

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

Complaint no. : 1397 of 2019
538 of 2021
First date of hearing: 05.09.2019
Date of decision : 10.08.2022

Sonika Sehgal

R/O: B-17, South Extension, Part I,
New Delhi-110049

Complainant

Versus

Ireo Grace Realtech Private Limited
Registered Office: - C-4, Malviya Nagar,
1st Floor, New Delhi-110017

Respondent

CORAM:

Dr. K.K Khandelwal
Shri Vijay Kumar Goyal

**Chairman
Member**

APPEARANCE:

None
Shri M.K Dang

Advocate for the complainant
Advocate for the respondent

ORDER

1. The present complaint dated 16.04.2019 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 thereunder or to the allottee 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. No.	Heads	Information
1.	Project name and location	"The Corridors" at sector 67A, Gurgaon, Haryana
2.	Licensed area	37.5125 acres
3.	Nature of the project	Group Housing Colony
4.	DTCP license no.	05 of 2013 dated 21.02.2013
	License valid up to	20.02.2021
	Licensee	M/s Precision Realtors Pvt. Ltd. and 5 others
5.	RERA registered/not registered	Registered Registered in 3 phases Vide 378 of 2017 dated 07.12.2017(Phase 1) Vide 377 of 2017 dated 07.12.2017 (Phase 2) Vide 379 of 2017 dated 07.12.2017 (Phase 3)
	Validity	30.06.2020 (for phase 1 and 2)

		31.12.2023 (for phase 3)
6.	Unit no.	202, 2nd floor, tower C4 (page no. 50 of complaint)
7.	Unit measuring	1312.50 sq. ft. (page no. 50 of complaint)
8.	Date of approval of building plan	23.07.2013 (annexure R-13 on page no. 57 of reply)
9.	Date of allotment	12.08.2013 (annexure R-4 on page no. 45 of reply)
10.	Date of environment clearance	12.12.2013 (annexure R-14 on page no. 65 of reply)
11.	Date of execution of builder buyer's agreement	07.05.2014 (page no. 39 of complaint)
12.	Date of fire scheme approval	27.11.2014 (annexure R-15 on page no. 76 of reply)
13.	Total consideration	Rs. 1,54,86,038/- [as per payment plan on page no. 83 of complaint]
14.	Total amount paid by the complainant	Rs. 1,54,42,948/- [as per statement of account as on 11.06.2019 on page no. 40 of reply]
15.	Due date of delivery of possession	23.01.2017 (calculated from the date of approval of building plans) Note: Grace Period is not allowed.
16.	Possession clause	13. Possession and Holding Charges

Subject to force majeure, as defined herein and further subject to the Allottee having complied with all its obligations under the terms and conditions of this Agreement and not having default under any provisions of this Agreement but not limited to the timely payment of all dues and charges including the total sale consideration, registration chares, stamp duty and other charges and also subject to the allottee having complied with all the formalities or documentation as prescribed by the company, the company proposes to offer the possession of the said apartment to the allottee **within a period of 42 months from the date of approval of building plans and/or fulfilment of the M preconditions imposed thereunder**(Commitment Period). The Allottee further agrees and understands that the company shall additionally be entitled to a period of 180 days (Grace Period), after the expiry of the said

		commitment period to allow for unforeseen delays beyond the reasonable control of the Company. (Emphasis supplied)
17.	Occupation certificate	31.05.2019 [annexure R-18 on page no. 35 of reply]
18.	Offer of possession	11.06.2019 [annexure R-19 on page no. 38 of reply]

B. Facts of the complaint

The complainant has submitted that:

3. That the respondent invited application from the general public for allotment of flats assuring that all the necessary approvals had been obtained from the competent authorities.
4. That the complainant was informed that the basic sale price of the flat is Rs. 9850 per sq. ft, wherein developmental charges @ Rs. 327.91 per sq. ft, PLC @ Rs. 1280.50 per sq. ft. of super area has to be payable separately.
5. That based on the assurance's complainant booked a unit and made a payment of Rs. 13,16,077/-. Against 2nd payment demand complainant made a payment of Rs. 13,16,077/-. Thereafter she made a payment of Rs. 49,000/-.
6. That the complainant was shocked and surprised to receive the apartment buyer agreement wherein club membership charges are of Rs. 2,50,000/-.

