

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

**Complaint no.- 1182 of 2019  
Date of First hearing- 21.11.2019  
Date of decision- 22.01.2020**

**Mr. Sunder Lal**

**R/o. VPO Badshahpur, Mohalla Ahirwar,  
Near purani chupal,  
Tehsil and District Gurugram.**

**Complainant**

**Versus**

**M/s. JMD Limited**

**Corporate Office:- JMD Square,  
3<sup>rd</sup> floor, main Mehrauli Gurugram Road,  
Gurugram (Haryana)**

**Respondent**

**CORAM:**

**Shri Samir Kumar**

**Member**

**Shri Subhash Chander Kush**

**Member**

**APPEARANCE.**

**Shri Arvind Yadav**

**Advocate for the complainant**

**None**

**For the respondent**

**ORDER**

1. The present complaint dated 03.04.2019 has been filed by the complainant/allottee in Form CRA 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 to the allottee as per the agreement for sale executed inter se them.

2. The particulars of the project, the details of sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:-

S.No.	Heads	
1.	Project name and location	JMD Suburbio, Sector 67, Gurugram
2.	Project area	4.2375 acres
3.	Nature of project	Commercial complex
4.	RERA registered/ not registered	Unregistered
6.	DTCP license No. & validity status	291 of 2007 dated 31.12.2007 for 3,22,986 sq. ft. FSI Valid/renewed upto 30.12.2019
7.	Name of licensee	M/s. Ansal Properties and Infrastructure Ltd.
8.	Unit no., Tower no.	CW-40
9.	Carpet area	762.29 sq. ft. (super area)
11.	Date of execution of commercial premises buyer's agreement	23.08.2010 <b>(Pg. 12 of the complaint)</b>
12.	Payment plan	Construction linked payment plan

13.	Total sale consideration	Rs. 68,86,700/- (as per SOA dated 26.12.2018, Pg. 24 of the complaint)
14.	Total amount paid by the complainant	Rs. 62,92,521/- (as per SOA dated 26.12.2018, Pg. 24 of the complaint)
15.	Due date of delivery of possession as per agreement	<b>13.05.2017</b>  (Clause 15 – 3 years from the date of sanction of revised building plan + 6 months' grace period) Note – Building plans was sanctioned on 13.11.2013, as per respondent's version in similar case no. 550-2019.
19.	Date of offer of possession	03.12.2018 (Pg. 25 of the complaint)
16.	Period of delay in handing over possession till offer of possession i.e. 03.12.2018	1 year, 6 months and 19 days.
17.	Status of project (ongoing/complete)	Occupation certificate received on 18.10.2018 for 4.237 acres
20.	Reliefs sought (in specific terms)	<ul style="list-style-type: none"> <li>Direct the respondent to give interest to the complainant on the amount deposited at the rate of 18% p.a. for every month of delay from the due date of possession till handing over of possession.</li> </ul>

3. As per the commercial premises buyer's agreement in question vide clause no. 15 the possession was to be handed over within a period of 3 years from the date of sanction of revised building plans plus

grace period of six months which comes out to 13.05.2017. The relevant clause of the commercial premises buyer's agreement reads as under:

“THAT the possession of the said premises is proposed to be delivered by the Company to the Unit Allottee(s) within three years from the date of sanction of revised building plan or further extended period of six (6) months after expiry of 36 months as agreed above except the force majeure circumstances.....’

4. Possession of the unit has been offered on 03.12.2018. However, it is the allegation of the complainant that the respondent has failed to give physical possession of the unit as per the agreement hence he is entitled to get interest @ 18% p.a. on delayed possession. Further, the complainant has submitted that the respondent was charging delayed penal interest @ 18% p.a. on the delayed payments of instalment which was unfair. Hence, this complaint.
5. On the date of hearing the Authority explained to the respondent/promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty. However, despite service of notice the respondent has failed to file reply to the complaint and also failed to put their appearance on the date of hearing. Therefore, the Authority left with no other option proceeded exparte against them.
6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents.

7. The Authority on the basis of information and explanation and other submissions made and the documents filed by complainants is of considered view that there is no need of further hearing in the complaint.
8. The Act is to protect the rights of the stake-holders i.e. the promoter, allottee and the real estate agent as provided under the Act and also to balance their interest as per its provisions. The Authority is empowered to not only monitor the projects but also to ensure their timely compliance and in case where the projects are held up or stopped to take steps so that these are completed in time and interests of allottees are protected.
9. On consideration of the circumstances, the evidence and other record and submissions made by the complainants and based on the findings of the authority, the Authority is satisfied that the respondent is in contravention of the provisions of the Act. Accordingly, it is the failure of the promoter to fulfil his obligations, responsibilities as per the commercial premises buyer's agreement dated 23.08.2010 to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) of the Act on the part of the respondent is established.



10. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act :-

- The respondent is duty bound to pay the interest at the prescribed rate i.e. 10.20% p.a. for every month of delay from the due date of possession i.e. 13.05.2017 till the offer of possession i.e. 03.12.2018 within 90 days from the date of this order.

11. The complaint is disposed of accordingly.

12. Case file be consigned to the registry.

  
**Samir Kumar**  
**(Member)**

  
**Subhash Chander Kush**  
**(Member)**

Haryana Real Estate Regulatory Authority, Gurugram

Date: -22.01.2020

Judgement uploaded on 29.01.2020

