

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

Complaint no. :	1234 of 2022
Order reserved on:	17.01.2023
Date of pronouncement:	31.03.2023

Sohan Lal Garg
R/o: - 430/31, Ashok Vihar, Gali no. 2, New Court Road,
Sonipat, Haryana

Complainant

Versus

Ansal Housing & Construction Limited
Address: - 15 UGF, Indra Prakash 21, Barakhamba
Road, New Delhi-110001

Respondent

CORAM:

Shri Ashok Sangwan
Shri Sanjeev Kumar Arora

**Member
Member**

APPEARANCE:

Mr. Gaurav Rawat (Advocate)
None

**Complainant
Respondent**

**HARERA
ORDER**

1. The present complaint dated 29.03.2022 has been filed by the complainant/allottee in Form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible

for all obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se them.

A. Project and unit related details

2. The particulars of the project, the details of 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	Estella
2.	Project location	Sector 103, Gurugram, Haryana
3.	Project area	15.743 acres
4.	Nature of the project	Group housing colony
5.	DTCP license no. and validity status	17 of 2011 dated 08.03.2011 valid up to 07.03.2015
6.	Name of licensee	Rattan Singh and 9 others
7.	HRERA registered/ not registered.	Extension granted vide no.- 09 of 2019, dated:25.11.2019 Valid till:17.08.2020 (Validity of registration has expired)
8.	Unit no.	N-0103 [pg. 89 of complaint]
9.	Unit area admeasuring	1725 sq. ft. [super area]
10.	Date of builder buyer agreement w.r.t. original allottee	04.07.2012 [pg. 85 of complaint]



11.	Date of transfer of unit in name of complainant	21.08.2012 [pg. 107 of complaint]
12.	Possession clause	30. <i>The developer shall offer possession of the unit any time, within a period of 36 months from the date of execution of the agreement or within 36 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 31. Further, there shall be a grace period of 6 months allowed to the developer over and above the period of 36 months as above in offering the possession of the unit."</i> (Emphasis supplied) [page 96 of complaint]
13.	Date of start of construction	25.05.2012 [taken from another complaint of same project]
14.	Due date of possession	04.01.2016 [Note: Due date calculated from date of agreement i.e., 04.07.2012, being later. Grace period allowed being unqualified]
15.	Delay in handing over of possession till the date of this order i.e., 17.01.2023	7 years 13 days
16.	Basic sale consideration as per BBA dated 04.07.2012	₹ 61,46,875/- [pg. 105 of complaint]



17.	Total sale consideration as per SOA dated 14.03.2022	₹ 68,57,031.53/- [pg. 121 of complaint]
18.	Amount paid by the complainant as per SOA dated 14.03.2022	₹ 62,64,402.28/- [pg. 121 of complaint]
19.	Occupation certificate	Not yet obtained
20.	Offer of possession for fit outs	14.02.2022 [pg. 113 of complaint]

B. Facts of the complaint

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

- a. This is with reference to the group housing colony project "Estella" at Sector - 103, Gurugram was launched by Ansal Housing and Construction Limited on the 15.743 acres of land, under the license no. no. 17 of 2011 dated 08.03.2011, issued by DTCP, Haryana, Chandigarh.
- b. That the complainant is allottee within the meaning of Section 2 (d) of the Real Estate (Regulation and Development) Act, 2016. The respondent company, M/s Ansal housing and construction Ltd. is a limited company incorporated under the Companies Act, 1956 and is inter alia engaged in the business of providing real estate services.
- c. The respondent, M/s Ansal housing and construction Ltd. advertised about its new project namely ESTELLA (hereinafter called as 'the project') on the 15.743 acres of land, in Sector 103 of



the Gurugram. The respondent painted a rosy picture of the project in its advertisements making tall claims.

- d. In 2011, the respondent company issued an advertisement announcing a group housing colony project called "Estella" at Sector - 103, Gurugram was launched by Ansal Housing and Construction Limited on the 15.743 acres of land, under the license no. no. 17 of 2011 dated 08.03.2011, issued by DTCP, Haryana, Chandigarh and thereby invited applications from prospective buyers for the purchase of unit in the said project. Respondent confirmed that the projects had got building plan approval from the authority.
- e. The complainant while searching for a flat/accommodation was lured by such advertisements and calls from the brokers of the respondent for buying a house in their project namely ESTELLA. The respondent company told the complainant about the moonshine reputation of the company and the representative of the respondent company made huge presentations about the project mentioned above and also assured that they have delivered several such projects in the national capital region. The respondent handed over one brochure to the complainant which showed the project like heaven and in every possible way tried to hold the complainant and incited the complainant for payments.
- f. Relying on various representations and assurances given by the respondent company and on belief of such assurances, original allottee, Mr. Vimal Mittal, booked a unit in the project by paying an amount of ₹ 4,50,000/- dated 07.01.2011, towards the booking of



the said unit bearing no. N-0103, in Sector 103, having super area measuring 1725 sq. ft. to the respondent dated 07.01.2011 and the same was acknowledged by the respondent vide receipt dated 07.01.2011.

