



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

Complaint no.	:	680 of 2022
Date of filing complaint:		18.02.2022
Date of decision	:	14.03.2023

Chavi Priya R/O: 8/C-35, Pratap Nagar, Tonk Phatak- Jaipur-302015	Complainant
Versus	
M/s Imperia Structures Ltd. Regd. office: A-25, Mohan Cooperative Industrial Estate, New Delhi-110044	Respondent

CORAM:	
Shri Ashok Sangwan	Member
Shri Sanjeev Kumar Arora	Member
APPEARANCE:	
Sh. Garvit Gupta (Advocate)	Complainant
Sh. Himanshu Singh (Advocate)	Respondent

ORDER

1. The present complaint 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 there under or to the allottee as per the agreement for sale executed inter se.

A. Unit and project 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 and delay period, if any, have been detailed in the following tabular form:

S. N.	Particulars	Details
1.	Name and location of the project	"The Esfera" Phase II at sector 37-C, Gurgaon, Haryana
2.	Nature of the project	Group Housing Complex
3.	Project area	17 acres
4.	DTCP license no.	64 of 2011 dated 06.07.2011 valid upto 15.07.2017
5.	Name of licensee	M/s Phonix Datatech Services Pvt Ltd and 4 others
6.	RERA Registered/ not registered	Registered vide no. 352 of 2017 issued on 17.11.2017 up to 31.12.2020
7.	Unit no.	1804, 18th Floor, Tower C (page no. 30 of complaint)
8.	Unit area admeasuring (super area)	1435 sq. ft. (page no. 30 of complaint)
9.	Date of builder buyer agreement	12.06.2013 [page no. 27 of complaint]



10.	Possession clause	<p>10.1. SCHEDULE FOR POSSESSION</p> <p>“The developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete the construction of the said building/said apartment within a period of three and half years from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in clause 11.1, 11.2, 11.3, and clause 41 or due to failure of allottee(s) to pay in time the price of the said unit along with other charges and dues in accordance with the schedule of payments given in annexure C or as per the demands raised by the developer from time to time or any failure on the part of the allottee to abide by all or any of the terms or conditions of this agreement.”</p> <p>(emphasis supplied).</p>
11.	Due date of possession	12.12.2016 [calculated as per possession clause 10.1 of agreement]
12.	Total sale consideration	Rs. 84,85,331/- [as per the statement of account on page no. 83 of complaint]
13.	Amount paid by the complainant	Rs. 80,01,334/- [as per the statement of account on page no. 83 of complaint]

14.	Occupation certificate	Not obtained
15.	Offer of possession	Not obtained

B. Facts of the complaint:

3. That the complainant received a marketing call from the office of respondent in the month of October 2012 for booking in its residential project, 'The Esfera' situated at Sector 37C, Gurugram. The complainant induced by the assurances and representations made by the respondent, decided to book a unit in the project he required the same in a time bound manner for her own use and occupation and of her family members.
4. That the respondent on the basis of the application made by the complainant allotted unit no. C-1804 in its project against the payment of Rs.6,45,733/- made by the her at the time of booking of the unit. After the allotment of unit respondent raised demands which were duly paid by her.
5. That a copy of the apartment buyer's agreement was sent to the complainant vide letter dated 08.05.2013 which was a wholly one-sided document containing totally unilateral, arbitrary, one-sided, and legally untenable terms favouring the respondent and was totally against the interest of the purchaser, including the complainant.
6. That the complainant made vocal her objections to the arbitrary and unilateral clauses of the apartment buyer's agreement to the respondent but it rejected her request. The complainant prior to signing of the agreement has already paid an amount of Rs. 25,08,763/- and was



left with no other option to sign the one sided terms of apartment buyer agreement and the same was executed on 12.06.2013.

