

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

Complaint no. :	5295 of 2025
Date of Filing:	10.10.2025
Date of Decision:	17.07.2026

1. Usha Sabherwal
2. Chander Prakash Sabherwal
R/o: 54, Navjiwan Vihar, New Delhi - 110017

Complainants**Versus**

M/s Neo Developers Pvt. Ltd.
Office: 32-B, Pusa Road, New Delhi - 110005

Respondent**CORAM:**

Shri Arun Kumar

Chairman**APPEARANCE:**

Shri Avzi Malik
Shri Dushyant

Advocate for the complainants
Advocate for the respondent

ORDER

1. The present complaint has been filed by the complainants/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 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 complainants, 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 of the project	Neo Square, Sector-109, Gurugram
2.	Project area	2.71 acres
3.	Nature of the project	Commercial colony
4.	RERA Registered or not	Registered Vide no. 109 of 2017 dated 24.08.2017 valid up to 22.02.2024
5.	DTCP License no.	102 of 2008 dated 15.05.2008 valid up to 14.05.2025
6.	Unit no.	2 nd Floor (page no. 67 of complaint)
7.	Unit area admeasuring	583 sq. ft. (page no. 67 of complaint)
8.	Buyer's agreement	07.01.2021 (page no. 64 of complaint)
9.	MOU	07.03.2013 (page no. 32 of complaint)
10.	Assured return clause	<i>3. The Company hereby has agreed to allot to the Allottee(s) premises measuring 583 sq. ft. super built up area on the Second floor of Tower of said Project. The Allottee(s) has opted for the 'Investment Return Plan' and has agreed that the basic consideration for allotment of premises is to be determined at</i>

		Rs. 4500/- per sq. ft. taking into consideration a return of Rs. 85/- per sq. ft. per month, subject to the terms of this MOU. Return is provided till possession is offered to the customer. (page no. 34 of complaint)
11.	Basic sale consideration	Rs. 35,47,986/- (as per payment plan at page 82 of complaint)
12.	Amount paid by the complainants	Rs. 33,77,562/- (as per SOA at page 95 of complaint)
13.	Occupation certificate	14.08.2024
14.	Offer of possession	09.11.2024 (page no. 93 of complaint)

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:
 - I. That on being lured by the attractive plans offered by the respondent, the complainants became inclined to invest in the project. On 07.03.2013, a memorandum of understanding was executed between the respondent and the complainants, whereby commercial unit no. 29, Second Floor, admeasuring 583 sq. ft. was allotted to the complainants.
 - II. At the time of the MOU, the complainants in accordance with the terms thereof, paid a sum of Rs. 27,17,732/- against the total allotment consideration.

- III. As per the terms of the MOU, the respondent assured a monthly payment of Rs. 85/- per sq. ft. per month as return on investment until the possession of the said unit is handed over. Clause 3 of the MOU specifically stipulates this assurance.
- IV. That to secure the assured returns, the respondent issued post-dated cheques of Rs. 44,599/- each covering the period from FY 2012-13 to 2019-2020. However, post this period, the respondent unilaterally discontinued making further payments under the scheme, without any justifiable cause or due notice.
- V. However, it is relevant to state here that on certain occasions the cheques issued by the respondent were dishonoured and the respondent failed to issue fresh cheques. Thus, in respect of certain financial years, the respondent has not made the complete payment to the complainants.
- VI. That post FY 2019-2020, the respondent did not issue any fresh cheques to the complainants in terms of the MOU. That vide communication dated 18.12.2019, the respondent sought to justify the abrupt stoppage of monthly interest payments by citing alleged restrictions imposed under the RERA Act, while simultaneously assuring the complainants that such pending payments would be adjusted at the time of possession. However, no such adjustment has taken place to date.
- VII. That the MOU also contemplated the leasing of the said unit by the respondent on behalf of the complainants. The respondent vide written communication dated 10.12.2020 represented that a draft lease agreement would be prepared and shared with the complainants for their review and signature. However, it is relevant to state that at the

said time, the project was nowhere near completion and hence, the purported draft lease form, was inconsequential and irrelevant.

- VIII. However, it is important to state here that at no point was there any covenant or clause requiring the complainants to bear/pay fit-out charges or additional financial liabilities, either in the MOU or otherwise. No such clause was ever communicated orally or in writing.
- IX. That subsequently, on 07.01.2021 a builder buyer agreement was executed by the respondent in favor of the complainants in respect of Unit No. 2-18, Second Floor, Neo Square, Sector 109, Palam Vihar, Gurgaon 122017, Haryana. That though the MOU was entered in respect of commercial unit no. 29, however the respondent changed the unit.
- X. That the said BBA is also silent regarding any obligation on the part of the complainants to pay fit-out charges or any similar dues.
- XI. That clause 6 of the BBA provides for leasing which further stipulates that the terms and conditions of the lease and the defaults thereof have been separately discussed in the MOU entered between the parties.
- XII. That as per the BBA, it was acknowledged between the parties that the complainants had paid a sum of Rs 29,80,909/- towards basic sale price at the time of execution of the BBA.
- XIII. That clause 5.5 of the BBA stipulated that upon the Allottee clearing all its dues as per the final letter, payment of stamp duty and registration and other charges, the respondent shall execute in favor of the complainants a conveyance deed/ sale deed in respect of the said property.
- XIV. That the respondent again, vide letter dated 01.02.2022, reiterated its inability to release monthly interest payments and informed the complainants that the same would be adjusted at the time of possession

of the said property. Such adjustment, however, remains unfulfilled and is a clear breach of the contractual obligation on the part of the respondents.

