

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

Complaint no. :	2333 of 2019
First date of hearing:	17.09.2019
Date of decision:	06.07.2022

1. Tarseem Lal Mahajan
2. Akhil Mahajan
3. Manchit Mahajan

R/o: - 175/5, Shastri Nagar, Meerut

Complainants

Versus

1. Ansal Housing & Construction Limited
Address:- 15 UGF, Indra Prakash 21, Barakhamba Road, New Delhi-110001
2. Identity Buildtech Pvt. Ltd.
Address:- 110, Indra Prakash 21, Barakhamba Road, New Delhi-110001

Respondents

CORAM:

Dr. K.K. Khandelwal
Shri Vijay Kumar Goyal

**Chairman
Member**

APPEARANCE:

Mr. Varchaswa Singh (Advocate)
Ms. Meena Hooda (Advocate)

Complainants
Respondents

ORDER

1. The present complaint dated 03.06.2019 has been filed by the complainants/allottees 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 allottees as per the agreement for sale executed inter se them.

Project and unit related details

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. N.	Particulars	Details
1.	Project name and location	"Ansal Highland Park", Sector-103, Gurugram
2.	Project area	11.7 acres
3.	Nature of the project	Residential
4.	DTCP license no. and validity status	32 of 2012 dated 12.04.2012 valid upto 11.04.2025
5.	Name of licensee	Identity Buildtech & another
6.	RERA registration details	Registered Vide registration no. 16 of 2019 dated 01.04.2019 valid up to 30.11.2021
7.	Unit no.	EDNBG-0205 [page 14 of complaint]
8.	Unit area admeasuring	1940 sq. ft. [super area]
9.	Date of builder buyer agreement	10.04.2013 [page 11 of complaint]
10.	Possession clause	31. <i>The developer shall offer possession of the unit any time, within a period of 48 months from the date of execution of the agreement or within 48 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later subject to timely payment of all dues by buyer and subject to force majeure circumstances as described in clause 32. Further, there</i>

		<i>shall be a grace period of 6 months allowed to the developer over and above the period of 48 months as above in offering the possession of the unit."</i> <i>(Emphasis supplied)</i> <i>[page 20 of complaint]</i>
11.	Due date of possession	10.10.2017 Note: Due date calculated from date of agreement as the date of construction is not known. Grace period allowed.
12.	Delay in handing over of possession till the date of this order i.e., 06.07.2022	4 years 8 months 26 days
13.	Basic sale consideration as per BBA dated 10.04.2013	₹ 80,20,483/- [pg. 14 of complaint]
14.	Amount paid by the complainants as per reminder letter dated 29.04.2017	₹ 75,30,573/- [page 29 of complaint]
15.	Occupation certificate	Not yet obtained
16.	Offer of possession	Not offered

Facts of the complaint

3. The complainants have made the following submissions in their complaint:
 - a. That respondent- developer is a public limited company, registered under the Companies Act, 1956, having its registered office at 15 UGP, Inderprakash, 21, Barakhamba Road, NEW DELHI-110001, you are developer and develop colonies after acquiring land in different cities.
 - b. That respondent is developing a colony under the project 'Ansals Highland Park' after acquiring land in Village Tikampur, a part of Sector-103, Gurgaon (State of Haryana).

- c. That on 17.05.2012, on application of Shivani Anand, wife of Shri Varun Anand, respondent had duly booked/ allotted a residential three BHK unit-apartment-unit no. EDNB4-0205 in respondent's aforesaid project.
- d. That complainants purchased the aforesaid booking/ allotment of unit/ apartment from Shivani Anand, the aforesaid allottee. That on 31.10.2012, the complainants duly applied for change in right to purchase the property of a residential three BHK unit-apartment in respondent's aforesaid project.
- e. That on 10.12.2012 the respondent issued letter to the complainants, whereby the respondent had transferred the aforesaid property in the names of complainants.
- f. That on 10.04.2013, apartment buyers' agreement was duly executed in between the respondent and complainants-purchasers, whereby respondent had agreed to develop the aforesaid property and to sell -3 BHK apartment - unit no. EDNBG-0205 having 1940 Sq. Ft. sale area, to the complainants-purchasers, against a sale consideration of ₹ 80,20,483/-, further including all other charges, thus a sum of ₹ 87,93,883.80 was payable under the payment plan of agreement. Complainants/purchasers paid a sum of ₹ 3,79,199.19 as a booking amount, the receipt of the amount was duly acknowledged by respondent's side in the agreement.
- g. That as per payment plan & terms of aforesaid agreement and further whenever demanded by respondents' side, complainants made requisite payments to respondent and never made delay. Thus, complainants have made a total payment of ₹ 75,66,730.49

