

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

Complaint no. :	4077 of 2021
Date of filing complaint:	02.11.2021
First date of hearing:	23.12.2021
Date of decision	10.08.2023

Sh. Manoj Kumar Goyal R/O: H No. 90, Cottage Enclave, A -4, Paschim Vihar, New Delhi	Complainant
Versus	
M/s Hcbs promoters & developers pvt. ltd Regd. Office: Plot no.-137, sector-27, Gurugram	Respondent

CORAM:	
Shri Vijay Kumar Goyal	Member
APPEARANCE:	
Sh. Shresth Jain (Advocate)	Complainant
Sh. Harshit Sharma Proxy (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 29 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 allottees 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.no.	Heads	Information
1.	Name of the project	"Sports Ville", Sector 72 and 35, Sohna Road Gurugram Haryana
2.	RERA Registered	228 of 2017 dated 19.09.2017
3.	Nature	Affordable Group Housing
4.	Allotment letter	04.07.2015 (Page 47 of complaint)
5.	Unit no.	D-407 4 th floor in tower D
6.	Unit admeasuring	519.30 sq. ft. (Page no. 6 of complaint)
7.	Date of apartment buyer's agreement	07.01.2015
8.	Environment clearance	20.02.2015 as confirmed by the respondent during proceedings
9.	Possession clause	8.1 The company shall endeavour to complete the construction and handover the possession of the said apartment within a period of 4 years from the date of execution of this agreement or date of receipt of all the environmental clearances necessary for the completion of the construction and development of the project whichever is later..... (Emphasis supplied).
10.	Due date of delivery of possession	20.02.2019 (Calculated 4 years from the date of environment clearance being later)

A ✓

11.	Total sale consideration	Rs. 19,16,904/- (As alleged by the complainant)
12.	Total amount paid by the complainant	Rs. 17,03,097/- (As alleged by the complainant)
13.	Occupation certificate	04.06.2020 (Page 17 of reply)
14.	Offer of possession	01.07.2020 (Page 75 of complaint)

B. Facts of the complaint:

3. That the respondent launched and solicited for project by the name and style of "Sports Ville" for providing comfortable and affordable housing in Sector-2 & 35, Sohna Road, Gurugram, Haryana. As per the brochure of the respondent company, the affordable housing project was to include all the amenities as required for a residential society. As it was an affordable housing project, the complainant was certain to receive its timely possession in an affordable price.
4. That the complainant got allured with the amenities and booked a unit in the project of the respondent. It is stated that the said project is registered under HARERA bearing RERA No. 228 of 2017. The said unit was booked in favour of complainant and was duly allotted unit bearing no. D-407 at Fourth Floor in Tower No. D having Carpet Area of 519.30 sq. ft. plus Balcony Area of 94.20 sq. ft. in the project located in the revenue estate of "HCBS SPORTS VILLE", sector 2 & 35, Sohna, Gurgaon, Haryana. The total value of the said unit as per the said agreement is Rs. 19,16,904.05/- exclusive of taxes.

A

5. That at the time of booking, the respondent represented that the said unit would be delivered on or before 07.01.2019. A builder buyer agreement was executed on 07.01.2015 between the parties and an allotment letter was issued in favour of the complainant on 04.07.2015 along with the demand letter. It was strange that after the said agreement was executed, the allotment letter was issued and upon its enquiry, the respondent stated that they forgot to issue the allotment letter and to complete its process, they issued the allotment letter on 04.07.2015.
6. That the complainant has admittedly paid an amount of Rs. 17,03,097/- to the respondent till date i.e., more than 90% of the total consideration. It is pertinent to mention that the complainant has at all times made the payment as demanded and to the satisfaction of the complainant. The complainant has never delayed in making the payments over the time, even then the respondent in order to grab more money from customers like complainant charged illegitimate interest. It is important to mention that various times, the demands which were raised were not as per the construction linked, therefore, the complainant made the payment only upon satisfaction of the construction linked as per the payment plan, hence, delay at several occasions.
7. That the builder buyer agreement got executed between the parties on 07.01.2015 and according to clause 8.1, the possession of the said apartment was to be handed over within 4 years which expired on 07.01.2019. However, the said unit was not offered for possession at the said committed date. The possession for the first time was offered on 01.07.2020 vide a letter i.e., after about 16 months of delay. Along with the letter for offer of possession issued by the respondent, the respondent had attached a statement of account as per their records and interestingly, the total sale consideration in the said statement comes to be Rs. 20,15,844/-

