

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

**Complaint no. : 1284 of 2020**  
**Date of complaint : 16.03.2020**  
**Date of order : 13.04.2023**

1. Mr. Sanjay Chhabra  
2. Mrs. Vanita Chhabra  
Both RR/o: - 163-C, Mianwali Colony, Gurugram-  
122001

**Complainants**

**Versus**

M/s Raheja Developers Limited.  
**Regd. Office at:** Raheja Mall, Unit No. 317, 3<sup>rd</sup> Floor,  
Sector- 47, Sohna Road, Gurugram- 122001 (Haryana)

**Respondent**

**CORAM:**

Shri Vijay Kumar Goyal

**Member**

**APPEARANCE:**

Sh. Harshit Batra (Advocate)  
Sh. Garvit Gupta (Advocate)

Complainant  
Respondent

**ORDER**

1. The present complaint has been filed by the complainant/allottees in 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 allottee as per the agreement for sale executed *inter se* them.



**A. Unit and project related details**

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

S. N.	Particulars	Details
1.	Name of the project	"Raheja SCO", Sector 83&84, Gurugram, Haryana
2.	Project area	2.8125 acres
3.	Nature of the project	Commercial plotted colony
4.	DTCP license no. and validity status	i. 95 of 2013 dated 30.10.2013 valid upto 29.10.2017 ii. 119 of 2019 dated 14.09.2019 valid upto 13.09.2024
5.	Name of licensee	Bhoop Singh, Ram Singh, Ram Khilari, Satbir, Nanak Chand S/o Amer Singh
6.	RERA Registered/ not registered	66 of 2019 dated 31.10.2019
7.	RERA Registered valid up to	13.09.2024
8.	Unit no.	F-3  (As per amended CRA dated 20.04.2022 page 15 of the CRA form)
9.	Unit area admeasuring	59.79 sq. Yards

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		(As per amended CRA dated 20.04.2022 page 15 of the CRA form)
10.	Date of execution of agreement to sell	Not executed
11.	Date of booking application form	11.11.2019 [As per amended CRA dated 20.04.2022 page 15 of the CRA form]
12.	Date of allotment letter	02.12.2019 [As per amended CRA dated 20.04.2022 page 15 of the CRA form]
13.	Possession clause	27. I/we agree that subject to force majeure and such other conditions and further subject to my/our compliances with all the obligations or documentation as may be prescribed by the promoter under the terms and conditions contained herein and also in the proposed Agreement to sale and also having not default under any provision(s) thereof including but not limited to the timely payment of all dues and charges including the amount stated in the "Annexure- A", the promoter proposed the offer possession of the said

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		<p>commercial plot to me/us and me/we prospective buyer/applicant has to complete the construction of SCO as per standard design within a period of 48 months minus/plus 6 months variable grace period ("Commitment period") from the date of execution of the agreement for sale after provisions of infrastructure in the sector by the government such as laying of sewer/water supply line, road, electrification etc.</p> <p>(Page No. 34 of the complaint)</p>
14.	Due date of possession	11.05.2024 (Note: - calculated from the date of booking application form i.e., 11.11.2019 in the absence of BBA)
15.	Total sale consideration	Rs.1,48,76,753/- (As per amended CRA dated 20.04.2022 page 5 of the CRA form)
16.	Amount paid by the complainants	Rs.10,11,000/- (As receipt information page no. 44 of the complaint)
17.	Occupation certificate	Not obtained
18.	Offer of possession	Not offered
19.	Cancellation request made by the allottees	29.01.2020 [Page no. 50 of the complaint]

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**B. Facts of the complaint**