to respondent till now. Respondent issued receipt cum reminder dated 29-04-2017, wherein respondent acknowledged the receipt of ₹ 75,30,573.17 out of total payable amount under sale ₹ 75,66,730.49, and further demanded payment of ₹ 36,157.32, which was paid by complainants vide cheque no. 45359 for ₹ 36,157.32 to the respondent. Thus, nothing remains due against the complainants- purchasers.

- h. The complainants are always and still ready and willing to make the payment if any further amount remains due and payable under the agreement, further, whenever demand will be legally raised by respondent.
- i. That as per term agreed in para 31 of the agreement, respondent has to offer the possession of the unit within a period of 48 months from the day of execution of the aforesaid agreement. Thus, respondent had to complete the construction and offer its possession to my clients up to 10.04.2017.
- j. That complainants have visited the site severally, made requests to respondent concerns to complete the construction of the apartment-unit and other facilities & amenities and to hand over the possession thereof, but neither respondent has completed the construction of unit, developed the other facilities & amenities, nor ever offered possession thereof, thus respondent has totally failed to perform its part of agreement.
- k. That now in these circumstances complainants are well legally entitled to get damages @Rs 10 per square feet for the period of delayed possession to be calculated period from 01.05.2017 till the day of actual possession of unit to them, against respondent.

- l. That it will not be out of place to mention herein that now complainants are not liable to pay any interest on the balance amount, if any.
- m. That on 20.10.2018, the complainants duly served legal notice through Shri Ashok Kumar Sharma Advocate to the respondent by registered post, which has been duly served upon respondent, but despite of notice, respondent has failed to do needful, hence complainants are compelled to file this complaint.

C. Reliefs sought by the complainants

4. The complainants are seeking the following relief:
 - a. Respondent be ordered to complete the construction of house under agreement along with other amenities and facility annexed therewith, and offer its possession thereon, within a period fixed by this Hon'ble authority to the complainants.
 - b. Respondent be ordered to make payment of interest at ₹ 10/- per sq. ft. on the amount of payment made to respondent by way of damages for delayed possession to be calculated from day to payment till day of delivery of possession thereof, as stated in para 4(7) supra.
 - c. Complainants may kindly be awarded his cost of complaint along with ₹ 6,500/- as the cost of his legal notice, against the respondent.
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.

D. Reply filed by the respondent

6. The respondent contested the complaint on the following grounds:

- a. That the present complaint is neither maintainable nor tenable by both law and facts. It is submitted that the present complaint is not maintainable before this hon'ble authority. The complainant has filed the present complaint seeking refund and interest. It is respectfully submitted that complaints pertaining to refund, compensation and interest are to be decided by the adjudicating officer under section 71 of the Act read with rule 29 of the rules and not by this hon'ble authority.
- b. That the present complaint has no locus-standi and cause of action to file the present complaint. The present complaint is based on an erroneous interpretation of the provisions of the Act as well as an incorrect understanding of the terms and conditions of the apartment buyer's agreement dated 10.04.2013.
- c. That the respondent is a Public Limited Company registered under the companies Act, 1956, having its registered office at 606, Indraprakash, 21 Barakhamba Road, New Delhi-110001. The present reply is being filed by the respondent through its duly authorized representative named Mr. Vaibhav Chaudhary whose authority letter is attached herewith. The above said project is related to license no.32 of 2012 dated 12.04.2012, received from the Director General, Town & Country Planning, Haryana, Chandigarh (DGTCP) over the land measuring an area of 11.70 acres falling in the revenue estates of village Tikampura, District Gurugram and is the part of Sector-103 of Gurugram-Manesar Urban Development Plan-2021.
- d. That the complainant approached the respondent sometime in the year 2012 for the purchase of an independent unit in its upcoming

