BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Date of filing of complaint: 07.07.2025
Date of Order: 13.10.2026

Mala Bhartiya
R/o: 4th Floor, Gharonda Residence, Prithviraj Path, above Reliance Trends Women, East Lohanipur, Kadamkus, Patna, Bihar, PIN Code-800003 **Complainant**

Versus

M/s HCBS Developments Limited
Regd. Office at: Unit 69, 70 MGF Metropolis, MG Road, Gurugram. **Respondent**

CORAM:
Shri Arun Kumar **Chairman**

APPEARANCE:
Sh. Manoranjan Kumar Singh (Advocate) Advocate for Complainant
Sh. Harshit Batra (Advocate) Advocate for 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 allottee 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.N.	Particulars	Details
1.	Name & Location of the project	"Sports Ville", Sector 2 & 35, Sohna, Gurugram
2.	Nature of the project	Affordable Group Housing
3.	Area of project	6.85 acres
4.	DTCP license no.	15 of 2014 09-06-2019 Renewal 15 of 2014 (09.01.2020)
5.	Registered/not registered	Registered Vide registration no. 228 of 2017 Dated-19.09.2017
6.	Unit no.	D-107, 1st Floor, Tower-D (As on page no. 11 of complaint)
7.	Area admeasuring	519.39 sq. ft. Carpet Area (As on page no. 52 of reply)
8.	Builder Buyer Agreement	Not Executed
9.	Building plan approvals	01.10.2014 (Taken from another file of same project)
10.	Environmental clearance	20.02.2015 (As on page no. 24 of reply)
11.	Possession clause	***As per Affordable housing policy*** *4 years from the date of E.C or building approvals whichever is later.*
12.	Due date of possession	20.02.2019 (Calculated 4 years from the date of E.C being later)
13.	Sale consideration	Rs.20,15,844/- (As on page no. 10 of complaint)

14.	Total amount paid by the complainant	Rs.11,27,523/- (As on page no. 10 of complaint)
15.	Demand Letters	17.06.2016 (2nd Installment), 07.12.2016 (3rd Installment), 05.06.2017 (4th Installment), 06.12.2017 (5th Installment), 13.06.2017 (6th Installment) (As on page no. 35-39 of reply)
16.	Occupation certificate	04.06.2020 As on page no 40 of reply)
17.	Offer of possession	01.07.2020 (As on page no 11 of Complaint)
18.	Final Reminder for payment of outstanding amount	10.09.2020 (As on page no.48 of reply)
19.	Newspaper Publication	29.09.2020 (As on page no.50-51 of reply)
20.	Cancellation Letter	03.10.2020 (Page 16 of Complaint)
21.	Legal Notice sent by the complainant for execution of agreement	07.01.2020 (As on page no. 22 of complaint)
22.	Allotment letter in favour of third party	22.10.2020 (As on page no. 54 of reply)

B. Facts of the complaint:

3. The complainant has made the following submissions:

i. The complainant had applied for a flat in the project, namely, Sports Ville, vide application no. 679 dated 30/12/2014 by paying initially 296,000/- for the allotment of a.2 BHK Apartment in HCBS-Sports Ville at Sector 2 and 35 in Sohna, Gurgaon, Haryana under Affordable Housing Policy and further paid 24,00,000/-through NEFT P16041697612964 which is evident in voucher no. 20 of HCBS Sports Ville's ledger account out of total consideration amount of 19,16,904/-.

ii. The respondent/promoter had allotted flat no. D107, having carpet area admeasuring 519.39 sq. ft. along with balcony admeasuring 94.20 sq. ft. at 1st, Floor of Tower D in the affordable group housing project, "SPORTS VILLE" situated at Sector 2 & 35, Sohna, Gurgaon, Haryana dated 16/04/2016 and the complainant had paid the consideration amount of 5,00,000/- in cash bearing receipt no. 2501 dated 16/04/2016.

iii. The respondent/ promoter had given the complainant an "offer of possession letter dated 01/07/2020 in which the respondent promoter had promised to execute registered agreement for sale, in favour of the complainant so that the complainant could avail Housing Loan for the aforesaid 14 purpose.

iv. The respondent in the aforesaid letter demanded the due amount of Rs.23,54,547/- which the complainant had been requested to pay at the time of execution of agreement for sale, in favour of the complainant. The complainant and her Husband, Sri. Gopal Bhartia, both had applied for the flats in the said project on same terms and conditions but only Sri. Gopal Bhartia had got sale deed executed in his favour and thereafter he had also got physical possession of his flat but his wife, i.e. the complainant has been harassed for her aforesaid booking for reason best known to the respondent/promoter.

v. After, whenever the complainant asks for the execution of agreement for sale, the respondent promoter simply sends demand notice of payment instead of execution of conveyance deed.