3. The complainants have made the following submissions: -

- I. That around in October 2019, the complainants came to know about the real estate Project "**Raheja's SCO**", Sector-84, Gurugram, Haryana through media advertisements and authorized representatives of the respondent. The respondent showcased its project as one of the most desirable and painted a rosy picture of its project. The authorized representatives of the respondent also approached the complainants, for and on its behalf making tall and high claims with respect to the project and of the longstanding credentials of respondent and allured the complainants with the brochure and special characteristics of the project which subsequently turned out to be false claims and had deceived the complainants for booking a Unit in the respective Project of the respondent as the Complainants were looking for a plot to earn living.
- II. That the complainants being simple people and believing on such false representations and claims at the pretext of the respondent through its authorized representative, on 11.11.2019 booked a plot admeasuring super area **59.77 sq. yds.** in the said project believing on claims, made by the authorized representative and as circulated through media advertisements, etc. As per authorized representatives, advertisements, and information provided on the

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website of the respondent, the total price of the plot having an admeasuring area of 59.79 Sq. Yds was Rs. 1,17,00,000/-, however, the respondent with *malafide* intention to cheat the complainants did not mention the total price in the application form and also left the payment schedule section on the last page of the application form blank. Allured by the false and rosy claims and assurances and on believing upon the respondent, they have paid an amount of Rs.10,11,000/- as booking amount for registration vide dated 11.11.2019 via Cheque bearing No. 000189 drawn on HDFC bank and the same was acknowledged by it via receipt dated 14.11.2019.

- III. That the complainants received an email from it on 02.01.2020, having the calculation for SCO plot. Through that email, the respondent has arbitrarily levied the PLC charges upon the plot booked by them. Such calculation for SCO Plot is reproduced herein for ready reference of the Hon. Authority.

Particulars	In Sq. Yds
Actual Area	59.77
Rate	1,99,000/-
PLC	19,900/-
EDC & IDC	30,000
BSP + EDC & IDC	1,48,76,753/-

\*Other charges + taxes shall be extra as applicable.

- IV. At the time of booking of the unit, the respondent neither intimated the complainants that they would charge PLC for the plot booked nor mentioned the same in the application form or brochure.

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- V. That to the utter shock and dismay, they reverted to the above-referred email on 03.01.2020 and raised the objection against additional charges imposed by it in the form of PLC upon them. They further raised their concern that they were neither informed about the applicability of PLC, on the plot booked at the time of booking nor the same was reiterated in the documents provided to them. They further wrote that they would not be able to afford such additional cost and if it would have been disclosed at the time of booking, they would have not booked that unit.
- VI. That after raising consistent concerns and objections, Mr. Hemang Drall, authorized representative of the respondent through telephonic conversation, informed the complainants that the process of refund of their amount has been initiated and the same has been passed on to Mr. Parvez Ahmad, authorized representative of the respondent for further action. With respect to that telephonic conversation, the complainants on 10.01.2020 wrote an email to the respondent and asked about the status of the refund of the amount paid by them. However, being in a dominant position the respondent did not provide any satisfactory reply to the complainants.
- VII. That the respondent without appreciating the request of the complainants and in a *malafide* manner, had further sent an e-mail on 14.01.2020 falsely concocting that the Mr. Hemank Drall and Mr. Parvez Ahmed, authorized representatives of it had verbally

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shared the information of PLC and EDC/IDC with the complainants on 10.12.2019. That on receiving such fictitious and disjoint response, the complainants on 16.01.2020, again sent an email to the respondent reiterating that they had never been informed about PLC at the time of booking and the same has been intimated to them on 02.01.2020, which they had immediately objected vide email dated 03.01.2020. They again requested to it for refund the amount paid by them as they cannot afford the additional charges levied by it in the form of PLC.

- VIII. That thereafter, the complainants consistently approached the respondent through telephonic conversation and by personally visiting the office to initiate the process of refund of the amount paid immediately as the delay has caused huge financial loss, mental agony, and harassment to them. However, the respondent being in a dominant position did not address the grievances of the complainants.
- IX. That consequent upon such dissatisfaction, harassment, and exploitation at the hands of it, they sent a letter to the respondent on 29.01.2020 requesting it to refund the amount paid as it cheated them which was duly received by it on 30.01.2020. The respondent kept quiet on the letter sent by the complainants.
- X. That in the brochure or information provided on the website of the respondent, the total price of the plot having an admeasuring area of 59.79 Sq. Yds. was Rs.1,17,00,000/- and in pursuance of which



they had booked a plot in the project "*Raheja's SCO*". However, the respondent vide email dated 02.01.2020, intimated to the complainants that the total price of the plot would be Rs.1,48,76,753/- which was objected to buy them at that time.

