BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.: 363 of 2026
Date of filing of complaint: 27.01.2026
Date of Order: 20.08.2026

Seema Gupta
R/o: - Flat no. 8, Sector-23, DDA Flats, Mahadev Apartment, Dwarka, Delhi -110075 **Complainant**

Versus

Ocimum Estates Private Limited.
Regd. Office at: 296, Forest Lane, Neb Sarai, Sainik Farms, New Delhi-110068.
Corporate Office at:1205-B, 12th Floor, Tower-B, Signature Tower, South City-I, NH-8, Gurgaon-122001. **Respondent**

CORAM:
Shri Phool Singh Saini **Member**

APPEARANCE:
Sh. Nitesh Manchanda (Advocate) Complainant
None Respondent

ORDER

1. The present complaint dated 27.01.2026 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 provision of the Act or the Rules and regulations made thereunder or to the allottees 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 complainant, 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	"Neo Centra", Village-Daultabad, Sector-103, Gurgaon.
2.	Nature of the project	Commercial
3.	Project area	2.38125 acres
4.	DTCP license no.	144 of 2014 dated 01.09.2014 valid up to 31.08.2019
5.	Name of licensee	Ocimum Estates Private Limited
6.	RERA Registered/ not registered	08 of 2020 dated 10.02.2020 valid up to 31.12.2024
7.	Unit no.	G-64, Ground floor (Retail Space) (As per page no. 22 of the complaint)
8.	Unit area admeasuring	90 sq. ft. (Super Area) (As per page no. 22 of the complaint)
9.	Date of execution of buyer's agreement	07.09.2020 (As per page no. 18 of the complaint)
10.	Possession clause	***5.2*** *That* ***the company shall complete the construction of the said building/complex, within which the said space is located within 60 months from the date of execution of this agreement or from the start of construction, whichever is later*** *and apply for grant of completion/occupancy*

		certificate. The company on grant of occupancy/ completion certificate, shall issue final letters to the allottee(s) who shall within 30 (thirty) days, thereof remit all dues. **(Emphasis supplied)** (As per page no. 27 of the complaint)
11.	Due date of possession	07.09.2025 (**Note:** Due date to be calculated 60 months from the date of execution of agreement i.e., 07.09.2020 as construction has not been commenced on the site confirmed by the counsel for the complainant during proceedings of the day dated 20.08.2026)
12.	Basic sale consideration	Rs.13,86,000/- (As per payment schedule on page no. 39 of the complaint)
13.	Total sale consideration	Rs.17,11,170/- (As per payment schedule on page no. 39 of the complaint)
14.	Amount paid by the complainant	Rs.7,47,936/- (As per receipt information on page no. 13 & 47-51 of the complaint)
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint:

I. That the complainant, Mrs. Seema Gupta is a respectable and law-abiding citizen residing at Flat no. 8, Sector-23, DDA Flats, Mahadev Apartment, Dwarka, Delhi.

II. That the respondent at the time of marketing of the project made tall exaggerated and rosy representations and claims regarding the project including but not limited to timely completion, high commercial viability, modern amenities and early delivery of possession.

III. That the officials of the respondent company also assured to the complainant that the said project is a duly approved and registered project under the Haryana Real Estate Regulatory Authority, Gurugram.

IV. That believing the false assurances and misleading representations of the respondent company the complainant, Mrs. Seema Gupta on dated 20.06.2019 booked a commercial unit/shop in the project of the respondent namely, Neo Centra situated at Village Daultabad, Sector-103, Gurgaon and subsequently paid a booking amount of Rs.1,00,000/- which was duly acknowledged by the respondent vide payment receipt dated 20.06.2019.

V. That the buyer's agreement was executed on 07.09.2020 between the complainant and the respondent for the commercial unit/shop. As per the said agreement dated 07.09.2020 complainant was allotted a unit bearing no. G-64, situated on ground floor, admeasuring 90 sq. ft. of super area and 45 sq. ft. of covered area.

