



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

Complaint no.:	247 of 2022
Date of filing:	07.03.2022
Date of first hearing:	17.05.2022
Date of decision:	03.05.2023

Sachin alias Sachin Tiwary S/o Sh. Satya Narain Tiwary  
R/o A-201, Urja Tower, GH-8, Sector-47, Near Subhash Chowk  
South City-II, Gurgaon, Haryana- 122018

...COMPLAINANT(S)

VERSUS

1. BPTP Limited  
OT-14, 3<sup>rd</sup> Floor, Next door Parklands,  
Sector 76, Faridabad-121004, Haryana

....RESPONDENT(S)

2. BPTP Parkland Pride Limited  
M-11, Middle Circle, Connaught  
Circus, New Delhi- 110001

....RESPONDENT(S)

**CORAM:**

**Dr. Geeta Rathee Singh**  
**Nadim Akhtar**

**Member**  
**Member**

**Present: -**

Mr. Arjun Kundra, Counsel for the complainants.

Mr. Hemant Saini, Counsel for the respondents.

*Geeta Rathee*

**ORDER (DR. GEETA RATHEE SINGH - MEMBER)**

1. Present complaint dated 07.03.2022 has been filed by complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

**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, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	Park Elite Floors, Parklands Faridabad.
2.	RERA registered/not registered	Not registered

3.	Unit no.	PE-134-SF
4.	Unit area	1510 square ft (Super Area)
5.	Date of allotment	06.10.2011
6.	Date of builder buyer agreement	31.01.2012
7.	Due date of offer of possession (24 months)	31.01.2014 (grace period of 6 months is not included)
8.	Possession clause in BBA (5.1)	Subject to Clause 13 herein or any other circumstances not anticipated and beyond the control of the seller/confirming party or any restraints/restrictions from any courts/authorities but subject to the purchasers having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement including but not limited to timely payment of Total Sale Consideration and other charges and having complied with all provisions, formalities, documentations etc., as prescribed by the Seller Confirming Party, the Seller/Confirming Party proposes to offer the handing over the physical possession of Floor to the Purchaser(s) within a period of twenty four (24) months from the date of execution of floor buyer agreement. The Purchaser(s) agrees and understands that the Seller/Confirming Party shall be entitled to a grace

		period of (180) one hundred and eighty days, after the expiry of thirty (24) months, for filing and pursuing the grant of an occupation certificate from the concerned authority with respect to the building consisting of the three independent floors including the floor. The Seller/Confirming Party shall give a Notice of Possession to the Purchasers wherein the Purchaser(s) will be granted 30 days period to complete the formalities and payment of amount demanded.
9.	Basic sale price	₹ 27,79,095/-
10.	Amount paid by complainant	₹ 27,56,422.38/-
11.	Offer of possession	No offer

### B. FACTS OF THE COMPLAINT

3. Facts of complaint are that complainants in the year 2009 applied for booking the floor in the real estate project named "Park Elite Floors", Faridabad following which complainant was allotted unit no. PE-134-FF having an area of 1510 sq ft vide letter dated 06.10.2011.
4. Complainants entered into builder buyer agreement with the respondent on 31.01.2012. As per said agreement the respondents were supposed to hand over possession of the said unit on 31.01.2014, (including grace period of 180 days). Complainants was supposed to pay the basic sales price of Rs. ₹ 27,79,095/- against said

consideration, complainants have paid an amount of Rs. 27,56,422.38/-.

