

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

Complaint no. : 5720 of 2025
Date of complaint : 13.11.2025
Date of order : 11.08.2026

Vipul Puri
Chaitanya Puri
R/o: - B-3 Coud Nine Cottages,
Dhumaspur, Jail Road

Complainants**Versus**

DSS Buildtech Private Limited.
Having Registered Office at: - 506, 5th floor, Time Square
Building, B Block, Sushant Lok-1, Gurugram

Respondent**CORAM:**

Arun Kumar

Chairman**APPEARANCE:**

Anshul Sharma (Advocate)
Harshit Batra (Advocate)

Complainants
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. No.	Heads	Information
1.	Name of the project	The Melia, Sector 35, Sohna, Gurugram
2.	Area of project	17.418754 acres
3.	Nature of the project	Group Housing Colony
4.	DTCP license no.	License No.-077 of 2013 dated 09.08.2013 valid upto 04.08.2017
5.	Registered/not registered	Registered Vide registration no. 288 of 2017 Dated-10.10.2017 valid upto 26.04.2025
6.	Allotment letter	05.02.2019
7.	Unit No.	805, Tower no. S-2, Floor-8 th
8.	Unit Area	977 sq.ft [Carpet Area]
9.	Date of execution of agreement for sale	05.02.2019
10.	Possession clause	Clause-7 POSSESSION OF APARTMENT FOR RESIDENTIAL USAGE 7.1 Schedule for possession of the said Apartment- The Promoter agrees and understands that timely delivery of possession of the Apartment to the Allottee(s) and the Common Area to the Association or the Competent Authority, as the case may be, as provided under Rule 2(1) (f) of Rules, is the essence of the Agreement. The Promoter assures to hand over possession of the Apartment on or before 25.10.2021 unless there is delay due to "force majeure", court orders, government policy/guidelines, decisions affecting the regular development of the real estate project. <i>[Emphasis supplied]</i>

11.	Due date of possession	25.04.2022 [grace period of 6 months on account of Covid-19 is granted to the respondent]
12.	Payment plan	At the time of booking-Rs.5,25,000/- Within 90 days of booking- Rs.10,50,000/- On offer of possession-Rs.49,57,522/-
13.	Total sale consideration	Rs.60,91,500/-
14.	Total amount paid by the complainants	Rs.17,64,010/-
15.	Occupation certificate	04.07.2025 (Page 36 of complaint)
16.	Offer of possession	10.07.2025 (Page 39 of complaint)
17.	Final notice for the payment by the respondent	24.10.2025 (Pag 42 of complaint)
18.	Reminder letters	21.08.2025, 05.09.2025, 25.09.2025, 11.10.2025 (Page 57, 54, 51, 48 of reply)

B. Facts of the complaint

3. The complainant has made the following submissions: -

1. That the complainants were allotted a residential unit by the respondent vide allotment letter dated 05.02.2019, and on the same date, an apartment buyer's agreement was duly executed between the parties for the said unit situated in the project titled "The Melia", Sector 35, Sohna, Gurugram. The total sale consideration for the said unit was agreed at Rs. 67,21,532/-, out of which the complainants have already paid a sum of Rs. 17,64,010/- in accordance with the payment

plan stipulated in the said agreement. The respondent, however, has failed to honour its reciprocal obligations as per the agreed terms.

- II. That as per Clause 7.1 of the said agreement, the respondent was obligated to hand over possession of the said unit on or before 25.10.2021, subject only to force majeure conditions. The respondent failed to complete construction or hand over possession even by 2024. Consequently, the complainants approached this Hon'ble Authority by filing Complaint No. RERA-GRG-5247-2024 under Section 31 of the Act, seeking interest for delay and possession of the said unit.
- III. This Hon'ble Authority, after due consideration, allowed the said complaint vide Order dated 06.08.2025, and passed the following directions under Section 37 of the Act:

"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 Section 34(f):

i. The respondent is directed to share an updated statement of accounts after adjusting the delayed possession charges with the complainants within a period of 15 days of this order, and the complainants shall make the balance payments within 30 days of receiving the updated SOA.

ii. The respondent is directed to hand over physical possession of the unit to the complainants within 30 days of this order.

iii. The respondent is directed to pay interest at the prescribed rate of 10.90% per annum for every month of delay on the amount paid by the complainant from the due date of possession i.e., 25.04.2022 till offer of possession plus two months or actual handing over of possession after obtaining occupation certificate, whichever is earlier, in accordance with Section 18(1) of the Act.

iv. The respondent is directed to execute a Conveyance Deed in favour of the complainants in terms of Section 17(1) of the Act, within 60 days of this order, on payment of applicable stamp duty and registration charges.

v. The respondent shall not charge anything from the complainants which is not part of the Agreement."

