

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

Complaint no.: 4312 of 2021/
3736 of 2019
Date of filing complaint: 11.09.2019
First date of hearing: 23.10.2019
Date of decision: 08.07.2021

Shri Yamnish Kaul R/O: - H.No. 2127, Sector-46, Gurgaon	Complainant
Versus	
M/s S.S. Group Pvt. Ltd. Regd. Office at: - Ss House, plot no. 77, sector-44, Gurugram-122003	Respondent

CORAM:	
Dr. K.K. Khandelwal	Chairman
Shri Vijay Kumar Goyal	Member
APPEARANCE:	
Ms. Monica Chugh	Advocate for the complainant
Sh. Dhruv Dhutt Sharma	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 provision 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

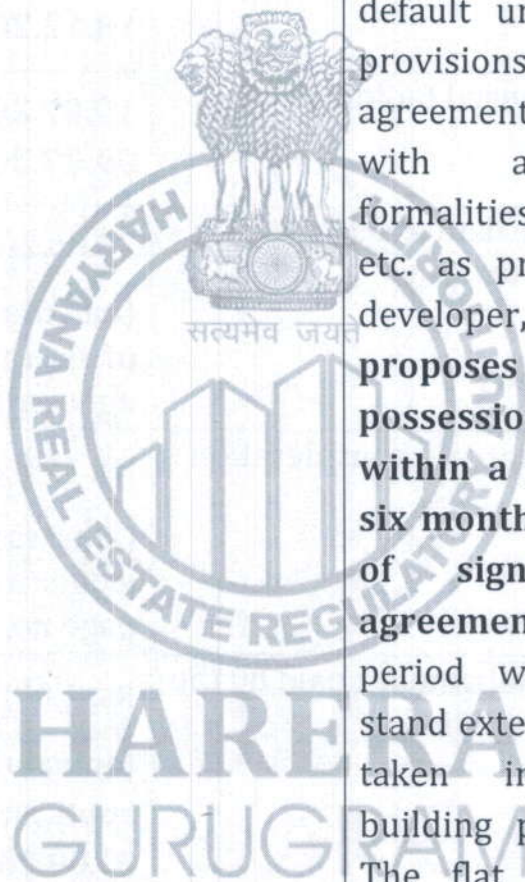
2. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.no.	Heads	Information
1.	Project name and location	The Coralwood and Almeria, Sector -84, Gurugram.
2.	Unit no.	7B, 1 st Floor, block-B (BBA on page no. 27 of complaint)
3.	Unit admeasuring	2000 sq. ft. (BBA on page no. 27 of complaint)
4.	Allotment letter	08.05.2012 (page no. 23 of the complaint)
5.	Date of execution of the buyer's agreement	23.06.2012 (on page no. 26 of complaint)
6.	Possession clause	8. Possession



8.1: Time of handing over the possession

8.1 (a) subject to terms of this clause and subject to the flat buyer(s) having complied with all the terms and conditions of this agreement and not being in default under any of the provisions of this agreement and complied with all provisions, formalities, documentation etc. as prescribed by the developer, **the developer proposes to handover the possession of the flat within a period of thirty six months from the date of signing of this agreement.** However, this period will automatically stand extended for the time taken in getting the building plans sanctioned. The flat buyer(s) agrees and understands that the developer shall be entitled to a grace period of 90 days, after the expiry of thirty-six months or such extended period , for applying and obtaining occupation certificate in respect of the





		Group Housing Complex. (Emphasis supplied).
7.	Payment plan	Construction linked plan (annexure -1 of BBA on page no. 41 of the complaint)
8.	Building plan	19.12.2012 valid upto 18.12.2016
9.	Revised building plan	10.07.2018 valid upto 09.07.2023
10.	Due date of delivery of possession	23.06.2015 (calculated from the date of signing of builder buyer agreement)
11.	Total sale consideration	Rs. 1,08,62,000/- (annexure R-6 vide applicant ledger dated 27.09.2019 on page no. 46 of the reply))
12.	Total amount paid by the complainant	Rs. 1,07,76,011/- (annexure R-6 vide applicant ledger dated 27.09.2019 on page no. 46 of the reply))
13.	Occupation certificate	17.10.2018 (page no. 37 of reply)
14.	Offer of possession	20.08.2018 (page no. 105 of complaint)
15.	Grace period utilization	As per the clause for