7. That the complainant has till date made a payment of Rs. 80,01,334/- out of the total sale consideration amount of Rs. 81,20,075/- strictly as per the terms of the allotment and the construction linked payment plan. There is no default in making timely payment towards the instalment demands committed by the complainant.
8. That as per the terms and conditions of the apartment buyer's agreement, the due date to handover the possession of the allotted unit is to be computed from the date of execution of the apartment buyer's agreement i.e., 12.06.2013. The due date of delivery of possession as per the agreed terms of the apartment buyer's agreement has thus elapsed way back on 11.12.2016.
9. That since the time period to handover the possession stated by the respondent in the apartment buyer's agreement had lapsed, the complainant requested the respondent telephonically, and by visiting the office of the respondent to update her about the date of handing over of the possession. The respondent vide its email dated 08.10.2020 intimated to the complainant that the possession of the unit would be delivered by March, 2021. It is pertinent to mention herein that the respondent vide its email dated 22.03.2021 informed the complainant that it would deliver the unit in the last quarter of 2021 and would apply for the grant of the occupation certificate in the second quarter of 2021. In the second quarter of 2021, it was informed that the possession of the unit would be delivered around Diwali, 2021. The respondent has continuously been misleading the allottees including the complainant by giving incorrect information.



10. That the respondent has illegally demanded Rs.7,64,335/- towards the increased area charges and Rs.6,76,024/- towards the average escalation cost. Moreover, the complainant has also demanded the GST amount of Rs.1,57,822/-.
11. That the complainant vide email dated 16.11.2021 again enquired about the illegal demands raised by the respondent. The respondent vide its email dated 01.12.2021 gave an unconvincing explanation that the area was increased as per the BBA executed between the parties which was 10%. However, it is submitted that the complainant in blatant violation of law has not only demanded illegal charges towards the increased area but also has tried to conceal its wrongs. The respondent has demanded Rs.7,64,335/- towards increased area charges calculated by it as per the formula 'Increased in Area x Booking/allotment rate' and the same is evident from the letter dated 11.08.2021 sent by it. The apartment was allotted with super area of 133.36 sq. meter and the booking allotment rate was Rs.46,483.2 sq. meter. After calculating the increased in area from the formula detailed by the respondent in its letter dated 11.08.2021 for the purpose of charges, the increase in area comes to an additional 16.5 meters (approximately) which is clearly more than 10% of the initial super area of the unit in question. Moreover, the said illegal act of the respondent/promoter is in complete violation of Section 14 (ii) of RERA Act, 2016. As per the said section, any alternation or addition in the plans, layout plans, specifications of the building or common areas within the project could not have been undertaken without the written consent of at least 2/3rd of the allottees of the project. No such written consent for any proposed alteration beyond the terms of the Agreement



was taken by the respondent from the allottees. Furthermore, there was no intimation as to why the change in the super area was made and what changes were made by the respondent. It is, thus clear that the respondent has deliberately, mischievously, dishonestly and with mala fide motives cheated and defrauded the complainant.

12. That the letter dated 11.08.2021 is also illegal on the face of it as it is an attempt of the respondent/promoter to raise demand as per its whims and fancies and not in accordance with the payment plan. It is reasserted that all the payment demands were to be sent by the respondent/promoter strictly as per the construction linked payment plan. As per the payment plan, any demand after the stage of 'on start of outside painting' could have been sent only at the time of offer of possession. The said illegal demand dated 11.08.2021 was sent by the respondent/promoter when no such milestone was achieved and the fact that the same is different from the final demand which is to be raised against possession i.e. after receiving the occupation certificate is made out from a bare perusal of email dated 01.09.2021 sent by the respondent/promoter wherein it after raising the said demand vide letter dated 11.08.2021 intimated to the complainant that the payment towards the said demand can also be done at the time of final demand. The respondent had no authority, power and right, even under the terms of the agreement to raise the illegal demand dated 11.08.2021. Moreover, the respondent/promoter has wrongly demanded GST charges. It is submitted that the GST charges came into effect and was implemented only on 01.07.2017. If the respondent/promoter would have handed over the possession by the due date which was prior to the implementation of the said charges, the same would not have been



demanded by the respondent/promoter from the complainant. She cannot be allowed to suffer for no defaults on her part. The respondent has indulged in gross dishonesty and illegality and specific directions are to be given by this Hon'ble Authority to conduct a detailed enquiry about the several defaults and violates committed by it.

13. That the due date to hand over the possession of the apartment to the complainant was 11.12.2016 and the same has been admitted by the respondent itself in its letter dated 11.08.2021. No intimation whatsoever regarding the occurrence of any alleged and imaginary force majeure condition was given to the complainant after the lapse of the due date and the first time any such communication was made by the respondent was vide its email dated 11.05.2020.
14. That the respondent has violated several provisions of RERA 2016 and Haryana RERA Rules 2017 and is liable to be proceeded for the same. As per section 18 of RERA 2016 and Rules 15(1) and 15(3) of Haryana RERA Rules, 2017, the respondent/promoter is liable to pay interest for every month of delay till handing over of possession.

