

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

Complaint no. : 667 of 2018
Date of First
hearing : 04.10.2018
Date of decision : 10.01.2019

Sh. Girdhari Lal
R/o VPO Sarhaul (Gurugram), Tehsil and
District Gurugram

...Complainant

Versus

M/s Vatika Ltd., through its Director/General
Manager, Authorised signatory Sh. Virender
Dhar
Office at: 7th Floor, Vatika Triangle, Sushant
Lok Phase-I, Mehrauli-Gurugram Road,
Gurugram-122002

...Respondent

CORAM:

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

**Chairman
Member
Member**

APPEARANCE:

Shri Girdhari Lal
Shri Braham Dutt Sharma
Shri Mukul Sanwariya,
Advocate proxy counsel for
Shri Kamal Dahiya, Advocate
for the respondent

Complainant in person
Advocate for the complainant
Advocate for the respondent



ORDER

1. A complaint dated 02.08.2018 was filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 by the complainant Sh. Girdhari Lal, against the promoter M/s Vatika Ltd., through its Director/General Manager, Authorised signatory Sh. Virender Dhar, in respect of said plot described below in the project 'Vatika Express City', on account of violation of the section 11(4)(a) of the Act *ibid*.
2. Since the builder buyer agreement has been executed on 14.11.2014, i.e. prior to the commencement of the Real Estate (Regulation and Development) Act, 2016, therefore, the penal proceedings cannot be initiated retrospectively. Hence, the authority has decided to treat the present complaint as an application for non-compliance of contractual obligation on the part of the promoter/respondent in terms of section 34(f) of the Real Estate (Regulation and Development) Act, 2016.
3. The particulars of the complaint are as under: -



1.	Name and location of the project	"Vatika Express City" in Sector 88A and 88B, Gurugram
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2.	Nature of real estate project	Residential plotted colony
3.	Project area	100.785 acres
4.	Plot no.	102/E15
5.	Plot area	150 sq. yards
6.	Registered/ not registered	Registered (271 of 2017) (Expression of phase-1)
7.	Revised date of completion as per RERA registration certificate	08.10.2022
8.	DTCP license	94/2013 dated 31.10.2013
9.	Date of booking	12.11.2014
10.	Date of allotment letter	14.11.2014
11.	Date of builder buyer agreement	14.11.2014
12.	Total consideration	Rs. 56,02,500/- (as per builder buyer agreement)
13.	Total amount paid by the complainant	Rs. 56,02,500/- (as per builder buyer agreement)
14.	Payment plan	Full and final payment made in one time
15.	Date of delivery of possession	Clause 3- 3 years from date of execution of agreement, i.e. by 14.11.2017
16.	Delay of number of months/ years up to 10.01.2019	1 year 1 month
17.	Penalty clause as per builder buyer agreement dated 14.11.2014	Clause 9- Rs. 150/- per sq. yard of the area of the plot per month for the period of delay



3. The details provided above have been checked on the basis of the record available in the case file. A builder buyer agreement dated 14.11.2014 is placed on record for the aforesaid unit according to which the possession of the same was to be delivered by 14.11.2017. Neither the respondent has delivered the possession of the said until 14.11.2017 nor they have paid any compensation @ Rs.150/- per sq. yard per month of the area of the said unit for the period of such delay as per clause 9 of the said agreement. Therefore, the promoter has not fulfilled his committed liability as on date.
4. Taking cognizance of the complaint, the authority issued notice to the respondent for filing reply and for appearance. The case came up for hearing on 04.10.2018 and 10.01.2019. The reply has been filed by the respondent and the same has been perused.

Facts of the complaint

5. On 12.11.2014, the complainant booked a commercial unit in the project named "Vatika Express City" in Sector 88A and 88B, Gurugram by paying full payment of the total consideration amounting to Rs.56,02,500/- to the respondent. Accordingly, the complainant was allotted a plot





bearing 102/E15 admeasuring 150 sq. yards vide allotment letter dated 14.11.2014. A builder buyer agreement was executed on 14.11.2014 with respect to the said plot/unit in question.

