



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 2928 OF 2022

Vandana Khattar

....COMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)

....RESPONDENT

2. COMPLAINT NO. 2929 OF 2022

Pravina Verma

....COMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)

....RESPONDENT

3. COMPLAINT NO. 2930 OF 2022

Ashwini Setya HUF

....COMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)

....RESPONDENT

4. COMPLAINT NO. 2931 OF 2022

Kishan Chand Setya HUF

....COMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)

....RESPONDENT

5. COMPLAINT NO. 3006 OF 2022

Aparna Khandelwal & Aviral Khandelwal

....COMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)

....RESPONDENT

6. COMPLAINT NO. 3007 OF 2022

Chandra Shekhar & Shashikala ChoudharyCOMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)RESPONDENT

7. COMPLAINT NO. 3227 OF 2022

Suman ChauhanCOMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)RESPONDENT

CORAM:	Parneet Singh Sachdev	Chairman
	Nadim Akhtar	Member
	Dr. Geeta Rathee Singh	Member

Date of Hearing: 14.11.2024

Hearing: 8th in all cases.

Present: - Ms. Shreya Narayan, Counsel for the complainant
through VC in all cases.
Ms. Vertika H. Singh, Counsel for the respondent.

ORDER (PARNEET S SACHDEV-CHAIRMAN)

1. As per office record, respondent had filed its reply to the amendment applications placed on record by complainant in registry on 04.11.2024

wherein it is stated that complainants are seeking material amendments in the prayer clause which is not allowed under RERA Act, 2016. As per respondent, legal remedy available to complainants is that they should withdraw the present complaints and file fresh complaint for the amended reliefs sought by them.

2. Today, ld. counsel for complainants clarified that complainants in captioned complaints are now praying for possession along with execution of conveyance deed and assured return. Complaints be proceeded further for these reliefs.
3. In respect of amendment of relief sought, Authority observes that complainants are at liberty to amend the relief sought at this stage as it does not cause any harm/loss to respondent. In support, reference is made to para 16 and 17 of judgement dated 21.07.2020 passed by Hon'ble Real Estate Appellate Tribunal in Appeal no. 349/2019 titled as 'M/s Cosmos Infra Engineering India Pvt Ltd vs Teena Sood & Varun Sood'. Relevant paras are reproduced below for reference:-

"16. We do not find any substance in the contentions raised by the learned counsel for the appellant that the respondents/allotees could not give up the claim at the appellate stage. The claim can be abandoned or substituted or scale down at any stage of the lis. Though the strict provisions of the Code of Civil Procedure, 1908 are not applicable to the proceedings under the Act, yet the principles provided therein are the important guiding factors. Order XXIII Rule 1(1) of the C.P.C reads as under:-

*" ORDER XXIII
WITHDRAWAL AND ADJUSTMENT OF SUITS*



1. Withdrawal of suit or abandonment of part of claim- At any time after the institution of a suit, the plaintiff may as against all of any of the defendants abandon his suit or abandon a part of his claim.

Provided that where the plaintiff is a minor or other person to whom the provisions contained in rule 1 to 14 of Order XXXII extend, neither the suit nor any part of the claim shall be abandoned without the leave of the Court"

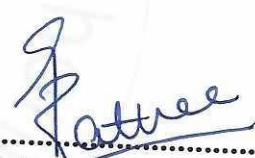
17. The aforesaid provisions clearly show that at any time after the institution of the suit, the plaintiff may abandon his suit or a part of his claim against all of any of the defendants. Thus, the respondents/allotees being dominus litis can choose to abandon the relief of refund and to claim the alternative/substituted relief for grant of interest for delayed possession at any stage, which is clearly an exercise by the respondents/allotees within the purview of Order XXIII Rule 1 (1) C.P.C and is legally permissible. Reference can be made to cases Shri Umakant B.Kenkre & Another vs Shri Yeshwant P. Shirodkar & others, 1999(30 BomCR 611 and Gurmeet Kaur & others versus Hardeep Singh and another, 2005 (2) R.C.R (Civil) 149."

4. Further, in respect of relief of possession and conveyance deed, the respondent is directed to provide the status of unit as to when the respondent can deliver actual physical possession of units to respective complainants by earmarking their allotted unit as occupation certificate for Tower-B in which complainant's unit are located had already been received on 14.10.2016. Said status be provided by respondent before the next date of hearing. In case the status is not provided, the case may be decided on merits based on documents on record.
5. In respect of assured return, it is pertinent to mention here that Id. Counsel for the respondent apprised the Authority that respondent-promoter had filed a petition before Hon'ble Punjab and Haryana, High



Court vide CWP No. 26740 of 2022 titled as Vatika Ltd v. Union of India and Anr, which is now listed for hearing on 11.03.2025, wherein the question relating to jurisdiction of this Authority to decide the matters pertaining to assured returns is pending for adjudication.

6. Learned counsel for the respondent further stated that judicial propriety demands that when the matter is under consideration before a higher court, the lower courts, tribunals and authorities should refrain from passing any further orders and should wait for the outcome of the appeal under consideration of the higher court.
7. Keeping in view the aforesaid circumstances, the Authority decides to await the outcome of the writ petition.
8. Cases are adjourned to 03.04.2025 for arguments.


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DR .GEETA RATHEE SINGH
[MEMBER]


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NADIM AKHTAR
[MEMBER]


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PARNEET SINGH SACHDEV
[CHAIRMAN]