	<p>possession , the developer shall be entitled to a grace period of 90 days, after the expiry of thirty six month(36) months or such extended period (for want of building plan) for applying and obtaining the occupation certificate in respect of the Group Housing Complex. The promoter has not applied for occupation certificate within the time limit prescribed In the builder buyer agreement. As per the settled law one cannot be allowed to take advantage of his own wrong. Therefore , the grace period Is not allowed.</p>
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B. Facts of the complaint

3. The complainant filed a complaint in the 2019 bearing CR no. 3738 of 2019 which was disposed off in view of the amendment in powers to hear the matter. However, the said complaint was revived by this Authority in October 2020 before the Adjudicating officer. As the main relief of the complainant was for delay penalty charges and possession, hence the matter was transferred from Ld. Adjudicating Officer to the Hon'ble Regulatory Authority. The complainant had generated Performa-B on 15.09.2021. However, due to miscommunication, the said Performa-B was not taken on record and now, the same is again being filed along with the present complaint.



4. That the complainant got allured with amenities and booked a flat in the said project registered under HARERA bearing RERA No. 381 of 2017. The flat was booked in favour of the complainant and was duly allotted flat bearing no. 78, at first floor, having super area of 2000 sq ft for total sale of consideration of Rs 1,08,62,000/- and opted for a construction linked plan-.
5. That at the time of booking, the respondent represented that the unit would be delivered on or before May 2015 i.e., within 36 months. Subsequent to the allotment letter, the parties entered in to a buyer agreement on 23.06.2012.
6. That as on date, admittedly, the complainant has already paid an amount of Rs. 1,07.73.403/- (approx.) to the respondent towards the said flat. It is pertinent to mention that the complainant has always made timely payments in accordance to the demand raised by the respondent.
7. That from the year 2102 till 2014, the respondent on regular intervals kept on raising demands as per the construction (which was not inspected by the complainant ever). Till the year 2014, the complainant had already paid a sum of Rs. 95,47,011/- out of the total consideration.

C. Relief sought by the complainants.

8. The complainant has sought following relief:

(i) Direct the respondent to pay make payment of interest on amount collected on account of delayed offer of possession at the prescribed rate



and execute the conveyance deed in favour of the complainant.

D. Reply by the respondent.

9. That the complainant himself is defaulter under section 19 (6), 19 (7) and 19 (10) of the Real Estate (Regulation and Development) Act, 2016 and not in compliance of these sections. The complainant cannot seek any relief under the provision of the Act of 2016 or rules frame thereunder.
10. That it is pertinent to mention here that the respondent, after having applied for grant of occupation certificate in respect of the project, which had thereafter been even issued through memo dated 17.10.2018 had offered possession on 20.08.2018. The complaint filed by the complainant, being in any case belated, is even subsequent to the date of grant of occupation certificate. No indulgence much less as claimed by the complainant is liable to be shown to him.
11. That the complainant has approached this authority for redressal of the alleged grievances with unclean hands, i.e., by not disclosing material facts pertaining to the case at hand and, by distorting and/or misrepresenting the actual factual situation with regard to several aspects. It is further submitted that the hon'ble apex court in plethora of decisions has laid down strictly, that a party approaching the court for any relief, must come with clean hands, without concealment and/or misrepresentation of material facts, as the same amounts to fraud not only against the respondent but also



against the court and in such situation, the complaint is liable to be dismissed at the threshold without any further adjudication. The respondent has contented on the following grounds: -

- The respondent through email dated 23.10.2018 and 14.12.2018 informed the complainant that the respondent has received the occupation certificate and offered the possession to him and also asked him to make the remaining payment. As per clause 8.2 (a) of the flat buyer's agreement, the complainant should have taken the possession within 30 days.
- The complainant has till date not taken the possession of his flat. It is pertinent to mention here that as per clause 9 of the flat buyer's agreement the complainant is liable to pay the holding charges @ Rs. 5/- per sq. ft. of the super area for the entire period of such delay.
- That the complainant has deliberately concealed the fact that on 07.03.2019, the respondent sent a reminder to him through e-mail to make the outstanding payment. Upon which the complainant sent an e-mail to the respondent that he is not in a position to pay the rest of the amount and asked for the refund. However, the respondent informed the complainant through E-mail dated 14.06.2019 that his request for refund was not acceptable to the management as it has been made at a belated stage. It is further submitted that besides the



holding charges, as on 10.02.2022 a sum of Rs. 14,61,944/- (excluding interest) was due from the complainant towards the respondent.

