

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

Complaint no. : 6319 of 2025
Date of complaint: 08.12.2025
Date of decision: 18.09.2026

Manoj Kumar

R/o: - T2/302, Experion Windchants Apartment,
Dwarka Expressway, Sec-112, Bajghera,
Gurugram, Haryana- 122017

Complainant

Versus

M/s Agrante Realty Limited

Regd. Office at: - Unit No. 122, 1st Floor, Suncity
Trade Tower, Sector-21, Gurugram, Haryana-
121016.

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

None

Sh. Brij Mohan (Advocate)

Complainant
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 to the allottees as per the agreement for sale executed *inter se* them.

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 of the project	"Kavyam", Sector- 108, Gurgaon (Phase-1)
2.	Nature of project	Commercial component in Affordable group housing
3.	RERA registered/not registered	Registered vide registration no. 23 of 2018 dated 22.11.2018
	Validity status	31.11.2022
	Licensed area	5 acres
4.	DTCP License no.	101 of 2017 dated 30.11.2017
	Validity status	29.11.2022
	Name of licensee	Arvinder Singh & others
	Licensed area	5 acres
5.	Unit no.	17, Tower-LGF (As on page no. 13 of complaint)
6.	Unit area admeasuring	306.370 sq.ft. [Super Area] 154.733 sq. ft. [carpet area] (As on page no. 13 of complaint)
7.	Allotment Letter	22.03.2022 (As on page no. 13 of complaint)
8.	Application form	At page 15 of reply
9.	Agreement For Sale	Not executed
10.	Total sale consideration	Rs.60,12,680 /- (page no. 17 of reply)
11.	Amount paid by the complainant	Rs. 2,90,000/- (page no. 14 & 19 of the complaint)

12.	Occupation certificate	Not obtained
13.	Offer of possession	Not offered
14.	Mail by complainant regarding execution of BBA	23.06.2023, 09.10.2023, 24.10.2023, 27.10.2023, 03.12.2023, 20.12.2023, 08.10.2025 At page 15-18 of complaint
19.	Demand letter	20.06.2022 (For Rs.9,26,882/-) 05.07.2022 (payment plan mentioned) 20.07.2022 At page 28-32 of reply
20.	Pre-cancellation notice and final opportunity	04.08.2022 (copy of email also attached at page 22 of reply) At page 21 of reply
21.	Termination and cancellation	19.08.2022 (outstanding due of Rs.9,26,883/-) (copy of email also attached at page 24 of reply) At page 23 of reply

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -
 - a. That the respondent M/s Garanti Reality Limited is a company incorporated under the Companies Act involved in the business of real estate.
 - b. That in the year 2022, Respondent through its representative approached complainant and lured him in one of their commercial projects namely "Galleria-108" to be developed under affordable housing project namely "KAVYAM" a project being developed under Affordable Housing Policy 2013, issued by Govt. of Haryana dated 19th August 2013.

- c. That the complainant further met the directors and representatives of Respondent who promised timely possession, no encumbrances and attainment of requisite Certificates Believing upon the assurances of the Respondent, Complainant agreed to invest in the project and applied for a commercial shop/ Unit vide Application dated 22nd March 2022 for allotment of a commercial Shop No. LGF-17 in the above said project and paid the booking amount of Rs. 2,90,000/- as demanded by the respondent before getting BBA registered which is more than 10% of sale consideration, vide cheque No. 000087 dated 22.03.2022 and the same was acknowledged vide your receipt ID No. ARL/K/5689 dated 22.03.2022.
- d. That the complainant was allotted Shop No. LGF-17 in the project "Galleria-108", having a carpet area of 154.733 Sq Ft and Super area 306.370 Sq Ft vide Allotment Letter dated 22.03.2022 (at a sale consideration of Rs.28,97,341/-).
- e. That the complainant in regular contact of the representatives of the Respondent enquiring about execution of the Builder Buyer Agreement for the Unit to which the representatives always assured complainant that the same will be executed soon. Believing upon the assurances, complainant did not raise any objections. That the complainant, only to check the status of the project as he has invested his hard-earned savings to purchase the unit visited the

site Sometime in January 2023 where he got shocked to know that the construction had been on a halt since a very long time.