which clearly shows that the respondent has added the charges which are illegitimate and beyond to what was promised at the time of booking. Apart from the increase in the total sale consideration, there was an amount of Rs. 1,53,665/- charged towards the interest and Rs. 27,660/- towards GST was charged on. It is stated that the complainant has always paid the demands as and when raised and on mutual terms, hence the question of any interest or delay in payment interest does not arise. Further, it is stated that there have been some illegal demands by the respondent, which were raised even before the construction had commenced or reached to the stage.

8. That That upon receiving the said letters and final statement of account, the complainant immediately apprised the respondent with the objections on the illegitimate charges vide two letters dated 17.07.2020 and 30.07.2020 as mentioned in the final statement of accounts. Some of the objections are as follows:
- ❖ That the project was to be delivered to the complainant by 07.01.2019 which is the time period of 4 years as promised by the respondent and was also mentioned in the apartment buyer's agreement but there is delay of over 16 months, the offer of possession was issued by the respondent on 01.07.2020 which is a time period which exceeds the promised date on which the possession of the Apartment was supposed to be delivered to the complainant.
 - ❖ That as per the affordable housing policy, the respondent is supposed to provide the possession of the apartment the buyer free of maintenance charges, whereas the respondent has charged the complainant with heavy maintenance charges. even after the offer of possession was issued

to the complainant, when the complainant paid a visit to the project, to his shock the project was still not fully and properly delivered. The Clubhouse, swimming pool, roads, gardens, the landscape etc. were not completed yet.

9. That as per the Haryana Government's Town and Country Planning department's Notification dated 19th August 2013 Clause 4(v) which states:

"(v) Maintenance of colony after completion of project: A commercial component of 4% is being allowed in the project to enable the coloniser to maintain the colony free-of-cost for a period of five years from the date of grant of occupation certificate, after which the colony shall stand transferred to the "association of apartment owners" constituted under the Haryana Apartment Ownership Act 1983, for maintenance. The coloniser shall not be allowed to retain the maintenance of the colony either directly or indirectly (through any of its agencies) after the end of the said five years period. Engaging any agency for such maintenance works shall be at the sole discretion and terms and conditions finalised by the "association of apartment owners" constituted under the Apartment Ownership Act 1983."

10. The above-mentioned clause of the policy by the Haryana Government states that the projects built under the affordable housing policy will not charge the customer any maintenance charges for the period of five years but according to the account statement of facility services management by the respondent, the respondent has is charging the complainant common area maintenance charges @ Rs. 2.80/- per square feet which comes down to Rs. 20,618/-, Interest Free Maintenance Charges of Rs. 15,000/- and Electricity Consumption Charges of Rs. 4,500 which is contrary to the Affordable Housing Policy issued by the Haryana Government's Town and Country Planning Department.

11. That even after handing over of the possession of the said apartment, the respondent has failed to develop a proper infrastructure of the whole society. The complainant paid multiple visits to the building site before and

A

after the offer of possession of the said flat, only the apartments have been built with a very poor infrastructure. The other promised amenities such as a fully built clubhouse, pool, proper lift facilities etc. as promised in the apartment buyer's agreement were still even after more than a year's delay was not completed. The respondent failed to deliver whatever was promised to the complainant even after offering the possession over to the complainant.

