BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no. : **5403 of 2023**
Date of decision : **14.08.2026**

Bharat Bhushan
Address:- H. No. 1511, Radha Colony, Badshahpur, Gurugram, Haryana

Complainant

Versus

Sai Aaina Farms Pvt. Ltd.
Address:- 302-A, 3rd Floor, Global Foyer Building, Golf Course Road, Sector-43, Gurugram – 122001

Respondent

CORAM:
Shri Arun Kumar **Chairman**

APPEARANCE:
Shri Dinesh Yadav **Counsel for Complainant**
None **Counsel for Respondent**

EX-PARTE ORDER

1. The present complaint dated 24.10.2025 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, thae 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 complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. No.	Particulars	Details
1.	Name and location of the project	"Mahira Homes" at sector 68, Gurgaon, Haryana
2.	Nature of the project	Affordable Group housing
3.	Unit no.	B-1206, 13TH FLOOR
4.	Unit area admeasuring	570 sq. ft. (carpet area)
5.	Allotment letter	04.05.2018
6.	Date of execution of flat buyer's agreement	N/A
7.	Date of building plan approval	23.02.2018 (taken from another complaint of the same project)
8.	Environmental clearance dated	05.06.2018 (taken from another complaint of the same project)
9.	Possession clause	**8.1** 4 years from the date of approval of building plans or grant of environment clearance, whichever is later
10.	Due date of possession	05.06.2022 [**Note:** Due date of possession to be calculated 4 years from the date of environmental clearance dated 27.04.2022 being later]
11.	Total sale consideration	Rs. 23,72,298/-
12.	Amount paid by the complainant	Rs.20,29,225/-
13.	Occupation certificate	N/A
14.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions: -

I. The Respondent is a real estate developer engaged in developing residential group-housing projects in NCR. On the basis of advertisements issued by the Respondent through print and electronic media, the Complainant applied for allotment of an apartment in the Respondent's affordable group housing project "Mahira Homes", Sector-68, Gurugram.

II. The Complainant submitted Application No. 1821, pursuant to which a draw of lots was conducted on 27.04.2018 in the presence of officials of DGTCP/DC Gurugram, wherein Apartment E-503 (2BHK Type-B) was allotted to the Complainant.

III. The Respondent obtained the following statutory approvals:

- License No. 106 of 2017 issued by DGTCP, Haryana
- Building Plan Approval vide Memo No. *ZP-1202/AD(RA)/2018/6797 dated 23.02.2018*, under the Affordable Group Housing Policy, 2013
- Commencement Certificate dated 22.12.2017, Registration No. 106/2017
- RERA Registration for the project under HRERA Registration No. 21 of 2018, vide Memo No. HRERA-2018/1403/299 dated 02.02.2018.

IV. The Respondent executed an Apartment Buyer's Agreement (ABA) with the Complainant on 04.02.2019. Under Clause 8, the Respondent assured that possession will be handed over within 48 months from the commencement date of August 2018, i.e., latest by August 2022.

V. The total basic sale consideration of the unit is ₹21,96,572/-, and the Complainant opted for the *Instalment Payment Plan*. The Complainant has regularly paid all the instalments raised by the Respondent from time to time. Till date, the Complainant has paid ₹24,63,762/-, and all payments were duly acknowledged by the Respondent. Despite repeated emails, calls, and requests seeking construction updates and possession, the Respondent failed to provide satisfactory response and repeatedly misrepresented that construction was in "full swing".

VI. As per the ABA, time was the essence of the contract.

- Under Clause 8.7, in case of delay, the Respondent is required to pay interest at the prescribed rate for every month of delay.
- The possession due date expired in August 2022, yet the project remains incomplete even today.

VII. The Complainant is suffering huge financial loss as he has been paying rent + EMI simultaneously due to non-delivery of possession. Despite timely payments, the Respondent arbitrarily issued a Cancellation Notice on 14.01.2021 alleging delayed payment. However, the Complainant made additional payments of ₹4,00,000/- on 02.03.2021 and ₹1,00,000/- on 05.03.2021, which were duly accepted by the Respondent even after issuing the cancellation notice. Hence, the cancellation is illegal, null and void.

VIII. The Respondent has failed to complete the project, abandoned construction, misappropriated buyers' money, and caused

enormous harassment, mental agony, and financial loss to the Complainant.

C. Relief sought by the complainant:

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

   I. Direct the Respondent to handover the physical possession along with interest.

5. The present complaint was filed on 16.04.2025 and registered as complaint no. 5403 of 2025. Notice sent to the respondent through e-mail (crm@mahiragroup.com) was duly served on 28.10.2025. Notice sent to the respondent through post was also duly served. As per the registry, the complainant sent a copy of the complaint along with annexures via speed post as well as email. The tracking report for the same was submitted by the complainants along with the complaint. Despite proper service of notice, neither the respondent put in appearance before the Authority nor any written reply filed till date. In view of the above, the matter was proceeded ex-party against respondent vide order dated 14.08.2026 and the matter is decided based on the facts and documents submitted with the complaint, which remain undisputed.

6. 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 complainant.

