BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint No.	**5139 of 2025**
Date of complaint:	**24.09.2025**
Date of order:	**29.09.2026**

Minali Gupta,
R/o: 959, S/13, Civil Line, Near Jar Pahad, Sarv Nagar, CP Mission Compound, Jhansi, Uttar Pradesh-284003. **Complainant**

Versus

M/s Vikas Parks Private Limited
Regd. Office At: - 264, Okhla Industrial Estate, Phase-III, New Delhi-110020. **Respondent**

CORAM:
Arun Kumar **Chairman**

APPEARANCE
Gaurav Bhardwaj (Advocate) **Complainant**
Avinash Kumar Singh (Advocate) **Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottee 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 allottees as per the agreement for sale executed inter se.

A. Unit and Project related details:

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

S. No.	Particulars	Details
1.	Name and location of the project	"Hero Homes", Sector-104, Village Dhanwapur, Gurugram
2.	Nature of the project	Residential Group Housing
3.	Project area	34.0228 acres
4.	DTCP License no. and validity	i. 246 of 2007 dated 29.10.2007 valid up to 28.10.2024 ii. 56 of 2011 dated 23.06.2011 valid up to 22.06.2024 iii. 37 of 2012 dated 22.04.2012 valid up to 21.04.2025 iv. 66 of 2012 dated 21.06.2012 valid up to 20.06.2025 v. 67 of 2072 dated 21.06.2012 valid up to 20.06.2025 vi. 43 of 2014 dated 16.06.2014 valid up to 15.06.2024 vii. 44 of 2014 dated 16.06.2014 valid up to 15.06.2024.
5.	Name of licensee	M/s Mabon Properties Pvt. Ltd. & others
6.	RERA registered/ not registered and validity status	**Registered** 87 of 2023 dated 28.08.2023 valid up to 30.09.2027
7.	Unit no.	2204, 22nd floor & Tower-03 (As per page no. 54 of the complaint)
8.	Unit area	1099 sq. ft. (carpet area) (As per page no. 54 of the complaint)
9.	Date of execution of agreement for sale	24.05.2019 (As per page no. 52 of the complaint)
10.	Possession clause	**7. Possession of the apartment for residential usage:** *7.1... The promoter assures to handover possession of the apartment for residential usage along with parking* ***on or before 31.08.2023*** *unless there is delay or failure due to "Force Majeure" ...*

		(As per page no. 59 of the complaint)
11.	Due date of possession	29.02.2024 (**Note:** 31.08.2023 as mentioned in possession clause plus grace period of 6 months on account of Covid-19)
12.	Total sale consideration	Rs.71,59,639/- (As per payment plan on page no. 75 of the complaint)
13.	Amount paid by the complainant	Rs.72,53,784/- (As per customer ledger dated 26.09.2025 on page no. 74 of the reply)
14.	Occupation certificate	20.01.2025 (As per page no. 52 of the reply)
15.	Offer of possession	25.02.2025 (As per page no. 70 of the reply)
16.	Possession handover letter	26.07.2025 (As per page no. 41 of the reply)
17.	Conveyance Deed	24.07.2025 (As per page no. 43 of the reply)

B. Facts of the complaint:

3. The complainant has made the following submissions:

i. That the respondent advertised about the launch of its new group housing project namely "Hero Homes" located in Sector-104, Dwarka Expressway, Gurugram, Haryana.

ii. That believing the false assurances and misleading representations of the respondent in their advertisements and relying upon the goodwill of the respondent company, the complainant booked a unit against the total sale consideration of Rs.71,04,689/-.

iii. That on 25.03.2019, the respondent sent an allotment letter allotting the unit bearing no. 2204 on 22nd floor located in Tower-T-03/2204, ad measuring carpet area 683.83 sq. ft. and super area 1099 sq. ft. along with basement parking no. B2-247 ad-measuring 134.55 sq. ft. in basement no.02 in the said project.

