a period of Rs.34,02,000/- to the complainant, comes to Rs.27,000.00 X 126 months;
- IV. To pass any other order/reliefs as it may deem fit.

7. The respondent contested the complaint by filing a written reply. It is averred that each and every averment and contention, as made/raised in the complaint, unless specifically admitted, be taken to

have been categorically denied by the respondent and may be read as travesty of facts. It had been categorically agreed between the parties that subject to the complainant having complied with all the terms and conditions of the Buyer's Agreement and not being in default under any of the provisions of the said Agreement and having complied with all provisions, formalities, documentation etc., and subject to force majeure events, the Promoter contemplates to complete construction of the said Sector/ part thereof where the said Plot is located within a period of 03 years from the date of execution of the Agreement.

8. That further, it had been agreed and accepted that in case the delay is due to the reasons beyond the control of the Promoter, then the Promoter shall be automatically entitled to the extension of time for delivery of possession of the said Plot. Further, the Promoter may also suspend the Project for such period as it may consider expedient. It is denied that the complainant is entitled for compensation. Admittedly, the complainant had approached the Authority by filing a complaint no. 5961 of 2022, which has been allowed by the Authority vide its order dated 01.08.2023 and directed present respondent to offer possession of subject unit within 30 days after obtaining OC and also to pay interest @ 10.75% p.a. for every month of delay from due date of possession till handing over of possession or offer of possession plus two months, whichever is earlier.

9. That the alleged delay has been occasioned due to various reasons but not limited to change in the layout plan due to initiation of the GAIL Corridor and non-acquisition of sector roads by HUDA for which the respondent cannot be held liable.

10. Stating all this, respondent prayed for dismissal of the complaint.

11. Both of the parties filed affidavits in support of their claims. I have heard learned counsels appearing for both of parties and gone through the evidence adduced by the parties.

12. At the outset, it is contended by learned counsel for respondent that complainant is not entitled to any compensation as the Authority has already allowed DPC to her, vide order dt 04-08-2023. (1-8-2023)

13. As per Section 18 (1) of Act of 2016, if promoter fails to complete or 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, (b)-----, 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 or 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.**

14. It is worth mentioning here that the complainant did not wish to withdraw from the project but prayed for delayed possession compensation, by filing a complaint with the Authority. The said complaint has already been allowed. Proviso added to sub section (1) of section 18 provides 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 handing over of possession, at such rate as may be prescribed. The parliament did not intend to provide compensation other than DPC in case allottee does not intend to withdraw from the project.

15. Upholding that the claim of compensation and interest can be allowed only in case the allottee seeks to withdraw from the project as per Section 18 (1) of Act of 2016, following was held by Uttar Pradesh Real Estate Appellate Tribunal in case **"Greater Noida Industrial Development Authority vs. Ranjan Misra"** Appeal No. 70 of 2023 decided on 20.04.2023-----;

"13.9. If we closely examine the above two provisions, it comes out that in a case where the Allottee exists the projects, the Act expressly provides INTEREST AND COMPENSATION both, but in cases where the Allottee tends to stay in the project the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to provide

Compensation only to those Allottees who exit the project and not to those who tends to stay in the project."

16. Similar was finding of Haryana Real Estate Appellate Tribunal in case "TATA Housing Development Company Limited vs. Nitin Singhal & Surendra Kumar Singhal, Appeal No.737 of 2023 decided on February 17,2026.

17. Considering all this, there is no reason to allow compensation for rental loss, depreciation, loss of interest and for causing financial loss for delay in handing over possession of subject unit. Request in this regard is declined.

18. Complaint in hands is thus dismissed. File be consigned to the record room.

Announced in open Court.
today i.e. on **30.09.2026**.


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

Present: Mr. Kanish Bangia, Advocate for complainants.
Mr. Dhruv Dutt Shurma, Advocate for respondents.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
30.09.2026