

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

Complaint No. : 141 of 2018  
Date of Institution : 15.05.2018  
Date of Decision : 07.08.2018

Mr. Brhimjeet and Mr. Amarjeet, R/o  
57/1, Village Palra Tehsil & District  
Gurugram, Haryana-122001

...**Complainant**

Versus

M/s Landmark Apartments Pvt Ltd, having  
office at: A-8, CR Park, New Delhi- 110019

...**Respondent**

**CORAM:**

Dr. K.K. Khandelwal  
Shri Samir Kumar  
Shri Subhash Chander Kush

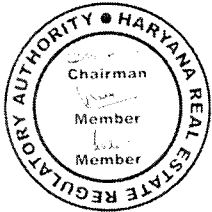
**Chairman**  
**Member**  
**Member**

**APPEARANCE:**

Shri Ankur Bansal  
Ms. Shriya Takkar and Shri  
Amarjeet Kumar

Advocate for the complainant  
Advocates for the respondent

**ORDER**



1. A complaint dated 06.04.2018 was filed under Section 31 of the Real Estate (Regulation & Development) Act, 2016 read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 by the complainant, Mr. Brhimjeet and Mr. Amarjeet, against the promoter, M/s Landmark Apartments Pvt Ltd.

2. The particulars of the complaint are as under: -

1.	Name and location of the project	Landmark cyber Park, sector- 67, Gurugram
2.	Registered/not registered	Not Registered
3.	Nature of the Project	I.T. Park
4.	Date of MoU	14.08.2010
5.	Area of unit	1000 sq. ft.
6.	Total Consideration	Rs. 55,00,000/-
7.	Total amount paid by the complainant	Rs. 55,00,000/-
8.	Assured Return	Clause 4- Rs 55,000 per month till date of possession or 3 years whichever is later.

3. Taking cognizance of the complaint, the authority issued notice to the respondent for filing reply and for appearance. Accordingly, the respondent appeared on 15.05.2018. The case came up for hearing on 15.05.2018, 14.06.2018, 12.07.2018 and 07.08.2018. The reply has been filed on behalf of the respondent on 31.05.2018.



4. The complainant was seeking to get the accrued assured return as per applicable rate till date of filing of the complaint.

5. Arguments from both parties were heard.
6. As per clause 4 of the MoU dt. 14.08.2010, the complainant is insisting that the RERA Authority may get the assured return of Rs 55,000 per month released in his favour.
7. However, the authority is of the view that a perusal of the RERA Act 2016, reveals that as per the MoU, the assured return is not a formal clause with regard to giving or taking possession of unit for which, the buyer has paid an amount of Rs 55,00,000 to the builder which is not within the purview of RERA Act. Rather, it is a civil matter.
8. Since RERA Act deals with the builder buyer relationship to the extent of timely delivery of possession to the buyer or deals with withdrawal from the project, as per provisions of section 18(1) of the Act.
9. The buyer is directed to pursue the matter with regard to getting assured return as per the MoU by filing a case before appropriate forum/ Adjudicating officer.
10. The order is pronounced.



11. Case file be consigned to the registry.

**(Samir Kumar)**  
Member

**(Subhash Chander Kush)**  
Member

**(Dr. K.K. Khandelwal)**  
Chairman  
Haryana Real Estate Regulatory Authority, Gurugram





**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

**PROCEEDINGS OF THE DAY**

Day and Date	Tuesday and 7.8.2018
Complaint No.	141/2018 Case titled as Mr. Brhimjeet V/S M/S Landmark apartment Pvt. Ltd
Complainant	Mr. Brhimjeet
Represented through	Shri Ankur Bansal on behalf of the complainant
Respondent	M/S Landmark apartment Pvt. Ltd
Respondent Represented through	Ms. Shriya Takkar and Amarjeet Kumar Advocates for the respondent
Last date of hearing	12.7.2018

**Proceedings**

**The project is not registered.**

It was brought to the notice of the authority that the project is registerable but so far it has not been registered which is in violation of Section 3 (1) of the Real Estate (Regulation & Development) Act 2016. The learned counsel for the respondent has been asked to advise the respondent to do needful at the earliest and this be treated as the notice as to why penal proceedings should not be initiated against the respondent under section 59 for violation of Section 3 (1) of the Act ibid, whereunder the penalty amount may extend upto 10% of the estimated costs of the Project.

Arguments heard.

The complainant has made a complaint dated 15.5.2018 with regard to the refund of the assured return of Rs.55,000/- per month. As per Clause 4



**HARERA**  
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of the Memorandum of Understanding dated 14.8.2010, the complainant is insisting that the RERA Authority may get the assured return of Rs.55,000/- per month released to him. A perusal of the Real Estate (Regulation & Development) Act, 2016 reveals that as per the Memorandum of Understanding, the assured return is not a formal clause with regard to giving or taking of possession of unit for which the buyer has paid an amount of Rs.55 Lakhs to the builder which is not within the purview of RERA Act. Rather, it is a civil matter. Since RERA Act deals with the builder buyer relationship to the extent of timely delivery of possession to the buyer or deals with withdrawal from the project, as per the provisions of Section 18 (1) of the Act. As such, the buyer is directed to pursue the matter with regard to getting assured return as per the Memorandum of Understanding by filing a case before an appropriate forum/Adjudicating Officer. Order is pronounced. Detailed order will follow. File be consigned to the Registry.

Samir Kumar  
(Member)

Subhash Chander Kush  
(Member)

Dr. K.K. Khandelwal  
(Chairman)  
7.8.2018