C. Relief sought by the complainant:

15. The complainant has sought following relief(s):
 - (i) Direct the respondent to handover the possession of the allotted unit in a habitable condition with all amenities as promised after obtaining the occupation certificate from the concerned authorities.
 - (ii) Direct the respondent to pay delayed interest on the total amount paid by the complainant i.e., Rs. 80,01,334/- from the due date of handover the possession i.e., 11.12.2016 till date of actual handing over of the physical possession of the unit at the prescribed rate as per Act.

- (iii) Direct the respondent to withdraw the demand letter dated 11.08.2021 sent by it containing illegal charges which are not payable by the complainant.

D. Reply by respondent:

The respondent by way of written reply made following submissions:

16. That the complainant has not approached the authority with clean hands and thus suppressed misconceived the material facts with an intention to mislead the authority by making incorrect and false averments and stating untrue and incomplete facts and as such is guilty of suppression very suggestion falsi.
17. That after making independent enquiries and only after being fully satisfied about the project, the complainant approached the respondent company for booking of a residential unit in its project "The ESFERA", phase II, located in sector-37-C, Gurugram, Haryana. The respondent company provisionally allotted the unit bearing no. tower C 1804 admeasuring with of 1435sq. ft. to complainant for a total consideration of Rs. 84,85,331/- (including applicable tax) plus other charges vide booking dated 27.11.2012 and opted the construction linked plan on the terms and conditions mutually agreed by them.
18. That the complainant has failed to make out a case under section 18 of the RERA Act, as the respondent has already completed the construction and development of the towers and applied to the competent authority for grant of occupancy certificate on 15-04-2021 after complying with all the requisite formalities and is expecting to receive the same by end of March'2023. The respondent is expecting to



issue offer of possession along with all required certificates by the end of March'2023.

19. That, the respondent company is in extreme liquidity crunch at this critical juncture, and has also been saddled with orders of refund in relation to around 20-25 apartments in the project, on account of orders passed by various other courts. The total amount payable in terms of those decrees exceeds an amount of Rs.20 crores.
20. That, on account of many allottees exiting the project and many other allottees not paying their installment amounts, the company, with great difficulty, in these turbulent times has managed to secure a last mile funding of Rs.99 crores from SWAMIH Investment Fund - I. The said alternate investment fund (AIF) was established under the special window declared on 6.11.2019 by the Hon'ble Finance Minister to provide priority debt financing for the completion of stalled, brownfield, RERA registered residential developments that are in the affordable housing /mid-income category, are net-worth positive and require last mile funding to complete construction. The company was granted sanction on 23.09.2020 after examination of its status and its subject project "Esfera" for the amount of Rs.99 crores. The first transaction of installment has already been received by the respondent company from the said fund as loan.
21. That the respondent company is extremely committed to complete the phase 2 of the project Esfera. In fact, the super structure of all towers in phase 2 (incl. Tower B) has already been completed. The internal finishing work and MEP works is going in a full swing with almost 450 construction labourers are working hard to chieve the intent of the



appellant to complete the entire project despite all prevailing adversaries.

22. That the respondent company fulfilled its promise and had constructed the said unit of the complainant and with due procedure of law, applied for occupation certificate.
23. That the recent outbreaks of Novel Coronavirus (COVID-19) has affected the whole world including India. The government of India on 24.03.2020 announced nationwide lockdown to contain the spread of Covid-19 wherein all the non-essential economic activities were shut down inclusive of the construction activities.
24. That due to spread of covid -19 pandemic the supply for the building material got severely disrupted as manufacturing of non-essential within the country was stopped and even the majority of workers employed in the project migrated back to their native place.
25. 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 those undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

26. The authority has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E. I Territorial jurisdiction

27. 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

28. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(a)

Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

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.

29. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Findings on the objections raised by the respondent.

F.I Objection regarding delay due to force majeure.