- IV. That it is pertinent to mention that on dated 04.07.2025 the respondent obtained the Occupancy Certificate and thereafter the respondent issued a possession letter dated 10.07.2025 demanding the complainant to deposit the outstanding balance and to accept the offer of possession of the unit in question.
- V. That the complainants have recently come to know that the floor area ratio (FAR) of Tower S-2 in the respondent's project "The Melia", Sector 35, Sohna, Gurugram, has been reduced from 8,451.03 sq. meters to 8,152.071 sq. meters after the respondent obtained the Occupation Certificate for the said tower. The said reduction in FAR directly impacts the overall built-up and saleable area of the project and materially affects the rights and entitlements of allottees, including the complainants. However, the respondent has neither disclosed this substantial change to the complainants nor made corresponding adjustments to the sale consideration, thereby acting in breach of its statutory obligations under the Real Estate (Regulation and Development) Act, 2016 and the terms of its project registration.
- VI. That the respondent instead of rectifying these non-compliances or adhering to the binding directions issued by this Hon'ble Authority vide order dated 06.08.2025, the respondent has acted in complete disregard thereof by issuing a coercive and arbitrary communication dated 24.10.2025, threatening cancellation of the complainants'

allotment of unit no. 805. Such action amounts to wilful defiance of the Authority's order and is clearly intended to defeat its enforcement.

- VII. The cancellation is malafide, arbitrary, and without authority of law, and constitutes a gross violation of Sections 11(4)(a), 18(1), and 63 of the RERA Act. The Respondent cannot unilaterally cancel an allotment when adjudicatory directions for possession and conveyance are in force.
- VIII. That the aforesaid conduct of the respondent in raising demands on the basis of super area constitutes a clear violation of Section 14(1) and Section 18(1) of the Real Estate (Regulation and Development) Act, 2016, which mandate that all sale consideration and related calculations must strictly correspond to the carpet area as approved and disclosed in the registered project details. Any deviation from the same amounts to a material alteration of the contractual and statutory terms, and further falls within the ambit of an unfair trade practice under Section 19(4) of the Act.
- IX. That the respondent's persistent practice of issuing such invoices and receipts based on super area as evidenced from the payment receipts annexed herewith is therefore illegal, arbitrary, and without authority of law, rendering the underlying monetary demands null and void ab initio. The complainants have repeatedly objected to such demands, which are contrary not only to the RERA registration conditions but also to the directions of this Hon'ble Authority prohibiting any charge not forming part of the apartment buyer's agreement.
- X. That the respondent's conduct amounts to unfair trade practice, statutory non-compliance, and a deliberate attempt to extract unlawful consideration from the Complainants in contravention of Sections 14, 18, and 19 of the RERA Act, 2016.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - I. Direct the respondent to set aside and quash the illegal cancellation notice dated 24.10.2025 issued by the respondent.
 - II. Direct the respondent to declare all the demands and receipts raised on the basis of "super area" are illegal and unforceable .
 - III. Direct the respondent to recalculate all dues and adjust payments strictly on the carpet area basis, and to refund or adjust any excess amount charges on super area basis.
 - IV. Direct the respondent to restrain them from issuing further demands, invoices, or communications based on super area or from taking any coercive action against the complainants with respect to the said unit.
 - V. Impose the penalty or initiate proceedings under section 63 of the Act, 2016 for deliberate non-compliance with the Authority's previous order.
5. On the date of hearing, the Authority explained to the respondents/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 the following grounds:
 - I. That the complainants approached the respondent for booking a unit bearing No. 805, Tower- S-2, 8 Floor, measuring 977 Sq. ft. carpet area, in the project named "The Melia"(The Melia First Citizen), Village Mohamadpur Gujjar, Sector-35, Sohna, District Gurugram, Haryana, for a total price of Rs. 67,21,532/- plus other charges as per payment plan (10%: 20%: 70%) in schedule VI of the agreement for sale and the

