

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

Complaint no. : 5593 of 2025  
Date of complaint : 04.11.2025  
Date of order : 29.09.2026

1. Pankaj Kapoor,
2. Anju Kapoor,
3. Sanjeev Kapoor,
4. Asha Kapoor.

**All R/o:** - R-664, New Rajinder Nagar, New Delhi.

**Complainants**

Versus

M/s Neo Developers Pvt. Ltd.

**Regd. Office at:** - 32B, Pusa Road,  
Karol Bagh, New Delhi-110005.

**Respondent**

**CORAM:**

Arun Kumar

**Chairman**

**APPEARANCE:**

Anand Dabas (Advocate)

Dushyant Yadav (Advocate)

Complainants

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 under the provisions 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. N. | Particulars            | Details                                                                                                                                                                                                       |
|-------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.    | Name of the project    | Neo Square, Sector-109, Gurugram                                                                                                                                                                              |
| 2.    | Project area           | 2.71 acres                                                                                                                                                                                                    |
| 3.    | Nature of the project  | Commercial colony                                                                                                                                                                                             |
| 4.    | RERA Registered or not | Registered<br>Vide no. 109 of 2017 dated 24.08.2017 valid upto 22.02.2024                                                                                                                                     |
| 5.    | DTCP License no.       | 102 of 2008 dated 15.05.2008 valid upto 14.05.2025                                                                                                                                                            |
| 6.    | Agreements for sale    | 04.02.2013                                                                                                                                                                                                    |
| 7.    | Unit no.               | 402-405 (4th Floor), 406-408 (4th Floor), 409-419 (4th Floor), 420-422 (4th Floor), 401 & 423 (4th Floor), 514-516 (5th Floor), 506-508 (5th Floor), and 509-512 (5th Floor)<br>[as per page 05 of complaint] |
| 8.    | Occupation certificate | 14.08.2024<br>(As per DTCP website)                                                                                                                                                                           |

**B. Facts of the complaint**

3. The complainants have made the following submissions: -
- That somewhere in the year of 2010, the respondent through its marketing executives and advertisement via various mediums & means approached the complainants, with an offer to invest and buy commercial space/shop in the proposed real estate project of Respondent, namely "Neo Square" situated in Sector-109, Gurugram.
  - That the respondent had executed an agreement for sale dated 01.06.2010 with the complainant Pankaj Kapoor, his brother Mr.



Sanjeev Kapoor, and their Late father Sh. Baldev Raj Kapoor to provide total 40,013 sq.ft. super built up area to the complainant and his family members in lieu of consideration amount of Rs.4.70.11,000/-. It is pertinent to mention here that the respondent had agreed to sell duly constructed air-conditioned commercial space measuring 40,013 sq.ft. super built-up area along with proportionate impartible and indivisible ownership rights in the land underneath together with right of use of common facilities/amenities in the proposed building to be developed by the respondent. In the Agreement for Sale, it was duly recorded that the respondent had already received the said amount from all three family members of the complainants as an advance payment towards full Basic Sale Price of 40,013 sq.ft. allotted space in the said project. After much persuasion the respondent executed following Builder Buyer Agreements on 04.02.2013 as mentioned herein under: i. With Late Sh. Baldev Raj Kapoor and Smt. Sarla Kapoor: No.0001 (Premise 402-405, 04th Floor) No.0001A (Premise 406-408, 04th Floor) No.0001B (Premise 409-419, 04th Floor) ii. With Sh. Pankaj Kapoor and Smt. Anju Kapoor: iii. No.0003 (Premise 506-508, 05h Floor) No.0003A (Premise 509-512, 05th Floor) With Sh. Sanjeev Kapoor and Smt. Asha Kapoor No.0002 (Premise 420-422, 04h Floor) No.0002A (Premise 401 and 423, 04th Floor) No.0002B (Premise 514-516, 05 Floor) in the said project admeasuring approximately 40,013 sq.ft. superbuilt up area. The aforesaid agreement dated 01.06.2010 is the full and final payment agreement between the parties and the complainants along with their late father Sh. Baldev Raj Kapoor and have paid a total sum of Rs.7,09,81,762/- till date towards consideration for 40,013 sq.ft. of super area in "Neo Square". The said payment is inclusive of 100% Basic Sale Price +

100% payment for EDC & IDC charges + 100% payment for sales tax.

The only payment left due was to be towards IIMS + registration charges and stamp duty charges which was supposed to be paid at the time of registration by the complainants.