5. That complainant was threatened with the cancellation of his unit because of which complainant had executed an undertaking in the nature of affidavit under duress and coercion. The Hon'ble Appellate Tribunal, Haryana, this Hon'ble Tribunal and the Hon'ble National Consumer Disputes Redressal Commission have already held in several judgements that such documents which confer such unfair advantage to the builders/developers are unfair contracts and would be inapplicable and unsustainable under law.
6. That in case of delay in construction and development, the respondents had made the provision of only Rs 5 per sq of the super built up area per month as compensation to the purchasers in the BBA whereas in case of delay in payment of installments by complainant, it had been provided for the delay penalty @ 18% interest compounded quarterly. The complainant is aggrieved by such unilateral construction of the agreement and also raised its concerns with the respondents.
7. That respondents abused their dominant position and employed unfair trade practices, they also miserably failed in completing the construction and development of residential floor within the promised time frame. The respondents have not provided possession of the flat

despite repeated requests of the complainants till date. Therefore, complainant is left with no other option but to approach this Authority. Hence the present complaint has been filed.

### **C. RELIEF SOUGHT**

8. The complainant in his complaint has sought following reliefs:-
- (i) Direct the respondents to deliver immediate possession of the floor of the complainant i.e. PE-134-SF, BPTP Park Elite Floor-77, Parklands, Faridabad, Haryana admeasuring 1510 sq ft. after due completion and receipt of occupancy & completion certificate(s) along with all the promised amenities and facilities and to the satisfaction of the complainants.
  - (ii) Direct the respondents to pay prescribed rate of interest, on the amount already paid by the complainants from the promised date of delivery i.e. 31.01.2014 till the actual physical and legal delivery of possession.
  - (iii) Pass an order restraining the respondents from charging any amount from the Complainants which do not form part of the Floor Buyer's Agreement dated 31<sup>ST</sup> Jan 2012 and/ or is illegal and arbitrary including but not limited to enhanced charges, cost escalation charges, delay penalty /interest charges, GST charges, VAT charges, Club membership charges, etc. whatsoever;

and/ or to direct the respondents to refund/ adjust any such charges which they have already received from the complainant.

(iv) Pass an order quashing/setting aside all the terms/conditions, one sided documents that were got executed by the respondents from the complainant as illegal, arbitrary, against law and unsustainable; and

(v) May pass any other order or orders as this Hon'ble Authority may deem fit under the facts and circumstances of the matter.

#### **D. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

Learned counsel for the respondent filed detailed reply on 16.02.2023 pleading therein:

9. That builder buyer agreement with complainant was executed much prior coming into force of Real Estate (Regulation and Development) Act, 2016. (RERA Act in brief). Therefore, agreement executed prior to coming into force of the Act or prior to registration of project with RERA cannot be reopened.
10. Respondent has admitted allotment and execution of floor buyer agreement in favor of complainant. It is stated that in terms of FBA dated 31.01.2012 respondent proposed to handover the possession of the unit within a period of 24 months from the execution of FBA or completion of payment of 35% of basic sales price along with 20% of

EDC and IDC, whichever is later, along with further grace period of 180 days.

11. That respondent denies that complainant had executed the documents of undertaking under coercion and duress. He has never complained that documents were executed under coercion and duress and alleged all this for the very first time.
12. That respondent had duly informed the complainant with respect to the updates on construction along with photographs of the said project. Complainant was aware of the stage of construction and reasons for delay in handing over of the unit. Both parties on a mutual basis extended the date of possession of said unit.
13. That complainant is a defaulter in terms of section 19 (6) and 19(7) of the Act.
14. Construction of the project was going on in full swing but it got effected due to the circumstances beyond control of the respondent such as NGT order prohibiting construction activity, ban on construction by Supreme Court of India in M.C Mehta v. Union of India, ban by Environment Pollution (Prevention and Control) Authority and Covid-19 etc.
15. It has been stated that as per clause 5.6 of the FBA it was duly agreed between the parties that if the respondent fails to complete construction within the agreed period due to force majeure



circumstances and any other reason stated in the agreement and any other circumstances beyond the control of the respondent then complainant agrees that respondent shall be entitled to reasonable extension of time for completion of construction and delivery of possession of the said unit.