7. That as per clause 13 of the apartment buyer agreement the possession of the unit was to be handed over within 42 months from the date of approval of building plans with further grace period of 180 days.
8. That the complainant with no other option decided to pay for the flat hence, she paid the subsequent amount as and when demanded by the respondent and made a payment of Rs. 1,54,42,949/-.
9. That complainant apprehension were found true when the possession had not been handed over to her within stipulated period of 42 months from the day of grant of building plan approval, which had already been expired on dtd.23.01.2017. Thus, the project was under a delayed zone w.e.f. 23.1.2017 as this fact had also been confirmed by Hon'ble N.C.D.R.C, Delhi in various judgments rendered against the respondent.
10. That in 2017 the complainant visited the office of the respondent to enquire the status of the delivery of the apartment. It was informed to her that the unit was to be handed over within 6 months. Further in 2018 the complainant visited the site of the respondent and shocked to see that there was deformity in the project. Thereafter vide email dated 07.01.2019 the complainant again inquired the status, and it was admitted by respondent that no occupation certificate has been granted. Hence, the complainant is filing the present complaint.

C. Relief sought by the complainant:

11. The complainant has sought following relief(s):

(i) Direct the respondent to refund an amount of Rs. 1,54,42,949/- along with interest @ 18% p.a. from the day of receiving payment till its realization.

12. On the date of hearing, the authority explained to the respondent/promoter about the contraventions 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 by the respondent.

The respondent has contested the complaint on the following grounds: -

13. That the complaint is neither maintainable nor tenable and is liable to be out-rightly dismissed. The apartment buyer's agreement was executed between the parties prior to the enactment of the Real Estate (Regulation and Development) Act, 2016 and the provisions laid down in the said Act cannot be applied retrospectively.
14. That there is no cause of action to file the present complaint.
15. That the present complaint is bad for mis-joinder of respondent no.2.
16. That the complainant has no locus standi to file the present complaint.
17. That, according to the Booking Application Form and the Apartment Buyer's Agreement, the time period for offering the possession of the unit to the complainant has not yet elapsed and the complaint has been filed pre-maturely by it.

18. That the respondent has filed the present reply within the period of limitation as per the provisions of Real Estate (Regulation and Development) Act, 2016.
19. That this authority does not have the jurisdiction to try and decide the present complaint.
20. That the complaint is not maintainable for the reason that the agreement contains an arbitration clause which refers to the dispute resolution mechanism to be adopted by the parties in the event of any dispute i.e., clause 35 of the buyer's agreement.
21. That the complainant has not approached this authority with clean hands and has intentionally suppressed and concealed the material facts in the present complaint. The present complaint has been filed maliciously with an ulterior motive and it is nothing but a sheer abuse of the process of law. The true and correct facts are as follows:
22. That the complainant, after checking the veracity of the project namely, 'Corridor; sector 67-A, Gurugram applied for allotment of an apartment vide booking application form dated 17.05.2013. The complainant agreed to be bound by the terms and conditions of booking application form. respondent no.1 raised payment demands from the complainant in accordance with the agreed terms and conditions of the allotment as well as of the payment plan and the complainant made some payments in time and then started delaying and committing defaults. The respondent had raised the second installment demand on 29.05.2013 for the net payable amount of Rs 1365427. However, the complainant

- remitted the demanded amount only after a reminder dated 16.07.2013 was issued by the respondent.
23. That based on the said application, respondent vide its allotment offer letter dated 12.08.2013 allotted to the complainant apartment no. CD-C4-02-202 tentative super area of 1312.5 sq.ft for a total sale consideration of Rs.1,54,86,038.12.
24. That respondent raised the third installment demand on 18.03.2014 for the net payable amount of Rs 20,36,362.53. However, the complainant failed to remit the whole of the demanded amount despite reminder dated 13.04.2014 and accordingly a second reminder dated 04.05.2014 was issued by respondent.
25. That the complainant signed and executed the apartment buyers agreement on 07.07.2014 only after it was intimated to the complainant by respondent vide its reminder dated 28.05.2014. That when the complainant had booked the unit with the respondent, the Real Estate (Regulation and Development) Act, 2016 was not in force and the provisions of the same cannot be applied retrospectively. That respondent vide payment request letter dated 27.01.2015, had raised the payment demand towards the fourth installment for the net payable amount of Rs. 20,36,016.08. However, respondent received only the part-payment out of the total demanded amount despite reminders dated 22.02.2015 and 24.03.2015. the remaining due amount was adjusted in next instalment dated 06.05.2014 as arrears.
26. As per possession clause 13.3 of the agreement the time of handing over of possession was to be computed from the date of receipt of

all requisite approvals. Even otherwise construction could not be raised in the absence of the necessary approvals. It has been specified in sub-clause (iv) of clause 17 of the memo of approval of building plan dated 23.07.2013 of the said project that the clearance issued by the Ministry of Environment and Forest, Government of India has to be obtained before starting the construction of the project. It is submitted that the environment clearance for construction of the said project was granted on 12.12.2013. Furthermore, in clause 39 of part-A of the environment clearance dated 12.12.2013 it was stated that fire safety plan duly was to be duly approved by the fire department before the start of any construction work at site.