residential project "Ansals Highland Park" situated in sector-103, Village Tikampur, Gurugram. It is submitted that the complainant prior to approaching the respondent, had conducted extensive and independent enquiries regarding the project and it was only after the complainant was fully satisfied with regard to all aspects of the project, including but not limited to the capacity of the respondent to undertake development of the same, that the complainant took an independent and informed decision to purchase the unit, un-influenced in any manner by the respondent.

- e. That thereafter, the complainant vide application form dated 17.05.2012 applied to the respondent for provisional allotment of a unit in the project. The complainant, in pursuance of the aforesaid application form, was allotted an independent unit bearing no. EDNBG-0205, Type of unit-3 BHK, Sales Area 1940 sq. ft. in the project, situated at Sector-103, Gurugram which was consequent to the transfer of the unit in name of present complainants from previous allottee Ms. Shivani Anand W/o Sh. Varun Anand R/o 26, Tirupati Garden, Mawana Road, Meerut, Uttar Pradesh, who vide application for provisional booking/allotment of residential apartment in the project "Ansal Highland Park", sector 103, Gurugram dated 17.05.2012 was allotted the unit. The complainant consciously and willfully opted for a construction linked plan for remittance of the sale consideration for the unit in question and further represented to the respondent that the complainant shall remit every instalment on time as per the payment schedule. The respondent had no reason to suspect the bonafide of the

complainant. The complainant further undertakes to be bound by the terms and conditions of the application form.

- f. That despite there being a number of defaulters in the project, the respondent itself infused funds into the project and has diligently developed the project in question. It is also submitted that the construction work of the project is swing on full mode and the work will be completed within prescribed time period as given by the respondent to the authority.
- g. That without prejudice to the aforesaid and the rights of the respondent, it is submitted that the respondent would have handed over the possession to the complainant within time had there been no force majeure circumstances beyond the control of the respondent, there had been several circumstances which were absolutely beyond and out of control of the respondent such as orders dated 16.07.2012, 31.07.2012 and 21.08.2012 of the Hon'ble Punjab & Haryana High Court duly passed in civil writ petition no. 20032 of 2008 through which the shucking/extraction of water was banned which is the backbone of construction process, simultaneously orders at different dates passed by the Hon'ble National Green Tribunal restraining thereby the excavation work causing air quality index being worse, maybe harmful to the public at large without admitting any liability. Apart from these the demonetization is also one of the main factors to delay in giving possession to the home buyers as demonetization caused abrupt. stoppage of work in many projects. The payments especially to workers to only by liquid cash. The sudden restriction on withdrawals led the respondent unable to cope with the labour

pressure. However, the respondent is carrying its business in letter and spirit of agreement as well as in compliance of other local bodies of Haryana Government.

- h. That, it is submitted that the complaint is not maintainable or tenable under the eyes of law, as the complainant have not approached the hon'ble authority with clean hands and have not disclosed the true and material facts relates to this case of complaint. The complainant, thus, have approached the hon'ble authority with unclean hands and have suppressed and concealed the material facts and proceedings which has direct bearing on the very maintainability of purported complaint and if there had been disclosure of these material facts and proceedings the question of entertaining the present complaint would have not arising in view of the case law titled as ***S.P. Chengalvaraya Naidu Vs. Jagan Nath reported in 1994 (1) SCC Page-1*** in which the Hon'ble Apex Court of the land opined that non-disclosure of material facts and documents amounts to a fraud on not only the opposite party, but also upon the Hon'ble adjudicating officer and subsequently the same view was taken by even Hon'ble National Commission in case titled as ***Tata Motors Vs. Baba Huzoor Maharaj bearing RP No.2562 of 2012 decided on 25.09.2013.***
- i. That without admitting or acknowledging the truth or legality of the allegations advanced by the complainant and without prejudice to the contentions of the respondent, it is respectfully submitted that the provisions of the Act are not retrospective in nature. The provisions of the Act cannot undo or modify the terms of an agreement duly executed prior to coming into effect of the Act. It is