30. The respondent-promoter raised the contention that the construction of the project was delayed due to force majeure conditions such as



national lockdown, shortage of labour due to covid 19 pandemic etc, but all the pleas advanced in this regard are devoid of merit. As per the possession clause 10.1 of the buyer's agreement, the possession of the said unit was to be delivered within three and half years from the date execution of agreement. The buyer's agreement between the parties was executed on 12.06.2013. So, the due date comes out to be 12.12.2016. The authority is of the view that the events taking place after the due date do not have any impact on the project being developed by the respondent/promoter. Thus, the promoter/respondent cannot be given any leniency based on aforesaid reasons. It is well settled principle that a person cannot take benefit of his own wrongs.

G. Entitlement of the Complainant:

- G.I Direct the respondent to handover the possession of the allotted unit in a habitable condition with all amenities as promised after obtaining the occupation certificate from the concerned authorities.**
- G.II Direct the respondent to pay delayed interest on the total amount paid by the complainant i.e., Rs. 80,01,334/- from the due date of handover the possession i.e., 11.12.2016 till date of actual handing over of the physical possession of the unit at the prescribed rate as per Act.**
31. 2In 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. Sec. 18(1) proviso reads as under.

"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, —

.....

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."

32. Clause 10.1 of the buyer's agreement provides the time period of handing over possession and the same is reproduced below:

"10.1. SCHEDULE FOR POSSESSION:

"The developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete the construction of the said building/said apartment within a period of three and half years from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in clause 11.1, 11.2, 11.3, and clause 41 or due to failure of allottee(s) to pay in time the price of the said unit along with other charges and dues in accordance with the schedule of payments given in annexure C or as per the demands raised by the developer from time to time or any failure on the part of the allottee to abide by all or any of the terms or conditions of this agreement."

33. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges, 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.

34. 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.
35. 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., 14.03.2023 is 8.70%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.70% per annum.
36. The definition of term 'interest' as defined under section 2(z a) 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;"*
37. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.70% p.a. by the



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

38. On consideration of the circumstances, the evidence and other record and submissions made by the parties, 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. It is a matter of fact that buyer's agreement executed between the parties on 12.06.2013, the possession of the booked unit was to be delivered within a period of three and half years from the date of execution of this agreement which comes out to be 12.12.2016.
39. Accordingly, non-compliance of the mandate contained in section 11(4) (a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to delayed possession charges at the prescribed rate of interest i.e., 10.70% p.a. for every month of delay on the amount paid by her to the respondent from the due date of possession i.e., 12.12.2016 till the valid offer of possession of the subject unit after obtaining occupation certificate from the competent authority plus two months or handing over of possession whichever is earlier as per the provisions of section 18(1) of the Act read with rule 15 of the rules.

G.III. Direct the respondent to withdraw the demand letter dated 11.08.2021 sent by it containing illegal charges which are not payable by the complainant.

40. The complainant has contended about various illegal charges raised by the respondent-promoter detailed as under:

S.No.	Particulars	Amount (Rs.)
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1	Demand towards Balance Sale Consideration	4,66,780/-
2	Increased Area Charges (i.e., Increase in Area x Booking/ Allotment Rate)	7,64,335/-
3	Average Escalation Cost, as per indexed construction Escalation between 2014-2017	6,76,024/-
4(A)	Net Sales Value (Aggregate of above)	19,07,139/-
5(B)	Total Service Tax/ GST	5,05,861/-
6(C)	Service Tax/GST (Received)	3,48,039/-
7(D)	Balance Service Tax/GST [i.e., [B-C] =D]	1,57,822/-
8(E)	Delay Possession Penalty @ Rs. 5/- sq. ft. starting from 11 th December 2016 till 31 st May 2021	4,29,216/-
9(F)	Total Outstanding Dues [i.e., (A+D-E) =F]	16,35,745/-

41. It is pleaded that out of the above-mentioned charges detailed, there is no basis to demand charges **against increase in area**, average escalation cost and balance service tax/GST. Though demand under the heading increased area charges (i.e., increase in area x booking/ allotment rate) has been mentioned as Rs. 7,64,335/-but without giving any basis. A buyer's agreement w.r.t allotted unit was executed between the parties on 12.06.2013 and clause 9.2 provides with regard to major alteration/modification resulting in excess of +/- 10% change in the super area of the apartment or material/ substantial change in the sole opinion of and as determined by the developer/company. The increase



in super area of the unit comes to 9.9% i.e., from the original allotment of 1435 sq. ft., it comes to 1578 sq. ft. A reference to clause 9.2 of the agreement must detail as under:

