

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

Complaint No. 3434-2024

Date of Decision: 06.01.2026

Bhawna Narang R/o B-416, Sarita Vihar, New Delhi- 110076.

Complainant

Versus

1. M/s. Vatika Limited, address Vatika triangle, 4th floor, Sushant lok, phase-1, block-a, Mehrauli-Gurugram road, Gurugram, 122002.
2. M/s Piramal Housing Finance Limited, address 2nd Floor, Piramal Tower, Ganpatrao Kadam Marg, Lower Parel, Mumbai, Maharashtra-400013.

Respondents

APPEARANCE

For Complainant:

Ms. Kartikeya Rastogi, Advocate.

For Respondent no.1:

Mr. Shivaditya Mukherjee, Advocate.

For Respondent no.2:

Mr. Pushkar Rai Garg, Advocate.

ORDER

1. This is a complaint filed by Ms. Bhawna Narang (allottee), under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016) against M/s. Vatika Limited and M/s Piramal Housing Finance Ltd. (promoters) as per section 2(zk) of Act 2016.

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2. According to complainant, on 09.02.2018 she paid a booking amount of Rs.4 lacs for unit no. HSG-026-West End-7-GO2, admeasuring 1425 sq. ft. bearing booking ID 18-02-0291887. On 08.06.2018 upon representation of the respondent no.1, the complainant opted out of pre-EMI's amounting to Rs.14,500/-, relying on the assurances by respondent no.1 that the entire cumulative pre-EMI amount would be offset during the final settlement of the last installment for the housing unit.

3. That on 28.12.2018, she (complainant) and respondent no.1 entered into a Builder Buyer Agreement (BBA) for sale of the housing unit for a sale consideration of Rs.84,20,025/-. She (complainant) was given an allotment letter dated 11.02.2019 whereby she was allotted Unit No. HSG-026-West End-7-GO2 in Vatika's Turning Point Project. On 12.09.2019, respondent no. 1 induced the complainant to enter into a tri-partite agreement, to obtain a home loan from respondent no. 2 to facilitate timely payments for the unit. Respondent no. 2 started deducting the EMI's from the complainant's bank account irrespective of the fact that the possession of the housing unit had not been handed over to her.

4. That the complainant received an email from respondent no. 1 informing that the project has been delayed and expressed willingness to offer alternative remedy-to-move-in project options. That being aggrieved

with the acts of the respondent, she (complainant) filed a complaint bearing no. 3911 of 2023 before the Haryana Real Estate Regulatory Authority (in brief 'Authority') seeking refund of the entire amount paid by her (complainant) towards the purchase of the housing unit and the Hon'ble Authority vide order dated 15.05.2024 directed respondent no. 1 to refund the paid-up amount i.e. Rs.37,75,242/- along with interest at prescribed rate of 10.85% per annum from the date of deposit till its realization.

5. That the possession of the flat in question was to be delivered by respondent no. 1 by 05.05.2022, but the complainant was left in lurch by respondent no.1. During this interval, there has been substantial rise in real estate prices in the area of Gurugram, in relation to developed colonies in and around the property in question. It is apparent that respondent no.1 has certainly obtained unfair advantage by non-performance of its obligation for a considerable period and has caused wrongful loss to the complainant.

6. Citing the facts as mentioned above, the complainant has prayed for following reliefs: -

- i. To direct the respondents to pay compensation of Rs.8 lacs for mental agony;
- ii. To direct the respondents to pay compensation of Rs.24 lacs for loss of prospective earnings;

- iii. To direct the respondents to provide compensation of Rs.4 lacs towards the legal costs incurred in favour of the complainant;
- iv. To direct the respondents to pay compensation at the tune of Rs.8,80,000/- towards rent paid by the complainant since 2020 till date and further compensation by paying interest on the amount paid by the complainant till date;
- v. To direct the respondents to provide compensation of Rs.75,000/- for travel expenses incurred due to multiple visits to the construction site and respondent's offices.
- vi. To grant any other relief as may deem fit and proper.

7. The respondent no.1 contested the complaint by filing a written reply. It is submitted that the present complaint under reply is false and the contents of the same are denied in toto, unless specifically admitted therein. Nothing contained in the preliminary objections and in the reply on merits below may, unless otherwise specifically admitted, be deemed to be direct and tacit admission of any of the averments/allegations.

8. It is further plea of respondent no.1 that out of total sale consideration, complainant has paid an amount of Rs.37,75,242/- only till date. As per the agreement so signed and acknowledged by the respondent herein, provided and estimated time period of 48 months for completing of the construction for the Project i.e., and the same was stopped in the mid-way due to various hindrances, which were beyond the control of ^{it} the (respondent).

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9. That the interest awarded by the Ld. Authority in the complaint no. 3911 of 2023, will be of compensatory in nature. Therefore, awarding compensation and interest on the same transaction shall be considered injustice towards the respondent. Further, the complainant herein had been seeking the compensation of the loss of rental income which has been wrongly and voluntarily determined by the complainant.

10. That for the purpose of fair adjudication, the complainant herein may not be entitled for alleged loss of lease/rental since the year 2019, there were same rates of rent, which are prevailing as on the date of filing this complaint. That the evidence for legal expenses is not reliable as the invoices raised are unsigned.

