



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

Complaint no. : 3323 of 2021
First date of hearing : 13.10.2021
Date of decision : 22.04.2022

Vipin Kumar Kukreja

R/o: - F-605, RMG Residency Ninex, Sector- 37C,
Gurugram, Haryana

Complainant

Versus

M/s Renuka Traders Private Limited.
Office at: B-2/3, S/F KH No. 8/8, Chatterpur, Extn.,
Nanda Hospital, New Delhi- 110074

Respondent

CORAM:

Shri KK Khandelwal
Shri Vijay Kumar Goyal

**Chairman
Member**

APPEARANCE:

Sh. Pradeep Kumar Khatana (Advocate)
Ms. Taniya Swaroop (Advocate)

**Complainant
Respondent**

ORDER

1. The present complaint dated 03.09.2021 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 provision 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.	Project name and location	"Aashiyara", Sector- 37C, Gurugram.
2.	Project area	5 acres
3.	Nature of the project	Affordable Group Housing Project
4.	DTCP license no and validity status	15- of 2018 dated 13.02.2018 valid upto 12.02.2023
5.	Name of licensee	Renuka Traders Private Limited
6.	RERA Registered/ not registered	Registered vide no. 26 of 2018 dated 28.11.2018
7.	RERA registration valid up to	31.01.2023
8.	Unit no.	103, 1 st floor, tower/block: T3 [Page no. 29 of complaint and annexure R-3, page 43 of reply]
9.	Unit measuring	644.200 sq. ft. [carpet area]
10.	Date of execution of buyer's agreement	Not executed
11.	Date of execution of allotment cum demand letter	26.06.2019 [Page no. 29 of complaint and annexure R-3, page 43 of reply]
12.	Payment plan	Time linked payment Plan

		[Page no. 26 of reply]
13.	Total consideration	Rs.26,19,300/- [As per payment plan page no. 26 of reply]
14.	Total amount paid by the complainant	Rs.6,81,000/- [As per receipt information page 37, 40 and 45 of complaint]
15.	Due date of delivery of possession	Cannot be ascertained
16.	Delay in handing over possession	Cannot be ascertained
17.	Demand letter and reminder raised by the respondent	20.06.2019, 10.07.2019, 31.07.2019, 29.08.2019, 16.09.2019, 22.10.2019, 02.12.2019, 13.01.2020, 28.01.2020, 19.02.2020 [page no. 41 to 51 of the reply]
18.	Final notice	16.03.2020 [page 52 of the reply]
19.	Date of cancellation notice	28.09.2020 [page 39 of complaint]
20.	Occupation certificate	Not obtained

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -

- I. That the real estate project named "Aashiyara" which is the subject matter of present complaint is situated at **Renuka Traders Pvt. Ltd, with license number unknown in village Gadauli Khurd, Sector-37C, District Gurgaon** therefore, the

authority does have the jurisdiction to try and decide the present complaint. it is submitted that the subject matter of the present complaint is with respect to cancellation of **unit bearing number 103 on 01st floor situated in T3 tower/block no. 3 BHK having area admeasuring 644.2 sq. ft. with 85.00 sq. ft balcony area in project "Aashiyara"** and violation of section 13 of The Real Estate (Regulation & Development) Act, 2016 for not providing agreement to sell and for not providing the position for the charged amount; therefore, it falls within the provisions of section 11, 12, 13, 14 and 15 of The Real Estate (Regulation & Development) Act, 2016 and The Haryana Real Estate (Regulation & Development) Rules, 2017.

- II. That the respondent had advertised itself as a very ethical business group that lives onto its commitments in delivering its housing projects as per promised quality standards and agreed timelines. That the respondent while launching and advertising any new housing project always commits and promises to the targeted consumer that their dream apartment unit/apartment will be completed and delivered to them within the time agreed initially in the agreement while selling the apartment unit /apartment to them. They also assured to the consumers like complainants that they have secured all the necessary sanctions and approvals from the appropriate government authorities for

the construction and completion of the real estate project advertised and sold by them to the consumers in general.

