



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

Complaint no. : 1975 of 2022  
First date of hearing: 06.09.2022  
Date of decision : 06.12.2022

Deepti Shukla  
R/O : Apartment No. 4, 1<sup>st</sup> floor, Tower 13,  
Zara Aavaas, Village Gurgaon, Sector - 104,  
Gurugram, Haryana

**Complainant**

Versus

M/s Perfect Buildwell Private Limited Office:  
Office : Address : 1<sup>st</sup> Floor, D-64, Defence  
Colony, New Delhi-110024

**Respondent**

**CORAM:**

Shri Vijay Kumar Goyal  
Shri Sanjeev Kumar Arora

**Member  
Member**

**APPEARANCE:**

Sh. Saurabh Sachdeva  
Ms. Ankur Berry

**Counsel for the complainant  
Counsel for the respondent**

**ORDER**

1. The present complaint dated 16.05.2022 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.N.	Particulars	Details
1.	Name of the project	Zara Aavaas, Sector 104, Dwarka Expressway, Gurugram.
2.	Allotment letter	20.10.2015 (page 28 of complaint)
2.	Apartment no.	04, floor 01, tower 13 admeasuring 301 sq. ft. + 65 sq. ft. balcony area (page 28 of complaint)
5.	Date of builder buyer agreement	01.12.2015 (page 30 of complaint)
6.	Date of building plan approval	08.12.2014 (page 32 of complaint)
7.	Date of environmental clearance	09.03.2015 (page 32 of complaint)
8.	Possession clause	<b>3. Possession</b> <i>3(1) Unless a longer period is permitted by the DGTCP or in the policy and subject to the force majeure circumstances as stated in clause 16 hereof, intervention of statutory authorities, receipt of occupation certificate and timely compliance by the Apartment Buyer(s) of all his/her/their obligations, formalities and documentation as prescribed by the Developer from time to time and not being in default under any part of this Agreement, including but not limited to timely payment of installments of the total cost and other charges as per the payment plan, stamp duty and registration charges, the Developer proposes to offer possession of the Said Apartment to the Apartment Buyer(s) within 4(four) years from the date of</i>

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		<i>approval of building plans or grant of environment clearance, whichever is later. (Emphasis supplied)</i>
9.	Due date of possession	09.03.2019 (due date calculated from the date of environment clearance i.e. 09.03.2015)
10.	Total sale consideration	Rs. 12,36,500/- as per SOA dated 16.12.2019, page 58 of complaint)
11.	Paid up amount	Rs. 13,17,565/- as per SOA dated 16.12.2019, page 58 of complaint)
12.	Occupation certificate	04.12.2019 (page 32 of reply)
13.	Offer of possession	05.02.2020 (as per respondent averment on page 5 of reply)
14.	Possession certificate dated	05.02.2020 ( page 59 of complaint)

## B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:

- I. That the grievance of the complainant relates to breach of contract, false promises, gross unfair trade practices and deficiency in the services committed by the respondent in regard to apartment no. 4, 1<sup>st</sup> floor, 13<sup>th</sup> tower measuring 301 sq. ft. carpet area and 65 sq. ft. balcony area in the project 'Zara Aavaas' at Sector 104, Gurugram, Haryana bought by the complainant, paying her hard-earned money.
- II. That the complainant has paid Rs.13,17,565/- till 2018 which is 100% amount in regard to the said apartment to the respondent but the respondent gave the actual physical possession of the apartment after a delay of one year despite receiving all payments. The respondent has failed to perform his part of obligations rightfully and legally, by not giving possession on time and not executing the conveyance deed of the apartment booked by the complainant till

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date. The due date of possession was 09.03.2019 as per the Affordable Group Housing Policy, 2013 but the respondent handed over the actual physical possession on 04.03.2020.