- f. That the complainant immediately contacted the representatives of Respondent and asked him the reasons due to which the project has been stalled and enquire about the execution of the BBA. However, the representatives of the Respondent failed to provide any appropriate response to the queries raised by complainant.
- g. That upon receiving no information, Complainant became suspicious and requested the representatives of Respondent to provide the statutory permissions, sanctions and licenses for the said project. Much to the shock and dismay of complainant, the representatives of the Respondent, in a mechanic manner gave the same answer which was provided on earlier occasions i.e. *"our team is working on it and the construction work shall resume soon and the BBA also shall be executed within few days"*. Having no other option left, complainant believed on the assurance and patiently waited. Complainant again visited the construction site in the month of March-April 2023 to seek the update of construction project. However, he was horrified to see that no progress had been made to the site since his last visit which was in January 2023.
- h. That the complainant, immediately visited the office of the Respondent sometime, in the month of June 2023 to seek the information and status of the project and requested to provide the statutory permissions, sanctions and licenses of the said project.

However, the representative of the Respondent failed to provide any legal documents regarding the said project and also failed to provide any concrete answer for non- execution of the BBA.

- i. That the complainant having no concrete information, was constrained to issue an e-mail dated 23.06.2023 for the execution of the BBA and update regarding status of construction at site. However, to the utter disrespect the Respondent even failed to respond to the said email. The Complainant sent reminder e-mails dated 09.10.2023 and 24.10.2023 for non-receipt of any reply of the earlier complaints raised through email dated 23.06.2023 and once again requested for the execution of the BBA and further cautioned that "If no response is received within 15 days, appropriate action will be initiated against the respondent and his director".
- j. That the respondent finally answering to emails of the complainant issued an e-mail dated 27.10.2023. The Complainant was shocked to see the fabricated and vague contents of the respondent email and immediately replied vide email dated 03.12.2023. The respondent have failed to reply to the said email, due to which Complainant was constrained to call the representatives of the respondent where the representative verbally assured the complainant that the complaints of the complainant will be resolved, however, they further failed to give any concrete answers to the queries raised by the complainant.

k. That the complainants sent a Legal Notice dated 19.04.2025 on 21.04.2025 through registered speed post for the same subject matter of **reinstatement** of the flat in the name of the complainants as before which again went unanswered by the respondent till date. The complainant till date have not received any concrete answer regarding the execution of the BBA and has also not received any answer as to why the project has been stalled and when will the project be completed.

l. That as per section 13 sub clause 1 of the Real Estate (Regulation and Development) Act, 2016 builder/promoter cannot ask for more than 10% of the total sale consideration amount from buyers before execution of BBA with the buyer and getting it registered with the adjudicating authority which is not done in the present complaint.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s).
 - a. Direct the respondent to cancel the alleged illegal cancelation letter and reinstate the unit in the name of the complainant as before.
 - b. Direct the respondent to pay delayed possession interest/charges to the complainant for the period of delay, calculated at the prescribed rate of interest on the total amount deposited with the respondent till the delivery of the possession of the unit in question.
 - c. Direct the respondent to pay a compensation of Rs. 5,00,000/- towards the aforesaid deficiency in service provided by the respondent.

- d. Direct the respondent to pay an amount of Rs. 60,000/- towards the litigation expenses done by the complainants.
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 by the respondent.**
6. That respondent has contested the complaint on the following grounds:
 - a. That the Complainant has filed the complaint seeking the declaration of cancellation notice dated 19.08.2022 invalid and reinstatement of the allotted Shop no.17, LGF in project Galleria-108. The complaint filed by the Complainant is factually, legally and even otherwise untenable as the same is misconceived and is based on falsehood & lacks material deficiency in the filing of the requisite documents.
 - b. That the complainant had booked a shop bearing no. 17 LGF having super area of 306.370 sq. ft. @ 18000 per sq. ft. (Carpet area 154.733 @ 35639 per sq. ft.) in the project named Galleria- 108 on a total sale consideration amount of Rs. 60,12,680/- inclusive of other charges (IFMS, GST, EDC etc.) and subsequently, an Allotment Letter dated 22.03.2022 was issued to the Complainant by the Respondent.
 - c. That the contention of the complainant regarding the cancellation of shop is vehemently denied as the same is a false version to suit

his case. It is rather submitted that the Respondent has cancelled the shop when complainant failed to honor the terms of payment plan and failed to even pay 10% amount of total consideration.