- booking amount was paid to the respondent by the complainants vide cheque No. 000251 dated 28.01.2019 of the amount of Rs. 5,00,000/- and cheque No. 00253 dated 28.01.2019 of the amount of Rs. 88,000/-
- II. That since the commencement of construction, the respondent had been sending regular updates in relation to construction to the complainants.
 - III. That the present complaint is not maintainable as the same cause of action, involving the same subject property, same parties and reliefs, is already decided by adjudication before the Haryana Real Estate Regulatory Authority, Gurugram and the complainants have also filed the complaint before the Ld. AO, and the proceedings are currently ongoing. The complainants have suppressed the fact and failed to disclose all the proceedings before HRERA, which amounts to an abuse of the legal process and is barred by the principle of "*Res -judicata*" under Section 11 of the Civil Procedure Code, 1908.
 - IV. That vide complaint bearing no. 5247/2024 titled Vipul Puri & ors. v. DSS Buildtech Private Limited, the complainants herein have already approached the Hon'ble Authority under section 31 of the Act, seeking Delayed Possession Charges which is already decided via order dated 06.08.2025.
 - V. That the complainants have concealed some material facts from this Hon'ble Authority and filed this present complaint on frivolous grounds. The complainants herein are not entitled to any relief as prayed therefore; the present complaint is liable to be dismissed.
 - VI. That it is a settled legal principle that no party can pursue parallel proceedings for the same relief on the same set of facts.
 - VII. That it is respectfully submitted that the complainants have already invoked the execution jurisdiction of this Hon'ble Authority by filing

Execution Petition No. 5368-2025 titled *Vipul Puri & Chaitanya Puri vs. DSS Buildtech Pvt. Limited*, arising out of the same project, same unit, same parties, and the same cause of action. The complaint is further barred under Order II Rule 2 of the Code of Civil Procedure, 1908, which provides that every suit shall include the whole of the claim arising from the same cause of action and that where a party omits to sue for or relinquishes any portion of the claim, it shall not afterwards be permitted to sue for the portion so omitted or relinquished.

- VIII. That on 05.02.2019, buyers' agreement was executed between the parties with free will and without any undue coercion or undue influence, therefore, the same is binding upon the parties thereto. Further, Clause 7.1 of the buyer's agreement states that the promoter commits to handing over possession of the apartment by 25.10.2021, unless delayed due to force majeure, court orders, or government actions affecting project development. In such cases, the Allottee agrees to an extension of the possession deadline. It is to be noted that the construction was banned for 163 days in the state of Haryana, details of which are provided hereinafter.

Dated	Authority	Order	Days
16.11.2021- 21.11.2021	CAQM Direction	All the construction activity in the entire NCR to remain closed	06 days
24.11.2021- 20.12.2021	Supreme Court Writ Petition (C) No. 1135/2020 r/w. CAQM Direction	Ban imposed by Supreme Court on construction activities	26 days
23.03.2020 to 19.04.2020	Ministry of Home Affairs	Ban imposed by MHA due to covid 19 pandemic	27 days

01.01.2020 to 10.02.2020	Newspaper Report	Ban imposed by on construction activities	40 days
04.11.2019 to 16.12.2019	Supreme court in CWP No. 13029/1985	All the construction activity in the entire NCR to remain closed	42 days
01.11.2018 to 10.11.2018	EPCA	All the construction activity in the entire NCR to remain closed	10 days
24.12.2018 to 26.12.2018	Environment pollution control authority	Construction activities in Delhi, Gurugram, Ghaziabad and Noida to remain closed till 26.12.2018	03 days
09.11.2017 to 17.11.2017	OA 21/2014 NGT	All the construction (Structural) activity in the entire NCR is hereby prohibited till the next date of hearing	09 days
Total no's of days			163 days

Therefore, the period of handing over of possession should be further extended.

- IX. That the complainants have till date paid only 17,63,010/- which is 30% of the total sales consideration as per the applicant ledger.
- X. That on 17.08.2023, vide application before the DTCP, respondent herein has also applied for the Occupation Certificate for towers A, D, E & F of the said project. Thereafter, the respondent was granted an Occupancy Certificate dated 10.12.2024 by the DTCP, Haryana. Further, vide application dated 11.10.2024, the respondent has also applied for the OC for towers B, C, G, S1, and S2. Thereafter, the respondent was granted an Occupancy Certificate dated 04.07.2025 by the DTCP, Haryana.