further submitted that merely because the Act applies to ongoing projects which registered with the authority, the Act cannot be said to be operating retrospectively. The provisions of the Act relied upon by the complainant seeking interest cannot be called in to aid in derogation and ignorance of the provisions of the agreement. It is further submitted that the interest for the alleged delay demanded by the complainant is beyond the scope of the buyer's agreement. The complainant cannot demand any interest or compensation beyond the terms and conditions incorporated in the agreement. However, in view of the law as laid down by the Hon'ble Bombay High Court in case titled *as Neelkamal Realtors Suburban Pvt. Ltd. Vs. Union of India published in 2018(1) RCR (C) 298*, the liberty to the promoters/developers has been given U/s 4 to intimate fresh date of offer of possession while complying the provision of section 3 of RERA Act as it was opined that the said Act named RERA is having prospective effect instead of retrospective. Para no. 86 and 119 of the above said citation are very much relevant in this regard.

- j. It is further submitted that the interest for the alleged delay demanded by the complainant is beyond the scope of the buyer's agreement. The complainant cannot demand any interest or compensation beyond the terms and conditions incorporated in the agreement.
- k. That without prejudice to the contentions of the respondent, it is submitted that the present complaint is barred by limitation. The complainant has alleged that due date of possession in respect of the said unit was in April 2017, and therefore, no cause of action is

arisen in favour of the complainant in the month of April 2017, and thus, the present complaint is barred by law of limitation and the hon'ble authority lacks jurisdiction.

- l. That several allottees, including the complainant has defaulted in timely remittance of payment of instalment which was an essential, crucial and an indispensable requirement for conceptualization and development of the project in question. Furthermore, when the proposed allottees defaulted in their payment as per schedule agreed upon, the failure has a cascading effecting on the operation and the cost for proper execution of the project increase exponentially whereas enormous business losses befall upon the respondent. The respondent, despite default of several allottees have diligently and earnest pursued the development of the project in question and has constructed the project in question as expeditiously as possible. It is further submitted that the respondent had applied for registration with the authority of the said project by giving afresh date for offering of possession, however, in this case the complainant has already been offered the possession by the respondent. It is evident from the entire sequence of events, that no illegality can be attributed to the respondent. The allegations levelled by the complainant is totally baseless. Thus, it is most respectfully submitted that the present complaint deserves to be dismissed at the very threshold.
- m. That, it would be relevant to mention here in case titled as **Mr. Abhishek Mohan Gupta Vs. Mis Ireo Grace Realtech (Pvt.) Ltd., complaint No.2044 of 2018**, date of first hearing 12.03.2019, decided on 12.03.2019 by the hon'ble authority, in para no.36, it

was held by the hon'ble authority came across that as per clause 13.3 the respondent has agreed to offer the possession of the said apartment within a period of 42 months from the date of approval of building plans and/or fulfilment of preconditions imposed thereunder + 180 days grace period. The building plan for the project in question was approved on 23.07.2013 which contained a precondition under clause 17(iv) that respondent should obtain clearance from Ministry of Environment and Forest, Government of India before starting construction of project. The said environment clearance for the project in question was granted on 12.12.2013 containing a pre-condition of obtaining fire safety plan duly approved by fire department before starting construction. The respondent obtained the said approval on 27.11.2014. Therefore, the due date of possession comes out to be 27.11.2018 and the possession has been delayed by 3 months and 13 days till the date of decision....".

E. Jurisdiction of the authority

7. The preliminary objections raised by the respondent regarding jurisdiction of the authority to entertain the present complaint stands rejected. The authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purpose with offices situated in Gurugram. 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

9. 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)(a)

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.

10. 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 of the authority on relief sought by complainant

F. I Respondent be ordered to complete the construction of house under agreement along with other amenities and facility annexed therewith, and offer its possession thereon, within a period fixed by this Hon'ble authority to the complainants.