**E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT**

16. During oral arguments learned counsel for the complainant insisted upon possession of his booked unit along with delay interest. Learned counsel for the respondent reiterated arguments as were submitted in written statement. He submitted that complainant's booked unit has not received occupation certificate till date. He offered to refund the paid amount along with 9% interest which was outrightly denied by ld. counsel for the complainant. Further he referred to page 1 of his reply wherein it is written that 'Complainant and respondents had extended the date of handing over of possession on mutually agreed basis. Hence, there is no delay on part of the respondents' stating that this pleading has gone without any rebuttal from complainant's side as no rejoinder has been filed by complainant's counsel. He stated that said pleading be deemed to have been accepted as not being rebutted by complainant. In reply, ld. counsel for complainant stated that no rejoinder is required for rebuttal as no documentary proof of same has

been annexed in reply rather it is vague submission without any reference to any communication/document with the complainant.

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

**F.I Objection regarding execution of BBA prior to the coming into force of RERA Act,2016.**

17. One of the averments of respondents is that provisions of the RERA Act of 2016 will not apply on the agreements executed prior to coming into force of RERA Act,2016. Accordingly, respondents have argued that relationship of builder and buyer in this case will be regulated by the agreement previously executed between them and same cannot be examined under the provisions of RERA Act. In this regard, Authority observes that after coming into force the RERA Act, 2016, jurisdiction of the civil court is barred by Section 79 of the Act. Authority, however, is deciding disputes between builders and buyers strictly in accordance with terms of the provisions of flat-buyer agreements. After RERA Act of 2016 coming into force the terms of agreement are not re-written, the Act of 2016 only ensure that whatever were the obligations of the promoter as per agreement for sale, same may be fulfilled by the promoter within the stipulated time agreed upon between the parties. Issue regarding opening of agreements executed prior to coming into force of the RERA Act, 2016 was already dealt in detail by this Authority in complaint no. 113 of 2018 titled as Madhu

Sareen v/s BPTP Ltd decided on 16.07.2018. Relevant part of the order is being reproduced below:

*“The RERA Act nowhere provides, nor can it be so construed, that all previous agreements will be re-written after coming into force of RERA. Therefore, the provisions of the Act, the Rules and the Agreements have to be interpreted harmoniously. However, if the Act or the Rules provides for dealing with certain specific situation in a particular manner, then that situation will be dealt with in accordance with the Act and the Rules after the date of coming into force of the Act and the Rules. However, before the date of coming into force of the Act and the Rules, the provisions of the agreement shall remain applicable. Numerous provisions of the Act saves the provisions of the agreements made between the buyers and seller.”*

Further, as per recent judgement of Hon'ble Supreme court in Newtech Promoters and Developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021 it has already been held that the projects in which completion certificate has not been granted by the competent Authority, such projects are within the ambit of the definition of on-going projects and the provisions of the RERA Act,2016 shall be applicable to such real estate projects, furthermore, as per section 34(e) it is the function of the Authority to ensure compliance of obligation cast upon the promoters, the allottees and the real estate agents under this Act,

and the rules and regulations made thereunder, therefore this Authority has complete jurisdiction to entertain the captioned complaint.

Execution of builder buyer agreement is admitted by the respondent. Said builder buyer agreement is binding upon both the parties. As such, the respondent is under an obligation to hand over possession on the deemed date of possession as per agreement and in case, the respondent failed to offer possession on the deemed date of possession, the complainant is entitled to delay interest at prescribed rate u/s 18(1) of RERA Act.