- g. That the respondent confirms the booking of the unit to the original allottee vide letter dated 15.01.2011, providing the details of the project, confirming the booking of the unit dated 07.01.2011, allotting a unit no. N-0103 (hereinafter referred to as 'unit') measuring 1725 sq. ft (super built-up area) in the aforesaid project of the developer for a total sale consideration of the unit i.e., ₹ 61,46,875/-, which includes basic price, plus EDC and IDC, car parking charges and other specifications of the allotted unit and providing the time frame within which the next instalment was to be paid.
- h. That the respondent sent allotment letter dated 14.10.2011 to the original allottee, providing the details of the unit and stating that the layout plan and building plans has been finalized and has been placed before the building plan committee on 29.08.2011 and the same has been approved by the committee.
- i. The original allottees subsequently transferred / endorsed the property in favour of the complainant vide transfer letter dated 21.08.2012. The original allottee executed an "Agreement to Sell" in favour of the complainant (of this present complaint) for an appropriate consideration. The balance amount for obtaining the property which was still under construction was paid by the complainant according to the demands raised by the respondent.



- j. As per clause 30 of the flat buyer's agreement the respondent had to deliver the possession of the unit within period of 36 months from the date of execution of the agreement or date of obtaining all the required sanctions and approvals necessary for commencement of construction, whichever is later along with grace period of 6 months. Start of execution of the agreement is 04.07.2012. Therefore, the due date of possession comes out to be 04.07.2015.
- k. Further, the complainant having dream of its own residential unit in NCR signed the agreement in the hope that the unit will be delivered on or before July,2015. The complainants were also handed over one detailed payment plan which was construction linked plan. It is unfortunate that the dream of owning a unit of the complainant was shattered due to dishonest, unethical attitude of the respondents.
- l. As per the demands raised by the respondent, based on the payment plan, the complainant to buy the captioned unit already paid a total sum of ₹ 61,38,800/-, towards the said unit against total sale consideration of ₹ 61,46,875/-.
- m. That the payment plan was designed in such a way to extract maximum payment from the buyers viz a viz or done/completed. The complainant approached the respondent and asked about the status of construction and also raised objections towards non-completion of the project. It is pertinent to state herein that such arbitrary and illegal practices have been prevalent amongst builders before the advent of RERA, wherein the

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payment/demands/ etc. have not been transparent and demands were being raised without sufficient justifications and maximum payment was extracted just raising structure leaving all amenities/finishing/facilities/common area/road and other things promised in the brochure, which counts to almost 50% of the total project work.

- n. That in terms of clause 30 of the said buyer's agreement (as already referred above), respondent was under dutiful obligation to complete the construction and to offer the possession on or before 04.07.2015. That complainant approached in person to know the fate of the construction and offer of possession in terms of the said buyer's agreement, respondent misrepresented to complainants that the construction will get completed soon.
- o. That offering possession by the respondent on payment of charges which the flat buyer is not contractually bound to pay, cannot be considered to be a valid offer of possession. It would be noticed from the details provided above that those charges were never payable by the complainants as per the agreement, by the complainant and hence the offer of possession.
- p. That the respondent asking for electric meter charges of ₹ 10,000.00 and external electrification charges of ₹ 2,61,750/- from the complainants is absolutely illegal as the cost of the electric meter in the market is not more than ₹ 2,500/- hence asking for such a huge amount, when the same is not a part of the builder buyer agreement is unjustified and illegal and therefore needs to be withdrawn immediately. So are the other demands required to





be withdrawn, as per details provided above and those which are not a part of the FBA.

- q. That the respondent is guilty of deficiency in service within the purview of provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017. The complainant has suffered on account of deficiency in service by the respondents and as such the respondent is fully liable to cure the deficiency as per the provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017.

C. Reliefs sought by the complainant

4. The complainant is seeking the following relief:
- DPC & Possession.
 - Quash the offer of possession for fit outs dated 14.02.2022.
 - Direct the respondent to issue fresh offer of possession after obtaining OC.
 - Direct the respondent not to force the complainant to sign any indemnity cum undertaking.
 - Restrain the respondent from raising fresh demand.
 - Direct the respondent not to charge anything which was not part of the flat buyer agreement.
 - Direct the respondent to refund the amount illegally charged from the complainant on account of labor cess which complainant was not liable to pay as per payment plan.

- h. Direct the respondent to quash the illegal demand on account of interest being demanded from the complainant amounting to ₹ 5,97,205/-.
- i. Direct the respondent to provide the exact lay out plan of the said unit.
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.