- III. That the complainant pleads that the lawful, rightful, and legitimate possession of her apartment is handed over to her by executing the conveyance deed of the apartment in the favour of complainant as well as delayed possession charges at the prescribed rate as per the Act. It is pertinent to mention here that the respondent illegally charged VAT of Rs. 13,357/- and the same was paid by the complainant on 07.03.2022, which is illegal as the respondent/promoter has opted composition Scheme for the period 2014 to 2017 and as per the notification of Excise and Taxation Department, Government of Haryana dated 24.09.2015. The respondent has also charged maintenance charges of Rs.3/- per sq. ft. which is totally illegal and in violation of Affordable Housing Policy, 2013 which are liable to be refund to the complainant. The complainant has lost faith in the respondent, but she has faith and believes that through HRERA, Gurugram her rights will be protected and ensured.

**C. Relief sought by the complainant:**

4. The complainant has sought the following relief(s).
- I. **Direct the respondent to pay interest for every month of delay from 09.03.2019 till 04.03.2020 in offering possession of the apartment to the complainant.**
  - II. **Direct the respondent to refund all such illegal amounts which the respondent has surreptitiously charged from the complainant in the form of VAT and maintenance charges.**

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- III. **Restrain the respondent for charging amount in the form of maintenance charges and deducting maintenance charges from prepaid electricity meter of the complainant.**
  - IV. **Direct the respondent to execute and register conveyance deed of the flat in favour of complainant.**
  - V. **Direct the respondent to pay the cost of litigation and the cost towards the mental agony faced by the complainant.**
5. 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**

6. The respondent has contested the complaint on the following grounds.
- a. That at the very outset it is submitted that the complaint is not maintainable or tenable in the eyes of law. The complainant has misdirected himself in filing the above captioned complaint before this authority as the subject matter of the claim does not fall within the jurisdiction of this authority.
  - b. That the present complaint has been filed against the affordable group housing project namely, Zara Aavaas which comprises of 19 towers/residential blocks on 5 acres. The project has been developed in phased manner and the current complaint comprises of allottee of Phase 1 of the project. phase 1 of the project was completed under the license no. 12 of 2014 dated 09.06.2019 renewed vide memo no. LC-3048/Asstt(AK)/2019/25235 dated 10.10.2019. That the building plans were approved vide memo no. ZP-1005/SD(BS)/2014/27657 dated 08.12.2014. Further, the



- environmental clearance for construction of the affordable group housing colony was received vide memo no. SEIAA/HR/2016/280 dated 09.03.2015.
- c. That the construction of the project thereafter was conducted by the respondent by abiding all terms of the approvals so received. Further upon the enactment of the Real Estate (Regulation and Development) Act, 2016 and HRERA Rules, 2017 the respondent duly applied for the registration and the same was received by it vide memo No. HRERA(Reg.)483/2017/751 dated 28.08.2017. The registration no. of the phase I of the project is regd. no. 152 of 2017.
- d. That the respondent had applied for the occupation certificate vide application dated 09.04.2019 and duly received the same from the DTP, Gurugram on 04.12.2019. After the receiving of the occupation certificate, the respondent offered the possession in phased manner and as per the Affordable Group Housing Policy, 2013.
- e. That after receiving the occupation certificate dated 04.12.2019, the respondent vide letter for offer of possession dated 05.02.2020, directed the complainant to take possession of the unit and to further clear all dues. However, the complainant chose to delay the matter on one pretext and another. The complainant was duty bound to take the possession of the residential unit within 2 months of occupation certificate. (sic : possession of the subject unit was handed over to the complainant on 05.02.2020 and the same is evident through possession certificate annexed by complainant herself on page 59.)
- f. It is submitted that complainant has to adhere to the terms and conditions of the agreement for the transaction regarding his unit.

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That as per the apartment buyer's agreement, the complainant had to make payments for electricity connection charges, power backup charges, piped gas charges, etc. vide clause 2.4. Thus, any payments or demands raised under the heads of IFSD (Interest Free Security Deposit), administration charges, meter connections charges, advance electricity consumption deposit are within the terms of the apartment buyer's agreement and nothing illegal has ever been demanded from the complainant.