6. The complainant submitted that as per clause 3 of the builder buyer agreement, the respondent had to give possession on 14.11.2017. Accordingly, the complainant visited the site of the project in question in 2017 and found no residential plot colony/project. Thereafter, the complainant visited the office of the respondent and enquired about the project but did not get a satisfactory answer from the respondent.
7. The complainant submitted that he visited the respondent's office to either return back his hard earned money with interest or give the possession of the promised plot at the earliest but all in vain. The complainant also asked the respondent to give an alternative plot of equal value in any other project but the respondent prolonged the matter by giving false assurances. Hence, this complaint.
8. The complainant further submitted that the respondent not only cheated and committed fraud upon the complainant but under false pretexts and assurances, the respondent





succeeded in siphoning the money from the complainant to cause wrongful losses to him.

9. The complainant submitted that on 20.07.2018, when the complainant visited the respondent's office and requested them to either return the amount or give possession, the official of the respondent refused the same.

10. Issues raised by the complainant

The relevant issues as culled out from the complaint are as follows:

- I. Whether the respondent failed to complete the project within the agreed period of 3 years and in case of failure, the complainant is entitled to recover the principal amount of Rs.56,02,500/- along with agreed interest @ 18% per annum?
- II. Whether the respondent breached the terms and conditions of the builder buyer agreement dated 14.11.2014 executed between the parties?
- III. Whether the respondent violated the provision of RERA 2016 by not registering the said project within time?



11. Relief sought

- I. Direct the respondent to refund the amount of Rs.56,02,500/-, along with the interest @ 18 % per annum or give alternate plot of same value in any other project in same locality in Gurugram.

Respondent's reply

12. The respondent submitted that the complaint filed by the complainant before the Id. authority, besides being misconceived and erroneous, is untenable in the eyes of law. The complainant has misdirected himself in filing the above captioned complaint before this Id. authority as the reliefs being claimed by the complainants cannot be said to even fall within the realm of jurisdiction of this Id. authority.
13. The respondent submitted that the claim for possession of the plot with interest and compensation or seeking any alternative relief along with interest and compensation, would be adjudged by the adjudicating officer as appointed under section 71 of RERA,2016 and that too keeping in view the factors mentioned in section 72 of RERA, 2016. No complaint can be entertained much less before this learned authority in respect of the matters to be adjudicated by the



adjudicating officer. Hence the learned authority lacks jurisdiction to deal with the present complaint.

14. The respondent submitted that the complaint is liable to be dismissed as it is barred by the principle of estoppel. The complainant had booked/ allotted plot on 14.11.2014 with the respondent. It is also pertinent to mention that the complainants had carried out inspection of the documents in respect of the said project and was duly informed about the schedule of possession of the plot and which shall be further subject to clause no. 6, 7 and 8 in terms of the builder buyer agreement ("BBA") and other obligations of the complainants. The complainants now cannot be allowed to raise the flimsy and frivolous objections at this juncture and against the spirit of the BBA dated 14.11.2014 executed with the respondent.

15. The respondent submitted that it is evident that the 'agreement for sale', for the purposes of RERA, 2016 as well as Haryana Rules, 2017 is the one as laid down in annexure-A, which is required to be executed inter-se the promoter and the allottee. It is a matter of record and rather a conceded position that no such agreement, as referred to under the provisions of RERA, 2016 and Haryana Rules, 2017 has been executed by and between the complainant and the



respondent company. Rather, the agreement that has been referred to, for the purpose of getting the adjudication of the complaint, though without jurisdiction, is the builder buyer's agreement, executed much prior to coming into force of 2016 Act. The adjudication of the complaint for interest and compensation, as provided under section-12, 14, 18 and section 19 of the Act *ibid*, has to be in reference to the agreement for sale executed in terms of the said Act and Haryana Rules 2017 and no other agreement. This submission of the respondent *inter alia*, finds support from reading of the provisions of the said Act as well as the said rules, including the aforementioned submissions.

16. The respondent submitted that the complainant has failed to bring on record anything contradictory or in violation of the provisions of RERA, 2016. Moreover, nowhere in the complaint any violation of the provisions of RERA, 2016 has been mentioned. Thus, the petition is liable to be dismissed solely on this ground.

17. The respondent submitted that they have necessary approvals to start the development of residential project and at no point of time has violated the provision of law. It is further submitted that the respondent got the environment





clearance for the said plotted colony in year 2016. However, the respondent had applied for such environmental clearances vide application on 03.01.2014. The concerned department took more than 2 years to grant NOC for environmental purposes. It is pertinent to mention that without obtaining the environmental NOC, no construction activity could be carried out by the answering respondent. Thus, such time period falls under the definition of force majeure, as there was no fault or intentional delay on the part of respondents. Such terms and conditions are mentioned in builder buyer agreement. The complainant satisfied himself and wishfully consented to all the terms and conditions as enumerated and detailed in the 'BBA' executed between the complainant and respondent. It is submitted that the complainant himself agreed to the clause no. 6, 7 and 8 of the BBA executed and thus in view of the same the principal of estopped is operated against him in filing the present complaint. Thus, the complaint of the complainant is liable to be dismissed.