VI. That as per the buyer's agreement dated 07.09.2020 the total basic sale price of the allotted unit was Rs.13,86,000/- exclusive of taxes and other charges. The complainant has paid a total amount of Rs.7,47,936/- out of the aforesaid total sale consideration to the respondent from time to time, as per the demands raised by the respondent.

VII. That as per the clause 5.2 of the agreement dated 07.09.2020, the respondent was under a contractual and statutory obligation to complete the construction of the building in which the allotted unit is located. As per possession clause, the due date for handing over of possession of the allotted unit was to be calculated as 60 months from the date of execution of the agreement or from the date of start of construction, whichever is later. The builder buyer's agreement between the parties was executed on 07.09.2020 and accordingly, the due date of possession comes out to be 07.09.2025. However, the respondent has failed to adhere to the said committed timeline.

VIII. That despite the lapse of the stipulated period, the respondent has failed to complete the construction of the project; failed to offer possession of the allotted unit; failed to obtain or even apply for the completion certificate/occupation certificate; failed to give any definite timeline for delivery of possession.

IX. That till date no possession has been offered to the complainant nor any OC has been obtained or furnished. The respondent has also failed to provide any documentary proof to show that the project is complete or that OC has been applied for.

X. That the inordinate and unexplained delay on the part of the respondent amounts to a clear violation of the terms of the builder buyer's agreement as well as the provisions of the Act, 2016, thereby entitling the complainant to seek refund of the entire amount paid along with interest.

XI. That due to the respondent's defaults, the complainant has suffered immense financial loss, mental harassment and has been deprived of the legitimate use and enjoyment of her hard-earned money.

XII. That the complainant has lost faith in the respondent and is no longer interested in waiting indefinitely for possession of the said commercial unit and therefore, seeks refund of the entire amount paid along with applicable interest.

XIII. That the cause of action arose within the territorial jurisdiction of the Hon'ble Authority as the project "Neo Centra" is situated in Gurugram district and the respondent's office is also located in Gurugram.

XIV. That in view of the above-mentioned facts and circumstances, the complainant is entitled to receive refund of amount paid and exemplary compensation, for hardship, mental agony, mental torture and inconvenience, caused by the respondent company and its agents in addition to other reliefs.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):

   i. Direct the respondent to refund the amount paid by the complainant along with interest at the prescribed rate from the date of such payments were made.

   ii. Direct the respondent to pay compensation of Rs.5,00,000/- for mental harassment.

   iii. Direct the respondent to pay Rs.85,000/- for litigation expenses.

5. The authority issued a notice dated 28.01.2026 to the respondent by speed post and also on the given email address at seemasub1998@gmail.com, NEOCARE@neodevelopers.com and nitesh@legalyug.com for filing of reply and putting up appearance on the date fixed for hearing. The delivery reports have been placed in the file. Despite given ample opportunities vide hearings dated 05.03.2026, 16.04.2026 and 20.08.2026 the counsel for the respondent neither put in appearance nor did not file any reply to

the complaint within the stipulated period. Therefore, vide proceedings of the day dated 20.08.2026 the authority has struck off the defence of the respondent and proceeded ex-parte against the respondent.

D. Jurisdiction of the authority:

6. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

D.I Territorial jurisdiction

As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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.

D.II Subject-matter jurisdiction

Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11.....

(4) The promoter shall-

(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 allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

7. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

8. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors." SCC Online SC 1044 decided on 11.11.2021 and followed in M/s Sana Realtors Private Limited & others V/s Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:

> *"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."*

9. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the matter of **M/s *Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. and M/s Sana Realtors Private Limited & others V/s Union of India & others (supra),*** the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the amount paid by him.

E. Findings on the relief sought by the complainant:

E.I Direct the respondent to refund the amount paid by the complainant along with interest at the prescribed rate from the date of such payments were made.