12. That the amount mentioned in the payment schedule attached with the apartment buyer's agreement is Rs. 19,84,409.64 the amount mentioned in the final call letter is Rs. 20,15,844 which are both different and there is no proper explanation as to on what basis and how there is so much difference between the said amounts and if so, the respondent never intimated the complainant about the additions and changes in the amount. This clearly shows the mala fide act of the respondent in order to obtain more money from the complainant. It is the right of the complainant to be intimated by the respondent about the changes in the payment plan if there is any.
13. That the complainant, in the said letter had also apprised the respondent to reply to the said grievances of the complainant and the complainant had at all times ready and willing to take the possession by making the payment towards the last tranche which comes to Rs. 2,99,847/- as per the ledger maintained by the respondent itself. That it is pertinent to mention that the respondent is accountable to the complainant for the delivery of the project exactly how and when it was promised at the time of signing of the builder agreement.

C. Relief sought by the complainant:

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

A

- i. Direct the respondent to make payment of interest accrued on amount collected by the respondent, on account of delayed offer for possession and which interest should be at prescribed rate .
- ii. Direct the respondent to execute the conveyance deed in favour of the complainant

D. Reply by respondent:

The respondent by way of written reply made following submissions

15. That the complaint under reply is neither tenable nor maintainable and has been filed with an oblique motive when the respondent has already completed the obligations and offered the possession to the complainant and the complaint is filed merely with an intent to gain wrongfully and arm twist the respondent through the process of law once all obligations on behalf of the respondent are complete. That worth noting that the complainant never had any objection or complaint of any sort lest a complaint of delay in completion of the project while the project was going on.
16. That it is stated that the project of the respondent and the obligations on the part of the respondent were very much complete on 29.05.2019 when the applicant applied for grant of occupation certificate, however, the occupation certificate was only granted on 4.06.2020.
17. That the respondent despite all odds of shortage of men, material, industry wide slow down, repeated cancellations of the units and shortage of funds and construction bans due by National Green Tribunal has duly complied with its obligations of completing the project in the most expected time frame and duly offered the possession thereof to the complainant but the complainant despite the offer of possession has ventured in filing the

A

present complaint by concealing true and material facts of the case and hence the complainant is not entitled to any relief at all.

18. That it is worthwhile to mention that the COVID 19 pandemic has hit the country in the month of March 2020 which further delayed the process of occupation certificate and the offer and delivery of possession and the Hon'ble Authority has also extended the period of completion by 6 months by way of general orders. The project is thereby complete within the prescribed period of completion of the project.
19. That it is stated that the Haryana Real Estate Regulatory Authority had duly granted the registration of the project vide Registration Certificate bearing No. 228 of 2017 and the project has been duly complete within the prescribed period of construction thereby allowed by the Real Estate regulatory, Authority and hence the present complaint is nothing but non tenable.
20. That the complainant does not have any cause of action under the jurisdiction of the Hon'ble Authority and hence the complaint is liable to be dismissed.
21. That the respondent has duly completed the development of the project under the Affordable Housing Policy, 2013 uplifting the Government's ideal of Housing for all at reasonable prices and the respondent has not been a commercial developer and hence the present complaint is non tenable and no such complaint could be filed against the answering respondent.
22. That the respondent promoted and duly completed the development of the project, Sports Ville, Sohna under the Affordable Housing Policy and the avowed object of Housing for all of the Government. It is stated that it was the complainant desirous of availing the benefit of the Affordable Housing Scheme approached the respondent and applied for the allotment of the

dwelling unit into the project developed by the respondent and the development is now complete the offer of possession already made but the complainant inspite of complying with the terms of the offer of possession and making the due payments has ventured in filing the present false and frivolous complaint.

23. That the respondent has been performing all obligations in a bona fide manner and the delay in allotment letter if any was never complained by the complainant and the complainant is estopped in alleging the same now.
24. That it is stated that the development of the project was complete on 29.05.2019 when the application for occupation certificate was filed. On the other hand, it is stated that the respondent has duly completed the project and offered possession thereof which has not taken over by the complainant and it is the complainant who is liable to pay the balance sale consideration and other charges along with interest.
25. That it is stated that the respondent has duly completed the project and offered possession to the complainant which the complainant has neither taken nor paid the balance sale consideration and hence the complainant is only liable to pay the same along with interest.
26. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

27. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.1 Territorial jurisdiction

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

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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

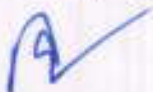
Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoter, the allottee and the real estate agents under this Act and the rules and regulations made thereunder.