vi. On 10/09/2020 & 03/10/2020 the respondent/promoter had abruptly sent a "Letter of Cancellation" stating the reason therein "due to non response vide various demand letter and reminder calls, the issuance of this letter deemed to be acceptance of this full and

final settlement and further to this you shall be left with no rights or interest in the allotted unit hereinafter and we shall be free to deal with the said unit in whatever manner we deem fit in and proper.

vii. In reply to the aforesaid letter the present complainant had also sent a legal notice dated 11/11/2020 through email and post simultaneously to the respondent/promoter requesting to early execution of agreement for sale, so that the complainant could avail housing loan and pay the remaining consideration amount of the aforesaid booking.

viii. After the aforesaid legal notice by the present complainant, the staff of the respondent company informed the present complainant, that she is not eligible for present booking as her husband Sri. Gopal Saran Bhartiya has already been allotted one flat under Haryana Affordable Housing Scheme and as per this scheme, only one member of a family is eligible to get the flat registered.

ix. Upon the aforesaid communication by the respondent regarding Affordable Housing Policy, it was got to know that the respondent company with malafide intention for wrongful gain deceived the present complainant for booking under the said policy.

x. The complainant due to Covid 19 Pandemic could not be able to follow up her case with the present respondent but after suppression of Covid 19 Pandemic, had been continuously trying to communicate with the office of the respondent/promoter for execution of registered conveyance deed of her booked flat but they had been paying no heed to the complainant's grievances.

xi. By seeing the callous attitude of the respondent, the complainant is left with no option but to file the present complaint case.

C. Relief sought by the complainant:

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

i. Direct the respondent to execute registered conveyance deed of flat no. D107, having carpet area admeasuring 539.39 sq. ft. along with balcony admeasuring 94.20 sq. ft. at 1 Floor, of Tower D in the Affordable Group Housing Project, "SRORTS VILLE" in favour of the complainant and after taking remaining consideration amount give physical possession of the said flat in favour of the complainant.

ii. Appropriate penalty may be imposed under section 61 of the RERA Act, 2016 for contravention of provisions of the Act.

iii. The complainant may be given liberty to file complaint before the court of Hon'ble AO for compensation for delayed possession/interest/physical and mental harassment.

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. The respondent has contested the complaint on following grounds:

i. At the very outset, it is submitted that the complainant has failed to annex or produce any documentary evidence to substantiate their alleged right, title, or interest over the unit in question. Specifically, no allotment letter and agreement for sale have been filed along with the complaint or placed on record to establish any legal or contractual relationship between the complainant and the respondent in respect of the said unit. The burden of proof lies squarely on the complainant to demonstrate the legitimacy of their claim through credible and admissible evidence. Those mere averments or verbal assertions, unsupported by documentary proof, are insufficient in the eyes of the law to sustain a claim over immovable property. Consequently, the present complaint is devoid

of merit and liable to be dismissed at the threshold for want of cause of action and supporting evidence.

ii. The instant complaint is untenable both in fact and in law and is liable to be rejected on this ground alone. The present complaint is based on an erroneous interpretation of the provisions of the RERA Act, rules and regulations of Affordable Housing Policy, 2013 as well as an incorrect understanding of the terms and conditions of the Allotment as shall be evident from the submissions made in the following parts of the present reply. The respondent craves leave of this Hon'ble Authority to refer and rely upon the terms and conditions set out in the allotment and the provisions of the Act and Affordable Housing Policy, in detail at the time of hearing of the present complaint, so as to bring out mutual obligations and responsibilities of the respondent as well as the complainant.

iii. The complainant is estopped by their acts, conduct, acquiescence, laches, omissions, etc., from filing the present complaint. the allotment of the unit of the complainant was cancelled on 03.10.2020 due to the repeated defaults of the complainant.

iv. The complainant being interested in the real estate development of the respondent, known under the name and style of "Sports Ville" at Sector 2 and 35, Tehsil-Sohna, District-Gurugram (the "Project") approached the respondent to purchase the unit and applied for the allotment under the scheme of Affordable Housing Policy, 2013 (as amended time to time). That upon the draw of lots and acceptance of his application for allotment of the unit, a flat bearing no. D107 on 1st Floor, Tower D tentatively admeasuring a carpet area of 519.39 sq. ft. and balcony area of 94.20 sq. ft. (the "Unit") was allotted to the complainant.

v. Thereafter, respondent as per the terms and conditions of the allotment letter request the complainant to execute the "agreement to sale" and sent copies of the agreement to sale to complainant, however the complainant has failed to executed the agreement to sale and also failed to make timely payments from the very beginning.