12. That from the above, it is very well established, that the complainant has approached this authority with unclean hands by distorting/ concealing/ misrepresenting the relevant facts pertaining to the case at hand. It is further submitted that the sole intention of the complainant is to unjustly enrich themselves at the expense of the respondent by filing this frivolous complaint which is nothing but gross abuse of the due process of law. The present complaint warrants dismissal without any further adjudication.
13. That agreements which were executed prior to implementation of the Act of 2016 and the rules shall be binding on the parties and cannot be reopened. Thus, both the parties being signatory to a duly documented FBA executed by the complainant out of his own free will and without any undue influence or coercion and is bound by the terms and conditions so agreed between them.
14. The parties had agreed under the flat buyer's agreement to attempt at amicably settling the matter and if the matter is not settled amicably, to refer the matter for arbitration. Admittedly, the complainant has raised the dispute but did not take any steps to invoke arbitration.
15. 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 and submission made by the parties.

E. Jurisdiction of the authority

The respondent has raised an objection regarding jurisdiction of authority to entertain the present complaint. The authority observes that it has territorial as well as 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 allottees 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.

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 objections raised by the respondent.

F.I Objection regarding jurisdiction of authority w.r.t. buyer's agreement executed prior to coming into force of the Act.

16. The contention of the respondent is that authority is deprived of the jurisdiction to go into the interpretation of, or rights of the parties inter-se in accordance with the apartment buyer's agreement executed between the parties and no agreement for sale as referred to under the provisions of the Act or the said rules has been executed inter se parties. The authority is of the view that the Act nowhere provides, nor can be so construed, that all previous agreements will be re-written after coming into force of the Act. Therefore, the provisions of the Act, rules and agreement have to be read and interpreted harmoniously.



However, if the Act has provided for dealing with certain specific provisions/situation in a specific/particular manner, then that situation will be dealt with in accordance with the Act and the rules after the date of coming into force of the Act and the rules. The numerous provisions of the Act save the provisions of the agreements made between the buyers and sellers. The said contention has been upheld in the landmark judgment of ***Neelkamal Realtors Suburban Pvt. Ltd. Vs. UOI and others. (W.P 2737 of 2017)*** decided on 06.12.2017 which provides as under:

"119. Under the provisions of Section 18, the delay in handing over the possession would be counted from the date mentioned in the agreement for sale entered into by the promoter and the allottee prior to its registration under RERA. Under the provisions of RERA, the promoter is given a facility to revise the date of completion of project and declare the same under Section 4. The RERA does not contemplate rewriting of contract between the flat purchaser and the promoter....."

122. We have already discussed that above stated provisions of the RERA are not retrospective in nature. They may to some extent be having a retroactive or quasi retroactive effect but then on that ground the validity of the provisions of RERA cannot be challenged. The Parliament is competent enough to legislate law having retrospective or retroactive effect. A law can be even framed to affect subsisting / existing contractual rights between the parties in the larger public interest. We do not have any doubt in our mind that the RERA has been framed in the larger public interest after a thorough study and discussion made at the highest level by the Standing Committee and Select Committee, which submitted its detailed reports."

17. Further, in appeal no. 173 of 2019 titled as ***Magic Eye Developer Pvt. Ltd. Vs. Ishwer Singh Dahiya***, in order dated 17.12.2019 the Haryana Real Estate Appellate Tribunal has observed-

“34. Thus, keeping in view our aforesaid discussion, we are of the considered opinion that the provisions of the Act are quasi retroactive to some extent in operation and will be applicable to the agreements for sale entered into even prior to coming into operation of the Act where the transaction are still in the process of completion. Hence in case of delay in the offer/delivery of possession as per the terms and conditions of the agreement for sale the allottee shall be entitled to the interest/delayed possession charges on the reasonable rate of interest as provided in Rule 15 of the rules and one sided, unfair and unreasonable rate of compensation mentioned in the agreement for sale is liable to be ignored.”

18. The agreements are sacrosanct save and except for the provisions which have been abrogated by the Act itself. Further, it is noted that the builder-buyer agreements have been executed in the manner that there is no scope left to the allottee to negotiate any of the clauses contained therein. Therefore, the authority is of the view that the charges payable under various heads shall be payable as per the agreed terms and conditions of the agreement subject to the condition that the same are in accordance with the plans/permissions approved by the respective departments/competent authorities and are not in contravention of any other Act, rules, statutes, instructions, directions issued thereunder and are not unreasonable or exorbitant in nature.