18. The respondent submitted that the entire consideration amount as alleged to be paid to the respondent is paid by complainant from own wish. The amount paid by the





complainant is from the money which he received from the respondent in the land collaboration deal. The complainant is very well aware and consented to all the terms and conditions of the BBA which was duly signed by him with own free will and consent.

19. The respondent further submitted that if the complainants had any issues or even otherwise, they ought to have approached for cancellation of the plot at any given time, however, the complainants never showed any disinterest or has approached the respondent for cancellation of the plot or for any other issues relating to the said plot. In spite, the complainants have made payment wilfully and that too subject to all the terms and conditions of executed BBA.

Determination of issues

After considering the facts submitted by the complainant, reply by the respondent and perusal of record on file, the authority decides seriatim the issues raised by the parties as under:

20. With respect to the **first and second issue** raised by the complainant, as per clause 3 of the builder buyer agreement dated 14.11.2014, the possession was stipulated to be handed



over within 3 years from date of signing of builder buyer agreement, i.e. by 14.11.2017. Thus, the respondent failed in handing over the possession on or before the said due date, nor paid the compensation stipulated under clause 9 of the agreement, thereby committing a breach of the said agreement. The project is registered. As per the RERA registration certificate, the revised date for committing possession is 08.10.2022. During the proceedings dated 10.01.2019, the proxy counsel for the respondent could not provide any information w.r.t. execution of any internal or external development work in the colony. Keeping in view the dismal state of affairs w.r.t. work at the project site, the authority finds no option but to refund the amount of Rs.56,02,500/- to the complainant along with interest at the prescribed rate of 10.75% per annum.

21. With respect to **third issue**, the project is registered with the authority vide registration no. 271 of 2017. Further, the said registration was made by the authority in due course after following proper procedure. Thus, this issue becomes infructuous.

22. The complainant made a submission before the authority





under section 34 (f) to ensure compliance/obligations cast upon the promoter as mentioned above.

The complainant requested that necessary directions be issued to the promoter to comply with the provisions and fulfil obligation under section 37 of the Act.

23. The complainant reserves his right to seek compensation from the promoter for which he shall make separate application to the adjudicating officer, if required.

Findings of the authority

24. **Jurisdiction of the authority-** The project "Vatika Express City" is located in Sector 88A and 88B, Gurugram, thus the authority has complete territorial jurisdiction to entertain the present complaint. As the project in question is situated in planning area of Gurugram, therefore the authority has complete territorial jurisdiction vide notification no.1/92/2017-1TCP issued by Principal Secretary (Town and Country Planning) dated 14.12.2017 to entertain the present complaint. As the nature of the real estate project is commercial in nature so the authority has subject matter jurisdiction along with territorial jurisdiction.

The authority has complete jurisdiction to decide the



complaint regarding non-compliance of obligations by the promoter as held in *Simmi Sikka v/s M/s EMAAR MGF Land Ltd.* leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

25. As per clause 3 of builder buyer agreement dated 14.11.2014, the due date of possession comes out to be 14.11.2017. The project is registered with the authority vide registration no. 271 of 2017(expression of phase-1) and the revised date of possession as per RERA registration certificate is 08.10.2022. However, during the proceedings dated 10.01.2019, the proxy counsel for the respondent could not provide any information w.r.t. execution of any internal or external development work in the colony. The complainant has made entire payment of Rs.56,02,500/- to the respondent but the respondent has miserably failed to deliver the unit in time. It is a dismal state of affairs w.r.t. work at the project site. In these circumstances, the authority finds no option but to refund the amount of Rs.56,02,500/- deposited by the complainant/buyer along with prescribed rate of interest, i.e. 10.75% per annum within a period of 90 days from the issuance of this order.



Decision and directions of the authority

26. The authority, exercising powers vested in it under section 37 of the Real Estate (Regulation and Development) Act, 2016 hereby issues the following directions to the respondent:
- (i) The respondent is directed to refund to the complainants the principal sum of Rs. 56,02,500/- paid by them along with interest at the prescribed rate of 10.75% per annum on the amount deposited by the complainant. The interest will be given from date of receipt of payments till ~~10.01.2019~~ ^{realization of amount} (date of disposal of complaint) to the complainant within a period of 90 days from the date of this order.
27. The complaint is disposed of accordingly.
28. The order is pronounced.
29. Case file be consigned to the registry.