- III. That the respondent was very well aware of the fact that in today's scenario looking at the status of the construction of housing projects in India, especially in NCR, the key factor to sell any dwelling unit is the delivery of completed house within the agreed and promised timelines and that is the prime factor which a consumer would consider while purchasing his/her dream home. Respondent, therefore, used this tool, which is directly connected to emotions of gullible consumers, in its marketing plan and always represented and warranted to the consumers that their dream home will be delivered within the agreed timelines and consumer will not go through the hardship of paying rent along-with the installments of home loan like in the case of other units in market.
- IV. That the respondent and its officials further represented that the said project being developed by them is reserved for the Government employee, retired employee, or their dependents, which is evident from the name "Aashiyara"
- V. That somewhere in the month June 2019, the respondent through its marketing executives and advertisement through various medium and means approached the complainant with an offer to invest and buy a unit in the proposed project of respondent, which the respondent was going to launch the said project. The

respondent represented to the complainant that the respondent is a very ethical business house in the field of construction of apartment and apartment project and in case the complainant would invest in the project of respondent then they would deliver the possession of proposed unit on the assured delivery date as per the best quality assured by them. The respondent had further assured to the complainant that the respondent has already secured all the necessary sanctions and approvals from the appropriate and concerned government authorities for the development and completion of said project on time with the promised quality and specification. The respondent had also shown the brochures and advertisement material of the said project to the complainant given by them and assured that the allotment letter and unit buyer agreement for the said project would be issued to the complainant within one week of booking to be made by the complainant. The complainant while relying on the representations and warranties of the respondent and believing them to be true had agreed to the proposal of the respondent to book the apartment unit in the project of respondent.

- VI. That respondent arranged the visit of its representatives to the complainant, and they also assured the same as assured by the respondent to the complainant, wherein it was categorically promised by the respondent that they already have secured all

the sanctions and permissions from the concerned authorities and departments for the sale of said project and would allotted the unit in the name of complainant immediately upon the booking. Relying upon those assurances and believing them to be true, the complainant booked the said unit for the basic sales price of Rs.25,76,800/- in the said project. It was assured and represented to the complainant by the respondent that it had already taken the required necessary approvals and sanctions from the concerned authorities and departments to develop and complete the proposed project on the time as assured by the respondent. Accordingly, the complainant had paid the full amount against various receipts No mentioned below. For the sake of convenience below mentioned table is being produced.

Sr. No	Receipt Date	Payment made
1.	11/07/2019	Rs. 1,31,000/-
2.	18/06/2020	Rs. 2,00,000/-
3.	15/06/2020	Rs. 3,50,000/-
Total		6,81,000/-

the same was received by the respondent towards the booking amount and towards the consideration amount of the sale price of the said unit and payment schedule/account statement of total amount Rs.6,81,000/- thereof was issued by the respondent as booking amount.



- VII. That applicant had applied for the project of the respondent through a draw which was conducted on 13.06.2019. Based upon the draw, applicant had got one property mentioned in the contents of the petition of the said unit. Further, based upon that draw an acknowledgement was provided to the applicant in group housing colony proposed to be developed by the respondent under the affordable housing policy, 2013 of government of Haryana with the booking amount of Rs.1,31,000/- through cheque/demand draft number 011550 drawn on Axis bank.
- VIII. That applicant had received the letter dated 12.12.2018 bearing the draw was confirmed through the application number 1008 in the name of applicant. That applicant was provided with application form number 1008 and acknowledgement was duly furnished to him in that regard. That applicant had paid the money to the respondent through receipt number 0118 through cheque on 17.12.2018 for an amount of Rs.1,31,000/- and the same was confirmed by receipt dated 30.07.2019. That applicant was provided with customer ID-I-MP-AA-0098, the complainant submits that the respondent is guilty of deficiency in service as per Act. The complainant has suffered on account of deficiency in service by the respondent. The complainant is fully entitled to take the possession of the booked flat from the respondent company, as such the respondent is fully liable to



deliver the possession of the flat to the complainant with penalty amount.