**F.II Objections raised by the respondent regarding force majeure conditions and delay in handing over of possession of unit.**

18. The obligation to deliver possession within a period of 24 months from builder buyer agreement was not fulfilled by respondent. There is delay on the part of the respondent and the various reasons given by the respondent such as NGT order, Covid outbreak etc. are not convincing enough as the due date of possession was in the year 2014 and the NGT order referred by the respondent pertains to year 2016, therefore respondent cannot be allowed to take advantage of the delay on his part by claiming the delay in statutory approvals/directions. As far as delay in construction due to outbreak of Covid-19 is concerned

Hon'ble Delhi High Court in case titled as *M/s Halliburton Offshore Services Inc. vs Vedanta Ltd & Anr. bearing OMP (1) (Comm.) No. 88/2020 and I.A.s 3696-3697/2020* dated 29.05.2020 has observed that:

*“69. The past non-performance of the contractor cannot be condoned due to Covid-19 lockdown in March,2020 in India. The contractor was in breach since septemeber,2019. Opportunities were given to the contractor to cure the same repeatedly. Despite the same, the contractor could not complete the project. The outbreak of pandemic cannot be used as an excuse for non-performance of a contract for which the deadline was much before the outbreak itself.*

*The respondent was liable to complete the construction of the project and the possession of the said unit was to be handed over by September,2019 and is claiming the benefit of lockdown which came into effect on 23.03.2020, whereas the due date of handing over possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, Authority is of view that outbreak of pandemic cannot be used an excuse for non-performance of contract for which deadline was much before the outbreak itself.”*

So, the plea of respondent to consider force majeure conditions towards delay caused in delivery of possession is without any basis and the same is rejected.

Further, respondent has pleaded that complainant had already agreed vide builder buyer agreement to extend the timeline for offering possession of the unit. Said understanding had already been

achieved between the parties at the stage of entering into the transaction (BBA). Hence, complainant and respondent on mutual basis extended the date of possession of unit to the complainant. In reference to it, clause 5.6 of BBA has been referred. Clause 5.6 of BBA is reproduced below for reference:-

*Clause 5.6- "That is the seller/ Confirming party fails to complete the construction of the said colony and floor within the period as mentioned in this Agreement due to force majeure circumstances and any other reason stated in the Agreement and any other circumstances beyond the control of the seller/confirming party, then the purchasers agrees that the seller/ confirming party shall be entitled to reasonable extension of time for completion of construction of the colony and delivery of possession."*

Above referred clause provides for extension of time for completion of construction of the colony and delivery of possession of unit due to force majeure circumstances and any other reason stated in the agreement. Since the respondent has failed to prove any force majeure conditions or any other circumstances attributing to delay caused in handing over of possession, the plea of respondent that both parties (complainant and respondent) on mutual basis extended the date of possession of unit to the complainant does not hold any merit and the same is rejected.

**F.III Objections raised by the respondent regarding undertaking annexed as annexure C-4.**

19. The respondent in his written statement has averred that the complainant had signed an undertaking dated 23.02.2012 to the effect that if there will be any modification of the land plans or sanctioned plan in future for any reason then he shall accept such alternate villa or change super built-up area at the location as demarcated by the company for the modified lay out plan. Further, it is written in the undertaking that complainant will not hold the respondent responsible for delay in offer of possession if such delay is due to any delay/act on account of any changes, modification(s), revision in the tentative lay out/ building plan during construction/completion of the floor. Authority observes that the said undertaking is vague, one sided and unenforceable because nothing has been argued to satisfy the conditions incorporated in the undertaking. Respondents cannot be allowed to take benefit of their own wrong as they themselves are at fault by not completing the project within timeframe decided by them. For these reasons the argument of respondents is rejected.

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

- G.I Direct the respondents to deliver immediate possession of the floor of the complainant i.e. PE-134-SF, BPTP Park Elite Floor-77, Parklands, Faridabad, Haryana admeasuring 1510**

sq ft. after due completion and receipt of occupancy & completion certificate(s) along with all the promised amenities and facilities and to the satisfaction of the complainant.