(Samir Kumar)
Member

Haryana Real Estate Regulatory Authority, Gurugram


(Subhash Chander Kush)
Member

Dated: 10.01.2019

*Corrected vide order
dated 28.03.19.*

PROCEEDINGS OF THE DAY

Day and Date	Thursday and 10.01.2019
Complaint No.	667/2018 case titled as Girdhari Lal versus Vatika Limited
Complainant	Girdhari Lal
Represented through	Complainant in person with Shri Braham Dutt Sharma, Advocate.
Respondent	Vatika Limited
Respondent Represented through	Shri Mukul Sanwariya, Advocate proxy counsel for Shri Kamal Dahiya, Advocate for the respondent.
Last date of hearing	4.10.2018
Proceeding Recorded by	Naresh Kumari & S.L.Chanana

Proceedings

Project is registered with the authority and the revised date of possession as per RERA registration certificate is 8.10.2022.

Arguments heard.

As per clause 3 of Builder Buyer Agreement executed inter-se the parties on 14.11.2014 for plot No.102/E15, in project "Vatika Express City" in Sector 88A and 88B, Gurugram, possession was to be handed over to the complainant within a period of 3 years from the date of execution of agreement dated 14.11.2014 which comes out to be **14.11.2017**. Proxy counsel for the respondent could not provide any information w.r.t. execution of any internal or external development work in the colony. Complainant has

made entire payment of Rs.56,02,500/- to the respondent but the respondent has miserably failed to deliver the unit in time.

It is a **dismal state of affairs** w.r.t. work at the project site. In these circumstances, the authority find no option **but to order refund of the amount deposited** by the complainant/buyer alongwith prescribed rate of interest i.e. 10.75% per annum within a period of 90 days from the issuance of this order.

Complaint stands disposed of. Detailed order will follow. File be consigned to the registry.

Samir Kumar
(Member)
10.1.2019

Subhash Chander Kush
(Member)

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

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Date of First hearing : 04.10.2018
Date of decision : 10.01.2019

Sh. Girdhari Lal
R/o VPO Sarhaul (Gurugram), Tehsil and
District Gurugram

...Complainant

Versus

M/s Vatika Ltd., through its Director/General
Manager, Authorised signatory Sh. Virender
Dhar
Office at: 7th Floor, Vatika Triangle, Sushant
Lok Phase-I, Mehrauli-Gurugram Road,
Gurugram-122002

...Respondent

CORAM:

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

Chairman
Member
Member

APPEARANCE:

Shri Girdhari Lal

Complainant in person

Shri Braham Dutt Sharma

Advocate for the complainant

Shri Mukul Sanwariya,
Advocate proxy counsel for
Shri Kamal Dahiya, Advocate
for the respondent

Advocate for the respondent



ORDER

1. A complaint dated 02.08.2018 was filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 by the complainant Sh. Girdhari Lal, against the promoter M/s Vatika Ltd., through its Director/General Manager, Authorised signatory Sh. Virender Dhar, in respect of said plot described below in the project 'Vatika Express City', on account of violation of the section 11(4)(a) of the Act *ibid.*
2. Since the builder buyer agreement has been executed on 14.11.2014, i.e. prior to the commencement of the Real Estate (Regulation and Development) Act, 2016, therefore, the penal proceedings cannot be initiated retrospectively. Hence, the authority has decided to treat the present complaint as an application for non-compliance of contractual obligation on the part of the promoter/respondent in terms of section 34(f) of the Real Estate (Regulation and Development) Act, 2016.
3. The particulars of the complaint are as under: -

1.	Name and location of the project	"Vatika Express City" in Sector 88A and 88B, Gurugram
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2.	Nature of real estate project	Residential plotted colony
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7.	Revised date of completion as per RERA registration certificate	08.10.2022
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3. The details provided above have been checked on the basis of the record available in the case file. A builder buyer agreement dated 14.11.2014 is placed on record for the aforesaid unit according to which the possession of the same was to be delivered by 14.11.2017. Neither the respondent has delivered the possession of the said until 14.11.2017 nor they have paid any compensation @ Rs.150/- per sq. yard per month of the area of the said unit for the period of such delay as per clause 9 of the said agreement. Therefore, the promoter has not fulfilled his committed liability as on date.
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Facts of the complaint

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bearing 102/E15 admeasuring 150 sq. yards vide allotment letter dated 14.11.2014. A builder buyer agreement was executed on 14.11.2014 with respect to the said plot/unit in question.