iv. That thereafter, an agreement for sale was executed between the complainant and the respondent on 24.05.2019 for the unit in question wherein under clause 7.1, the respondent undertook to complete construction, handover possession of the unit in question along with parking till 31.08.2023.

v. That the respondent kept raising payment demands and the complainant kept making payment in accordance with said demands only in the hope of getting possession of their unit and fearing cancellation of her unit as threatened by the respondent time and again. Till date, the complainant has made more than 100% payment of Rs.71,04,689/- as against the total sale consideration of Rs.72,07,179/- in accordance with the demands raised by the respondent.

vi. That the complainant paid a substantial amount towards the purchase of the unit in question, for which the complainant took a loan from State Bank of India. A tripartite agreement dated 16.09.2019 was executed between the complainant, respondent company and State Bank of India which was duly acknowledged by the respondent company. It is pertinent to mention here that the complainant had no choice but to rely on the representations made by the respondent. However, despite the passing of the possession due date as per the agreement for sale, the respondent has clearly failed to deliver possession of the unit on agreed date.

vii. That even after a lapse of 6 years from the date of booking, the complainant had been left with a possession with incomplete facilities as promised while booking and under financial distress as the respondent has failed in offering what was promised a delayed possession of the unit booked by the complainant, thereby duping the complainant of their hard-earned money and causing them great mental trauma.

viii. That later, vide letter dated 25.02.2025 titled as "Demand Notice and Offer of Possession", the respondent informed the complainant that the unit is ready for physical possession. Subsequently, the respondent requested the complainant to clear the pending dues as per the said letter dated 25.05.2025.

ix. That the complainant had received the *'Possession Handover Process Letter'* dated 26.07.2025 from the respondent, wherein it has been categorically stated that the respondent has handed over the vacant unit to the complainant along with the covered car parking bearing No. B2-247. However, it is most pertinent to place on record that, in reality, no parking space in Basement Level 2 (B2) has ever been effectively allotted to the complainant on account of persistent waterlogging issues at the said location. Consequently, the respondent, acknowledging the said defect, has only on a temporary basis allotted an alternate parking space at basement level 1 (b1) for the use of the complainant.

x. That the complainant sent an email to the respondent dated 26.07.2025, categorically informing that the handover of possession was accepted strictly under protest, and that the execution of possession-related documents shall not, in any manner whatsoever, be construed as a waiver, settlement, or relinquishment of the complainant's lawful rights and entitlements. It is pertinent to note that, till date, the respondent has failed to furnish any reply to the said communication, thereby demonstrating an arbitrary and negligent attitude.

xi. That despite the abovementioned email of the complainant, instead of addressing the legitimate concerns raised therein, the respondent, vide email dated 26.07.2025, informed the complainant regarding the purported handover of possession and further raised a demand towards Common Area Maintenance (CAM) charges amounting to ₹58,357/-. The

complainant, without prejudice to his rights, complied with the said demand and made the payment of the CAM charges. Such conduct on the part of the respondent reflects a highly evasive and unjustified approach, deliberately avoiding the core issues raised by the complainant.

xii. That thereafter, the complainant addressed another email dated 31.08.2025 to the respondent, specifically seeking clarification regarding the delay possession charges for the unit, as the possession was granted belatedly despite prolonged construction delays, allegedly due to government restrictions and other factors. However, the respondent, in a continued display of non-responsive and arbitrary conduct, failed to provide any reasoned clarification or justification.

xiii. That the present complaint has been filed in order to seek delay possession charges on the principal amount paid by the complainants along with interest at the rate prescribed as per the Act, 2016. Hence, this complaint.

xiv. That the complainant also reserves her right to file separate complaint for compensation as and when required before the appropriate forum/ authority.

C. Relief sought by the complainant:

4. The complainant has sought following relief:

i. Direct the respondent to handover possession and to pay delayed possession charges.

ii. Direct the respondent to not to charge any amount beyond BBA and not to levy any holding charges and maintenance charges.