- XV. That vide letter dated 07.10.2024, the complainants rendered their appreciation to the fact that it was glad to know that the respondent had officially received the occupancy certificate for the project. The complainants informed the respondent that they were awaiting for the respondent to book an appointment to resolve the queries and handover the possession of the said property. The respondent had promised vide its letter dated 01.02.2022 that the respondent shall adjust the balance monthly payments at the time of handing over of possession. Thus, the complainants called upon the respondent to inform as to how soon the possession would be handed over and an estimated date by which the balance monthly interest will also be remitted.
- XVI. That vide letter dated 09.11.2024, the respondent issued a demand notice and offer of possession to the complainants. Surprisingly, the respondent enclosed therewith a statement of account which indicated that certain amounts were payable by the complainants. As per the statement of account, the complainants were required to pay a sum of Rs. 6,49,589/-.
- XVII. Admittedly, the accompanying statement of accounts did not consist of any adjustment of the amounts payable under the MOU. It is a matter of fact and record that the respondent owed monthly returns to the complainants till the hand-over of possession.
- XVIII. That since the respondent had failed to adjust the balance monthly interest, upon enquiry, the respondent represented that the same

would be paid separately and requested the complainants to pay the final demand of Rs. 6,49,589/- to enable the respondent to complete the possession formalities.

- XIX. That again believing the representations of the respondent, the complainants under protest and without prejudice to their rights, the complainants made a payment of Rs. 6,49,589/- on 22.01.2025 as per the demand mentioned in the statement of account.
- XX. Thus, the complainants have duly made all the payments towards the consideration amount for commercial unit no. 2-18, Second Floor, admeasuring 583 sq. ft. as per the agreed terms to the respondent without any delay. Moreover, since no adjustment was made by the respondent, it is in fact the respondent who is liable to pay the complainants the balance outstanding of the monthly interests.
- XXI. That notwithstanding the absence of any contractual obligation, to the utter shock and surprise, the respondent unilaterally raised a demand for payment of fit-out charges of Rs.24,59,322/- by the complainants vide letter dated 24.03.2025. The said demand came as a rude shock to the complainants and the said demand was wholly illegal, unjustified, and contrary to the agreed terms.
- XXII. That vide letter dated 24.03.2025, the respondent inserted an arbitrary condition to the effect that it would give possession of the said property subject to release of fit-out charges as per the MOU signed between the parties.
- XXIII. That the complainants, however, were shocked to receive a telephonic intimation from the sales team of the respondent stating that registration of the conveyance deed would only be processed upon payment of the fit-out charges. That such demand is illegal and de hors

the terms of the MOU and the BBA, Such conduct also reflects that high-handed, arbitrary attitude of the respondent, and constitutes a classic case of harassment of senior citizens.

- XXIV. That the total outstanding assured return payable by the respondent from 01.01.2015 till 01.08.2025, which includes outstanding between the period FY 2012-13 to FY 2019-20, aggregates to a sum total of Rs. 37,16,625/- along with the pendete lite and future interest @18% p.a. till the date of actual realization.
- XXV. That the complainants are further entitled to interest @ 18% p.a. on the said amount as per section 17(7) of the RERA Act 2016, given that the respondent has unlawfully retained the money for over 8 years. A formal reminder dated 03.06.2025 was also issued in this regard. Moreover, the same interest i.e., 18% was being charged by the Respondent for the delayed payments, if any as per the MOU.

C. Relief sought by the complainants:

4. The complainants in the present complaint are seeking the following relief(s).
- (i) Direct the respondent to pay a sum of Rs. 37,16,625/- towards the outstanding monthly interest in terms of the memorandum of understanding dated 07.03.2013 along with the pendete lite and future interest @18% p.a. till the date of actual realization and cost of litigation.
 - (ii) Direct the respondent to withdraw the illegal demand for fit-out charges raised vide letter dated 24.03.2025.
 - (iii) Direct the respondent to execute the conveyance deed in respect of unit no. 2-18, Second Floor, Neo Square, Sector 109, Palam Vihar, Gurgaon 122017, Haryana and handover possession.

- (iv) Award compensation of Rs. 5,00,000/- towards harassment, mental agony, and legal expenses borne by the Complainants.
5. The present complaint was filed on 10.10.2025. The counsel for the respondent has not filed the reply in the registry of the Authority and none appearing on behalf of respondent. The authority sent notice which is duly served to the respondent-builder to appear and argue in the matter but on hearing dated 28.11.2025, 09.01.2026, 06.02.2026 and 27.03.2026 it failed to appear and argue the matter. It shows that the respondent was intentionally delaying the procedure of the Authority by avoiding to file written reply. Therefore, the authority assumes/ observes that the respondent has nothing to say in the present matter and accordingly the defence of the respondent is hereby struck off.
6. 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 on the basis of these undisputed documents and submission made by the parties.