- IX. That applicant received the allotment come demand letter on 26.06.2019 wherein a demand was raised by the respondent for an amount of Rs.5,30,373/-. That applicant repeatedly requested the respondent to enter into builder buyer agreement where in the terms and conditions can easily be set out with regard to the application number 1008 but responded miserably failed to provide any agreement to sell with regard to the booking amount paid by the applicant to the respondent.
- X. That, applicant was served with a letter dated 29.06.2019 wherein a letter was sent with the heading intimation for registration of agreement for sale, but no specific date was given a new copy of agreement to sell was provided to the applicant, hence the letter dated 29.06.2019 was false, frivolous and it was just sent to fill up the lacuna of their wrongdoings which they never intended to execute the agreement to sell. That not only this, but applicant had also received a letter dated 10.07.2019, wherein respondent one, had sent the corrigendum to allotment, demand letter 26.06.2019 wherein respondent unilaterally changed the CGST/GST/GST on the allotted unit of the applicant.
- XI. That due to this apprehension since respondent was changing the stand on one pretext to another, agreement to sell was repeatedly requested by the applicant but it was never executed



and provided to the applicant. Surprisingly, in letter dated 10.07.2019, respondent had given the condition that only upon payment of the remaining outstanding, the agreement to sale will be executed which was against the law and the contracting between the parties.

- XII. That the respondent had sent a reminder letter dated 31.07.2019 and had again served the payment request but applicant was adamant on execution of the agreement to sell but respondent was miserably failed to provide the same and was adamant in collection of the dues which was not agreeable to the applicant. The applicant had requested that only after the execution of the agreement to sell he would make the additional payment since he was not having the confidence with the respondent after hearing so many frauds in the real estate sector.
- XIII. That chronology, without giving the heed to the request of the applicant in order to furnish the builder buyer agreement, respondent had sent a reminder letter to on 29.08.2019 for the collection of dues without furnishing the agreement to sell then again subsequently reminder letter three was also served on 16.09.2019 but failed to provide the agreement to sell and continuously reminder letter fourth was sent on 22.10.2019.
- XIV. Then on 15.06.2020, applicant had made the payment of Rs.3,50,000/- through receipt number 1965 which was duly

accepted by the respondent. Then on 18.06.2020, applicant had made the payment of Rs.2,00,000/- through receipt number 1979 for an amount of Rs.2,00,000/- which was duly accepted by the respondent. Surprisingly, in view of the above facts and circumstances, respondent with a little motive had served a cancellation notice dated 28.09.2020 wherein the booking and allotment of the said unit was duly cancelled. Interestingly, respondent has received the amount as requested by the respondent and after receiving the payment they had served the cancellation notice to cause wrongful loss to the applicant.

- XV. In view of the above facts and circumstances, it is humbly requested by the applicant that application form number 1008 having a customer ID - **IMP -AA- 0098** may kindly be provided with builder buyer agreement and the position of the said unit may kindly be given in the absence of execution of the builder buyer agreement within three years from the date of execution of the allotment letter dated/acknowledgement of booking amount.
- XVI. That as per the provision of section 11 (3) of the Act 2016 respondent was supposed to provide the sanction plans, layout plans, along with specifications duly approved by the competent authority and the stage wise time schedule for the completion of the project including the provision for civic infrastructure like

water sanitation electricity but wherein respondent has miserably failed to provide those details to the applicant.

XVII. That as per the provision of section 13 of the Act 2016, respondent was not supposed to receive any deposit or advance without entering into agreement for sale, whereas respondent has accepted more than 10% of entire payment from the applicant towards the allotted unit but has not provided for agreement for sale and wrongly cancelled the unit of the applicant.

XVIII. That the complainant has undergone severe mental harassment due to the negligence on the part of them to deliver the unit on time agreed. The complainant had faced all these financial burdens and hardship from their limited income resources, only because of respondent failure to fulfil its promises and commitments.

XIX. That the cause of action accrued in favour of the Complainants and against the respondents on 28.09.2020, when the complainant booking for the said unit was cancelled by the respondent.

C. Relief sought by the complainant

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

- i. To provide the possession of the property bearing number 103, on 1st floor, situated in Tower/Block No. 3, admeasuring 664.200

sq. ft. with 85.00 sq. ft. balcony area of the said project and setting aside the cancellation letter dated 28.09.2020.

