

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

Complaint no. :	3675 of 2023
Date of Filing of complaint:	18.08.2023
Date of Decision:	21.11.2025

Meenakshi Sharma Through SPA
Ghanshyam Sharma
R/o: - H. No. 2676, Sector 23

Complainant

Versus

M/s Vatika Ltd.
Office address: Vatika Triangle, 4th Floor,
Sushant Lok Phase I, Block A, MG Road,
Gurugram – 122002.

Respondent

CORAM:
Shri Arun Kumar

Chairman

APPEARANCE:
Ashish Budhiraja
Dhananjai Jain

Advocate for the complainant
Advocate for the respondent

ORDER

1. The present complaint 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 provisions of the Act or the Rules and regulations made there under or to the allottees 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. N.	Particulars	Details
1.	Name and location of the project	Vatika India Next 2 Aspiration at Sector-88B, Gurugram.
2.	Project area	19.70 Acres
3.	Nature of Project	Residential
4.	DTCP license no. and validity status	13 of 2022 dated 24.02.2022 Valid up to 23.02.2027 152 of 2022 dated 29.09.2022 Valid up to 28.09.2027
5.	Rera registered/ not registered and validity status	Registered (for Affordable residential plotted colony under DDJAY) Vide registration no. 130 of 2022 dated 23.12.2022 Valid up to 30.06.2024
6.	Expression of interest	12.07.2021 [Page 28 of complaint, for sale consideration of Rs. 97,64,664/-]
7.	New Expression of Interest signed on	12.07.2021 [Page 31-33 of complaint, for sale consideration of Rs. 87,88,198/-]
8.	Allotment letter	Not available
9.	Unit No.	Plot no. 41, corner of street B2/B3 Aspiration [Page 32 of complaint]
10.	Unit area admeasuring	136.76 sq. yds. [Page 32 of complaint]
11.	New Plot no. allotted admeasuring	(160 sq. yards)
12.	Date of buyer agreement	Not executed

13.	Possession clause	N.A.
14.	Due date of possession	Cannot be ascertained
15.	Total Sale Consideration	Rs. 87,88,198/- [as per EOI on Page 32 of complaint]
16.	Amount paid by complainant	Rs.14,76,000/- [Rs.9,76,000/- (As per expression of interest for plot and as admitted by respondent, page 32 of complaint + Rs.5,00,000/- page 35 of complaint) (as per written submissions filed by complainant)]
17.	Occupation certificate	(To be ascertained)
18.	Intimation of possession	(To be ascertained)
19.	Letter for cancellation of Expression of Interest due to non-payment	07.09.2022 [Page 15 of reply]

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint:
 - i. That the present complaint is being filed by Sh. Ghanshyam Sharma, son of Shri. Jaideo Prasad Sharma, the special power of attorney holder of Meenakshi Sharma.
 - ii. It is submitted that in 2021 the respondent had launched its plotted colony project i.e. Vatika India Next 2, Sector-88B, Gurugram, Haryana. The respondent through public advertisements relating to the said project represented that these developments were inspired by the dreams of consumers and that they shall deliver the finest quality and set new benchmarks in the industry. The respondent commenced pre booking in its forthcoming multi acres residential township in Gurugram without obtaining the license for the development from Town & Country Planning Haryana department. The respondent



approached the complainant making fancy claims in regard to the project and the respondent lured the complainants for booking the unit in the aforesaid project of the respondent stating that the project is best in Gurugram and reasonably priced.

iii. That being lured by such representations and assurances made by the respondent, the complainant decided to put their life savings and hard earnings in the said project. The complainant paid an amount of Rs. 9,76,000/- as booking amount for the plot no. 41, corner of street B2/B3 admeasuring 136.76 sq. yds. and same was acknowledged by the respondent. An Expression of Interest EOI was signed between the parties for the plot no. 41 corner of street B2/B3 admeasuring 136.76 sq. yds. which indicates the total cost of the plot as Rs. 97,64,664/-. The same was confirmed by the representative of the respondent Mr. Rajiv Pathania through email That at the time of payment of the second instalment for the plot the respondent insisted the complainant to pay the instalment amounting to Rs. 9,76,466/- in cash to which complainant agreed and paid the said amount of Rs. 9,76,466/- to the respondent in cash in their office which was duly acknowledged by the respondent. That it is pertinent to mention here that respondent requested to sign another EOI for the same plot after deduction of the amount given in cash to the respondent. The total cost of the plot is Rs. 87,88,198/-.

iv. That the complainant approached the respondent several times for the execution of the builder buyer agreement. The complainant has been visiting the respondent's office as well as construction site and pursuing progress of the projects from month on month, however, there has been no progress. Moreover, the complainant was misled and told