10. The complainant booked a unit in the project of respondent "Neo Centra", Village-Daultabad in Sector 103, Gurugram and a buyer's agreement was executed between the parties on 07.09.2020 and the complainant started paying the amount due against the sale consideration of Rs.17,11,170/- and paid a total sum of Rs.7,47,936/-.

11. As per clause 5.2 of the buyer's agreement dated 07.09.2020, the due date of possession is to be calculated 60 months from the date of execution of buyer's agreement or date of construction, whichever is later. Clause 5.2 of the agreement is reproduced below for ready reference:

> *5.2*
> *That* ***the company shall complete the construction of the said building/complex, within which the said space is located within 60 months from the date of execution of this agreement or from the start of construction, whichever is later*** *and apply for grant of completion/occupancy certificate. The company on grant of occupancy/ completion certificate, shall issue final letters to the allottee(s) who shall within 30 (thirty) days, thereof remit all dues.*

(Emphasis supplied)

12. During proceedings of the day dated 20.08.2026, the counsel for the complainant has brought to the attention of the Authority that no construction has been commenced till date. Thus, the due date of possession is to be calculated as 60 months from the date of execution of agreement i.e., 07.09.2020 which comes out to be 07.09.2025.

13. In the present complaint, the complainant intends to withdraw from the project and is seeking return of the amount paid by her in respect of subject unit along with interest as per section 18(1) of the Act and the same is reproduced below for ready reference:

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is 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; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

***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, 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:*

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."

(Emphasis supplied)

14. **Admissibility of refund along with prescribed rate of interest:** The complainant is seeking refund of the amount paid by her along with interest prescribed rate of interest. However, the allottee intends to withdraw from the project and is seeking refund of the amount paid by her in respect of the subject unit with interest at prescribed rate as provided 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]

(1) 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 legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

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., 20.08.2026 is **8.80%.** Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%.**

17. 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;"*

18. The authority after considering the facts stated by the complainant and the documents placed on record is of the view that the complainant is well within her right for seeking refund under section 18(1)(a) of the Act, 2016.

19. The counsel for the complainant vide proceedings of the day dated 20.08.2026 stated that the complainant intends to withdraw from the project as the commencement of the construction work is yet to happen and the complainant does not want to continue further.

20. Moreover, the authority observed by Hon'ble Supreme Court of India in ***Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., civil appeal no. 5785 of 2019, decided on 11.01.2021***

> *".... The occupation certificate is not available even as on date, which **clearly amounts to deficiency of service**. The allottees cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."*

21. Further in the judgement of the Hon'ble Supreme Court of India in the cases of ***Newtech Promoters and Developers Private Limited Vs State of***

U.P. and Ors. (Supra) reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020*** decided on 12.05.2022 observed as under:

> *25. The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.*

22. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottee as per agreement for sale under section 11(4)(a). The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of buyer's agreement or duly completed by the either date mentioned as above. Accordingly, the promoter is liable to the allottee, as she wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.

23. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1)(a) of the Act on the part of the respondent is established. As such, the complainant is entitled to refund of the entire amount of Rs.7,47,936/- paid by her at the prescribed rate of interest i.e., @ 10.80% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules,

2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

E.II Direct the respondent to pay compensation of Rs.5,00,000/- for mental harassment.

E.III Direct the respondent to pay Rs.85,000/- for litigation expenses.

24. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.

25. The complainant is seeking relief w.r.t compensation in the aforesaid relief, **Hon'ble Supreme Court of India in civil appeal titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. Supra** held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation.

F. Directions of the Authority:

26. 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 refund the paid-up amount of Rs.7,47,936/- received by it along with interest at the rate of 10.80% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.

ii. 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.

iii. The respondent is further directed not to create any third-party rights against the subject unit before full realization of paid-up amount along with interest thereon to the complainant, and even if, any transfer is initiated with respect to subject unit, the receivable shall be first utilized for clearing dues of allottee-complainant.

27. Complaint stand disposed of.

28. File be consigned to registry.

(Phool Singh Saini)
Member
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 20.08.2026