F. II Objection regarding complainant in breach of agreement for non-invocation of arbitration.

19. The respondent has raised an objection for not invoking arbitration proceedings as per the provisions of flat buyer's agreement which contains a provision regarding initiation of arbitration proceedings in case of breach of agreement. The following clause has been incorporated w.r.t arbitration in the buyer's agreement:

"35. Dispute Resolution by Arbitration

All or any disputes arising out of or touching upon or in relation to the terms of this Agreement including the interpretation and validity of the terms thereof and the respective rights and obligations of the Parties shall be settled amicably by mutual discussion failing which the same shall be settled through arbitration. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 or any statutory amendments/modifications thereto for the time being force. The arbitration proceedings shall be held at Corporate office of the developer alone in Gurgaon by a Sole Arbitrator who shall be Developer secretary, or any person nominated by him. The flat's buyer hereby confirm that he/she/it shall have no objection to this appointment. The courts at Haryana shall alone have the jurisdiction in all matters arising out of/ touching and/ or concerning this agreement regardless of the place of execution of this agreemnet.

20. The authority is of the opinion that the jurisdiction of the authority cannot be fettered by the existence of an arbitration clause in the buyer's agreement as it may be noted that section 79 of the Act bars the jurisdiction of civil courts about any matter which falls within the purview of this authority, or the Real Estate Appellate Tribunal. Thus, the intention to render



such disputes as non-arbitrable seems to be clear. Section 88 of the Act also says that the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Further, the authority puts reliance on catena of judgments of the Hon'ble Supreme Court, particularly in *National Seeds Corporation Limited v. M. Madhusudhan Reddy & Anr. (2012) 2 SCC 506* and followed in case of *Aftab Singh and ors. v. Emaar MGF Land Ltd and ors., Consumer case no. 701 of 2015 decided on 13.07.2017*, wherein it has been held that the remedies provided under the Consumer Protection Act are in addition to and not in derogation of the other laws in force. Consequently, the authority would not be bound to refer parties to arbitration even if the agreement between the parties had an arbitration clause. Therefore, by applying the same analogy, the presence of arbitration clause could not be construed to take away the jurisdiction of the authority.

21. While considering the issue of maintainability of a complaint before a consumer forum/commission in the fact of an existing arbitration clause in the builder buyer agreement, the hon'ble Supreme Court in case titled as *M/s Emaar MGF Land Ltd. V. Aftab Singh in revision petition no. 2629-30/2018 in civil appeal no. 23512-23513 of 2017 decided on 10.12.2018* has upheld the aforesaid judgement of NCDRC and as provided in Article 141 of the Constitution of India, the law declared by the Supreme Court shall be binding on all courts within the

territory of India and accordingly, the authority is bound by the aforesaid view.

22. Therefore, in view of the above judgements and considering the provision of the Act, the authority is of the view that complainant is well within the right to seek a special remedy available in a beneficial Act such as the Consumer Protection Act, 1986 and Act of 2016 instead of going in for an arbitration. Hence, we have no hesitation in holding that this authority has the requisite jurisdiction to entertain the complaint and that the dispute does not require to be referred to arbitration necessarily.

G. Findings on the relief sought by the complainants.

Reliefs sought by the complainants: The complainant has sought following relief(s):

- i. Direct the respondent to pay make payment of interest on amount collected on account of delayed offer of possession at the prescribed rate and execute the conveyance deed in favour of the complainant.
23. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building,



—
.....
Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

24. Clause 8.1 of the flat buyer's agreement provides for handing over of possession and is reproduced below:

"8.1 (a) subject to terms of this clause and subject to the flat buyer(s) having complied with all the terms and conditions of this agreement and not being in default under any of the provisions of this agreement and complied with all provisions, formalities, documentation etc. as prescribed by the developer, the developer proposes to handover the possession of the flat within a period of thirty six months from the date of signing of this agreement. However, this period will automatically stand extended for the time taken in getting the building plans sanctioned. The flat buyer(s) agrees and understands that the developer shall be entitled to a grace period of 90 days, after the expiry of thirty-six months or such extended period , for applying and obtaining occupation certificate in respect of the Group Housing Complex.."