- II. To direct the respondent to pay an amount of Rs.5,00,000/- to the complainants for violation of section 13 of the Act 2016, respondent was not supposed to receive any deposit or advance without entering into agreement for sale.
- III. To direct the respondent to pay an amount of Rs.55,000/- to the complainant as cost of the present litigation.
- IV. Cost of the present complaint may also be awarded in favour of the complainant and against the respondent.
- V. Any other relief/order or direction, which this authority may deem fit and proper considering the facts and circumstances of the present complaint

D. Reply by the respondent

5. The respondent contested the complaint on the following grounds.

The submission made therein, in brief is as under: -

- I. That the complaint filed by the complainant, is absolutely frivolous, misconceived, *malafide* and an abuse of the process of this authority. That the complainant has failed to approach this Authority with clean hands, and the complainant lacks *bonafide* intents. The complainant has suppressed material facts.
- II. That the complaint filed by the complainant is deeply rooted in false hood and complainant is guilty of not only distorting and



suppressing material facts but also making false averments before this authority.

III. That at the threshold, the respondent humbly states and submits that the present complaint is wholly misconceived, prima facie proves the malafide intentions and bad conduct of the complainant and thus unsustainable in the eyes of law as well as on facts, and thus represents a gross abuse of the process of this authority as complainant is guilty of willfully suppressing, concocting, and circumventing material facts that makes the present complaint liable to be dismissed as such.

IV. That the instant complaint is without any cause of action. The fact of the case is as under:-

- That the respondent company i.e. **M/s Renuka Traders Pvt. Ltd.** is registered under the companies Act, 1956 having its registered office/principal place of business at A-25, Mohan Co-operative Industrial Estate, Sarita Vihar, New Delhi - 110044. The company is a law-abiding entity and a part of Imperia Group that having an impeccable reputation in the real estate industry and as a part of its business activity Company is currently developing an Affordable Residential Group Housing Project named as "**Aashiyara**" at Sector 37C, Gurugram.
- That the project '**Aashiyara**' is a Haryana Government monitored Affordable Group Housing Project being developed

in consonance with policy parameters as laid down in the Haryana Government Affordable Housing Policy 2013 dated 19.08.2013 and subsequent legislation amendments.

- That it is pertinent to mention here that the project "Aashiyara" is owned by the respondent company, having a clear title and ownership in the project land being developed in two phases total admeasuring 7.553125 acre situated in the revenue estate of village Gadauli Khurd, Sector-37C, in tehsil & District Gurugram, Haryana. The company possess all development approvals, (license, building plan, RERA certificate, and all other requisite approvals) from the very beginning. The development/construction activity is going on smoothly and closely monitored by the STP Office & DTP Office, Gurugram & Haryana RERA where periodical updates on development/construction milestones regularly submitted by the company.
- That being fully satisfied with all the terms and conditions of the allotment of unit in the said project, complainant submitted booking application no. 1008 dated 17.12.2018 enclosing the cheque amount of Rs.1,31,000/- to qualify for allotment of one unit of residential unit in said project Aashiyara.

- That it is also a matter of record that respondent company has till date adopted all the SOP's in-toto as laid down in AHP-2013 (as amended from time to time) while allotting the units in project - "Aashiyara". Below are dates on which respondent company through STP - Gurugram has conducted allotment draws for units in project - "Aashiyara."

S. No.	DRAW	DATE OF DRAW	NO. OF ELIGIBLE APPLICANTS
1.	DRAW -1	13.06.2019	317
2.	DRAW -2	19.12.2019	224
3.	DRAW -3	28.08.2020	122

- That complainant's unit was allotted as per the draw conducted on 13.06.2019 ('Draw - 1') wherein total 317 units have been allotted to the eligible applicants.
- The terms and conditions of allotment of unit are very well defined in the booking application form. It is pertinent to mention here that both application form and definitive agreement for sale have made in consonance with the terms contained in the AHP-2013 (as amended from time to time).
- The payment terms of booking/allotment of unit in project Aashiyara or in any other affordable group housing project in State Haryana is governed as per policy parameters laid down in the Affordable Housing Policy 2013 wherein the successful

applicant will be required to deposit additional 20% amount of the total cost of the flat at the time of allotment of flat. The balance 75% amount will be recovered in six equated six-monthly instalments spread over three-year period.