- g. The respondent has obtained OC only after taking necessary certificates and no objection from the concerned departments. Further, it is submitted that occupation certificate was granted only after complete compliance of necessary approvals from Fire Safety Department, State Environment Impact Assessment Authority and Structure Stability Certificate from Superintending Engineer (HQ), HUDA.
- h. That the primary relief sought by complainant being "delay interest" in handing over the possession is untenable in view of the fact that there was no delay in granting the possession of the flat. It is humbly submitted that there was change in the timelines of the project and the said changes and alteration were not on account of any attribute due to the negligence or conduct of the respondent. It is further pertinent to mention that the timeline alteration were on account of reason beyond the control of the respondent and the complainant has been aware of the alteration in the time line to offer possession and completion of the project.
- i. That with regard to the untenable prayer qua the VAT charges this authority may consider the fact that the respondent/builder has not

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opted for the Composition Scheme notified by the Excise And Taxation Department, Government of Haryana. That nothing has been charged from the allottees which is outside the purview of the application form, payment schedule plan and builder buyer agreement. The demand made for HVAT is just, fair and as per applicable law.

- j. It is pertinent to submit that the issue of HVAT as raised by complainant is baseless and deserves to be dismissed outrightly. It is humbly submitted that promoter/respondent has demanded HVAT as per the law and in proportionate manner from all the allottees. Further, nothing has been charged by respondent which does not form part of the application form, payment schedule plan and builder buyer agreement. It is submitted that respondent/promoter has not opted for the composition scheme as floated by the Government of Haryana.
- k. That it is humbly submitted before this authority that the respondent has already offered the possession of the flats in the project to the allottees way back in 2020 and the possession has also been taken by the complainant who has already been residing peacefully.
- l. It is further submitted that HVAT is an indirect tax and the respondent/promoter being the tax collecting agency is doing a limited job of collecting HVAT from allottees/end customers/users on proportionate basis/equally among all the allottees and depositing it with the competent department i.e., Excise & Taxation Department. The project in question is being developed under Affordable Group Housing Scheme but in that case also, the Excise &

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Taxation Department has levied HVAT. It is further submitted that the promoter-respondent is not a composition dealer and the list of the composition companies who have opted for the composition scheme can be cross-checked. Further this authority in bunch matter case titled as RERA-1027-2021 titled as Amrender Kumar Vs M/s BPTP dated 10.05.2022 and others have taken a view that the promoters who have not opted for composition scheme can collect HVAT from its allottees/customers.

- m. That the various contentions raised by the complainant are fictitious, baseless, vague, wrong and created to misrepresent and mislead this authority, for the reasons stated above. That it is further submitted that none of the relief as prayed for by the complainant is sustainable, in the eyes of law. Hence, the complaint is liable to be dismissed with imposition of exemplary cost for wasting the precious time and efforts of the authority. That the present complaint is an utter abuse of the process of law, and hence deserves to be dismissed.
7. Copies of all the relevant documents have been filed and placed on 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**
8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

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9. 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**

10. 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**

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(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.

11. 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 objection raised by the respondent**

**F. I Objection regarding maintainability of the complaint**

12. The respondent contended that the present complaint is not maintainable as it has not violated any provision of the Act. The authority, in the succeeding paras of the order, has observed that the respondent is in contravention of the section 11(4)(a) of the Act read with proviso to section 18(1) of the Act by not handing over possession by the due date as per the agreement. Therefore, the complaint is maintainable.

**G. Findings on the relief sought by the complainant:**

**G.I Direct the respondent to pay interest for every month of delay from 09.03.2019 till 04.03.2020 in offering possession of the apartment to the complainant.**

13. 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. Section 18(1) proviso reads as under:

***Section 18: - Return of amount and compensation***

*If the promoter fails to complete or is unable to give possession of an apartment, plot or building, -*

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*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*

14. The clause 3(1) of the apartment buyer agreement (in short, agreement) provides the time period of handing over of possession and is reproduced below:

**3. Possession**

*3.1 Unless a longer period is permitted by the DGTCP or in the policy and subject to the force majeure circumstances as stated in clause 16 hereof, intervention of statutory authorities receipt of occupation certificate and timely compliance by the Apartment Buyer(s) of all his/her/their obligations, formalities and documentation as prescribed by the Developer for time to time and not being in default under any part of this Agreement, including but not limited to timely payment of instalments of the total cost and other charges as per the payment plan, stamp duty and registration charges, the Developer proposes to offer possession of the Said Apartment to the Apartment Buyer(s) within 4(four) years from the date of approval of building plans or grant of environment clearance, whichever is later.*

15. **Due date of possession:** The promoter has proposed to handover the possession of the said unit within a period of 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. The building plans and environmental clearance was granted by the concerned authority on 08.12.2014 and 09.03.2015 respectively. The due date of handing over of possession is calculated from grant of environment clearances i.e., 09.03.2015, being later. As such, the due date of handing over of possession comes out to be 09.03.2019.