6. The complainant submitted that as per clause 3 of the builder buyer agreement, the respondent had to give possession on 14.11.2017. Accordingly, the complainant visited the site of the project in question in 2017 and found no residential plot colony/project. Thereafter, the complainant visited the office of the respondent and enquired about the project but did not get a satisfactory answer from the respondent.
7. The complainant submitted that he visited the respondent's office to either return back his hard earned money with interest or give the possession of the promised plot at the earliest but all in vain. The complainant also asked the respondent to give an alternative plot of equal value in any other project but the respondent prolonged the matter by giving false assurances. Hence, this complaint.
8. The complainant further submitted that the respondent not only cheated and committed fraud upon the complainant but under false pretexts and assurances, the respondent



succeeded in siphoning the money from the complainant to cause wrongful losses to him.

9. The complainant submitted that on 20.07.2018, when the complainant visited the respondent's office and requested them to either return the amount or give possession, the official of the respondent refused the same.

10. Issues raised by the complainant

The relevant issues as culled out from the complaint are as follows:

- I. Whether the respondent failed to complete the project within the agreed period of 3 years and in case of failure, the complainant is entitled to recover the principal amount of Rs.56,02,500/- along with agreed interest @ 18% per annum?
- II. Whether the respondent breached the terms and conditions of the builder buyer agreement dated 14.11.2014 executed between the parties?
- III. Whether the respondent violated the provision of RERA 2016 by not registering the said project within time?



11. Relief sought

- I. Direct the respondent to refund the amount of Rs.56,02,500/-, along with the interest @ 18 % per annum or give alternate plot of same value in any other project in same locality in Gurugram.

Respondent's reply

12. The respondent submitted that the complaint filed by the complainant before the Id. authority, besides being misconceived and erroneous, is untenable in the eyes of law. The complainant has misdirected himself in filing the above captioned complaint before this Id. authority as the reliefs being claimed by the complainants cannot be said to even fall within the realm of jurisdiction of this Id. authority.
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15. The respondent submitted that it is evident that the ‘agreement for sale’, for the purposes of RERA, 2016 as well as Haryana Rules, 2017 is the one as laid down in annexure-A, which is required to be executed inter-se the promoter and the allottee. It is a matter of record and rather a conceded position that no such agreement, as referred to under the provisions of RERA, 2016 and Haryana Rules, 2017 has been executed by and between the complainant and the



respondent company. Rather, the agreement that has been referred to, for the purpose of getting the adjudication of the complaint, though without jurisdiction, is the builder buyer's agreement, executed much prior to coming into force of 2016 Act. The adjudication of the complaint for interest and compensation, as provided under section-12, 14, 18 and section 19 of the Act *ibid*, has to be in reference to the agreement for sale executed in terms of the said Act and Haryana Rules 2017 and no other agreement. This submission of the respondent *inter alia*, finds support from reading of the provisions of the said Act as well as the said rules, including the aforementioned submissions.

16. The respondent submitted that the complainant has failed to bring on record anything contradictory or in violation of the provisions of RERA, 2016. Moreover, nowhere in the complaint any violation of the provisions of RERA, 2016 has been mentioned. Thus, the petition is liable to be dismissed solely on this ground.

17. The respondent submitted that they have necessary approvals to start the development of residential project and at no point of time has violated the provision of law. It is further submitted that the respondent got the environment



clearance for the said plotted colony in year 2016. However, the respondent had applied for such environmental clearances vide application on 03.01.2014. The concerned department took more than 2 years to grant NOC for environmental purposes. It is pertinent to mention that without obtaining the environmental NOC, no construction activity could be carried out by the answering respondent. Thus, such time period falls under the definition of force majeure, as there was no fault or intentional delay on the part of respondents. Such terms and conditions are mentioned in builder buyer agreement. The complainant satisfied himself and wishfully consented to all the terms and conditions as enumerated and detailed in the 'BBA' executed between the complainant and respondent. It is submitted that the complainant himself agreed to the clause no. 6, 7 and 8 of the BBA executed and thus in view of the same the principle of estoppel is operated against him in filing the present complaint. Thus, the complaint of the complainant is liable to be dismissed.