20. In the present complaint, the complainant intends to continue with the project and is seeking delayed possession charges as provided under the proviso to Section 18 (1) of the Act, Section 18 (1) proviso reads as under :-

*“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”.*

21. Clause 5.1 of BBA provides for handing over of possession and is reproduced below:-

*Clause 5.1- “Subject to Clause 13 herein or any other circumstances not anticipated and beyond the control of the seller/confirming party or any restraints/restrictions from any courts/authorities but subject to the purchasers having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement including but not limited to timely payment of Total Sale Consideration and other charges and having complied with all provisions, formalities, documentations etc., as prescribed by the Seller Confirming Party, the Seller/Confirming Party proposes to offer the handing over the physical possession of Floor to the Purchaser(s) within a period of twenty four (24) months from the date of execution of floor buyer agreement. The Purchaser(s) agrees and understands that the Seller/Confirming Party shall be entitled to a grace period of (180) one hundred and eighty days, after the expiry of thirty (24) months, for filing and pursuing the grant of an*



*occupation certificate from the concerned authority with respect to the building consisting of the three independent floors including the floor. The Seller/Confirming Party shall give a Notice of Possession to the Purchasers wherein the Purchaser(s) will be granted 30 days period to complete the formalities and payment of amount demanded."*

22. Finding w.r.t grace period: The promoter had agreed to handover the possession of the within 24 months from the date of execution of floor buyer agreement. The agreement further provides that promoter shall be entitled to a grace period of 180 days after expiry of 24 months for filing and pursuing the grant of occupation certificate with respect to the plot on which the floor is situated. As a matter of fact, the promoter did not apply to the concerned Authority for obtaining completion certificate/occupation certificate within the time limit prescribed by the respondent/promoter in the floor buyer agreement i.e immediately after completion of construction works within 24 months. Thus, the period of 24 months expired on 31.01.2014. As per the settled principle no one can be allowed to take advantage of its own wrong. Accordingly, this grace period of 180 days cannot be allowed to the promoter.
23. The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

(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;

24. 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.
25. Taking the case from another angle, the complainant-allottee was entitled to the delayed, possession charges/interest only at the rate of Rs.5/- per sq. ft. per month as per relevant clauses of the buyer's agreement for the period of such delay; whereas the promoter was entitled to interest @18% per annum compounded at the time of every succeeding installment for the delayed payments. The functions of the Authority are to safeguard the interest of the aggrieved person, may be the allottee or the promoter. The rights of the parties are to be balanced and must be equitable, the promoter cannot be allowed to take undue advantage of their dominant position and to exploit the

needs of the home buyers. This Authority is duty bound to take into consideration the legislative intent i.e. to protect the interest of the consumers /allottees in the real estate sector. The clauses of the buyer's agreement entered between the parties are one-sided, unfair and unreasonable with respect to the grant of interest for delayed possession. There are various other clauses in the buyer's agreement which give sweeping powers to the promoter to cancel the allotment and forfeit the amount paid. Thus, the terms and conditions of the buyer's agreement are ex- face one-sided, unfair, and unreasonable, and the same shall constitute the unfair trade practice on the part of the promoter. These types of discriminatory terms and conditions of the buyer's agreement will not be final and binding. In these circumstances the complainant is entitled to delay interest at prescribed rate from the deemed date of possession till delivery of valid offer of possession.

26. 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. 03.05.2023 is 8.70%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.70%.
27. Payment of delayed possession charges at the prescribed rate of interest.

Proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate, as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under;

*"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%. Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public".*

28. The Authority observes that the respondents have severely misused their dominant position. They executed the BBA in the year 2012. Respondents in their written statement have stated that they proposed to handover the possession of the unit within a period of 24 months from the execution of floor buyer agreement or completion of payment of 35% of BSP along with 20% of EDC/IDC whichever is later. Clause 5.1 of builder buyer agreement annexed as Annexure C-3 of the complaint reveals the time period of 24 months along with grace period of 180 days for filing and pursuing grant of occupation certificate, for handing over of possession only and has not specified any other condition as quoted by respondent in his written statement. Authority at para 24 of this order has observed that since the promoter failed to apply for occupation certificate after lapse of 24

