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

Complaint No. :1368-2023
Date of Decision: 08.10.2026

1. Mr. Lalit Gandhi
2. Ms. Aashu Gandhi,

both residents of 27-7, East Patel Nagar, Central Delhi, Delhi-110008.

.....Complainants

Versus

1. M/s Emaar, MGF Land Limited, 306-308, Square One, C-2, District Centre, Saket, New Delhi, South Delhi-110017.
2. M/s Active Promoters Pvt. Ltd. 306-308, Square One, C-2, District Centre, Saket, New Delhi, South Delhi-110017.
3. M/s Brijbasi Projects Pvt. Ltd. 306-308, Square One, C-2, District Centre, Saket, New Delhi, South Delhi-110017.

.....Respondents

APPEARANCE

For Complainants: **Mr. Abhijeet Gupta, Advocate**
For Respondents: **Mr. Harshit Batra, Advocate**

ORDER

This is a complaint filed by Mr. Lalit Gandhi & Ms. Aashu Gandhi (allottees), under section 31 of The Real Estate

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(Regulation and Development), Act 2016 (in brief "Act of 2016") against M/s Emaar MGF Land Ltd. & Ors. (promoters).

2. Briefly stated, according to the complainants, pursuant to the advertisements, assurances and promises made by respondent No.1 about the timely completion of a project namely "The Palm Drive" a Group Housing Complex, being developed on the land of respondents No.2&3, the former allottee (Ms. Anjali Sethi) purchased a residential apartment bearing No.PTT-09-1202 on 12th floor situated in Tower S09 admeasuring super area of 2100 sq. ft. situated at Sector-66, Gurugram along with two car parking space.

3. That a Builder Buyer's Agreement (BBA) was executed between the parties on 16.09.2010. Total sale consideration of the apartment was agreed as Rs.1,26,49,800/-. The construction work of the unit was to be completed within 36 months from the date of commencement of the construction along with grace period of three months. That on the request of former allottee, their (complainants) name were substituted by respondent in the BBA.

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That the respondent No.1 sent unit handover letter dated 20.03.2020 to them (complainants) by which the vacant possession of the apartment was handed over to them along with two car parking. Conveyance Deed was executed between the parties on 15.12.2020.

4. That after taking over possession of the apartment, the grievance faced by them (complainants) was that the apartment has no golf range facing and further, it does not have two separate car parking as promised in the Builder Buyer's Agreement and Conveyance Deed. That the Conveyance Deed was executed for total area of 2100 sq. ft, however, the total area of the apartment has been reduced unilaterally by the respondents without informing them. They (complainants) have suffered on account of deficiencies in the service by the respondents and as such, the respondents are fully liable to cure the deficiencies.

5. That they (complainants) after losing all the hopes from the respondents, after being mentally tortured and also facing various problems financial as well as living parameters in the

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Apartment, constrained to approach the Authority for redressal of their grievances.

6. Claiming all this, the complainants have sought following compensation -

i) to direct the respondents to compensate the complainants for a sum of Rs. 6,30,000/- along with interest as compensation for not providing Golf Range Facing unit.

ii) to direct the respondents to compensate the complainants for a sum of Rs.5,00,000/- along with interest as compensation for not providing exclusive right of two car parking.

iii) to appoint a Local Commissioner for measuring the super area of the Apartment of the complainants.

iv) to direct the respondents to compensate the complainants for the calculated sum of difference in the super area sold to them vide Conveyance Deed along with the compensation.

v) to direct the respondents to compensate the complainants with a sum of Rs. 10,00,000/- for the harassment faced by them and mental agony.

vi) to direct the respondents to compensate with a sum of Rs. 1,00,000/- for the Litigation cost.

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7. The respondents contested the complaint by filing a written reply. It is averred that the complainants being subsequent buyers have no right to file the present case. That at the time of endorsement being done in favour of the complainants, the construction had already initiated as per the building plans and the complainants bought the unit after a thorough inspection of the property.

8. That the complainants had defaulted/delayed in making the due payments, upon which, reminders were also served. That in the absence of the timely payment made against the unit, the obligations of the respondent No.1 stood diluted. That 08.08.2019, on receipt of Occupation Certificate, the complainants were offered possession of the unit in question vide letter dated 13.08.2019. The complainants were called upon to remit balance payment including delayed payment charges and to complete the necessary formalities, but the complainants delayed the procedure for taking the possession of the said unit on their own account. Even the respondent No.1 was constrained to issue possession reminders dated 17.09.2019 & 01.03.2020. Owing the repeated

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requests of respondent No.1, an indemnity-cum-undertaking for possession dated 04.10.2019 was executed between the parties.

9. That the complainants took possession of the unit along with exclusive right to use car parking on 01.03.2020 after complete satisfaction thereof. Consequently, Conveyance Deed was executed on 15.12.2020. The complainants have preferred the instant complaint on absolutely false and extraneous grounds in order to harass respondent No.1.

10. Contending all this, the respondents have prayed to dismiss the complaint.

11. Parties filed affidavits in support of their claims. I have heard learned counsels appearing on behalf of both of parties and perused the record on file.

12. At the outset, it is contended by learned counsel for the respondents that the present complaint is not maintainable in view of Rules 28&29 of The Haryana Real Estate (Regulation and Development) Rules, 2017 (in brief "Rules of 2017") as no finding has been given by the Authority against his clients having breached any Rule. Learned counsel referred an order passed by The Haryana

Real Estate Appellate Tribunal, Chandigarh (in brief "The Appellate Tribunal") in Appeal No.08 of 2026 titled as "M/s St. Patricks Realty Private Ltd. vs. Neha Prasad & Ors." decided on July 01,2026.

13. The powers conferred by The Act of 2016 upon this Forum (AO) are limited. Rule 29(1)(a) of Rules of 2017, provides that any aggrieved person may file an application/complaint with the adjudicating officer for adjudging quantum of compensation as provided under sections 12, 14, 18 and 19, **where violation by the promoter has been established by the Authority in an inquiry under section 35 in form CAO**.... Similarly, Rule 28(2)(m) of said Rules mentions the procedure for filing a complaint before the Adjudicating Officer. The relevant portion of same is reproduced here as under: -

> *"If the complaint in form 'CAO' filed before the adjudicating officer for adjudging quantum of compensation,* ***the complaint shall be admissible from the stage of concluding inquiry by the Authority*** *....."*

14. This Forum (Adjudicating Officer) cannot adjudge amount of compensation for loss suffered by an allottee unless violation by the promoter has been established by the

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Authority. As pointed out by learned counsel for the respondents, the Appellate Tribunal in M/s St. Patricks Realty Pvt. Ltd. case (supra) held that the Adjudicating Officer has no jurisdiction without any such finding given by the Authority.

15. In facts as described above, present complaint is not maintainable before the Adjudicating Officer, same is thus dismissed. Parties to bear their own costs. 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,
Gurugram.

Present: Mr. Abhijeet Gupta, Advocate for the complainants.
Mr. Harshit Batra, Advocate for the respondents.

Complaint is disposed of, vide separate order today.

File be consigned to record room.

(Rajender Kumar)
Adjudicating Officer,
08.10.2026