- III. That the complainants jointly and severally have paid the entire sale consideration to the respondent for the said commercial space and as per builder buyer agreement(s) dated 04.02.2013, the respondent had assured to the complainants to offer the allotted units within a period of 36 months from the date of execution of builder buyer agreement(s) i.e., 04.02.2013.
- IV. That the respondent has failed to deliver the possession of the said unit as per the assured promise date and the project was delayed and possession was not offered.
- V. That the complainants herein had filed complaint (Nos. 3900 of 2020, 3894 of 2020, 1159 of 2020, 1160 of 2020, and 1161 of 2020) along with complaint (Nos. 3428 of 2020, 3429 of 2020, and 3430 of 2020) filed by their father Late Sh. Baldev Raj Kapoor and Sarla Kapoor, against the respondent seeking interest on the amount paid by the complainants, on account of delay in delivering possession of the allotted commercial space in the project "Neo Square" in Sector-109, Gurugram, Haryana. The complaints filed by the complainants were allowed vide order dated 25.01.2022 by this Authority thereby directing the respondent to pay interest @09.30% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e., 15.06.2019 till the physical offer of possession within 90 days from the date of the order and thereafter monthly payment of interest till the offer of possession.

- VI. That the respondent failed/neglected to comply with the directions as per the aforesaid order(s) dated 25.01.2022 and the complainants were constrained to file execution petitions seeking execution of the order(s) dated 25.01.2022 passed in complaints filed by the complainants. It is submitted that the Adjudicating Officer was pleased to issue Recovery certificates in favor of the complainants and against the respondent in which an amount of Rs.2,59,12,312/- is to be recovered from the respondent towards delay penalty charges till 31.01.2023, and further an amount of Rs.2,19,53,938/- has become due and payable towards delay possession charges till 14.08.2025 i.e. the date on which possession has been offered to the complainants, which the respondent has failed to do and still has not paid the abovementioned amount to the complainants.
- VII. That the respondent has now without paying/adjusting the above said amounts to the complainants raised false and baseless demand of money from the complainants to the tune of Rs.8,39,41,994/- vide letters dated 14.08.2025 allegedly named "demand notice & offer of possession".
- VIII. That the space allotted/allocated vide builder buyer agreements No.0001 (Premise 402-405, 04" Floor), No.0001A (Premise 406-408. 04h Floor), and No.0001B (Premise 409-419, 04th Floor) dated 04.02.2013 executed by & between Late Sh. Baldev Raj Kapoor & Sarla Kapoor and the respondent has been transferred/assigned to the complainants herein as Sh. Baldev Raj Kapoor passed away on 03.05.2021 leaving behind the following legal heirs: 1. Kiran Khanna II. Pankaj Kapoor III. Sanjeev Kapoor IV. Sarla Kapoor V. Simmi Khanna.
- IX. That out of the (8 aforesaid legal heirs Smt. Kiran Khanna, Smt. Sarla Kapoor, and Smt. Simmi Khanna have assigned/transferred their

respective share in the space allotted to Late Sh. Baldev Raj Kapoor to Pankaj Kapoor and Sanjeev Kapoor.

- X. That the respondent has vide its Demand Notice & Offer of Possession dated 14.08.2025 has demanded a sum of Rs.5,74,53,872/- from the complainants on account of "ST/ VAT, Development Charges, FTTH, Labour Cess, and GST on add on charges".
- XI. That the respondent has offered possession of 36,044.51 sq.f. super area in the said tower by re-allocating /re-allotting the space between the complainants without assigning/mentioning any specific units/floors. It is pertinent to mention here that against a total booked space of 40,000 sq.ft. the respondent has now allotted a total space admeasuring 36,044.51 sq.ft., thereby, arbitrarily and unilaterally reducing the space allotted by 3,968.49 sq.ft., to which the complainants never consented to.
- XII. That this act of reducing the space is totally contrary to the terms agreed as per the Builder Buyer Agreement(s). It is pertinent to mention here that the respondent in the guise of letters dated 14.08.2025 has offered possession however, the same cannot be accepted as an offer of possession in as much as no specific units/space/floor has been offered in respect whereof the alleged possession is offered vide letters dated 14.08.2025 and the same are only letters of demand as various arbitrary and unauthorized demands towards "ST/VAT, Development Charges, FTTH, Labour Cess, and GST" on add on charges" have been made, and therefore, the letters dated 14.08.2025 are liable to be set-aside. It is submitted that the complainants are not liable to pay any amount on account of "ST/VAT, Development Charges, FTTH, Labour Cess, and GST on Add on Charges" as the complainants have paid the entire amount towards

BSP, EDC / IDC, and service tax. It is pertinent to mention here that the demands towards "ST/ VAT, Development Charges, FTTII, Labour Cess, and GST on Add on Charges" are not payable by the complainants as being undue and unjustified in view of the fact that VAT is no longer applicable and is contrary and in contravention as per Annexure I (payment schedule) annexed with the builder buyer agreements dated 04.02.2013 executed by and between the complainants and respondent.