5. On the date of hearing, the Authority explained to the respondent/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 filed by the respondent:

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

i. That the conveyance deed has already been executed in favour of the complainant on 24.07.2025 with respect to the said apartment and the complainant after settling her finance accounts with the respondent to the extent of her utmost satisfaction, she has taken the actual physical possession of the said apartment being fully satisfied in all respects on 26.07.2025. The complainant is already enjoying the actual physical possession of the apartment in the way she wants.

ii. That the complainant is barred by law of estoppel as the complainant has already previously at the time of execution and registration of conveyance deed voluntarily agreed to the terms and expressed her full consent and satisfaction with regard to the timelines of the possession as well as other aspects of the transactions and financial accounts. Hence, as per the law of estoppel, the complainant cannot now contradict of conveyance deed which she has previously stated as true in the eyes of law. So, her complaint should be dismissed on this ground only.

iii. That the complainant does not fall within the definition of allottee as provided in Section 2 (d) of the RERA Act, 2016 since the relation of the allottee and a promoter stands concluded and all the obligations of the promoter under the agreement stand discharged after the execution of the conveyance deed as the buyer became the owner of the unit. Therefore, the owner is estopped from claiming any interest on the delay in handing over possession.

iv. That upon taking the peaceful possession after getting fully satisfied and after settling the financial account with the respondent, the contractual obligations between the parties stands fully satisfied and all the rights and obligations of the parties come to an end. That there remain no claim/ grievances of the complainant with respect to the agreement.

v. That the respondent after making the due application to the office of the Directorate, Town and Country Planning (DTCP) has obtained the occupation certificate from the department of DTCP on 20.01.2025.

vi. That pursuant to the application submitted by the complainant, the respondent issued the allotment letter dated 25.03.2019 in favor of the complainant and confirmed the allotment of apartment no.-T-03/2204, Tower No. - 03, Floor – 22nd, Area 1099 sq. ft., along with pro rata share in the common areas for total sale consideration of Rs.71,04,689/- in residential project "Hero Homes" situated at, Sector - 104, Dwarka Expressway, Gurugram.

vii. That subsequent to the above referred allotment of the said apartment, the complainant entered an agreement for sale on 24.05.2019 with the respondent for the delivery of the possession of the said apartment exclusively on the agreed terms and conditions as contained in the agreement for sale.

viii. The promoter/respondent assured to hand over possession of the apartment for residential usage along with parking on or before 31.08.2023 unless there is delay or failure due to "force majeure", Court Orders, Government policy / guidelines, decisions affecting the regular development of the real estate project. If, the completion of the project is delayed due to above conditions, then the allottees/ complainants agree that the promoter/ respondent shall be entitled to the extension of time for delivery of possession of the apartment for residential usage as per the agreed terms of the agreement for sale.

ix. That after the completion of the Tower No. 1 to Tower 4, in all manner and after obtaining Fire NOC on 17.01.2024, the respondent applied to the Director, Town and Country Planning, Haryana at Chandigarh, vide its application dated 21.02.2024 along with all requisite documents for the

grant of occupation certificate for Tower 1 to Tower 4, which was submitted on 22.02.2024. After filing of the application for grant of OC, the DTCP did not raise any concern regarding construction of the Tower no. 1 to 4, as the same was completed in all manner and only submission of relevant documents were to be verified. All documents were again submitted in the Office of DTCP on 09.07.2024, and thereafter the occupation certificate was granted for the Tower no. 1 to Tower 4, by the Office of DTCP on 20.01.2025.

x. That after receipt of the occupation certificate on 20.01.2025, the respondent offered the possession to the complainant on 25.02.2025 with complete guidelines to complete the remaining final payments within 15 days and take the physical possession after requisite documentations in this regard by the complainant. The complainant made delay in taking physical possession and took the possession after delay of 5 months on 26.07.2026.