25. At the inception, it is relevant to comment on the pre-set possession clause of the flat buyer's agreement wherein the possession has been subjected to innumerable terms and conditions, force majeure circumstances and innumerable terms and conditions. The drafting of this clause is not only vague but so heavily loaded in favour of the promoters that even a single default by the allottee in fulfilling obligations, formalities and documentations etc. as prescribed by the promoters may make the possession clause irrelevant for the



purpose of allottee and the commitment date for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoters is just to evade the liability towards timely delivery of subject unit and to deprive the allottee of his right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such mischievous clause in the agreement and the allottee is left with no option but to sign on the dotted lines.

26. **Admissibility of grace period:** The promoter has proposed to hand over the possession of the said unit within period of 36 months from the signing of agreement. In the present case, the date of execution of agreement is 23.06.2012. Therefore, the due date of handing over possession comes out to be 23.06.2015. It is further provided in agreement that promoter shall be entitled additionally to a grace period of 180 days for finishing work and filing and obtaining the occupancy certificate etc. from DTCP. As a matter of fact, from the perusal of occupation certificate dated 17.10.2018, it is implied that the promoter applied for occupation certificate only on 25.07.2018 which is later than 180 days from the due date of possession i.e. 23.06.2015. The clause clearly implies that the grace period was meant for filing and obtaining occupation certificate. Therefore, as the promoter applied for the occupation certificate much later than the statutory period of 180 days, it does not fulfil the criteria for



grant of the grace period., As per the settled law, one cannot be allowed to take advantage of his own wrongs. Accordingly, this grace period of 180 days cannot be allowed to the promoter.

27. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges at the prescribed rate of interest on amount already paid by him. However, proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

- (1) *For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.*

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

28. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed

to award the interest, it will ensure uniform practice in all the cases.

29. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 08.07.2022 is 7.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 9.80%.

30. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

“(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause— the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.

the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;”

31. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 9.80% by the respondent/promoter which is the same as is being granted to the complainants in case of delayed possession charges.



32. On consideration of the documents available on record and submissions made by both the parties, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of 8.1 of the flat buyer's agreement executed between the parties on 23.06.2012, the possession of the subject unit was to be delivered within 36 months from the date of signing of agreement. Therefore, the due date of handing over possession was 23.06.2015. As far as grace period is concerned, the same is disallowed for the reasons quoted above. The occupation certificate of the project has been received by the respondent on 17.10.2018 and the possession of the subject unit was offered to the complainant on 20.08.2018. The authority is of the considered view that there is delay on the part of the respondent to offer possession of the allotted unit to the complainant as per the terms and conditions of the flat buyer's agreement dated 23.06.2012 executed between the parties. It is the failure on part of the promoter to fulfil its obligations and responsibilities as per the flat buyer's agreement to hand over the possession within the stipulated period.
33. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on 17.10.2018. The respondent offered the possession of the

unit in question to the complainant only on 20.08.2018. So, it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. This 2 month of reasonable time is being given to the complainant keeping in mind that even after intimation of possession, practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit, but this is subject to that the unit being handed over at the time of taking possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 23.06.2015 till the expiry of 2 months from the date of occupation certificate (17.10.2018) which comes out to be 17.12.2018.

34. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such, the complainants are entitled to delay possession at prescribed rate of interest i.e., 9.80% p.a. w.e.f. 23.06.2015 till 17.12.2018 as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19 (10) of the Act.

H. Directions of the authority

35. 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 pay interest at the prescribed rate of 9.80% p.a. w.e.f. 23.06.2015 till 17.12.2018 as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19 (10) of the Act.
- ii. The arrears of such interest accrued from 23.06.2015 till 17.12.2018 shall be paid by the promoter to the allottees within a period of 90 days from date of this order as per rule 16(2) of the rules.
- iii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- iv. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 9.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- v. The respondent is directed to get the conveyance deed executed within a period of three months from the date of this order.
- vi. The respondent shall not charge anything from the complainants which is not the part of the agreement.



HARERA
GURUGRAM

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However, holding charges shall also not be charged by the promoter at any point of time even after being part of agreement as per law settled by the Hon'ble Supreme Court in civil appeal no. 3864-3889/2020 dated 14.12.2020.

36. Complaint stands disposed of.

37. File be consigned to registry.

V.1-3

(Vijay Kumar Goyal)
Member



[Signature]

(Dr. K.K. Khandelwal)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 08.07.2022

HARERA
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