- XI. That apart from raising concerns to the respondent, the complainants regularly approached the respondent and also made visits to the office, but no heed was paid to the different alarms raised by them. Despite repeated requests made by the complainants, the respondent failed to redress the grievances of the complainants and to refund the amount paid by them towards the sale consideration of the unit till date.
- XII. That the respondent being in a dominant position compelled the complainants to make additional payments against PLC which were never intimated to them and ignored all the requests and concerns raised by them through various emails, office visits, and telephonic conversation. This gesture of the respondent clearly shows its intention to cheat and dupe the complainants.

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

4. The complainants sought following relief(s).
- i. Direct the respondent to refund the entire amount paid by them along with interest as per the Act, 2016 from the date of respective deposits till its actual realization.
  - ii. To direct the respondent to pay a litigation cost of Rs.1,00,000/-.

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- iii. To grant leave to the complainants to approach the AO for the grant of compensation for mental agony, torture, harassment, and the trauma suffered by the complainants.
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 by the respondent**

6. The respondent contested the complaint on the following grounds: -
- That the complaint is neither maintainable nor tenable and is liable to be out-rightly dismissed. The complainants booked commercial shop cum office' at Sector 83 & 84, Gurgaon and had applied for allotment of plot on 11.11.2019 under development link payment plan vide booking application form. The complainants agreed to be bound by the terms and conditions of booking application form. Booking of the said allotted unit was done prior to the enactment of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "RERA, 2016") and the provisions laid down in the said Act cannot be applied retrospectively. Although the provisions of the, 2016 are not applicable to the facts of the present case in hand yet without prejudice and in order to avoid complications later on, the Respondent has registered the project

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with this authority. The said project is registered with the authority vide registration no. 66 of 2019 dated 31.10.2019.

- That the project in question i.e., 'commercial shop cum office' at Sector 83 & 84, Gurgaon was launched after obtaining all necessary and requisite permissions/sanctions from the competent authorities including the license granted by Director General Town and Country Planning, Haryana under the provisions of Haryana Development and Regulation of Urban Areas Act, 1975 and the rules framed thereunder. The said project is in sector 83 & 84 under the new master plan of Gurugram and is an iconic project being built to the unmatched standards of quality and efficiency not likely to be seen in any other project in the country.
- That the complainants have no locus standi to file the present complaint. There is no cause of action to file the present complaint and the authority is not have the jurisdiction to decide on the interest as claimed by the complainants.
- That the complaint is not maintainable for the reason that the complainants vide clause 38 of the application form agreed that all the disputes arising out of or touching upon or in relation to the terms of application for provisional registration and/or Agreement to Sale, including the interpretation and validity of the terms thereof and the respective rights and obligations, shall be settled amicably by mutual discussion with the promoter and at least 3

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recorded meeting with signed minutes. They have failed to comply with the agreed terms and conditions and approached this authority concealing material facts.

- That the complainants have not approached this authority with clean hands and intentionally suppressed and concealed the material facts in the 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: -

- That the respondent is a reputed real estate company having immense goodwill, comprised of law abiding and peace-loving persons and has always believed in satisfaction of its customers. The respondent has developed and delivered several prestigious projects such as 'Raheja Atlantis', 'Raheja Atharva', 'Raheja Shilas' and 'Raheja Vedanta' and in most of these projects large number of families have already shifted after having taken possession and Resident Welfare Associations have been formed which are taking care of the day to day needs of the allottees of the respective projects.
- That the complainants, after checking the veracity of the project had applied for allotment of a commercial shop cum office plot vide its booking application form dated 11.11.2019. The complainants agreed to be bound by the terms and conditions of the booking application form.