27. That the last of the statutory approvals which forms a part of the pre-conditions was the fire scheme approval which was obtained on 27.11.2014 and that the time period for offering the possession, according to the agreed terms of the buyer's agreement, will elapse only on 27.11.2019. However, the complainant has filed the present complaint prematurely prior to the due date of possession and no cause of action has accrued till date. The complainant is trying to mislead this Hon'ble authority by making baseless, false and frivolous averments.
28. 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

29. The respondent has raised objection regarding jurisdiction of authority to entertain the present complaint and the said objection stands rejected. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below:

E. I Territorial jurisdiction

30. 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

31. 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)

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;

The provision of assured returns is part of the builder buyer's agreement, as per clause 15 of the BBA dated..... Accordingly, the promoter is responsible for all obligations/responsibilities and functions including payment of assured returns as provided in Builder Buyer's Agreement.

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.

32. 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 objections raised by the respondent.

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

33. The respondent submitted that the complaint is neither maintainable nor tenable and is liable to be outrightly dismissed as the apartment buyer's agreement was executed between the parties prior to the enactment of the Act and the provision of the said Act cannot be applied retrospectively.
34. The authority is of the view that the provisions of the Act are quasi retroactive to some extent in operation and would 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. The Act nowhere provides, nor can be so construed, that all previous agreements would 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. 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 and 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."

35. Also, 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."

36. 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 and regulations made thereunder and are not unreasonable or exorbitant in nature. Hence, in the light of above-mentioned reasons, the contention of the respondent w.r.t. jurisdiction stands rejected.

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

37. The respondent submitted that the complaint is not maintainable for the reason that the agreement contains an arbitration clause which refers to the dispute resolution mechanism to be adopted by the parties in the event of any dispute and the same is reproduced below for the ready reference:

"35. Dispute Resolution by Arbitration

"All or any disputes arising out or touching upon in relation to the terms of this Agreement or its termination including the interpretation and validity of the terms thereof and the respective rights and obligations of the parties shall be settled amicably by mutual discussions failing which the same shall be settled through reference to a sole Arbitrator to be appointed by a resolution of the Board of Directors of the Company, whose decision shall be final and binding upon the parties. The allottee hereby confirms that it shall have no objection to the appointment of such sole Arbitrator even if the person so appointed, is an employee or Advocate of the Company or is otherwise connected to the Company and the Allottee hereby accepts and agrees that this alone shall not constitute a ground for challenge to the independence or impartiality of the said sole Arbitrator to conduct the arbitration. The arbitration proceedings shall be governed by the Arbitration and Conciliation Act, 1996 or any statutory amendments/ modifications thereto and shall be held at the Company's offices or at a location designated by the said sole Arbitrator in Gurgaon. The language of the arbitration proceedings and the Award shall be in English. The company and the allottee will share the fees of the Arbitrator in equal proportion".

38. 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. Also, section 88 of the Act 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*, 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.

39. Further, in *Aftab Singh and ors. v. Emaar MGF Land Ltd and ors., Consumer case no. 701 of 2015 decided on 13.07.2017*, the National Consumer Disputes Redressal Commission, New Delhi (NCDRC) has held that the arbitration clause in agreements between the complainant and builder could not circumscribe the jurisdiction of a consumer. The relevant paras are reproduced below:

"49. Support to the above view is also lent by Section 79 of the recently enacted Real Estate (Regulation and Development) Act, 2016 (for short "the Real Estate Act"). Section 79 of the said Act reads as follows:-

"79. Bar of jurisdiction - No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act."