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**16. Payment of delay possession charges at prescribed rate of interest:**

Proviso to section 18 of the Act 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 of the rules 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.*

17. 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.

18. 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., 06.12.2022 is 8.35%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.35%**.

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19. 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—*

- (i) 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;*
- (ii) 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;"*

20. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., **10.35%** by the respondent /promoter which is the same as is being granted to the complainant in case of delayed possession charges.

21. On consideration of the circumstances, the documents, submissions made by the parties and based on the findings of the authority regarding contravention as per provisions of rule 28(2), the authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 3.1 of the agreement executed between the parties on 01.12.2015, the due date of handing over possession of the subject unit which comes out to be 09.03.2019 as decided in aforesaid paras of this

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order. Occupation certificate has been received by the respondent on 04.12.2019 and the possession of the subject unit was taken by the complainant on 05.02.2020. Copies of the same have been placed on record. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the allotted unit to the complainant as per the terms and conditions of the buyer's agreement dated 01.12.2015 executed between the parties. It is the failure on part of the promoter to fulfil its obligations and responsibilities as per the apartment buyers agreement dated 01.12.2015 to hand over the possession within the stipulated period.

22. 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 complainant is entitled to delay possession at prescribed rate of interest i.e., 10.35% p.a. for every month of delay on the amount paid by the complainant to the respondent from the due date of possession i.e., 09.03.2019 till offer of possession + two months or actual taking over of possession whichever is earlier. It is further clarified that the delay possession charges shall be payable w.e.f., 09.03.2019 till 05.02.2020 as in this case the possession has been taken over by the complainant on 05.02.2020 and hence, DPC shall be allowed

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till this period as per provisions of section 18(1) of the Act read with rule 15 of the rules.

**G II. Direct the respondent to refund all such illegal amounts which the respondent has surreptitiously charged from the complainant in the form of VAT and maintenance charges.**

**G III. Restrain the respondent for charging amount in the form of maintenance charges and deducting maintenance charges from Prepaid electricity meter of the complainant.**

23. The complainant alleged that the respondent has raised the demand for illegal charges in name of taxes, administrative charges, advance electricity consumption charges, holding charges. As per statement of account dated 16.12.2019, attached with offer of possession. It is evident that the respondent has charged such as administration charges, taxes, etc. (page 58 of complaint), in respect of the same the authority observes as under:

- i. Interest Free Security Deposit:** In response to the said relief, the authority is of the view that the interest free security deposit is to be kept in a separate account which would be handed over to the association of allottees after the free maintenance period of the promoter expires. Accordingly, the promoter is directed to give details of the separate account to every allottee, and annual

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statement of deposit be also sent to them within 3 months of expiry of financial year.

ii. **Administrative charges:** In response to the said relief, the authority is of the view that the administrative charges are as per earlier decision of administration of HUDA pattern, and these are to meet the misc. expenses for getting the conveyance done in favour of the allottee. Although, the DTP in response to CM Window complaint has disallowed the charges as there was no specific mention that these are for conveyance deed. Now as per clarification given by counsel for the complainant, the administrative charges are being raised for meeting misc. expenses for getting the conveyance deed in favour of allottee and these are as per the practice allowed by the administration, and these are allowed.

iii. **Meter Connection:** The meter connection charges are to be borne by the allottee accordingly, found to be in order.

iv. **Advance electric consumption deposit:** This is a security deposit and that too a meagre amount of Rs. 3,000/-, the authority finds no discrepancy in this demand.

v. **VAT:** The counsel for the promoter states at bar that the respondent promoter has not opted for Composition Scheme for

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the period 2014 to 2017 of scheme notified by Excise and Taxation Department, Government of Haryana dated 24.09.2015. Accordingly, VAT is being charged. Further, the counsel for the complainant states that the penalty imposed by the department for default on part of promoter is being passed on to the complainant. However, the matter is in appeal before concerned taxation authorities and hence the decision of the concerned authority shall apply accordingly.