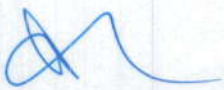
D. Reply filed by the respondent.

6. The respondent has contended the complaint on the following grounds:
- a. That the present complaint is not maintainable against the answering respondent as the complaint is totally false, frivolous and devoid of any merits against the answering respondent. The complaint under reply is based on pure conjecture. Thus, the present complaint is liable to be dismissed on this ground alone.
- b. That the original allottee had approached the answering respondent for booking a flat no. N-0103 in an upcoming project Estella, Sector 103, Gurugram. Upon the satisfaction of the complainant regarding inspection of the site, title, location plans, etc. an agreement to sell dated 04.07.2012 was signed between the parties.
- c. That the current dispute cannot be governed by the RERA Act, 2016 because of the fact that the builder buyer agreement signed between the original allottee, and the answering respondent was in the year 2012. It is submitted that the regulations at the



concerned time period would regulate the project and not a subsequent legislation i.e., RERA Act, 2016. It is further submitted that parliament would not make the operation of a statute retrospective in effect.

- d. That the complaint specifically admits to not paying necessary dues or the full payment as agreed upon under the builder buyer agreement. It is submitted that the complainant cannot be allowed to take advantage of his own mistakes.
- e. That even if for the sake of argument, the averments and the pleadings in the complaint are taken to be true, the said complaint has been preferred by the complainant belatedly. The complainant has admittedly filed the complaint in the year 2021 and the cause of action accrue on 04.07.2015 as per the complaint itself. Therefore, it is submitted that the complaint cannot be filed before the HRERA Gurugram as the same is barred by limitation.
- f. That even if the complaint is admitted to be true and correct, the agreement which was signed in the year 2012 without coercion or any duress cannot be called in question today. It is submitted that the builder buyer agreement provides for a penalty in the event of a delay in giving possession. It is submitted that clause 35 of the said agreement provides for Rs. 5/ sq. foot per month on super area for any delay in offering possession of the unit as mentioned in clause 30 of the agreement. Therefore, the complainant will be entitled to invoke the said clause and is barred from approaching the Hon'ble Commission in order to alter the penalty clause by virtue of this complaint more than 8 years after it was agreed upon



by both parties.

- g. That the complaint itself discloses that the said project does not have a RERA approval and is not registered. It is submitted that if the said averment in the complaint is taken to be true, the Hon'ble Authority does not have the jurisdiction to decide the complaint.
- h. That the respondent had in due course of time obtained all necessary approvals from the concerned authorities. It is submitted that the permit for environmental clearances for proposed group housing project for Sector 103, Gurugram, Haryana on 20.02.2015. Similarly, the approval for digging the foundation and basement was obtained and sanctions from the department of mines and geology were obtained in 2012. Thus, the respondents have in a timely and prompt manner ensured that the requisite compliances be obtained and cannot be faulted on giving delayed possession to the complainant.
- i. That the answering respondent has adequately explained the delay. It is submitted that the delay has been occasioned on account of things beyond the control of the answering respondent. It is further submitted that the builder buyer agreement provides for such eventualities and the cause for delay is completely covered in the said clause. The respondent ought to have complied with the orders of the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 20032 of 2008, dated 16.07.2012, 31.07.2012, 21.08.2012. The said orders banned the extraction of water which is the backbone of the construction process. Similarly, the complaint itself reveals that the correspondence from the





answering respondent specifies force majeure, demonetization and the orders of the Hon'ble NGT prohibiting construction in and around Delhi and the COVID -19 pandemic among others as the causes which contributed to the stalling of the project at crucial junctures for considerable spells.

- j. That the answering respondent and the complainant admittedly have entered into a builder buyer agreement which provides for the event of delayed possession. It is submitted that clause 31 of the builder buyer agreement is clear that there is no compensation to be sought by the complainant/prospective owner in the event of delay in possession.
- k. That the respondent approached and even sent a new agreement to the complainant to countersign it since the complainant was never the original allottee. However, the complainant only accepted the contract verbally and never put her initials over it. Therefore, the agreement between the original allottee and the respondent is imbecile for the complainant. It is further submitted that the complainant herein cannot take advantage of an agreement to which he neither was a party nor a witness.
- l. That since the complainant is relying upon the agreement dated 04.07.2012 therefore, the clause 62 of the aforesaid agreement is relevant as it talks about the dispute being settled by appointing an arbitrator or through arbitration proceedings only. Hence, the present authority does not have the jurisdiction to adjudicate the present complaint. Therefore, the present matter shall be sent for arbitral proceedings.

E. Jurisdiction of the authority

7. 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. DPC & Possession.

F.II. Quash the offer of possession for fit outs dated 14.02.2022.

F.III. Direct the respondent to issue fresh offer of possession after obtaining OC.