xi. That the respondent has also paid the amount of Rs.2,63,459/- including TDS on 24.02.2025 as compensation for delayed possession to the complainant. The complainant has duly acknowledged the payment of the abovementioned compensation amount in her complaint. The above payment is without prejudice to respondent right to defend itself in the ongoing complaint under reply. The same is reflected in the customer/applicant ledger/ statement of account provided by the respondent to the complainant. In spite of all support from the respondent, the complainant failed to take the possession of the apartment in question within stipulated time.

xii. That it is the fault of the complainant, she did not take the physical possession within stipulated time even after receiving the compensation from the respondent, wherein the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the RERA Act) U/S 19(10) puts the allottees under duty to take possession of the apartment, within a period of two

months of the occupancy certificate issued for the said apartment in question.

xiii. That the construction of the project has been delayed due to force majeure circumstances such as outbreak of Covid-19, ban on construction due to Supreme Court order, GRAP orders/NGT orders/MCG orders/HSPCB orders due to rise in pollution level, time taken by DTCP in issuing OC, change in location for development of EWS in compliance with statutory requirement etc.

xiv. That there is no fault on the part of the respondent in carrying its obligations towards the completion of the project and its delivery. The respondent has already offered the physical possession of the apartment to the complainant on 25.02.2025 after obtaining occupation certificate on 20.01.2025. The respondent has already made payment of delayed possession charges. The complaint is liable to be dismissed/rejected on the said grounds.

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 submissions made by the parties.

E. Jurisdiction of the Authority:

8. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

E.I Territorial jurisdiction

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

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)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;*
> *34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottee and the real estate agents under this Act and the rules and regulations made thereunder."*

9. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

F. Findings on the objections raised by the respondent:

F.I Objections regarding force majeure.

10. The respondent has raised the contention that the construction of the project has been delayed due to force majeure circumstances such as ban on construction, major spread of Covid-19 across worldwide, delay on part of government authorities in granting approval etc. The Authority observes that in the instant complaint, the due date of handing over of possession was 31.08.2023 and grace period of 6 months on outbreak of Covid-19 pandemic has already been granted to the respondent. As far as the contention of the respondent regarding banning of construction in the NCR region is concerned, the same was banned for a very short period of time and thus, cannot be said to impact the respondent-builder leading to such a delay in the completion. Moreover, time taken in governmental clearances cannot be attributed as

reason for delay in project. Further, some of the events mentioned above are of routine in nature happening annually and the promoter is required to take the same into consideration while launching the project. Thus, the respondent-promoter cannot be given any leniency on based of aforesaid reasons and it is a well settled principle that a person cannot take benefit of his own wrong.

G. Findings on the relief sought by the complainant:

G.I Direct the respondent to handover possession and to pay delay possession charges.

11. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the provisions of Section 18(1) of the Act which reads as under:

> ***"Section 18: - Return of amount and compensation***
> *(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —*
> *..... Provided that* ***where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession****, at such rate as may be prescribed"*

12. Clause 7.1 of the agreement for sale provides the time period for handing over possession and the same is reproduced below: -

> ***"7. POSSESSION OF THE APARTMENT FOR RESIDENTIAL USAGE***
> *7.1... The promoter assures to handover possession of the apartment for residential usage along with parking* ***on or before 31.08.2023*** *unless there is delay or failure due to "Force Majeure"...*
>
> **(Emphasis supplied)**

13. **Due date of handing over of possession:** The promoter has proposed to handover possession of apartment to the allottee on 31.08.2023. Thus, the due date of handing over of possession was 31.08.2023. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 29.02.2024.

14. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to 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 the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

> ***"Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]***
> *For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:*
> *Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public."*

15. The definition of term 'interest' as defined under Section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

> *"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
> *Explanation. —For the purpose of this clause—*
> *(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
> *(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

16. Consequently, as per website of the State Bank of India i.e., https://sbi.co.in, the marginal cost of lending rate (in short, MCLR) as on date i.e., 29.09.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.

17. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act, the Authority is satisfied that the respondent is in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date as per the

agreement. The due date for handing over of possession was 29.02.2024. In the present case, the complainant was offered possession by the respondent on 25.02.2025 after obtaining occupation certificate dated 21.01.2025 from the competent authority. Copies of the same have been already placed on record. The Authority is of the considered view that there is delay on the part of the respondent to offer possession of the allotted unit to the complainant within the stipulated time period as per the terms and conditions of the agreement for sale dated 24.05.2019 executed between the parties.

18. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on 21.01.2025. However, the respondent offered the possession of the unit in question to the complainant only on 25.02.2025, so it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. These 2 (two) months of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically she has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition. It is further observed that vide possession handover letter dated 26.07.2025, actual physical possession of apartment was handed over to the complainant.

19. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession charges at prescribed rate of the interest @10.80% p.a. from due date of possession i.e., 29.02.2024

till offer of possession plus two months or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act, 2016 read with Rule 15 of the Rules, 2017.

20. The Authority further observes that at the time of issuance of offer of possession, the respondent has adjusted an amount of Rs.2,37,113/- on account of compensation against delayed possession and the same is reflected into customer ledger dated 26.09.2025 (on page no. 75 of the reply). Therefore, the same shall be adjusted/deducted from the total payable amount on account of delay possession charges.

21. The complainant is seeking further relief with respect to handover of possession in accordance with the specifications mentioned in the agreement. However, the record reveals that vide possession handover letter dated 26.07.2025, the parties have acknowledged and agreed that the actual physical possession of the subject apartment has been delivered to the complainant. Furthermore, the conveyance deed in respect of the subject unit was duly executed in favour of the complainant on 24.07.2025. Clause 3 of the said conveyance deed specifically records the complainant's acknowledgment that she has taken vacant and peaceful physical possession of the apartment to her entire satisfaction. In view of the aforesaid admitted facts and documentary evidence on record, the relief sought by the complainant with respect to the handover of possession is declined.

G.II Direct the respondent to not to charge any amount beyond BBA and not to levy any holding charges and maintenance charges.

22. The complainant is seeking further relief with respect to restrain the respondent from charging any amount beyond BBA and from charging any amount on account of holding charges and maintenance charges. The Authority observes that the financial liabilities between the allottee and the promoter come to an end after the execution of the conveyance deed except

for the statutory rights under the Act of 2016. The complainant took possession of the unit and got the conveyance deed executed, without any demur, protest or claim. The complainant has neither raised any grievance at the time of taking over the possession or at the time of execution of the conveyance deed, nor reserved any right in the covenants of the conveyance deed, to challenge or dispute the levy of such charges at a subsequent stage. Also, it is a matter of record that no allegation has been levelled by the complainant that conveyance deed has been got executed under coercion or by any unfair means. The complainant could have asked for the above claim before the conveyance deed got executed between the parties. Therefore, after execution of the conveyance deed, the complainant cannot dispute charging of above charges other than statutory benefits, if any pending. Once the conveyance deed is executed and accounts have been settled, no claim remains. So, no relief in this regard can be effectuated at this belated stage.

H. Directions of the Authority:

23. 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 respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate i.e., 10.80% per annum for every month of delay from the due date of possession i.e., 29.02.2024 till the expiry of 2 months from the date of offer of possession or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, 2017.

ii. The respondent is further directed to deduct/adjust the amount paid by it to the complainant on account of compensation against delayed

possession from the delay possession charges to be paid by the respondent in terms of proviso to Section 18(1) of the Act.

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

24. The complaint stands disposed of.

25. File be consigned to registry.

(Arun Kumar)
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 29.09.2026

HARERA
GURUGRAM