vi. The complainant had defaulted/delayed in making the due payments, upon which, reminders were also served to the complainant. The *bonafide* of the respondent is also essential to be highlighted in this instance, who had served several demand letters and reminder to the complainant to ensure that the payments are made in a timely fashion.

vii. The respondent had completed the construction of the project and had thereby obtained the occupation certificate for the same on 04.06.2020 and hence lawfully offered the possession of the above-noted unit to the complainant on 01.07.2020.

viii. By not making the due payments, not only has the complainant violated the Allotment letter but also the Real Estate (Regulation and Development) Act, 2016, and the Affordable Housing Policy, 2013, under which the complainant was obligated to make payment, and despite repeated reminders and various opportunities, miserably failed to do so. Accordingly, the complainant stood in fundamental breach of the agreement and the Act.

ix. The complainant had defaulted in making payment and last payment received before the date of cancellation from the complainant was on 16.04.2016 and only Rs.4,96,000/- has been paid till date by the complainant. The complainant willingly and voluntarily stopped making the payments and take possession of the unit. The complainant failed to make timely payment of the instalments, the complainant was served with a reminder letter dated 10.09.2020.

Hence, the respondent, in compliance with the Affordable Housing Policy, 2013, issued two public notices in Dainik Tribune and The Time of India on 29.09.2020. The respondent was not obligated to issue the reminder to the complainant as per the Affordable Housing Policy, however in their *bonafide* conduct, the respondent had issued reminder dated 10.9.2020 to the complainant to which the complainant gave no heed and chose to ignore the demand so raised in complete contravention of RERA Act and in grave violation of Affordable Housing Policy,2013.

x. Upon the non-payment by the complainant, the complainant was considered in default under the agreement as well as the Act and Affordable Housing Policy, and upon the failure of the complainant to pay due amounts/instalments the respondent had the complete right to terminate the allotment of the Complainant under clause 5(III)(i) of the Affordable Housing Policy.

xi. Due to the continuous defaults of the complainant since 2016, the Respondent was constrained to cancel the allotment of the complainant and the same was communicated to the complainant vide cancellation letter dated 03.10.2020.

xii. The right of the respondent to validly cancel/ terminate the Unit arises also from the Model RERA Buyer's Agreement provided with Haryana Real Estate (Regulation and Development) Rules, 2107, which also recognizes the default of the allottee and the forfeiture of the interest on the delayed payments upon cancellation of the unit in case of default of the allottee.

xiii. Accordingly, after the termination of the allotment of the unit of the complainant, the complainant has been left with no right, title, interest, charge, or lien over the unit.

xiv. After the termination of the allotment of the unit of the complainant, solely due to the default of the complainant, the respondent is well within their right to deduct the amount as per the Affordable Housing Policy Haryana (amended from time to time) which provides the forfeiture for an amount of Rs.25,000/-along with the applicable GST amount of interest accrued and payable on outstanding instalments as per the terms of the agreement. Further, in addition to Rs 25,000/- the respondent is also entitled to the delayed payment interest till the date of termination and other non-refundable amounts, including the statutory dues paid against the unit. Further, in the present case, the respondent is entitled to deduct a further 3% of the cost of the flat as the unit was cancelled on 29.05.2024, which is within 2 years from the date of commencement of the project, i.e., 30.07.2022.

xv. The respondent has already transferred the ownership of the Unit to a third- party as the Unit has been sold to Mr. Naman Pahuja, who enjoys the complete rights and ownership over the unit hence, any relief against the said unit cannot be imposed upon the respondent as the respondent has no right or title over the said unit.

7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided based on 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

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

9. 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.*

10. 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.

F. Findings on the relief sought by the complainant.

F.I Direct the respondent to execute registered conveyance deed of flat no. D107, having carpet area admeasuring 539.39 sq. ft. along with balcony admeasuring 94.20 sq. ft. at 1 Floor, of Tower D in the Affordable Group Housing Project, "SRORTS VILLE" in favour of the complainant and after taking remaining consideration amount give physical possession of the said flat in favour of the complainant.

11. The complainant was allotted a unit in the project of respondent "HCBS Sports Ville", in Sector-2 & 35, Sohana Gurugram vide allotment letter dated 16.04.2016 for a total sum of Rs.20,15,844/-. Agreement for sale has not been executed executed between the parties on 19.05.2022 and the complainant started paying the amount due against the allotted unit and paid a total sum of Rs.11,27,523/. As per clause 1 (iv) of the Affordable

Housing Policy, 2013, the possession of the apartment is to be delivered within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. Clause 1(iv) of the Policy of 2013 is reproduced below for ready reference:

> *1.(iv) All such projects shall be required to be necessarily completed* ***within 4 years from the approval of building plans or grant of environmental clearance certificate, whichever is later.*** *This date shall be referred to as the "date of commencement of project" for the purpose of this policy.*
>
> ***(Emphasis supplied)***

12. The due date of possession is to be calculated 4 years from the date of environment clearance i.e., 20.02.2015. Therefore, the due date of possession comes to 20.02.2019 as per the clause of Affordable Housing Policy, 2013.