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- That the complainants are real estate investor who had booked the plot in question with a view to earn quick profit in a short period. However, it appears that its calculations have gone wrong on account of severe slump in the real estate market and the complainants are now raising untenable and illegal pleas on highly flimsy and baseless grounds. Such *mala fide* tactics of the complainants cannot be allowed to succeed.
- That the respondent raised payment demands from the complainants in accordance with the mutually agreed terms and conditions of allotment as well as of the payment plan and they made the payment of the earnest money and part-amount of the total sale consideration and are bound to pay the remaining amount towards the total sale consideration of the unit along with applicable registration charges, stamp duty, service tax as well as other charges payable at the applicable stage.
- That the origin of the present complaint is because an investor is unable to get required return due to bad real estate market. It is increasingly becoming evident, particularly by the prayers made in the background that there are other motives in mind by few who engineered this complaint using active social media.
- That every complaint has to be decided according to law, but there is a benchmark (the law), which authority applies to the





facts in order to discern (and adjudicate) what was the obligation, and if there is any deficiency in intent, effort or delivery as claimed but then facts have to reach the record completely and accurately. It is submitted that variation in the economic situation and the upturns and the downturns or unfulfilled expectations of a few cannot form the basis or an excuse to feign deficiency in service delivery.

7. 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 those undisputed documents and submissions made by the parties.

**E. Jurisdiction of the authority**

8. The respondent has raised a preliminary submission/objection the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

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.

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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 allottees 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 complainants at a later stage.
12. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357*** and 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** wherein it has been laid down as under:

*"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."*

13. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

**F. Findings on the objections raised by the respondent**

**F.I. Objections regarding the complainants being investors.**

14. The respondent has taken a stand that the complainants are the investors and not consumers. Therefore, they have not entitled to the protection of the Act and are not entitled to file the complaint under section 31 of the Act. The respondent also submitted that the preamble of the Act states that the Act is enacted to protect the interest of

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consumers of the real estate sector. The authority observes that the respondent is correct in stating that the Act is enacted to protect the interest of consumers of the real estate sector. It is settled principle of interpretation that the preamble is an introduction of a statute and states main aims & objects of enacting a statute but at the same time the preamble cannot be used to defeat the enacting provisions of the Act. Furthermore, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the application form, it is revealed that the complainants are buyer and paid a sum of Rs.10,11,000/- to the promoter towards purchase of a plot in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

*"2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"*

15. In view of above-mentioned definition of "allottee" as well as all the terms and conditions of the apartment application for allotment, it is crystal clear that the complainants are allottees as the subject unit was allotted to them by the promoter. The concept of investor is not defined or referred in the Act. As per the definition given under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party

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having a status of "investor". The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled as *M/s Srushti Sangam Developers Pvt. Ltd. Vs. Sarvapriya Leasing (P) Lts. And anr.* has also held that the concept of investor is not defined or referred in the Act. Thus, the contention of promoter that the allottees being investors are not entitled to protection of this Act also stands rejected.

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

**G.I. Direct the respondent to refund the entire amount paid by them along with interest as per the Act, 2016 from the date of respective deposits till its actual realization.**

16. In the present complaint, the complainants intend to withdraw from the project and are seeking return of the amount paid by them in respect of subject unit along with interest at the prescribed rate as provided under section 18(1)(b) of the Act. Sec. 18(1)(b) of the Act is reproduced below for ready reference.

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

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

***(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or***

***(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,***

***he shall be liable on demand to the allottees, in case 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 that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:***

***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***

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*prescribed.”  
(Emphasis supplied)*

17. As per clause 27 of the booking application form provides for handing over of possession and is reproduced below:

**27** *I/we agree that subject to force majeure and such other conditions and further subject to my/our compliances with all the obligations or documentation as may be prescribed by the promoter under the terms and conditions contained herein and also in the proposed Agreement to sale and also having not default under any provision(s) thereof including but not limited to the timely payment of all dues and charges including the amount stated in the "Annexure- A", the promoter proposed the offer possession of the said commercial plot to me/us and me/we prospective buyer/applicant **has to complete the construction of SCO as per standard design within a period of 48 months minus/plus 6 months variable grace period ("Commitment period") from the date of execution of the agreement for sale after provisions of infrastructure in the sector by the government such as laying of sewer/water supply line, road, electrification etc."***