F.II. Direct the respondent to give delay possession charges @ prescribed rate of interest from due date of possession till the actual date of possession.

11. The above-mentioned issues are being dealt up together. In the present complaint, the complainants intend to continue with the project and is seeking delay possession charges. Clause 31 of the apartment buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below:

“31. The developer shall offer possession of the unit any time, within a period of 48 months from the date of execution of the agreement or within 48 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later subject to timely payment of all dues by buyer and subject to force majeure circumstances as described in clause 32. Further, there shall be a grace period of 6 months allowed to the developer over and above the period of 48 months as above in offering the possession of the unit.”

12. At the outset, it is relevant to comment on the pre-set possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement and application, and the complainants not being in default under any provisions of this agreement and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions are not only vague and uncertain but so heavily loaded in favour of the promoter and against the allottee that even a single default by the allottee in fulfilling formalities and documentations etc. as prescribed by the promoter 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 flat buyer agreement by the promoter 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.

Admissibility of grace period: The promoter has proposed to hand over the possession of the apartment within a period of 48 months from the date of execution of the agreement or within 48 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later. The authority calculated due date of possession date of execution as there is no document on record to regarding approval necessary for commencement of construction. The period of 48 months expired on 10.04.2017. Since in the present matter the BBA incorporates unqualified reason for grace period/extended period in the possession clause. Accordingly, the authority allows this grace period of 6 months to the promoter at this stage.

13. **Admissibility of delay possession charges at prescribed rate of interest:** 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.

14. The legislature in its wisdom in the subordinate legislation under 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.
15. 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., **06.07.2022** is 7.50%. Accordingly, the prescribed rate of interest will be MCLR +2% i.e., 9.50%.
16. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottees, as the case may be.
Explanation. —For the purpose of this clause—
(i) the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default;
(ii) the interest payable by the promoter to the allottees 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 allottees to the promoter shall be from the date the allottees defaults in payment to the promoter till the date it is paid;"
17. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., **9.50%** by the

respondent/promoter which is the same as is being granted to the complainants in case of delayed possession charges.

18. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, 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 clause 31 of the agreement executed between the parties on 10.04.2013, the possession of the subject apartment was to be delivered within 48 months from the date of execution of the agreement or within 48 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later. The authority calculated due date of possession from date of execution as there is no document on record to regarding approval necessary for commencement of construction. The period of 48 months expired on 10.04.2017. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over possession is 10.10.2017. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 10.10.2017 till the actual handing over of possession of the unit, at prescribed rate i.e., 9.50 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

F.III. Complainants may kindly be awarded his cost of complaint along with ₹ 6,500/- as the cost of his legal notice, against the respondent.

19. The complainants are claiming compensation in the above-mentioned reliefs. The authority is of the view that it is important to understand that the Act has clearly provided interest and compensation as separate entitlement/rights which the allottee can claim. For claiming compensation under sections 12, 14, 18 and section 19 of the Act, the complainants may file a separate complaint before Adjudicating Officer under section 31 read with section 71 of the Act and rule 29 of the rules.

G. Directions of the authority

20. 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):
- a. The respondent is directed to pay the interest at the prescribed rate i.e., 9.50% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e., 10.10.2017 till the actual handing over the possession of the unit to the complainants.
 - b. The arrears of such interest accrued from 10.10.2017 till the date of order by the authority shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per rule 16(2) of the rules.

- c. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - d. The rate of interest chargeable from the complainant/allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 9.50% 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 delay possession charges as per section 2(za) of the Act.
 - e. If there is no amount outstanding against the allottees or less amount outstanding against the allottees then the balance delay possession charges shall be paid after adjustment of the outstanding against the allottees.
 - f. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement. However, holding charges shall not be charged by the promoters at any point of time even after being part of agreement as per law settled by Hon'ble Supreme Court in civil appeal no. 3864-3889/2020.
21. Complaint stands disposed of.
22. File be consigned to registry.


(Vijay Kumar Goyal)
Member


(Dr. K.K. Khandelwal)
Chairperson

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 06.07.2022