- d. That respondent has sent Demand letter followed by two Reminder letters and asked to pay the remaining instalment as per his payment plan but complainant failed to pay even 10% amount of the total sale consideration. That complainant failed again and again, thus respondent sent pre-cancellation notice to the complainant through post as well as email dated 04.08.2022 and gave one more opportunity to clear the dues.
- e. That after giving more than 15 days' time to clear the outstanding payment, Respondent sent final cancellation notice dated 20.08.2022 as complainant failed to pay any amount towards his booking.
- f. That the claim asserted by the Complainant is legally unsustainable due to the failing to pay even the 1st instalment except the booking amount which is less than 5% of the total sale consideration amount of Rs. 60,12,680/- inclusive of other charges.
- g. That the present complaint is also barred by limitation as the cancellation of the shop was on dated 19.08.2022 and the online complaint to declare the cancellation invalid was filed on dated 05.12.2025 by the complainant. That the HARERA Gurugram in its Judgment dated 09.07.2025 in **Kamal Singhal V. Emaar MGF**

Land Limited, bearing Complaint No 1885 of 2024 (PARA 15 & 16) held that RERA, 2016 does not explicitly prescribe a limitation period. However, it clarified that it is required to be guided by the principles of natural justice as per Section 38 of the Act. Quoting the maxim that the law assists those who are vigilant, not those who sleep over their rights, the Authority held that *"three years is a reasonable time period for a litigant to initiate litigation to press his rights under normal circumstances"* and dismissed the complaint. It is therefore, complaint was barred by limitation and liable to be dismissed on this ground alone.

- h. That since section 18 (1) & (3) of RERA Act 2016 does not provide the period of limitation then the provision of limitation act 1963 shall become applicable by virtue of section 29 (2) & section 3 of limitation Act 1963 and it is relevant to read these sections of limitation act in light of the section 88 of RERA Act 2016. Therefore, it is abundantly clear that period of limitation is 3 years and no matter whether complainant surrender its booking or cancelled by the respondent, the limitation period is already expired after 3 years from the date cancellation of booking. Thus, the present complaint is not maintainable in the eyes of law and shall be rejected outrightly.
- i. That the respondent after complainant failed to pay the outstanding amount as per agreed terms and conditions and as per judgments of Apex court, National Consumer Disputes

Redressal commission and rule laid down by RERA with respect to "Earnest amount" the respondent forfeited the earnest amount which was paid by the complainant which is less than 5% only. Thus, the amount forfeited by the respondent is as per agreed terms, rules and as per "forfeiture of the earnest money by builder regulation 2018" clause of which retracted as under. "AMOUNT OF EARNEST MONEY Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment/plot/building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer".

- j. That the complainant did not adhere to the payment schedule, even the first instalment was not paid which is in violation of the obligation of the Respondent in terms of handing over the possession of the shop. It is pertinent to mention herein that the

Respondent sent Demand letter, Reminders and pre cancellation notice before the cancellation of Shop. That after cancellation of the shop allotted to the complainant, respondent sold the same to another buyer and thus third party right has also been created.

k. That after many months in year 2023 complainant sent emails just to make an excuse for the failure on making the payments towards his shop and asked about the BBA despite of the fact that he did not even make 5% of amount towards his booking and the respondent also replied in detail for one of its emails through email dated 27.10.2023.

l. That the Complaint of the Complainant is neither maintainable in law nor on facts. The complaint has been filed with malicious intention to derive wrongful gains from the Respondent. The complaint is nothing but an attempt to save his forfeited mount of Rs. 2,90,000/- from the Respondent despite of the fact that respondent gave numerous opportunities to complainant to clear the dues at least 10% amount of total sale consideration and conveyed the same many times through Demand and Reminder letters dated 20.06.2022, 05.07.2022 & 20.07.2022. Thus, the instant complaint is without cause of action and has been filed with mala fide intent. Therefore, the instant complaint is not maintainable and is liable to be rejected.

m. Therefore, it is amply clear that cancellation of flat by the respondent due to non-payment and forfeiture of less than 5%

earnest amount is valid and as per abovementioned rules. Further the complaint filed after lapse of more than 3 years of cancellation is barred by limitation and not maintainable. Hence the complainant is not entitled for refund of earnest money, nor cancellation is invalid and complainant is also not entitled of any other relief mentioned in the prayer clause.

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 has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

9. 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.

E. II Subject-matter jurisdiction

10. 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) 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.