- information, which is vague and conflicting and that too is given in a piecemeal manner by the representatives of the respondent.
- v. That the respondent has failed to execute the BBA or agreement to sale with respect to the purchase of the above said plot, which clearly reveals its mala fide intentions. It is pertinent to mention here that the respondent has received 20% payment for the said plot.
- vi. That the complainant again visited the office of the respondent for execution of BBA of the plot and met Mr. Rajiv Pathania from the sales team of the respondent. That the complainant was offered a new plot at the same price admeasuring 160 sq. yds. That Mr. Rajiv assured and promised the complainant that he will get the plot number allotted and execute the BBA and complainant has to make the 30% more payment to which the complainant agreed. That complainant paid an amount of Rs. 5,00,000/- to respondent for the plot. and email for the same was sent by the complainant to respondent. But to the utter shock of the complainant neither he received any statement nor any plot number and no BBA is executed till date with the complainant for the plot no.41 street B2 or the plot admeasuring 160 sq. yds.
- vii. That the registration of the said project has also been granted by the RERA to the respondent in December, 2022, however, no steps have been taken by the respondent to allot the plot to the complainant or execute the BBA for any of the plots.
- viii. That the complainant tried to contact the senior management of the respondent several times however they always remained untraceable and unreachable, and the representatives kept the complainant on tenterhooks to gain more time. The true fact is that despite the lapse of

so much time, there is no sign of allotment as yet, despite the assurances given.

ix. That it is now evident that the respondent has clearly misrepresented the facts to suit their own needs and the same further shows the mala fide intentions and unfair trade practice. Enticed by respondent's false promises in a time of need, the complainant inadvertently agreed to buy plot in the project of the respondent. Therefore, the respondent failed to complete its obligations which it had promised and hence the respondent is liable for compensation/damages as are constantly being incurred by the complainant in terms of loss of interest and rent. It has also come to the notice of the complainant that many people have been allotted plots and BBA is executed but the complainant has not been allotted the plot despite having made the payment as per the demands raised.

x. That It is submitted that the respondent has defrauded the complainant and induced the complainant to part with his hard-earned money by making false and misleading representations, thereby unjustly enriched itself to the prejudice of the complainant.

xi. That the respondent betrayed the faith of the allottees, it is submitted that the respondents has been illegally retaining the amount paid by the complainant for the last several years and when the complainant visited the project site of the respondent and was shocked to look at the state of affairs. No work was being carried out by the respondent. Only the partial structure was erected by the respondent. That the complainant used to telephonically ask the respondent about the progress of the project and the respondent always gave false impression that the work is going in full mode and accordingly asked for the payments which the

complainant gave on time and the complainant when visited to the site was shocked & surprised to see that construction work is not going on and no one was present at the site to address the queries of the complainant. It appears that respondent has played fraud upon the complainant. The only intention of the respondent was to take payments for the plot without completing the work and not handing over the possession on time.

- xii. That the complainant tried to approach the respondent to execute BBA of the plot as soon as possible to avoid any further loss of finances but it was of no use. The illegal, unethical and fraudulent actions of the respondent had led to great physical exhaustion, mental torture and financial losses to the complainant.
- xiii. That despite receiving of 25% approximately payments on time for all the demands raised by the respondent for the said plots and despite repeated requests and reminders over phone calls and personal visits of the complainant, the respondent has failed to execute the BBA of the plot with the complainant within stipulated period.
- xiv. That due to this omission on the part of the respondent the complainant has been suffering from disruption on his working arrangement, mental torture, and agony and also continues to incur severe financial losses.
- xv. That the delivery of possession of the aforementioned plot allotted to the complainant has been delayed due to non-completion of the said project by the respondent on time due to illegal misappropriation of the funds, callous attitude and mala fide of the respondent.

C. Relief sought by the complainant:

4. In view of the facts mentioned above, the complainant prays for the following relief:

- i. Direct the respondent to execute the BBA.
- ii. Direct the respondent to allot the plot admeasuring 160 sq. yds. In the same project and to handover the possession of the plot and register conveyance deed.
- iii. Direct the respondent to pay delay possession charges.
- iv. Direct the respondent to pay the cost of present litigation amounting to Rs. 1,00,000/-.

D. Reply by the respondents.

5. The respondent has contested the complaint on the following grounds.
 - i. That the complainant has filed the present compliant with oblique motive of harassing the respondent company and to extort illegitimate money while making absolutely false and baseless allegations against the respondent.
 - ii. The complainant has not been allotted any plot till date as the complainant had only submitted an expression of interest requesting the respondent to allot a plot in the said project "Aspirations". The case of the complainant is only limited that he had expressed interest in booking a plot with the respondent company and had made a pre-deposit of Rs. 9,76,000/- towards the same.
 - iii. That the complainant has not made any further payment to the respondent. The respondent has never asked for any cash payment to the complainant. Further, the respondent is a well reputed company and as a matter of practice only accepts payments through banking transaction. Therefore, the complainant is falsely trying to arm twist the respondent by alleygating that she has made payment of Rs. 9,76,000/- to the respondent company in cash. Further, as a matter of practice the respondent company if would have received any payment against any booking would always issue a valid receipt of the said amount. However, in the present case the complainant has only annexed receipt for 1" pre booking amount which is a sum of Rs. 9,76,000/- and none

other further alleged payments are supported by payment receipts. It is required to be noticed that the complainant has not even annexed any emails/communications regarding seeking any payment receipts as well from the respondent company. It clearly shows that the complainant is making a false and fabricated story which is after thought for the sake of arm twisting the respondent that the complainant has paid a sum of Rs.9,76,000/- in cash to the respondent.