- That vide allotment cum demand letter dated 26.06.2019, the respondent company has called upon the complainant to complete the demanded monies within 15 days. However, the same has not been complied by complainant, the respondent was constrained to issue corrigendum to allotment letter dated 10.07.2019 to complainant followed by (i) reminder letter dated 31.07.2019 (ii) reminder letter- 2 dated 29.08.2019, (iii) reminder letter- 3 dated 16.09.2019, (iv) reminder letter- 4 dated 22.10.2019 to complainant.
- That vide letter dated 02.12.2019, respondent company issued demand letter to complainant seeking payment of instalment qua the allotment made pursuant to the draw conducted on 13.06.2019 which is again in consonance with the amendments made in the AHP-2013. A reminder letter for the payment of dues was further made vide letters dated 13.01.2020, 28.01.2020, 19.02.2020 & 16.03.2020.
- That no payments, whatsoever has been made by complainant till March 2020, respondent company vide its letter dated 16.03.2020 has asked complainant to complete the total

payment of Rs.9,48,252/- which includes the previous dues of Rs.5,59,435/- which supposed to be paid by the complainant immediately on the allotment of allotted flat in the said project.

- That again no payment was paid by complainant in terms of demand letter dated 16.03.2020. The various payment reminders as send to complainant are a matter of record that bears different dates i.e., 13.01.2020, 28.01.2020, 19.02.2020 & 16.03.2020. It is pertinent to mention here that the due date of payment as per original demand letter dated 16.06.2019 is 11.07.2019 and on those aspects the complainant has miserably fails to act as what is required under the AHP-2013 & executed agreement that payments of instalment is an essence of allotment and any default in timely payment of instalments will automatically leads to cancellation of allotment.
- That from bare perusal of annexure R-3(Colly) and annexure R-4 (Colly), respondent company has duly followed the principles of natural justice, equity and fairness and have given maximum opportunities to complainant to complete the payments as per the AHP-2013 & executed agreement but for the reasons best known the complainant, he has not make any payment.

- That since complainant herein failed to make the payment of sale consideration as per AHP-2013 & the executed agreement, respondent company was left with no other alternative, but to cancel the allotted unit. It is pertinent to mention here that prior to cancellation of the unit, as mandated under the Affordable Group Housing Policy, respondent company had issued a public notice in "Veer Arjun" published on 18.05.2021 as a final opportunity to complainant to pay and clear all outstanding dues in 15 days' time from the date of said issued public notice.
- That respondent company hereby states that the allotment in favour of complainant qua unit no. 103, 1st floor, in tower T3 in the project has been cancelled, as per the terms stated in policy 2013, in the records of respondent company. Further, after cancellation of the said unit, as per policy 2013, respondent company has re-allotted the unit, and thus, the said unit is no longer available for re-allotment to complainant.
- That since after cancellation of the allotment of complainant, respondent company has intimated time and again, to complainant that the amount deposited by the complainant shall be refunded to the complainant after deducting the forfeited amount as per policy 2013.

- V. That the present complaint is not maintainable in the present manner. It is most humbly submitted that this authority does not have the authority to adjudicate the present complaint no provision of the Act, 2016 in the present facts of the complaint. Respondent company followed the provisions of Assured Housing Policy, 2013 before cancelling the Unit, since the development of the said project is being developed as per policy 2013.
- VI. That complainant has intentionally leveled false allegations against the respondent company just to harass and extort money from the company by aiming to re-negotiate the payment terms with respondent company. That it is also a matter of record that there is hardly any disgruntled allottee of the said project who have filed any litigation or plaint against respondent company before any forum/authority which clearly gives a clear picture about the bonafide/honest trade practices adopted by respondent company while dealing with general public.
- VII. That it is also a matter of record that complainant did not make the timely payments as per the agreed terms and conditions within the stipulated period, the allotment would be consequently cancelled, and the earnest money amount would be forfeited as a result which is still lying with respondent company.