- XIII. That as per Annexure-1 (Payment Schedule) of the builder buyer agreement(s) dated 04.02.2013, the complainants are only liable to pay IFMS @ Rs. 225 per sq ft. for super built up area of 36,044.51 sq ft amounting to a total sum of Rs.81,10,014.75/- only + registration + stamp duty as applicable to be paid on notice of possession. The complainants vide their replies dated 27.08.2025 sent through their legal counsel duly communicated the aforesaid facts to the respondent, thereby, calling upon them to immediately withdraw their demand notice and offer of possession dated 14.08.2025 being unjustified and uncalled for.
- XIV. That as the respondent has till date not adjusted/paid the amount due towards delay possession charges as per the directions passed vide order(s) dated 25.01.2022 in complaints filed by the complainants, and has now raised unreasonable and unjustified demands of money from the complainants, and further in gross violation of the directions of this Authority has also threatened to cancel the said units of the complainants in the guise of "demand letter & offer of possession", hence, the respondent be directed to withdraw the demand made vide letters dated 14.08.2025 and handover possession of the space

allotted to the complainants as nothing remains due and payable by the complainants to the respondent.

**C. Relief sought by the complainants:**

4. The complainants have sought following relief(s):

I. Direct the respondent to handover possession to the complainants.

II. Stay/cancel unjustified offer of possession dated 14.08.2025.

5. On the date of hearing, the Authority explained to the respondents/promoter about the contraventions as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.

**D. Reply by the respondent**

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

- i. That the present complaint is not maintainable as the issues forming the foundation of the present proceedings have already been adjudicated upon by this Authority in earlier proceedings instituted by the complainants and/or their predecessor in interest.
- ii. That the complainants had earlier approached this Authority by way of complaints bearing, inter alia, Complaint Nos. 3900 of 2020, 3894 of 2020, 1159 of 2020, 1160 of 2020 and 1161 of 2020, along with the complaints bearing Complaint Nos. 3428 of 2020, 3429 of 2020 and 3430 of 2020, filed by their father, Late Sh. Baldev Raj Kapoor and Smt. Sarla Kapoor and the Authority, after considering the respective cases of the parties, was pleased to allow the aforesaid complaints vide orders dated 25.01.2022.
- iii. That the Authority directed payment of interest at the rate of 9.30% per annum on the amounts paid by the complainants for the period from the due date of possession, i.e. 15.06.2019, till actual handing

over of possession or offer of possession plus two months, whichever was earlier, along with directions concerning handing over of possession. The complainants thereafter initiated execution proceedings for enforcement of the aforesaid orders.

- iv. That during the execution proceedings, the Adjudicating Officer proceeded with execution of the orders and Recovery Certificates were issued in favour of the complainants and against the respondent. Thus, the dispute concerning the consequences of delay in possession and the monetary relief flowing therefrom had already been adjudicated upon and was thereafter carried into execution. The complainants could not, after obtaining and pursuing execution of the earlier orders, repeatedly institute fresh proceedings seeking substantially overlapping or identical reliefs arising from the same transaction and the same contractual relationship.
- v. That in the present case, the earlier complaints were adjudicated upon, orders were passed, execution proceedings were initiated and Recovery Certificates were issued. Thereafter, a further complaint bearing CR/2421/2024 was filed and dismissed vide order dated 29.07.2025 on the principle of res judicata.
- vi. That the present complaint is barred by the principles of res judicata and/or constructive res judicata, particularly in view of the orders dated 25.01.2022, the consequential execution proceedings and Recovery Certificates issued pursuant thereto, as well as the subsequent order dated 29.07.2025 passed in CR/2421/2024. The complainants cannot be permitted to repeatedly invoke the jurisdiction of this Authority in respect of substantially the same subject matter and seek successive or overlapping reliefs after having already approached this Authority, obtained adjudication of their

claims, pursued execution proceedings and thereafter instituted a further complaint which itself came to be dismissed on the principle of res judicata.

- vii. That the offer of possession dated 14.08.2025 was issued after the respondent had completed the requisite formalities and after obtaining the requisite completion/occupancy certificate from the competent authority in respect of the project.
  - viii. That the complainants were contractually bound to make timely and regular payments in accordance with the agreed payment plan, the terms and conditions of the BBA and the other documents governing the contractual relationship between the parties. The obligation to make timely payment of the amounts falling due was an essential and material obligation of the complainants under the said contractual arrangement.
  - ix. That as per the books of account and records maintained by the respondent, the complainants have, till date, paid a sum of Rs.2,54,70,514/- against the total amount of Rs. 5,39,58,110/- which had become due and payable in respect of the allotted unit(s) as on 14/08/2025
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Maintainability of complaint:**