D. Jurisdiction of the Authority

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

D.I Territorial jurisdiction

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. 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 allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

> ***Section 11 (4) The promoter shall-***
> *(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*
>
> ***Section 34-Functions of the Authority:***
> *34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.*

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 complainant at a later stage.

11. 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." (Supra) 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."*

12. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the case mentioned above, the authority has the juris-

diction to entertain a complaint seeking refund of the amount and interest on the refund amount.

E. Findings on the relief sought by the complainant.

E.I Direct the Respondent to handover the physical possession along with interest.

13. The factual matrix of the case reveals that the complainant had booked a residential unit in the Affordable Group Housing project of the respondent, namely "Mahira Homes", situated at Sector-68, Gurugram, Haryana, and was allotted a unit bearing No. B-1206, 13th Floor, admeasuring 570 sq. ft. (carpet area), vide allotment letter dated 04.05.2018. The building plans were approved on 23.02.2018, whereas the environmental clearance was granted on 05.06.2018. Accordingly, the due date of possession works out to 05.06.2022. The total sale consideration of the allotted unit was Rs.23,72,298/-, against which the complainant had paid an amount of Rs.20,29,225/-. Neither the occupation certificate has been obtained nor has any offer of possession been made to the complainant till date.

14. In the present complaint, the complainant intends to continue with the project and is seeking possession along with interest as per Section 18(1) of the Act and the same is reproduced below for ready reference: -

> ***"Section 18: - Return of amount and compensation***
> ***18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —***

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

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

*he shall be liable on demand to the allottees, **in case the allottee wishes to withdraw from the project**, without prejudice to any other remedy available, to **return the amount received by him** in respect of that apartment, plot, building, as the case may be, **with interest** at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.*

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

15. As per clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licensed under it and the same is re-produced as under for ready reference:

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

16. **Due date of handing over of possession:** As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that "All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The respondent has obtained building plan approval and environment clearance in respect of the said project on 23.02.2018 and 05.06.2018 respectively. Therefore, the due date of possession is being calculated from the date

of environmental clearance, being later. Therefore, the due date of possession comes out to be 05.06.2022.

17. The Authority considering the above facts opines that the due date of possession (05.06.2022) has lapsed much before the time of filing of the present complaint on 24.10.2025. The Authority observes that the registration certificate granted by the authority has already been revoked on 11.03.2024 and even licence of the respondent-promoter has been expired and at present the project is scrapped. Further, Section 18 of the Act is invoked if the promoter is unable to handover possession of the unit due to discontinuance of business as developer on account of suspension or revocation of registration under this Act or any other reason then the allottee shall be entitled to refund of the entire amount paid to the respondent along with prescribed rate of interest.

18. It is further observed that the Authority on 27.05.2022 initiated Suo-Motu action against the promoter under Section 35 of the Act, 2016 based upon the site visit report submitted on 18.05.2022 wherein it is clearly stated that the physical progress of the project was approximately 15-20% and progress of construction works did not seem commensurate to the payments withdrawn from the bank accounts. Moreover, on 17.05.2022 the Director Town & Country Planning blacklisted the said developer from grant of license on account due to various grave violations by the promoter company which was subsequently withdrawn by the department on 21.07.2022 subject to fulfil-

ment of certain conditions. Also, on 19.05.2022, all the accounts were freezed by the Authority due to non-compliance of the provisions of the Act, 2016. On 06.11.2023, the Authority initiated suo-moto revocation proceedings under Section 35 of the Act. Thereafter, the Authority vide order dated 11.03.2024 revoked the registration certificate of the project under Section 7(1) of the Act, 2016 and accordingly the respondent company shall not be able to sell the unsold inventories in the project and also, the accounts are freezed therefore, this amounts to discontinuation of business of the respondent.

19. The Authority is of the view that since vide order dated 11.03.2024, the registration certificate of the project stands revoked under section 7(1) of the Act, 2016 and also due to the promoter's serious violations, there seems no possibility of completing the said project in near future. Thus, the Authority is of the view that the complainant is entitled to his right under Section 18(1)(b) read with Section 19(4) of the Act of 2016 to claim the refund of amount paid along with interest at prescribed rate from the promoter.

20. **Admissibility of refund at prescribed rate of interest:** Proviso to Section 18 of the Act provides that where an allottee(s) intends to withdraw from the project, the promoter shall be liable to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this

behalf and it has been prescribed under Rule 15 of the Rules, ibid. Rule 15 is reproduced as under:

> ***"Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19***
> *For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:*
> *Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public."*

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

22. Consequently, as per website of the State Bank of India i.e., https://sbi.co.in, the marginal cost of lending rate (in short, MCLR) as on date i.e., 14.08.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.

23. Accordingly, the respondent is obligated to refund the paid-up amount of Rs. 20,29,225/- received by it along with interest at the rate prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.

F. Directions of the Authority:

24. 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 paid-up amount of, Rs. 20,29,225/- to the complainant along with interest at the rate of 10.80% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.

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

III. The respondent is directed not to create third party right against the unit before full realization of the amount paid by the complainant. If any transfer is initiated with respect to the subject unit, the receivable from that property shall be first utilized for clearing dues of the complainant-allottee.

25. The complaint and application, if any, stands disposed of.

26. File be consigned to the registry.

(Arun Kumar)
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 14.08.2026