11. Stating all this, respondent No.1 prayed for dismissal of complaint.

12. Both of the parties filed affidavits in support of their claims.

13. I have heard learned counsels appearing for both of parties and perused the record.

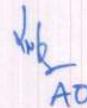
14. Admittedly a complaint filed by present complainant seeking refund of amount has already been allowed by the Authority. The respondent no.1 has been directed to refund the entire paid-up amount i.e. Rs.37,75,242/- received by it from the complainant against the allotted unit along with interest at the prescribed rate of 10.85% per annum from

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the date of deposit till its realization. The Authority did not accept the plea of respondent that the delay in completion of project was due to reasons beyond its control. During proceedings the Authority appointed Sh. Ramesh Kumar DSP (Retd.) as an enquiry officer to enquire into the affairs of the promoter regarding the project in question. Said enquiry officer submitted a report on 18.10.2022 observing that there was no construction of the project except some excavation work and pucca labour-^lquarters, built at the site. In this way, the respondent no.1 despite receiving sale consideration (in part), failed to complete the project in agreed time and hence liable to pay compensation in view of Section 18 (1) of the Act of 2016, apart from refund of amount, already allowed by the Authority.

15. Section 72 of the Act of 2016 prescribes following factors, which are to be taken into account by the Adjudicating Officer, to adjudge quantum of compensation: -

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default;
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.


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16. Apparently the respondent received part of sale consideration from the complainant but did not use the same in completion of building, as agreed and hence same achieved disproportionate gain and unfair advantage, causing consequential loss to the complainant.

17. As stated above, the complainant paid Rs.37,75,242/- out of total sale consideration of Rs.84,20,025/-. Learned counsel for complainant contended that prices of houses have been increased at-least three times in the area where unit in question is situated. If his client would have invested said amount with some other builder, residential unit purchased by her would have increased in value at-least three times. The complainant has put on file some screen-shots from sites of magic brick.com etc. One of such documents shows prices of 2 BHK flat in Vatika Seven Elements Sector 89A, Gurugram, as ~~priced at~~ Rs.1.98 Cr. Another such document shows increase in average prices from 8800 in October 24 to 9550 in September 2025.

I agree with the learned counsel for respondent claiming that these screen-shots are not conclusive evidence about prevailing prices in that area. When it is found that complainant is entitled for compensation in this regard, this forum has to decide quantum of compensation, on the basis of facts of the case and material on record, if no other evidence is adduced by

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any of parties. Even if the documents referred above as relied upon by the complainant, are not conclusive evidence of prices of houses in that area, claim of compensation cannot be thrown away. Judicial notice can also be drawn from the prevalent circumstances. AI Overview says that property appreciation in Gurugram, Sector 89 (where unit in question is situated) has been strong over the last 8 years, with flat prices seeing 100% increase over 5 years, driven by rapid development, Dwarka Expressway activities and new projects..... Considering same, in my opinion the money paid by the complainant to the respondent would have at least doubled till now, if invested with some other similar project. The complainant is entitled for compensation of Rs.38 lacs (rounded up) equal to the amount paid by same, to respondent No.1. It is worth repeating here that complainant has already been allowed refund of the amount paid by her by the Authority, in her complaint referred above. Respondent No.1 is thus directed to pay Rs.38 lacs to the complainant as compensation, for loss of prospective appreciation in the property/earnings.

18. Complainant has requested for compensation of Rs.8 lacs for mental agony. Apparently, when respondent did not make any effort to start construction even despite receiving part sale consideration from the complainant, all this caused mental harassment and agony in her mind,

Rs.8 lacs appears to be excessive. Complainant is allowed a sum of Rs.1 lac for mental harassment and agony, to be paid by the respondent No.1.

19. Complainant has further prayed for compensation of Rs.4 lacs towards legal costs. No court fee is required for filing a complaint before the Authority. However, it is apparent from the record that complainant was represented by a lawyer. Same is allowed a sum of Rs.50,000/- as cost of litigation, Rs.4 lacs appears to be excessive.

20. When complainant has already been allowed compensation for appreciation in prices in real estate, no reason to allow compensation for rent allegedly paid by the complainant or for loss of prospective earnings. Personal appearance of complainant was never asked for. Same was represented by a lawyer. Considering all this, no reason to allow compensation in the name of travel expenses. Request in this regard is also declined.

21. Complaint in hands is thus disposed of. Respondent No.1 is directed to pay amounts of the compensation mentioned above, along with interest at rate of 10.85% per annum from the date of this order, till realization of this amount. Admittedly, no sale consideration was received by respondent no. 1 and latter was not responsible for completion of

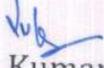
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project/unit. No case for compensation is made out against respondent

No.2. Prayer for compensation against respondent no. 2 is thus dismissed.

22. File be consigned to the record room.

Announced in open court today i.e. on 06.01.2026.


(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate
Regulatory Authority,
Gurugram.

Present: Ms. Kartikeya Rastogi, Advocate for complainant.
Mr. Shivaditya Mukherjee, Advocate for respondent no.1.
Mr. Pushkar Rai Garg, Advocate for respondent no.2.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
06.01.2026