11. The respondent is legally bound to meet the pre-requisites for obtaining occupation certificate from the competent authority. It is unsatisfied that even after the lapse of more than 6 years from the due date of possession the respondent has failed to apply for OC to the competent authority. The promoter is duty bound to obtain OC and hand over possession only after obtaining OC therefore, the offer for fit outs dated 14.02.2022 stands redundant. Further the respondent is directed to offer a fresh letter for possession after obtaining the OC from the competent authority.

12. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges. Clause 30 of the apartment buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below:

"30. The developer shall offer possession of the unit any time, within a period of 36 months from the date of execution of the agreement or within 36 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 31. Further, there shall be a grace period of 6 months allowed to the developer over and above the period of 36 months as above in offering the possession of the unit."

13. 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 36 months from date of execution of the agreement or within 36 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later. The authority



calculated the due date from the date of agreement i.e., 04.07.2012 being later. The period of 36 months ends on 04.07.2015. 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, accordingly the due date of possession comes out to be 04.01.2016.

14. **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.

15. 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.
16. 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., **31.03.2023** is 8.70%. Accordingly, the prescribed rate of interest will be MCLR +2% i.e., 10.70%.

17. 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;"

18. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., **10.70%** by the respondent/promoter which is the same as is being granted to the complainants in case of delayed possession charges.
19. 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 30 of the agreement executed between the parties on 04.07.2012, the possession of the subject apartment was to be delivered within 36 months from the date of execution of agreement or date of start of construction whichever is





later. The authority calculated the due date from date of agreement being later. The period of 36 months expired on 04.07.2015. 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 04.01.2016. 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.

20. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. 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. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 04.01.2016 till the expiry of 2 months from the date of issuance of occupation certificate or handing over of possession whichever is earlier at prescribed rate i.e., 10.70 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

F.IV. Direct the respondent not to force the complainant to sign any indemnity cum undertaking.

21. The respondent is directed not to place any condition or ask the complainant to sign an indemnity of any nature whatsoever, which is prejudicial to the rights of the complainant as has been decided by the authority in complaint bearing no. **4031 of 2019 titled as Varun Gupta V. Emaar MGF Land Ltd.**

F.V. Restrain the respondent from raising fresh demand.

- F.VI. Direct the respondent not to charge anything which was not part of the flat buyer agreement.**
- F.VII. Direct the respondent to refund the amount illegally charged from the complainant on account of labor cess which complainant was not liable to pay as per payment plan.**
22. The above-mentioned reliefs are being taken up together for findings. The respondent shall not charge anything from the complainant which is not part of the apartment buyer's agreement.
- F.VIII. Direct the respondent to quash the illegal demand on account of interest being demanded from the complainant amounting to ₹ 5,97,205/-.**
23. The respondent may charge the delay payment charges from the complainant and the rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.70% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- F.IX. Direct the respondent to provide the exact lay out plan of the said unit.**
24. As per section 19(1) of Act of 2016, the allottees shall be entitled to obtain information relating to sanctioned plans, layout plans along with specifications approved by the competent authority, or any such information provided in this Act or the rules and regulations or any such information relating to the agreement for sale executed between the parties. Therefore, the respondent promoter is directed to provide





details of license and statutory approvals to the complainant within a period of 30 days.

G. Directions of the authority

25. 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., 10.70% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e., 04.01.2016 till the expiry of 2 months from the date of issuance of occupation certificate or handing over of possession whichever is earlier.
 - b. The arrears of such interest accrued from 04.01.2016 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 complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - d. 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., 10.70% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the

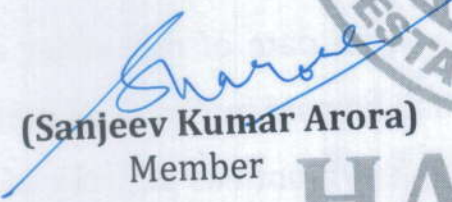
allottees, in case of default i.e., the delay possession charges as per section 2(za) of the Act.

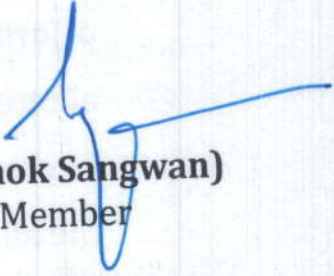
e. The respondent is directed not to place any condition or ask the complainant to sign an indemnity of any nature whatsoever, which is prejudicial to the rights of the complainant as has been decided by the authority in complaint bearing no. **4031 of 2019 titled as Varun Gupta V. Emaar MGF Land Ltd.**

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.

26. Complaint stands disposed of.

27. File be consigned to registry.


(Sanjeev Kumar Arora)
Member


(Ashok Sangwan)
Member

HARERA
Haryana Real Estate Regulatory Authority, Gurugram

Dated: 31.03.2023