months therefore deemed date of possession shall be construed as 24 months from execution of BBA i.e. 31.01.2014. Now, even after lapse of 9 years respondents are not able to offer possession to the complainant. Respondents have not even specified as to when respondents will be in a position to handover possession of booked apartment. Complainant however is interested in getting the possession of their unit. He does not wish to withdraw from the project. In the circumstances, the provisions of Section 18 of the Act clearly come into play by virtue of which while exercising option of taking possession of the apartment the allottee can also demand, and respondent is liable to pay, monthly interest for the entire period of delay caused at the rates prescribed. The respondents in this case have not made any offer of possession to the complainants till date nor they have obtained the occupation certificate of the project in question. So, the Authority hereby concludes that the complainants are entitled for the delay interest from the deemed date i.e., 31.01.2014 to the date on which a valid offer is sent to them after obtaining occupation certificate.

29. Authority has got calculated the interest on total paid amount from the deemed date of possession till the date of this order at the rate of 10.70% till and said amount works out to ₹ 27,22,591/- and monthly interest of ₹ 24,241/- as per detail given in the table below:

Sr. No.	Principal Amount	Deemed date of possession or date of payment whichever is later	Interest Accrued till 03.05.2023
1.	27,28,270/-	31.01.2014	27,03,304/-
2.	28,152/-	09.12.2016	19,287/-
	Total = ₹ 27,56,422/-		₹ 27,22,591/-
	Monthly interest		₹24,241 /-

30. Accordingly, the respondents are liable to pay the upfront delay interest of Rs. 27,22,591/- to the complainants towards delay already caused in handing over the possession. Further, on the entire amount of Rs. 27,56,422/- monthly interest of Rs. 24,241/- shall be payable up to the date of actual handing over of the possession after obtaining occupation certificate. The Authority orders that the complainants will remain liable to pay balance consideration amount to the respondent at the time of offer of possession.

31. Ld. counsel has not argued/pressed upon relief no. iv during hearing/proceeding. Nor the same is the part of the pleadings, therefore the same cannot be allowed. However, complainant is at liberty to file fresh complaint for seeking relief no. iv. Further, complainant has also prayed that the respondent be restrained from charging any amount which does not form part of the builder buyer agreement dated 31.01.2012 from the complainant

at the time of offer of possession. It is observed that the complainant had opted for a construction linked plan and made all payments as and when demanded by the respondent. Since the delay caused is attributed to the respondent, it cannot burden the complainant with the charges/taxes etc. which were not applicable at the time of deemed date of possession. Further, the payments which were to be made for services such as club membership charges shall be raised/demanded only at the time of offer of possession and offer of possession shall be as per the terms of agreement and in consonance with the provisions of the RERA Act,2016, Rules and regulations and principles laid down by the Authority through various judgements like complaint no. 113/2018-Madhu Sareen vs BPTP Ltd dated 16.07.2018 and complaint no. 607/2018- Vivek Kadyan vs TDI Infrastructure Ltd dated 29.01.2019.

#### **I. DIRECTIONS OF THE AUTHORITY**

32. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) Respondents are directed to pay upfront delay interest of Rs. 27,22,591/- to the complainants towards delay already caused in handing over the possession within 90 days from the date of this order. Further, on the entire amount of Rs.

27,56,422/- monthly interest of Rs. 24,241/- shall be payable by the respondent to the complainants up to the date of actual handing over of the possession after obtaining occupation certificate.

(ii) Complainants will remain liable to pay balance consideration amount to the respondent at the time of possession offered to her.

(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, 10.70% by the respondent/ Promoter which is the same rate of interest which the promoter shall be liable to pay to the allottees.

(iv) The respondents shall not charge anything from the complainants which is not part of the agreement to sell.

33. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.



.....  
NADIM AKHTAR  
[MEMBER]



.....  
DR. GEETA RATHEE SINGH  
[MEMBER]