

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,  
HARYANA REAL ESTATE REGULATORY AUTHORITY  
GURUGRAM**

**Complaint no. : 4676 of 2020**

**Date of decision : 27.08.2021**

MADHUR SAHAY  
R/O : 1604, Tower-5  
The Palms, South City-I  
Gurgaon, Haryana-122001

**Complainant**

**Versus**

M/S ANSAL PHALAK INFRASTRUCTURES  
PVT. LTD.  
ADDRESS : 1202, Antariksh Bhawan,  
16 Kasturba Gandhi Marg,  
New Delhi-110001

**Respondent**

**APPEARANCE:**

For Complainant:

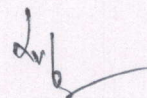
Sanjeev Sharma (Adv)

For Respondent:

None

**ORDER**

1. This is a complaint filed by Madhur Sahay (also called as buyer) under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 29 of

  
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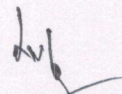
- The Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) against respondent/promoter.
2. According to complainant, on 20.08.2014, she booked a unit in respondent's project **Versalia**, situated at sector-67A, Gurugram. The respondent allotted a flat admeasuring 3333 sq. ft., vide allotment letter dated 28.08.2014, for a total consideration of Rs 2,02,39,169. A buyer's agreement was executed on 25.09.2015.
  3. As per the Clause 5.1 of buyer's agreement, the possession of the said premisses was to be delivered by the developer to the allottee within 36 months from the date of execution of buyer's agreement, with grace period of 6 months. In this way, the possession ought to have been delivered by 25.03.2019 but respondent failed to complete the construction work and consequently failed to deliver the same till date.
  4. She (complainant) made timely payment of Rs 67,96,802/- but to her utter dismay, the possession of the apartment has not been delivered as agreed in buyer's agreement.
  5. The complainant had entered into MoU dated 21.08.2018 with the respondent, as per the said MoU, respondent had agreed to refund the amount paid by the complainant i.e. Rs 67,96,802/- along with 10 % interest p.a. and thereby, the respondent agreed to refund a total amount of Rs 90,17,560 to the complainant.
  6. As respondent failed to abide by the terms of the MoU dated 21.08.2018, the complainant had filed a complaint against the

respondent before the Real Estate Regulatory Authority, Gurugram, bearing complaint no. 1533 of 2019, the same was allowed against the respondent vide order dated 17.12.2019 and it was directed to pay the delayed possession charges at the prescribed rate of 10.20 % with effect from 25.03.2019.

7. Contending that the respondent has breached the fundamental term of the contract by inordinately delaying the delivery of possession and has also failed to refund the amount as agreed between the parties as per MoU dated 21.08.2018, the complainant has sought refund of entire amount of Rs 67,96,802/- along with interest as assured and promised by respondent vide MoU dated 21.08.2018, and also interest for every month at prevailing rate of interest as per the RERA Act.

8. The particulars of the project, in tabular form are reproduced as under :

S.No.	Heads	Information
<b>PROJECT DETAILS</b>		
1.	Project name and location	"Versalia", Sector 67 A, Gurugram,
2.	Project area	38.262 acres
3.	Nature of the project	Residential Plotted Colony
4.	DTCP license no. and validity status	81 of 2013 dated 19.09.2013 valid up to 19.09.2019

  
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5.	Name of licensee	Ansal Properties Infrastructures Ltd.
6.	RERA Registered/ not registered	Registered vide no. 154 of 2017
<b>UNIT DETAILS</b>		
1.	Unit no.	GF-3032
2.	Unit measuring	3333 sq. ft.
3.	Date of Allotment letter	28.08.2014
4.	Date of Buyer's Agreement	25.09.2015
5.	Clause 5.1 of buyer's agreement, the possession of the said premisses was to be delivered by the developer to the allottee within 36 months from the date of execution of buyer's agreement with grace period of 6 months.	25.03.2019
6.	Delay in handing over of possession till date	2 years 05 months
<b>PAYMENT DETAILS</b>		
7.	Total sale consideration	Rs 2,02,39,169
8.	Amount paid by the complainant	Rs 67,96,802

9. As per records notice of complaint was issued to respondent in compliance of order of authority dated 14.01.2021, through

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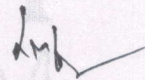
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speed post as well as through e-mail. Postal receipt and tracking report of speed post is on file. Envelope reached at the given address on 20.01.2021, and the same was delivered on the said date. Considering it proper service, vide order dated 10.02.2021, the respondent was ordered to be proceeded ex-parte.

10. Complainant has put on file copy of one MoU dated 21.08.2018. If the same is taken as true, respondent had agreed to refund Rs 90,17,560 to the complainant in lieu of surrender of unit in question, till 31.11.2018. No reason to disbelieve it
11. Complaint in hands is allowed, respondent is directed to refund Rs 90,17,560 to the complainant within 90 days along with interest @ 9.3 % p.a. from 31.11.2018 i.e. date agreed between parties till the date of its realisation. The same is burdened with a cost of Rs 1,00,000 to be paid to the complainant.

File be consigned to the registry.

27.08.2021



(RAJENDER KUMAR)

Adjudicating Officer

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	Friday and 27.08.2021
Complaint No.	CR/4676/2020 Case titled Madhur Sahay VS Ansal Phalak Infrastructure Private Limited
Complainant	Madhur Sahay
Represented through	Mr Sanjeev Sharma, Adv
Respondent	Ansal Phalak Infrastructure Private Limited
Respondent Represented through	Mr Deepanshu Jain, Adv
Last date of hearing	
Proceeding Recorded by	S.L. Chanana

### Proceedings

This matter is fixed for final order today which was scheduled to be announced at 2.00p.m. Order is ready in all respects. On the request of learned counsel for respondent file is put up now. Learned counsel filed an application, with a request to set aside ex-parte order dated 10.02.2021 and insists for its disposal.

2. The respondent was proceeded ex-parte on 10.02.2021, as none appeared on behalf of same. It was noticed by this forum that notice had already been served through email on 29.01.2021 and despite waiting for sufficient time, none turned up on behalf of respondent.

2. It is contended by learned counsel for applicant/respondent that entire management of respondent-company was being changed at the time when notice was served upon it i.e. 29.01.2021. Even name of company has been changed. Erstwhile directors of company resigned on 12.03.2021. Citing all this, learned

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016  
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण  
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
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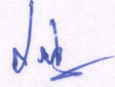
counsel requests to recall impugned order, proceeding respondent ex-parte and to allow him to file written reply, now.

3. Application is vehemently opposed by learned counsel for complainant alleging that all this is delay tactic on the part of respondent.

3. As mentioned above, order is ready in all respects and it was likely to be pronounced shortly. Even otherwise, taking the plea of learned counsel for respondent as true, the management of respondent-company was being changed. Company is a perpetual entity till the same wound up. Only management/employees are changed. Even as per learned counsel for respondent, erstwhile directors resigned on 12.03.2021 but notice had already been served through email on 29.01.2021, as noted in order dated 10.02.2021. Even as per plea of learned counsel for complainant, its directors had not resigned till that date i.e. 29.10.2021 which was date fixed before this forum. There was no reason for non-appearance on 12.02.2021

4. Considering all this, no reason to turn the wheel of time back by recalling said order or to allow respondent now to file written reply, when order is ready to be pronounced. The application is thus, dismissed.

5. Order is pronounced in open court.

  
(Rajender Kumar)  
Adjudicating Officer  
27.08.2021

Judgement upload on 13.09.2021.