- XI. That the respondent, despite having issued repeated reminders and communications, calling upon the complainant to clear the outstanding dues and take possession of the said unit, was constrained by the complainant's continued neglect and failure to comply with the same.
- XII. That the complainants have paid only approximately 30% of the total sale consideration and has failed to adhere to the agreed payment schedule. An amount of Rs. 54,58,785/- remains outstanding and unpaid till date. Instead of discharging the remaining contractual obligations, the complainants have filed the present complaint, which appears to be an attempt to delay the payment process.
- XIII. That the allegation relating to incorrect area is an afterthought and has been raised only to avoid payment of the legitimate outstanding dues. The complainants, having enjoyed the benefits of the allotment for years without protest, is estopped from questioning the agreed basis of sale at this belated stage.
- XIV. That instead of regularising the outstanding payments, the complainants have adopted a course of repetitive litigation, including proceedings before the Ld. Adjudicating Officer, which have already culminated in a final order dated 06.08.2025, and thereafter filing the present complaint as a tactic to delay payment and re-agitate settled issues.
- XV. That the respondent has always been and continues to be ready and willing to comply with the order dated 06.08.2025 passed by the competent authority in its true letter and spirit. The respondent has repeatedly called upon the complainants to clear the outstanding dues, complete the requisite documentation, and take possession of the subject unit. However, the complainant have failed to make the balance

payments in accordance with the agreed terms and, as a consequence thereof, has not come forward to take possession. The non-handover of possession, if any, is thus solely attributable to the complainant's own defaults and cannot be attributed to the respondent.

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 submission made by the parties.

E. Maintainability of complaint:

8. In the present complaint, the complainant intends to continue with the project and is seeking direction to the respondent to quash the cancellation notice and recalculate the demands. The complainants have submitted that a complaint bearing no. CR/5247/2024 was filed by them seeking handover of possession and payment of delay possession charges and vide order dated 06.08.2025, the said reliefs were granted in favour of the complainants. Meanwhile, occupation certificate was received by the respondent in the later months of the year 2025 and offer of possession were made to the complainants. The respondent has offered possession and later on sent illegal demands. Thus, the present complaint has been filed by the complainants.
9. The Authority observes that the complainants have previously filed a complaint bearing no. CR/5247/2024 against the subject unit before the Authority seeking possession along with payment of delay possession charges. Thereafter, vide order dated 06.08.2025, the respondent was directed to handover possession and to pay delay possession charges w.e.f. 25.04.2022 till offer plus 2 months after obtaining OC or till actual handover of possession, whichever is earlier.

The respondent was further directed to not to charge anything from the complainant which is not part of the buyer's agreement.

10. It is also important to note that later on the complainants have filed execution of the order dated 06.08.2025 by filing execution petition no. 5368 of 2025. The next date for the execution proceedings is 19.10.2026.
11. After considering the documents available on record as well as submissions made by the parties, the Authority is of the view that the present complaint is not maintainable before the Authority as is barred by the principle of res-judicata as the matter in issue between the parties has already been heard and decided by the Authority vide order dated 06.08.2025 in the former complaint bearing no. CR/5247/2024. Further, if any party fails to abide by the directions mentioned the said order, then the same shall be enforced by the executing authority as provided under Section 40 of the Act of 2016 read with Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017, in such manner as may be prescribed. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be fetched to an extent that basic principles of jurisprudence are to be ignored. Therefore, subsequent complaint on same cause of action is barred by the principle of res-judicata as provided under Section 11 of the Code of Civil Procedure, 1908(CPC). Section 11 CPC is reproduced as under for ready reference:

"11. Res judicata.—No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.—The expression “former suit” shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

Explanation II.—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

Explanation VI.—Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

1[Explanation VII.—The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

Explanation VIII. —An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.]”

12. The Authority is of view that though the provisions of the Code of Civil Procedure, 1908 (CPC) is, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the Authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the Act if such provision is based upon justice, equity and good conscience. Thus, in

view of the factual as well as legal provisions, the present complaint stands dismissed being not maintainable by the principle of res-judicata. File be consigned to the registry.



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

Dated: 11.08.2026



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GURUGRAM