It can thus, be seen that the said provision expressly ousts the jurisdiction of the Civil Court in respect of any matter which the Real Estate Regulatory Authority, established under Sub-section (1) of Section 20 or the Adjudicating Officer, appointed under Sub-section (1) of Section 71 or the Real Estate Appellate Tribunal established under Section 43 of the Real Estate Act, is empowered to determine. Hence, in view of the binding dictum of the Hon'ble Supreme Court in A. Ayyaswamy (supra), the matters/disputes, which the Authorities under the Real Estate Act are empowered to decide, are non-arbitrable, notwithstanding an Arbitration Agreement between the parties to such matters, which, to a large extent, are similar to the disputes falling for resolution under the Consumer Act.

*...
56. Consequently, we unhesitatingly reject the arguments on behalf of the Builder and hold that an Arbitration Clause in the afore-stated*

kind of Agreements between the Complainants and the Builder cannot circumscribe the jurisdiction of a Consumer Fora, notwithstanding the amendments made to Section 8 of the Arbitration Act."

40. 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. The relevant para of the judgement passed by the Supreme Court is reproduced below:

"25. This Court in the series of judgments as noticed above considered the provisions of Consumer Protection Act, 1986 as well as Arbitration Act, 1996 and laid down that complaint under Consumer Protection Act being a special remedy, despite there being an arbitration agreement the proceedings before Consumer Forum have to go on and no error committed by Consumer Forum on rejecting the application. There is reason for not interjecting proceedings under Consumer Protection Act on the strength an arbitration agreement by Act, 1996. The remedy under Consumer Protection Act is a remedy provided to a consumer when there is a defect in any goods or services. The complaint means any allegation in writing made by a complainant has also been explained in Section 2(c) of the Act. The remedy under the Consumer Protection Act is confined to complaint by consumer as defined under the Act for defect or deficiencies caused by a service provider, the cheap and a quick remedy has been provided to the consumer which is the object and purpose of the Act as noticed above."

41. Therefore, in view of the above judgements and considering the provisions of the Act, the authority is of the view that complainant

is well within right to seek a special remedy available in a beneficial Act such as the Consumer Protection Act and RERA Act, 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. In the light of the above-mentioned reasons, the authority is of the view that the objection of the respondent stands rejected.

G. Findings regarding relief sought by the complainant.

(i) Direct the respondent to refund an amount of Rs. 1,54,42,949/- along with interest @ 18% p.a. from the day of receiving payment till its realization.

42. Keeping in view the fact that the allottee complainant wishes to withdraw from the project and demanding return of the amount received by the promoter in respect of the unit with interest on failure of the promoter to complete or inability to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. The matter is covered under section 18(1) of the Act of 2016.
43. The due date of possession as per agreement for sale as mentioned in the table above is 23.01.2017 and there is delay of 2 years 2 months 24 days on the date of filing of the complaint.
44. The occupation certificate /part occupation certificate of the buildings/towers where allotted unit of the complainant is situated is received after filing of application by the complainant for return of the amount received by the promoter on failure of promoter to



complete or unable to give possession of the unit in accordance with the terms of the agreement for sale or duly completed by the date specified therein. The complainant-allottee has already wished to withdraw from the project and the allottee has become entitled his right under section 19(4) to claim the refund of amount paid along with interest at prescribed rate from the promoter as the promoter fails to comply or unable to give possession of the unit in accordance with the terms of agreement for sale. Accordingly, the promoter is liable to return the amount received by him from the allottee in respect of that unit with interest at the prescribed rate. This is without prejudice to any other remedy available to the allottee including compensation for which allottee may file an application for adjudging compensation with the adjudicating officer under sections 71 & 72 read with section 31(1) of the Act of 2016.

45. Further in the judgement of the Hon'ble Supreme Court of India in the cases of **Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra)** reiterated in case of **M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020** decided on 12.05.2022. it was observed

25. The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not




attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.

46. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottee as per agreement for sale under section 11(4)(a). The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottee, as the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.
47. This is without prejudice to any other remedy available to the allottee including compensation for which allottee may file an application for adjudging compensation with the adjudicating officer under section 71 read with section 31(1) of the Act of 2016.
48. The authority hereby directs the promoter to return the amount received by him i.e., Rs. 1,54,42,948/- with interest at the rate of 9.80% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

H. Directions of the authority: -

49. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the authority under sec 34(f) of the Act:-
- i. The respondent/promoter is directed to refund the amount i.e., Rs. 1,54,42,948/-received by him with interest at the rate of 9.80% as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount.
 - ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
50. Complaint stands disposed of.
51. File be consigned to the registry.


(Vijay Kumar Goyal)
Member


(Dr. K.K. Khandelwal)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 10.08.2022