- vi. **GST:** The authority has decided this issue in the complaint bearing no. *4031 of 2019 titled as Varun Gupta V/s Emaar MGF Land Ltd.* wherein it has held that for the projects where the due date of possession was prior to 01.07.2017 (date of coming into force of GST), the respondent/promoter is not entitled to charge any amount towards GST from the complainant/allottee as the liability of that charge had not become due up to the due date of possession as per the buyer's agreements.

In the present complaint, the possession of the subject unit was required to be delivered by 09.03.2019 and by that time, the incidence of GST has already come into operation on 01.07.2017.

Therefore, the respondent is entitled to charge GST from the

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complainant. However, the demand be raised as per decision of National Anti-Profitteering Authority (GST), New Delhi.

- vii. Holding charges:** Holding charges shall not be charged by the promoter at any point of time as per law settled by hon'ble Supreme Court of India in civil appeal no. 3864-3899/2020.

The complainant is hereby directed to make the payment to the promoter under the above-mentioned heads as per the aforesaid determination by the authority.

**G.IV Direct the respondent to execute and register conveyance-deed of the flat in favour of complainant.**

24. With respect to the conveyance deed, the provision has been made under clause 8 of the buyer's agreement and the same is reproduced for ready reference:

**8. Execution and Registration of Conveyance deed**

*The Developer, upon completion of construction of the Said Apartment and/or after obtaining occupation certificate, shall transfer the Said Apartment by executing and registering a conveyance deed in respect thereof in favour of the Apartment Buyer(s), provided that the Apartment Buyer(s) fulfils the entire obligations as stated in this Agreement. The Apartment Buyer(s) agrees that no ownership, interest, title or control in the Said Apartment accrues to the Apartment Buyer(s) prior to the registration of the Conveyance Deed for the said Apartment.*

25. Section 11(4)(f) read with section 17 (1) of the Act deals with duty of promoter to get the conveyance deed executed and the same is reproduced below:

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**"11(4) The promoter shall—**

*(f). execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;"*

26. As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant, whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.

27. The possession of the subject unit has already been offered after obtaining occupation certificate on 04.12.2019 and the same was taken by the complainant on 05.02.2020. So, the respondent is directed to get the conveyance deed executed within a period of three months from the date of this order.

**G.V. Direct the respondent to pay the cost of litigation and the cost towards the mental agony faced by the complainant.**

28. The complainant is claiming compensation in the present relief. The authority is of the view that it is important to understand that the Act has clearly provided interest and compensation as separate entitlement/right which the allottee can claim. For claiming compensation under sections 12,14,18 and section 19 of the Act, the

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complainant may file a separate complaint before adjudicating officer under section 31 read with section 71 of the Act and rule 29 of the rules.

**H. Directions of the authority**

29. 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 the interest at the prescribed rate i.e., 10.35% per annum for every month of delay on the amount paid by the complainant to the respondent from the due date of possession i.e., 09.03.2019 till the date of actual handing over of possession i.e. 05.02.2020.
- ii. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order as per rule 16(2) of the rules.
- iii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- iv. The rate of interest chargeable from the complainant/allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.35% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the

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allottee, in case of default i.e., the delay possession charges as per section 2(za) of the Act.

- v. The respondent shall execute the conveyance deed of the allotted unit within the 3 months from the date of this order.
  - vi. The respondent shall not charge anything from the complainant which is not part of the agreement of sale.
  - vii. The respondent is not entitled to charge holding charges from the complainant/allottee at any point of time even after being part of the builder buyer's agreement as per law settled by Hon'ble Supreme Court of India in civil appeal nos. 3864-3889/2020 on 14.12.2020.
30. Complaint stands disposed of.
31. File be consigned to registry.

  
(Sanjeev Kumar Arora)  
Member

  
(Vijay Kumar Goyal)  
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 06.12.2022