E. Jurisdiction of the authority

6. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.



E.I Territorial jurisdiction

As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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.

E.II Subject-matter jurisdiction

Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(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.

7. 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 complainants at a later stage.

F. Findings on the relief sought by the complainant



F. I To provide the possession of the property bearing number 103, on 1st floor, situated in Tower/Block No. 3, admeasuring 664.200 sq. ft. with 85.00 sq. ft. balcony area of the said project and setting aside the cancellation letter dated 28.09.2020.

8. There is nothing on the record to show that the respondent has applied for OC or what is the status of the construction of the subject project. So, in such a situation of ambiguity, no direction can be given to the respondent to handover the possession of the subject unit, as the possession cannot be offered till the occupation certificate for the subject unit has been obtained.

The complainant was allotted unit in the project of respondent "Aashiyara" situated in sector- 37G, Gurugram vide allotment letter dated 26.06.2019 for a total sum of Rs.26,19,300/-. Although an intimation for registration of sale has been sent by the respondent on 29.6.2019 but no BEA was executed between the parties. The complainant after a lapse of more than six months of issuance of allotment letter, started paying the amount due against the allotted unit and paid a total sum of Rs.6,81,000/- in instalments of Rs.1,31,000/-, Rs.3,50,000/- and Rs.2,00,000/- on 17.12.2018, 12.06.2020, and 13.06.2020 respectively. The complainant did not pay the remaining amount as per schedule of payment and which led to issuance of notice of cancellation by the respondent/builder dated 28.09.2020 attached at page 39 of complaint. According to clause 5(i) of the Affordable Group Housing Policy, 2013 is reproduce below: -



"If any successful applicant fails to deposit the instalments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due installments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi news-paper having circulation of more than ten thousand in the State for payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs 25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants failing in the waiting list".

While considering the documents placed on record by the complainant as well as respondent confirmed that demand letter and reminder dated 20.06.2019, 10.07.2019, 31.07.2019, 20.08.2019, 16.09.2019, 22.10.2019, 02.12.2019, 13.01.2020, 28.01.2020 and 19.02.2020 and finally on 16.03.2020. Later on, the unit was cancelled nearly after 6 months on 28.09.2020. The allottee even defaulted to make payment of 20% amount at the time of allotment i.e., on 20.06.2019 and made payment on 12.06.2020 i.e., merely after a year when the other two instalments also became due. On 11.09.2020, the respondent published a list of defaulters of payments in the daily Hindi newspaper "Veer Arjun" New Delhi. Therefore, it will not be wrong to state that respondent has not followed the prescribed procedure as per clause 5 (i) of the Policy 2013. Accordingly, the authority is of the consider view that the respondent/builder has followed the prescribed



procedure as per clause 5 (i) of the Policy, 2013 and in view of the same the cancellation letter dated 28.09.2020 is held to be valid.

9. As per cancellation clause of the affordable housing policy the respondent can deduct the amount of Rs. 25000/- only and the balance amount shall be refunded back to the complainant.

F.II Direct the respondent to pay an amount of Rs.5,00,000/- to the complainants for violation of section 13 of The Real Estate Regulation and Development Act, 2016, respondent was not supposed to receive any deposit or advance without entering into agreement for sale.

10. This relief becomes redundant in view of observations of the authority as above.

F.III To direct the respondent to pay an amount of Rs.55,000/- to the complainant as cost of the present litigation

11. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India, in case titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors.* (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. Therefore, the complainants are advised to approach the adjudicating officer for seeking the relief of compensation.

G. Directions of the authority



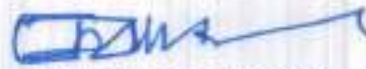
12. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- (i) The respondent is directed to refund the balance amount of complainant after deduction of Rs. 25000/- as per clause 5 (i) of the Policy 2013.
13. Complaint stands disposed of.
14. File be consigned to registry.

V.I - 
(Vijay Kumar Goyal)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 22.04.2022


(Dr. KK Khandelwal)

Chairman

HARERA
GURUGRAM