9.2 Major alteration/modification

In case of any major alteration/modification resulting in excess of +10% change in the super area of the aid apartment or material/substantial change, in the sole opinion of and as determined by the Developer/company, in the specifications of the materials to be used in the said building/said apartment any time prior to and upon the grant of occupation certificate, the develop/company shall intimate the intending allottee(s) in writing the changes thereof and the resultant change, if any, in the price of the said apartment to be paid by him/her and the intending allottee agrees o deliver to the Developer/Company his/her written consent or objections to the changes within thirty days from the date of dispatch by the Developer/Company of such notice failing which the intending allottee shall be deemed to have given his/her full and unconditional consent to all such alterations/modifications and for payment, if any to be paid in consequence thereof.....

42. It is not disputed that the due date for completion of the project has already expired on 12.12.2016 and occupation certificate has still not been received. The impugned demand against the above-mentioned head was raised vide letter dated 11.08.2021 while offering possession for fit outs and the same is as per the above-mentioned provision of the buyer agreement. If the complainant has any objection against the purposed change/increase, then she has a right to challenge the same within the period stipulated as per buyers' agreement. However, the respondent-builder is also duty bound to explain that increase in the super area of the unit vis a vis the project before raising such demand and can be therefore recovered from the allottee. The view of the



authority in this regard find support from the ratio of law laid down in case of NCDRC in judgement no. 34 of 2022 titled as Himanshu Dewan and 5 others Vs. Experion Developers Pvt. Ltd.

- **Escalation charges**

43. While raising demand vide letter dated 11.08.2021, the respondent builder also raised a demand for Rs. 6,76,024/- being average escalation cost as per indexed construction escalation between the years 2014-2017. It is contended that the demand raised in this regard is illegal. But again, the plea advanced in this regard is devoid of merit. A reference to clause 1.2 and 1.6 of the agreement provides with regard to increase or decrease in the price of material used in the construction work and being recoverable/payable by the allottee. Then vide clause 1.6 of that document, the allottee agreed to pay sale price of the unit calculated on the basis of increase or decrease in the super area. There is increase in the super area besides increase in the price of construction material used. So as per the terms and conditions of the buyers agreement mentioned above the demand raised under this head can't be said to be illegal.

- **GST charges:**

44. It is contended on behalf of the complainant that vide letter dated 11.08.2021 the respondent raised a demand for a sum of Rs. 157822/- on account of balance service tax/GST. It is mentioned in that letter that the total demand against service tax/ GST is Rs. 5,05,861/- and out of which a sum of Rs. 348039/- has already been received. The balance amount under that head has been demanded vide letter under reference and the same is illegal as the incidence of GST came into effect from



01.07.2017 and the due date for completion of the project and offer of possession of the allotted unit was fixed as 12.12.2016. No doubt the incidence of GST came into effect with effect from July 2017 but upto 12.12.2016, the developer can raise demand against service tax only and the same upto that date is chargeable from the allottee by the builder.

H. Directions of the Authority:

45. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoters as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:

- i) The respondent is directed to pay interest at the prescribed rate of 10.70% p.a. for every month of delay from the due date of possession i.e., 12.12.2016 till the valid offer of possession of the subject flat after obtaining occupation certificate from the competent authority plus two months or handing over of possession whichever is earlier.
- ii) The respondent is directed to pay arrears of interest accrued within 90 days from the date of order and thereafter monthly payment of interest to be paid till date of handing over of possession shall be paid on or before the 10th of each succeeding month.
- iii) The complainant is also directed to pay the outstanding dues after adjustment of delay possession charges, if any.



- iv) The rate of interest chargeable from the 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 allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- v) The respondent shall not charge anything from the complainant which is not part of the builder buyer agreement.

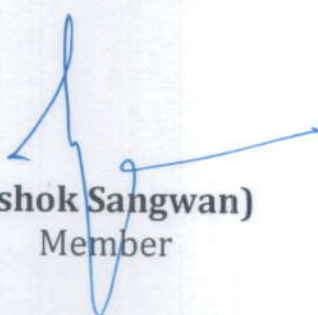
46. Complaint stands disposed of.

47. File be consigned to the registry.


(Sanjeev Kumar Arora)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 14.03.2023


(Ashok Sangwan)
Member