18. At the outset, it is relevant to comment on the preset possession clause of the booking application form wherein the possession has been subjected to providing necessary infrastructure specially road, sewer & water in the sector by the government, but subject to force majeure conditions or any government/regulatory authority's action, inaction or omission and reason beyond the control of the seller. 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 making payment as per the plan 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 a clause in the agreement to sell by the promoter is just to evade the liability towards timely delivery of subject unit and to deprive the allottee of his right

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accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such a mischievous clause in the agreement and the allottee is left with no option but to sign on the dotted lines.

19. The complainants submitted that the respondent intimated to them on 21.01.2020 offered them an alternate unit in the project plot no. F-3, without quoting any PLC and they were fine with that until due demands were being raised and it was claimed by the respondent that the allotment letter was sent to them on 02.12.2019. However, due to incorrect address, the same was returned and undelivered. And also, the respondent failed to provide the dispatch of the original allotment letter. The respondent further intimated to them after the objection was raised regarding PLC charges the said unit was sold to another buyer which was arbitrary action on part of the respondent without taking consent of the complainants.
20. The authorized representative of the respondent then offered another unit number F-13. The complainants denied such offer of the respondent. The complainants thereby requested to refund the paid amount as the booking amount i.e., Rs.10,11,000/-.
21. **Admissibility of refund along with prescribed rate of interest:** The complainants are seeking refund the amount paid by them at the prescribed rate interest. However, the allottee intends to withdraw from the project and is seeking refund of the amount paid by them in



respect of the subject unit with interest at prescribed rate as provided 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.*

22. 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.
23. 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., 13.04.2023 is **8.70%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.70%**.
24. On consideration of the circumstances, the documents, submissions and based on the findings of the authority regarding contraventions as per provisions of rule **28(1)**, the authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 27 of the booking application from executed between the parties on 11.11.2019, the possession of the subject unit was to be delivered within a period of 48 months minus/plus 6 months variable grace period ("Commitment Period") from the date of execution of buyer's

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agreement (calculated from the date of booking application form i.e., 11.11.2019 in the absence of BBA) which comes out to be 11.11.2023. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over of possession is 11.05.2024.

25. Keeping in view the fact that the allottee/complainants wish to withdraw from the project and are demanding return of the amount received by the promoter in respect of the unit with interest due to non-continuation with the project qua an issue with regard to terms and conditions of allotment, they are allowed to do so. Even it is not disputed that during the pendency of the complaint, the respondent has returned the booking amount on 25.04.2022 and the same was confirmed by them through their counsel. So, now only the dispute remains with regard to the amount of interest on that amount to be paid by the respondent to the complainants. It has been offered by the respondent through its counsel that it is ready to pay interest on the amount so refunded at the prescribed rate of 10.70% per annum from the date of making refund i.e., 25.04.2022 till the date of actual payment and that offer has been accepted by the complainants through their counsel. So, it is ordered accordingly.

- G. II To direct the respondent to pay a litigation cost of Rs.1,00,000/-**  
**G.III To grant leave to the complainants to approach the AO for the grant of compensation for mental agony, torture, harassment, and the trauma suffered by the complainants.**

26. The complainants are seeking above mentioned relief w.r.t. compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)*, has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.

**H. Directions of the authority**

27. 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. Since the respondent/promoter has already refunded the paid - up amount to the tune of Rs.10,11,000/- on 25.04.2022 to the complainants, so it is directed to pay interest on that amount at the prescribed rate of 10.70% p.a. from the date of payment i.e., 25.04.2022 till the date of actual realization of the interest amount.





**HARERA**  
**GURUGRAM**

Complaint No. 1284 of 2020

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.

28. Complaint stands disposed of.

29. File be consigned to registry.

Dated: 13.04.2023

V-1 - 3  
**(Vijay Kumar Goyal)**  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram



**HARERA**  
**GURUGRAM**