8. In the present complaint, the complainants intend to continue with the project and are seeking direction to the respondent to handover the possession and to stay/cancel unjustified offer of possession dated 14.08.2025. The complainants have submitted that they have previously

filed complaints bearing No.s 3900 of 2020, 3894 of 2020, 1159 of 2020, 1160 of 2020, and 1161 of 2020 along with complaint bearing Nos. 3428 of 2020, 3429 of 2020, and 3430 of 2020) filed by their father Late Sh. Baldev Raj Kapoor and Sarla Kapoor, against the respondent seeking interest on the amount paid by the complainants, on account of delay in delivering possession of the allotted commercial space in the project "Neo Square" in Sector-109, Gurugram, Haryana. The complaints filed by the complainants were allowed vide order dated 25.01.2022 by this Authority. However, the respondent failed/neglected to comply with the directions as per the aforesaid order(s) dated 25.01.2022 and the complainants were constrained to file execution petitions seeking execution of the order(s) dated 25.01.2022 passed in complaints filed by the complainants. It is submitted that the Adjudicating Officer was pleased to issue Recovery certificates in favor of the complainants. Now without paying/adjusting the decretal amounts to the complainants raised false and baseless demand of money from them to the tune of Rs.8,39,41,994/- vide letters dated 14.08.2025 allegedly named "demand notice & offer of possession". The respondent in gross violation of the directions of this Authority has also threatened to cancel the said units of the complainants in the guise of "demand letter & offer of possession", hence, the respondent be directed to withdraw the demand made vide letters dated 14.08.2025 and handover possession of the space allotted to the complainants.

9. The Authority observes that the complainants have previously filed complaints bearing no. 3900 of 2020, 3894 of 2020, 1159 of 2020, 1160 of 2020 and 1161 of 2020, 3428 of 2020, 3429 of 2020 and 3430 of 2020 against the subject units before the Authority seeking possession along with payment of delay possession charges. Thereafter, vide order dated

25.01.2022, the respondent was directed to pay delay possession charges w.e.f. due date of possession till actual handover of possession or offer plus 2 months, whichever is earlier. The respondent was further directed to not to charge anything from the complainants which is not part of the buyer's agreement. Thereafter, the complainants filed execution petitions arising out of the order dated 25.01.2022 and the same is still pending before this Authority. It is important to mention here that the complainants have subsequently filed another similar complaints against the subject units vide complaints bearing CR/2718/2024 & Ors. and the same were dismissed by the Authority vide bunch order dated 29.07.2025, being barred by the principle of res-judicata. Now the complainants have again filed the present complaint against subject units before this Authority.

10. After considering the documents available on record as well as submissions made by the parties, it is observed that the complainants have filed this single complaint against multiple individual units bearing no.s 402-405 (4th Floor), 406-408 (4th Floor), 409-419 (4th Floor), 420-422 (4th Floor), 401 & 423 (4th Floor), 514-516 (5th Floor), 506-508 (5th Floor), and 509-512 (5th Floor), which have been allotted to them in the project of the respondent named "Neo Square", Sector-109, Gurugram vide separate buyer's agreements dated 04.02.2013. The Authority is of the view that the present complaint against multiple individual units allotted to the complainants vide separate buyer's agreements is not maintainable as each unit has individual/specific attributes which needs to be adjudicated separately and not by a single complaint.
11. The Authority further observes that the matter in issue between the parties has already been heard and decided by the Authority vide order

dated 25.01.2022 in the former complaints bearing No. 3900 of 2020, 3894 of 2020, 1159 of 2020, 1160 of 2020 and 1161 of 2020, 3428 of 2020, 3429 of 2020 and 3430 of 2020, whereby, delay possession charges were allowed to the complainants. It is further noted that the direction for grant of delay possession charges inherently encompasses a direction with respect to possession as the same having been awarded on account of delay in handing over possession. Consequently, the Authority is of the view that the present complaint is not maintainable before the Authority as is barred by the principle of res-judicata. Further, if any party fails to abide by the directions mentioned the said order, then the same shall be enforced by the executing authority as provided under Section 40 of the Act of 2016 read with Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017, in such manner as may be prescribed. 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. Therefore, subsequent complaint on same cause of action is barred by the principle of res-judicata as provided under Section 11 of the Code of Civil Procedure, 1908(CPC). Section 11 CPC is reproduced as under for ready reference:

*"11. Res judicata.—No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.*

**Explanation I.**—*The expression "former suit" shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.*

**Explanation II.**—*For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.*

**Explanation III.**—*The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.*

**Explanation IV.**—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

**Explanation V.**—Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

**Explanation VI.**—Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

**1[Explanation VII.**—The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

**Explanation VIII.** —An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.]”

12. The Authority is of view that though the provisions of the Code of Civil Procedure, 1908 (CPC) is, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the Authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the Act if such provision is based upon justice, equity and good conscience. Thus, in view of the factual as well as legal provisions, the present complaint stands dismissed being not maintainable. File be consigned to the registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 29.09.2026