BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA REAL ESTATE REGULATORY AUHORITY, GURUGRAM.

Complaint No. :6021-2024
Date of Decision: 08.10.2026

Mr. Mohit Malhotra, resident of H.No.5/63, Hiranandani, Oceanic, Flat No.801, 8th Floor, OMR, Egattur, Kancheepuram, Tamil Nadu-603103.

..... Complainant

Versus

M/s Neo Developers Pvt. Ltd., 1205, Tower-B, Signature Tower, South City-1, NH-8, Gurugram-122001.

..... Respondent

APPEARANCE

For Complainant: **Mr. Kanish Bangia, Advocate.**
For Respondent: **Mr. Venket Rao, Advocate.**

ORDER

This is a complaint filed by Mr. Mohit Malhotra (allottee) under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016) against M/s Neo Developers Pvt. Ltd. (promoter).

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2. Briefly stated, according to the complainant, on 12.09.2011, he booked a commercial retail space No.33 having area 610 sq. ft. on ground floor, Sector-109, Gurugram, in the project "Neo Square" being developed by the respondent. The respondent sent an allotment letter dated 24.05.2012 to him (complainant). A Builder Buyers' Agreement (BBA) was executed between the parties on 20.12.2013. Due date of handing over of possession was 20.12.2016. Total sale consideration of the unit was agreed to be Rs.60,49,422/-.

3. That he (complainant) paid Rs.15,72,638/- towards the aforesaid unit. The construction of the project was going to be indefinitely delayed. While the respondent was continuously harassing him(complainant) for payment of more and more instalments, while he (complainant) was continuously seeking the refund of his deposits. That after much coaxing and distress calls, the respondent sent cancellation-cum-forfeiture letter to him (complainant), whereby it offered to pay Rs.5,90,075/-to him (complainant) after forfeiting Rs.9,82,563/- on various accounts including Rs.3,59,810/- on account of brokerage paid by it (respondent) to its authorized brokers.

AO

4. The respondent took the money from him (complainant) and utilized the same for some other purpose, but not executing the project, for which the money was taken from him(complainant). This has caused him (complainant) and his family members physical torture, mental stress, harassment and pain. That even after cancellation of the unit in question on 06.04.2018, the respondent has not refunded his amount. Hence, there has been a delay of 6 years. In this way, the respondent has substantially failed to discharge its obligations.

5. That being aggrieved with the acts of the respondent, he (complainant) filed a complaint no.1827/2022 before the Haryana Real Estate Regulatory Authority, Gurugram (in short " the Authority") and the Authority vide its order dated 06.02.2024 directed the respondent to refund the amount of Rs.15,72,638/- deposited by him (complainant) after deduction of 10% of the sale consideration being earnest money, along with interest @ 10.85% on the refundable amount from the date of cancellation i.e. 06.04.2018 till the date of realization of payment. Further, the amount of Rs.5,90,075/- already refunded by the respondent shall be deducted from the amount so assessed.

AO

6. Contending all this, complainant has sought following compensations: -

i. to direct the respondent to pay compensation of Rs.10 lakhs towards mental agony, physical torture and pain.

ii. to direct the respondent to give compensation of Rs. 6,00,000/- for towards the legal costs incurred.

7. The respondent opted not to file written reply despite service of notice. Its defence was struck off vide order dated 02.09.2025.

8. Complainant filed affidavit in support of his claim. I have heard learned counsels appearing for both of parties and perused the record.

9. It is submitted by learned counsel for the complainant that despite order of Authority to refund the paid-up payment, the respondent did not repay the amount. Moreover, the respondent failed to complete the construction, which compelled his client to stop further payments. All this caused physical harassment and mental pain to the complainant.

10. As described above, the complainant approached the Authority by filing complaint No.1827 of 2022 seeking refund of

entire amount paid by the same along with interest. Said complaint has been decided by the Authority vide order dated 06.02.2024. The respondent has been directed to refund the amount of Rs.15,72,638/- deposited by him (complainant) after deduction of 10% of the sale consideration being earnest money, along with interest @ 10.85% on the refundable amount from the date of cancellation i.e. 06.04.2018 till the date of realization of payment. Further, the amount of Rs.5,90,075/- already refunded by the respondent shall be deducted from the amount so assessed.

11. Finding fault in the complainant himself, the Authority noted that the complainant has paid Rs.15,72,638/- against the total sale consideration of Rs.60,49,422/-. The respondent/builder sent various reminders asking the allottee to make the balance payment, but having no positive results, the respondent cancelled the unit vide letter dated 06.04.2018 and the cancellation done by the respondent was found valid in the eyes of law.

12. Perusal of the aforesaid order of the Authority, it is abundantly clear that it was failure on the part of the complainant to make payment of sale consideration, which constrained the respondent to cancel the unit. In this way, the complainant is not

entitled to any relief as claimed by him. If the respondent is not ready to refund paid-up amount, despite order of Authority, the complainant could approach the Authority by filing execution petition but not complaint before this forum seeking compensation.

13. Complaint is thus dismissed. File be consigned to the record room.

Announced in open court today i.e. on **08.10.2026**.

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

Present: Mr. Kanish Bangia, Advocate for the complainant.
Mr. Venket Rao, Advocate for the respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.

(Rajender Kumar)
Adjudicating Officer,
08.10.2026