28. 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 relief sought by the complainants:

F.1 Direct the respondent to make payment of interest accrued on amount



collected by the respondent, on account of delayed offer for possession and which interest should be at prescribed rate.

29. In the present complaint, the complainants intend 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."

30. Clause 8.1 of the buyer's agreement 07.01.2015 provides for handing over of possession and is reproduced below:

81. Expected Time for Handing Over Possession

Except where any delay is caused on account of reasons expressly provided for under this Agreement and other situations beyond the reasonable control of the Company and subject to the Company having obtained the occupation/completion certificate from the competent authority (ies), the Company shall endeavor to complete the construction and handover the possession of the said Apartment within a period of 4 years from the date of execution of this Agreement or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the Project, whichever is later, subject to timely payment by the Allottee of all the amounts payable under this Agreement and performance by the Allottee of all other obligations hereunder.

31. The Authority has gone through the possession clause of the agreement and observes that the respondent-developer proposes to handover the possession of the allotted unit within a period of 4 years from the date of execution of this Agreement or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the project, whichever is later,. In the present case, the flat

buyer's agreement inter-se parties was executed on 07.01.2015 as such the due date of handing over of possession comes out to be 20.02.2019 as the same was taken from the date of environment clearance being later.

32. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant are seeking delay possession charges however, 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.

33. 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.
34. 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., 10.08.2023 is @ 8.75 %. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.75%.

A

35. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.*
 - (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*
36. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.75 % by the respondent/promoters which is the same as is being granted to them in case of delayed possession charges.
37. 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 8.1 of buyer's agreement executed between the parties on 07.01.2015, the possession of the subject apartment was to be delivered within a period of period of 4 years from the date of execution of this Agreement or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the project, whichever is later. The due date of possession is calculated from the date of such the due date of handing over of possession is calculated from

the date of environment clearance being later and the same comes out to be 20.02.2019. The respondent has offered the possession of the allotted unit on 01.07.2020 after obtaining occupation certificate from competent Authority.

38. 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. In the present complaint, the occupation certificate has been obtained from the competent Authority on 04.06.2020 and it has also offered the possession of the allotted unit on 01.07.2020. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. This 2 month of reasonable time is to be given to the complainant keeping in mind that even after intimation of possession practically he has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit, but this is subject to that the unit being handed over at the time of taking possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 20.02.2019 till offer of possession i.e 01.07.2020. The respondent-builder has already offered the possession of the allotted unit on 01.07.2020, thus delay possession charges shall be payable till offer of possession plus two months i.e., 01.09.2020.
39. Accordingly, it is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 07.01.2015 to hand over the possession within the stipulated period. 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. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 20.02.2019 till offer of possession



plus two months i.e., 01.09.2020; at the prescribed rate i.e., 10.75 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

40. The complainants submitted that the respondent has demanded an amount of Rs.17,449/- on the account of GST while offering the possession of the unit.
41. Vide 33rd & 34th GST council meeting dated 24.02.2019 & 19.03.2019 amended rate for GST has been introduced providing applicable input tax credit provisions for different type of projects' The respondent shall provide requisite details and justifications and input tax credit (if any) as per applicable amendment from time to time.
42. IFMS is a lump sum amount that the home buyer pays to the builder which is reserved/accumulated in a separate account until a residents' association is formed. Following that, the builder is expected to transfer the total amount to the association for maintenance expenditures. The system is useful in case of unprecedented breakdowns in facilities or for planned future developments like park extensions or tightening security. The same is a one-time deposit and is paid once (generally at the time of possession) to the builder by the buyers. The builder collects this amount to ensure availability of funds in case unit holder fails to pay maintenance charges or in case of any unprecedented expenses and keeps this amount in its custody till an association of owners is formed. IFMS needs to be transferred to association of owners (or RWA) once formed.
43. In the opinion of the authority, the promoter may be allowed to collect a nominal amount from the allottees under the head "IFMS". In the present

case while offering the possession of the unit on 01.07.2020 the respondent raised a demand of Rs. 15000/- on account of interest free maintenance charges. However, the authority directs and passes an order that the promoter must always keep the amount collected under this head in a separate bank account and shall maintain the account regularly in a very transparent manner. If any allottee of the project requires the promoter to give the details regarding the availability of IFMS amount and the interest accrued thereon, the promoter must provide details to the allottee. This is an affordable housing project, and the promoter can charge as per clause 4(v) of the affordable housing policy, 2013 being reproduced as under:

4(v) Maintenance of colony after completion of project

A commercial component of 4% is being allowed in the project to enable the coloniser to maintain the colony free-of-cost for a period of five years from the date of grant of occupation certificate, after which the colony shall stand transferred to the "association of apartment owners" constituted under the Haryana Apartment Ownership Act 1983, for maintenance. The coloniser shall not be allowed to retain the maintenance of the colony either directly or indirectly (through any of its agencies) after the end of the said five years period. Engaging any agency for such maintenance works shall be at the sole discretion and terms and conditions finalised by the "association of apartment owners" constituted under the Apartment Ownership Act 1983."

44. For the issue regarding maintenance charge the authority issued a letter to Director Town and Country Planning, Haryana to depute a representative of the department to clarify as what is covered in the maintenance of colony and if the services other than what is covered in the maintenance of colony are provided by the promoter for a period of 5 years and whether the

promoter is entitled to charge on actual basis. In response of the said letter sent by the authority, an email dated 29.11.2022, has been received from DTCP intimating that the issue of free maintenance of the colony in terms of section 4(v) of Affordable Housing Policy stands referred to the Government and clarification will be issued by DTCP as and when the approval is received from the Government. Therefore, the issue of maintenance charges shall be regulated in terms of the orders of the Government as and when issued and the same would be binding on both the parties.

F.II Direct the respondent to execute the conveyance deed in favour of the complainant

45. The complainant(s) are seeking relief of the execution of conveyance deed. Clause 8.2 of the apartment buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below:

8.2.1 Execution of Sale/ Conveyance Deed

Any and all costs and expenses in relation to execution and registration of the sale/ conveyance deed, e.g., stamp duty, registration fee, municipal duties (if any) and other incidental and legal expenses relating thereto shall be borne solely by the allottee. As and when demanded by the company, the allottee shall pay, the stamp duty, registration charges, and all other incidental and legal expenses for execution and registration of sale/conveyance deed of the said apartment in favour of the Allottee.

46. The authority has gone through the conveyance clause of the agreement and observes that the conveyance has been subjected to all kinds of terms and conditions of the buyers' agreement and the complainant(s) not being in default under any provisions of the agreement and compliance with all provisions, formalities and documentation as prescribed by the promoter.

A ✓

47. Section 17 (1) and proviso of the Real Estate Regulation and Development Act, 2016 is reproduced below:

Section 17: - Transfer of Title

17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws: Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

48. The authority is of view that promoter is under an obligation to get conveyance deed executed in favour of the complainant(s) as per the section 17(1) of the Act, 2016. Since the possession of the allotted unit has already been offered to the allottee(s) on 01.07.2020 after obtaining occupation certificate on 04.06.2020, so the respondent is directed to get the conveyance deed of the allotted unit executed within a period of 3 months from the date of this order as per section 17(1) of the Act of 2016.

H. Directions of the Authority:

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

- i. The respondent shall pay interest at the prescribed rate i.e., 10.75 % per annum for every month of delay on the amount paid by the complainant from due date of possession i.e., 20.02.2019 till the date of


19

offer of possession (01.07.2020) plus two months i.e., 01.09.2020; as per proviso to section 18(1) of the Act read with rule 15 of the rules.

- ii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. The respondent is further directed to handover the possession on payment of amount if any within next two weeks and execute the conveyance deed. The complainant is also directed to take the possession of the subject unit and to make payment of stamp duty charges as prescribed.
- iii. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.75 % 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.
- iv. The respondent is directed not to charge any amount which not a part of the bba and shall not charge any holding charges.

50. Complaint stands disposed of.

51. File be consigned to the registry.


(Vijay Kumar Goyal)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 10.08.2023