iv. The complainant has not even annexed any payment receipts along with his complaint. As a matter of fact, the respondent always issues a payment receipt to all its homebuyers and never accepts any cash amount from any homebuyer. However, in the present case as the complainant has alleged that she has further given Rs. 5,00,000/- to the respondent in December 2022, this in itself states that the complainant is trying to build up a false and fabricated story to entangle the respondent and to extract and extort money from the respondent. It is grossly false and hence denied that any such payment of Rs. 5 lakhs were ever paid by the complainant to the respondent. It is matter of record that the respondent company has never received any amount in cash and that to at a hotel place. The respondent company is a reputed organization and has its office in Gurugram and it shall never ask anyone to give any cash amount against the booking Furthermore; the respondent has never demanded the any amount to the complainant. The complainant should be put to strict proof to provide the demand letters raised by the respondent to the complainant. This entire bundle of lies is made up by the complainant to misled this Hon'ble Authority. The complainant has not annexed any demand letter, any payment receipts in regards to the alleged payments and therefore the

complainant is just trying arm twist the respondent by filing the present case.

- v. That merely annexing some random WhatsApp chats with some unknown person does not become a ground or proof of payment that has been made by the complainant to the respondent. Therefore, this is a cooked-up story just to extort money from the Respondent.
- vi. That the complainant has even not come forward to make further payment and has not entered into any builder buyer agreement and thus has no concrete agreement between the parties therefore the penalty of interest cannot be levied upon the respondent. That the respondent has also issued a cancellation notice dated 07.09.2022 as the complainant had not made the payment of the said unit as per the payment schedule.
- vii. That the respondent has never issued any allotment letter to the complainant as the complainant had never confirmed for booking his investment in Sector 88B, Gurgaon and therefore the issue of handing over of possession does not arise in this case.

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.1 Territorial jurisdiction

7. 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

8. 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) The promoter shall-

(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.

9. 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 complainant at a later stage.

F. Findings on the relief sought by complainant:

- i. Direct the respondent to execute the BBA.
- ii. Direct the respondent to allot the plot admeasuring 160 sq. yds. In the same project and to handover the possession of the plot and register conveyance deed.
- iii. Direct the respondent to pay delay possession charges.
- iv. Direct the respondent to pay the cost of present litigation amounting to Rs. 1,00,000/-.

10. The above-mentioned reliefs are interrelated to each other. Accordingly, the same are being taken up together for adjudication.

11. The complainant in the present complaint is seeking relief w.r.t the execution of builder buyer agreement and for handing over of physical

possession of the unit for the alleged non allotted plot bearing no. 41, stated to be measuring 136.76 sq. yds. (160 sq. yds.) in the project 'Vatika India Next 2', sector-88B, Gurugram. The complainant further states that it has made a payment of Rs. 14,76,000/- towards the said unit.

12. The respondents have categorically denies all the allegations. The respondent's states that the complainant was never allotted any unit, including the unit in question. The complainant has only submitted expression of interest which was an offer to further formalities not an allotment. The complainant failed to complete the required booking formalities including selection of unit and has never came forward to execute builder buyer agreement between the parties. Therefore on 07.09.2022 the respondents cancelled the booking of the unit of complainant.

13. On consideration of the documents available on record and submissions made by the parties, the Authority observes that the complainant alleges that he had booked a unit in the respondent's project and made certain payments towards the same. However, he has failed to produce any document that would legally establish an allotment in his favour. Moreover, the complainant has stated that he made several calls to the respondents to execute the builder buyer agreement but there are no documents on record to substantiate the said fact. There is no allotment letter and no builder-buyer agreement was ever executed between the parties. Section 2(d) of the RERA Act, 2016 defines an "allottee" as under:

"...the person to whom a plot, apartment or building...has been allotted, sold...or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment... but does not include a person to whom such plot...is given on rent."

14. In the absence of any documentary proof of allotment or contractual relationship between the complainant and the promoter, the complainant does not fall within the definition of an 'allottee' under Section 2(d) of the Act. Therefore, the question of granting possession and awarding interest does not arise and the present relief sought by the complainant is not maintainable under section 31 of the Real Estate (Regulation and Development) Act, 2016.
15. Complaint as well as applications, if any, stands disposed off accordingly.
16. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority,
Gurugram

Dated: 21.11.2025

HARERA
GURUGRAM