13. In present complaint, the complainant intends to continue with the project and is seeking relief of possession of the unit and execution of conveyance deed. However, as per the documents placed on record with the complaint, the Authority observed that the unit has been cancelled on 03.10.2020 i.e., approximately 5 years before the filing of the present complaint.

14. However, the respondent in its reply dated 12.02.2026 stated that the respondent has cancelled the unit of the complainant on account of non-payment by the complainant. The respondent has raised demand for payment for outstanding dues; however, the complainant never paid any heed to the same and till date paid an amount of Rs.11,27,523/- only, against the sale consideration of Rs.20,15,844/-.

15. However, upon perusal of the documents available on record, the Authority observes that the respondent has duly followed the procedure prescribed under the Affordable Housing Policy, 2013. The respondent issued demand letters dated 17.06.2016, 07.12.2016, 05.06.2017, 13.06.2017 and 06.12.2017, followed by reminder letter dated 10.09.2020. Subsequently, a public notice was also published in the newspaper on 29.09.2020, calling upon the complainant to clear the

outstanding dues. However, despite the aforesaid opportunities, the complainant failed to discharge the outstanding payment obligations.

16. Thereafter, the respondent issued a cancellation letter dated 03.10.2020 and called upon the complainant to submit the original documents to enable the respondent to initiate the refund process after making deductions in accordance with the applicable provisions of the Affordable Housing Policy, 2013. However, in view of the fact that the unit had already been cancelled on account of the complainant's failure to clear the outstanding dues, after following the procedure prescribed under the Affordable Housing Policy, 2013, the respondent is under no obligation to execute the conveyance deed. Accordingly, the Authority finds that the cancellation of the unit by the respondent is valid.

17. After consideration of the afore-mentioned facts and submissions, the only relief which can be provided to the complainant is of refund as per clause 5(iii)(i) of Affordable Housing Policy, 2013 in case any successful applicant fails to deposit the instalments within the stipulated time. In such case, an amount of Rs.25,000/- can be forfeited by the colonizer and the balance amount shall be refunded to the applicant-allottee. Relevant portion of clause 5(iii)(i) of the Affordable Housing Policy, 2013 is reproduced below for ready reference:

> *i. If any successful applicant fails to deposit the instalments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due instalments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi news-paper having circulation of more than ten thousand in the State for payment of due within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs.25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant.*
>
> ***(Emphasis supplied)***

18. In the present case, the complainant has failed to pay the due instalments even after issuance of demand letter, reminder letters and publication in

the newspaper. Keeping in view the afore-mentioned factual and legal provisions, the respondent can retain the amount paid by the complainant against the booked unit as per clause 5(iii)(i) of Affordable Group Housing Policy, 2013 i.e., Rs.25,000/- only.

19. The prescribed rate of interest as per Rule 15 of Rules, 2017 payable by the promoter to the allottee or by the allottee to the promoter shall be the State Bank of India highest marginal cost of lending rate plus two percent.

20. Therefore, the promoter is liable to return the amount received by it i.e., Rs.11,27,523/- after deducting the amount of Rs.25,000/- as per clause 5(iii)(i) of Affordable Group Housing Policy, 2013 along with interest at the rate of 10.95% (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 cancellation i.e., 03.10.2020 till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

F.II Appropriate penalty may be imposed under section 61 of the RERA Act, 2016 for contravention of provisions of the Act.

21. The Authority observes that the complainant has sought penal action against the promoter. However, the imposition of any penalty must be founded upon the establishment of a specific contravention of the provisions of the Act, 2016, or the rules and regulations made thereunder. In the absence of sufficient material on record establishing any such contravention by the respondent, the said relief cannot be granted.

F.III Direct the respondent to complainant may be given liberty to file complaint before the court of Hon'ble AO for compensation for delayed possession/interest/physical and mental harassment.

22. The complainant is seeking above mentioned relief w.r.t. compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)*, has held that an allottee is entitled to claim compensation &

litigation charges 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 & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72.

G. 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 /promoter is directed to refund the amount i.e., Rs. 11,27,523/- received from the complainant-allottee after deducting the amount of Rs.25,000/- as per clause 5(iii)(i) of Affordable Group Housing Policy, 2013 along with interest on such balance amount at the rate of 10.95% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of cancellation i.e., 03.0.2020 till the actual date of refund of the amount.

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

24. Complaint stands disposed of.

25. File be consigned to registry.

(Arun Kumar)
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 13.10.2026