18. The respondent submitted that the entire consideration amount as alleged to be paid to the respondent is paid by complainant from own wish. The amount paid by the

complainant is from the money which he received from the respondent in the land collaboration deal. The complainant is very well aware and consented to all the terms and conditions of the BBA which was duly signed by him with own free will and consent.

19. The respondent further submitted that if the complainants had any issues or even otherwise, they ought to have approached for cancellation of the plot at any given time, however, the complainants never showed any disinterest or has approached the respondent for cancellation of the plot or for any other issues relating to the said plot. In spite, the complainants have made payment wilfully and that too subject to all the terms and conditions of executed BBA.

Determination of issues

After considering the facts submitted by the complainant, reply by the respondent and perusal of record on file, the authority decides seriatim the issues raised by the parties as under:

20. With respect to the **first and second issue** raised by the complainant, as per clause 3 of the builder buyer agreement dated 14.11.2014, the possession was stipulated to be handed



over within 3 years from date of signing of builder buyer agreement, i.e. by 14.11.2017. Thus, the respondent failed in handing over the possession on or before the said due date, nor paid the compensation stipulated under clause 9 of the agreement, thereby committing a breach of the said agreement. The project is registered. As per the RERA registration certificate, the revised date for committing possession is 08.10.2022. During the proceedings dated 10.01.2019, the proxy counsel for the respondent could not provide any information w.r.t. execution of any internal or external development work in the colony. Keeping in view the dismal state of affairs w.r.t. work at the project site, the authority finds no option but to refund the amount of Rs.56,02,500/- to the complainant along with interest at the prescribed rate of 10.75% per annum.

21. With respect to **third issue**, the project is registered with the authority vide registration no. 271 of 2017. Further, the said registration was made by the authority in due course after following proper procedure. Thus, this issue becomes infructuous.

22. The complainant made a submission before the authority



under section 34 (f) to ensure compliance/obligations cast upon the promoter as mentioned above.

The complainant requested that necessary directions be issued to the promoter to comply with the provisions and fulfil obligation under section 37 of the Act.

23. The complainant reserves his right to seek compensation from the promoter for which he shall make separate application to the adjudicating officer, if required.

Findings of the authority

24. **Jurisdiction of the authority-** The project "Vatika Express City" is located in Sector 88A and 88B, Gurugram, thus the authority has complete territorial jurisdiction to entertain the present complaint. As the project in question is situated in planning area of Gurugram, therefore the authority has complete territorial jurisdiction vide notification no.1/92/2017-1TCP issued by Principal Secretary (Town and Country Planning) dated 14.12.2017 to entertain the present complaint. As the nature of the real estate project is commercial in nature so the authority has subject matter jurisdiction along with territorial jurisdiction.

The authority has complete jurisdiction to decide the



complaint regarding non-compliance of obligations by the promoter as held in ***Simmi Sikka v/s M/s EMAAR MGF Land Ltd.*** leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

25. As per clause 3 of builder buyer agreement dated 14.11.2014, the due date of possession comes out to be 14.11.2017. The project is registered with the authority vide registration no. 271 of 2017(expression of phase-1) and the revised date of possession as per RERA registration certificate is 08.10.2022. However, during the proceedings dated 10.01.2019, the proxy counsel for the respondent could not provide any information w.r.t. execution of any internal or external development work in the colony. The complainant has made entire payment of Rs.56,02,500/- to the respondent but the respondent has miserably failed to deliver the unit in time. It is a dismal state of affairs w.r.t. work at the project site. In these circumstances, the authority finds no option but to refund the amount of Rs.56,02,500/- deposited by the complainant/buyer along with prescribed rate of interest, i.e. 10.75% per annum within a period of 90 days from the issuance of this order.



Decision and directions of the authority

26. The authority, exercising powers vested in it under section 37 of the Real Estate (Regulation and Development) Act, 2016 hereby issues the following directions to the respondent:

(i) The respondent is directed to refund to the complainants the principal sum of Rs. 56,02,500/- paid by them along with interest at the prescribed rate of 10.75% per annum on the amount deposited by the complainant. The interest will be given from date of receipt of payments till 10.01.2019 (date of disposal of complaint) to the complainant within a period of 90 days from the date of this order.

27. The complaint is disposed of accordingly.

28. The order is pronounced.

29. Case file be consigned to the registry.



(Samir Kumar)

Member

Haryana Real Estate Regulatory Authority, Gurugram

(Subhash Chander Kush)

Member

Dated: 10.01.2019

Judgement uploaded on 28.01.2019