D. Jurisdiction of the authority

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

D.I Territorial jurisdiction

8. 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

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 leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

E. Findings on the reliefs sought by the complainants:

- E.1 Direct the respondent to pay a sum of Rs. 37,16,625/- towards the outstanding monthly interest in terms of the memorandum of understanding dated 07.03.2013 along with the pendente lite and future interest @18% p.a. till the date of actual realization and cost of litigation.**

11. In the instant complaint, the complainants duly booked a unit located on the Second Floor admeasuring 583 sq. ft. in the respondent's project namely, Neo Square situated at Sector-109, Gurugram. The



Memorandum of Understanding (MOU) was executed between the parties dated 07.03.2013 and on 07.01.2021 the builder buyer agreement was also got executed between the parties.

12. The complainants in the present complaint is seeking relief w.r.t payment of assured return as per the terms of the MoU dated 07.03.2013. The complainants have submitted that as per clause 3 of the said MoU, it was agreed that the respondent would pay Rs. 4500/- per sq. ft. taking into consideration a return of Rs. 85/- per sq. ft. per month till the possession is offered to the customer. The complainants are seeking unpaid assured return on monthly basis as per the MoU dated 07.03.2013 at the rates mentioned therein. It is pleaded by the complainants that the respondent has not complied with the terms and conditions of the said MoU.
13. In the present complaint, the assured return was payable as per clause 3 of the MoU dated 07.03.2013, which is reproduced below for the ready reference:

3. The Company hereby has agreed to allot to the Allottee(s) premises measuring 583 sq. ft. super built up area on the Second floor of Tower of said Project. The Allottee(s) has opted for the 'Investment Return Plan' and has agreed that the basic consideration for allotment of premises is to be determined at Rs. 4500/- per sq. ft. taking into consideration a return of Rs. 85/- per sq. ft. per month, subject to the terms of this MOU. Return is provided till possession is offered to the customer.

14. Thus, the assured return was payable @Rs.4500/- per sq. ft. taking into consideration a return of Rs. 85/- per sq. ft. per month till the possession is offered to the customer.
15. In light of the reasons mentioned above, the authority is of the view that as per the MoU dated 07.03.2013, it was obligation on part of the respondent to pay the assured return. It is necessary to mention here

that the respondent has failed to fulfil its obligation as agreed inter se both the parties in MoU dated 07.03.2013. Further, it is to be noted that on 14.08.2024 the occupation certificate for the unit was received and thereafter the possession of the unit was offered on 09.11.2024. Hence, the respondent/promoter is liable to pay assured return to the complainants at the agreed rate i.e., @ Rs.4500/- per sq. ft. taking into consideration a return of Rs.85/- per sq. ft. per month till the possession is offered to the customer.

E.II Direct the respondent to withdraw the illegal demand for fit-out charges raised vide letter dated 24.03.2025.

16. The complainants have raised objection towards the fit out charges raised by the respondent vide offer of possession and are seeking relief to waive off the demand of the same as they were not part of agreement nor the MoU executed between parties. The authority observes that the fit-out charges neither form the part of BBA nor the MOU. Therefore, the respondent is not entitled to levy or recover such charges. Moreover, the respondent shall not charge anything from the complainants which is not part of the MoU or buyers' agreement

E.III Direct the respondent to execute the conveyance deed in respect of unit no. 2-18, Second Floor, Neo Square, Sector 109, Palam Vihar, Gurgaon 122017, Haryana and handover possession.

17. As per Section 11(4)(f) and Section 17(1) of the Act, 2016 the promoter is under obligation to get the conveyance deed executed in favour of the complainants. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
18. Since the respondent promoter has obtained occupation certificate on 14.08.2024. The respondent is directed to get

the conveyance deed executed within a period of three months from the date of this order.

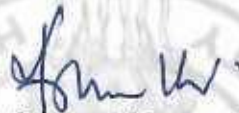
E.IV Award compensation of Rs. 5,00,000/- towards harassment, mental agony, and legal expenses borne by the Complainants.

19. The complainants in the aforesaid relief are seeking 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.** (Decided on 11.11.2021), has 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. Therefore, the complainants are advised to approach the adjudicating officer for seeking the relief of compensation.

F. Directions of the Authority

20. 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):
- The respondent/promoter is directed to pay the assured return to the complainants per month as per the MoU dated 07.03.2013 at the agreed rate i.e., @ Rs.4,500/- per sq. ft. taking into consideration a return of Rs. 85/- per sq. ft. per month till the possession is offered to the customer after deducting the amount already paid on account of assured return to the complainants.

- ii. The respondent/promoter is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, failing which that amount would be payable with interest @8.80% p.a. till the date of actual realization.
 - iii. The respondent shall not charge anything from the complainants which is not part of the MoU or buyers' agreement.
21. Complaint as well as applications, if any, stands disposed off accordingly.
22. File be consigned to registry.


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 17.07.2026

**HARERA
GURUGRAM**