11. 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.
12. 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. 2021-2022 (1) RCR (Civil), 357*** and 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*** 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."

13. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Findings on the relief sought by the complainant.

- F.I. Direct the respondent to cancel the alleged illegal cancelation letter and reinstate the unit in the name of the complainant as before.**
- F.II Direct the respondent to pay delayed possession interest/charges to the complainant for the period of delay, calculated at the prescribed rate of interest on the total amount deposited with the respondent till the delivery of the possession of the unit in question.**

14. That the above-mentioned reliefs sought by the complainant, are being taken together as the findings in one relief will definitely affect the result of the other reliefs. Thus, the same being interconnected
15. That the complainant was allotted unit no. 17 at Lower ground floor, in the project "Kavyam" by the respondent/builder for a total consideration of Rs.60,12,680/- and the complainants has paid an amount of Rs.2,90,000/- as booking amount.
16. In the present complaint, the unit of the complainants was cancelled by the respondent vide letter dated 19.08.2022, due to non-payment as per payment plan. As per the documents available on record, till date complainant had made a payment of Rs.2,90,000/- out of total sale consideration of Rs.60,12,680/- even at the time of cancellation.
17. Further, the complainant raised contention that the primary reason for delay in making further payments was the respondent's failure to execute Agreement for sale, which was a prerequisite for paying the remaining amount.
18. That in the regard of cancellation, reference needs to be made to the payment plan, as mentioned in the demand letter dated 20.06.2022. The payment plan is given below in tabular form for ready reference:-

	Due date	Description	Installments
1.	22.03.2022	At the time of booking	304220.70
2.	20.06.2022	Within 90 days	912662.10
		Interest	0.00



		Total	1216882.80
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19. That the booking of the subject unit was made by the complainant on 22.03.2022 and an amount of Rs.2,90,000/- paid by the complainant in lieu of the booking amount. As per the agreed payment plan, an amount of Rs.9,12,662.10/- was to be paid by the complainant on or before 22.05.2022 under the head of "**90 days from booking** (i.e. 22.03.2022)". However, the complainant failed to make the balance payments in terms of the above payment plan as discussed in para 18 above.
20. The respondent states that they are asking the allottee to make balance payment of the amount vide demand letters dated 20.06.2022, 05.07.2022 & 20.07.2022 and pre-cancellation letter dated 04.08.2022, unfortunately, the complainant failed to make payment as per agreed payment plan but having no positive results, the respondent cancelled the unit vide letter dated 19.08.2022. In view of the above, the Authority is of considered that the cancellation done by respondent is valid in the eyes of law.
21. The issue with regard to deduction of earnest money on cancellation of a contract arose in cases of *Maula Bux VS. Union of India, (1970) 1 SCR 928* and *Sirdar K.B. Ram Chandra Raj Urs. VS. Sarah C. Urs., (2015) 4 SCC 136*, and wherein it was held that forfeiture of the amount in case of breach of contract must be reasonable and if forfeiture is in the nature of penalty, then provisions of section 74 of

Contract Act, 1872 are attached and the party so forfeiting must prove actual damages. After cancellation of allotment, the flat remains with the builder as such there is hardly any actual damage. National Consumer Disputes Redressal Commissions in CC/435/2019 **Ramesh Malhotra VS. Emaar MGF Land Limited** (decided on 29.06.2020) and **Mr. Saurav Sanyal VS. M/s IREO Private Limited** (decided on 12.04.2022) and followed in CC/2766/2017 in case titled as **Jayant Singhal and Anr. VS. M3M India Limited** decided on 26.07.2022, held that 10% of basic sale price is reasonable amount to be forfeited in the name of "earnest money". Keeping in view the principles laid down in the first two cases, a regulation known as the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, was framed providing as under-

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment/plot/building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."

22. So, keeping in view the law laid down by the Hon'ble Apex court and provisions of regulation 11 of 2018 framed by the Haryana Real Estate Regulatory Authority, Gurugram, and the respondent/builder cannot



retain more than 10% of sale consideration as earnest money on cancellation.

23. As per document available on record, the complainant paid less than 10% of the sale consideration and no amount has remained due from the respondent. Hence the Authority is of view that the complaint is dismissed being devoid of merits.
24. Complaint stands disposed of.
25. File be consigned to registry.

Dated: 18.09.2026

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



HARERA
GURUGRAM