BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no. :	**1609 of 2022**
Date of Complaint:	**12.04.2022**
Date of order :	**13.04.2023**

Bharat Pal Singh **R/o:** U/52/24, DLF-Phase III, Block U, Village-Nathupur, Gurgaon-122002.	**Complainant**
Versus	
M/s Vatika Limited **address:** A-002, INXT City Centre, Ground Floor, Block -A, Sector -83, Vatika India Next Gurugram, Haryana – 122012.	**Respondent**

CORAM:	
Shri Vijay Kumar Goyal	**Member**
Shri Sanjeev Kumar Arora	
APPEARANCE WHEN ARGUED:	
Sh. Sukhbir Yadav & Ms. Sabina	Complainant
Sh. Venket Rao	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 provisions 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 and location of the project	"Town Square 2", Sector 82, Vatika India Next, Gurugram.
2.	Nature of project	Commercial
3.	RERA Registered/ not registered	40 of 2021 dated 10.08.2021
	Valid up to	31st March 2022
4.	DTCP license no.	113 of 2008 dated 01.06.2008 valid upto 31.05.2018 71 of 2010 dated 15.09.2010 valid upto 14.09.2018 62 of 2011 dated 02.07.2011 valid upto 0.07.2024 76 of 2011 dated 07.09.2011 valid upto 06.09.2017
5.	Unit no.	RET-007, level 1-A2-137
6.	Unit admeasuring	515 sq. ft.
7.	Date of allotment	14.12.2017 (annexure R 2, page 19)
8.	Date of builder buyer agreement	11.01.2021 (page 63 of complaint)
9.	Possession clause	**7. Possession of the commercial space/unit** **7.1 Schedule for possession of the said commercial space/unit—** Subject to timely payment of amounts due by the Allottee to the promoter per agreed payment plan/schedule, as given in Schedule D of the Agreement, and clause 18 of the present

		Agreement, the Promoter agrees and understands that timely delivery of possession of the commercial space/unit to the Allottee(s) and the common areas to the association of allottee's or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017 is the essence of the Agreement.
10.	Due date of possession	31.03.2022 (as per clause 7.1 of the buyer's agreement)
11.	Total sale consideration	Rs. 93,10,080/- (as per SOA dated 16.02.2022, annexure P7, page 102 of complaint)
12.	Amount paid by the complainant	Rs. 45,05,669/- (as per SOA dated 16.02.2022, annexure P7, page 102 of complaint)
13.	Occupation certificate	17.02.2022
14.	Offer of possession	Not offered
15.	Notice termination letter	15.02.2022 (annexure P6, page 100 of complaint)
16.	Cancellation of buyer's agreement	31.03.2022 (Annexure WA-1, page 5 of written argument)

B. Facts of the complaint:

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

a. That believing on the representations and assurances of the respondent, the complainant booked a commercial unit bearing no. RET – 007 - Level 1-A2-137, carpet area of 264 sq. ft. in the project "Town Square-2", Sector -82, Gurugram and paid Rs. 4,00,000/-. The unit was booked under the possession link payment plan for a total sale consideration of Rs. 80,95,800/-. It is pertinent to mention there that as per buyer's agreement, the total sale value of the Unit is Rs. 81,74,400/.

b. That the respondent claimed that its project is RERA registered to vide registration no. 366 of 2017 from Panchkula Authority for a period of 22.11.2017 to 31.12.2018, with the project name "Town Square" and that is an extension of the said registered project and assured that the possession of the unit would be handed over on or before 31.12.2018. Later on, it came to the knowledge of the complainant that the booked commercial unit was in the project "Town Square – 2", located at a different location and is not registered with RERA. Thus, it has violated the provisions of the Real Estate (Regulation & Development) Act, 2016, Rules – 2017, and regulation thereunder.

c. That on 21.12.2017, the respondent issued a statement of account showing the cost of the unit and its payment schedule. Till 02.12.2019, prior to execution of buyer's agreement, the respondent had demanded and received Rs. 45,34,007/- from the complainant i.e., more than 50% of the sale consideration violative of section 13 of the Act, 2016.

d. That after a long follow-up on 11.01.2021, a pre-printed, unilateral, arbitrary buyer agreement for sale was executed inter-se the parties. According to the said agreement for sale, the respondent has to give possession of the unit as given in schedule D of the agreement. But to utter dismay, there is no date given in schedule D. On asking for the date of possession, the respondent earlier represented and assured that possession would be given on or before 31.12.2018, and the said date had already lapsed. Therefore, there is no specific date given in the buyer's agreement. Hence the due date of possession was 31-12-2018, according to the registration certificate for the project.

It was further assured that it would compensate the allottee as per section 18 of the Act at the time of offer of possession.

e. That on 15.02.2022, the respondent sent a notice for termination of the unit, pleading a reference to letter dated 20-August- 2021 and demanded Rs. 64,17,159/-. The complainant never received that letter. After receipt of the letter dated 15.02.2022, he went to the office of the respondent and asked for a copiesof the offer of possession, occupation certificate, and the reason for the exaggerated demand of Rs. 81,74,400/-. After a long follow-up also, it did not share copies of any document. As per the statement of account dated 16.02.2022, it levied extra charges of Rs. 11,35,680/- under the head of new PLC – ground floors Rs. 8,58,000/-, IFMS – Rs. 43,680/- and EDC/IDC – Rs/ 2,34,000/-. It is pertinent to mention here that said other changes are inclusive to the agreed total cost of the unit. Moreover, it did not credit the delayed possession interest from the due date of possession i.e. 31.12.2018 to the offer of possession.

f. That the complainant visited several times the office of the respondent to rectify the demand but it refused to rectify the same and share copies of RERA registration of the project, occupation certificate, and offer for possession.

g. That the main grievance of the complainant is that despite having paid 50% of the purchase price of the commercial space, on time, the respondent has miserably failed to deliver the possession of fully unit as per buyer's agreement, on or before 31.12.2018. Due to the above-mentioned acts and the terms and conditions of the buyer agreement, the complainant has been

unnecessarily harassed mentally as well as financially. Therefore, the opposite party is liable to compensate him on account of the aforesaid act of unfair trade practice and offer possession of the allotted unit on receipt of remaining payment as per the buyer's agreement.

C. Relief sought by the complainant:

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

   i. Directing the respondent to refrain from cancelling buyer agreement/ cancellation of the allotment of the unit of the complainant and to create any third-party rights on the unit.

   ii. Directing the respondent to pay delayed possession charges from the due date of possession till the valid offer of possession.

   iii. Directing the respondent to refrain from charging the PLC, IFMS, and EDC/IDC.

D. Reply by respondent:

5. The respondent made the following submissions in its reply:

   (a) That the respondent vide allotment letter dated 14.10.2017, allotted the unit in question for a total sale consideration of Rs. 80,95,800/- in the project detailed earlier. After much persuasion on 11.01.2021, a buyer agreement was executed between the parties for the aforesaid unit in the said project for a price of Rs. 80,95,800/.

   (b) It is submitted that since starting, the respondent was committed to complete the project and has always tried the level best to adhere with the terms as provided in the agreement and complete the project as per the milestone.

However, the same was obstructed either due to non-payment of the instalments by various allottees including the complainant and due to hindrances in between purely beyond the control of the respondent.

(c) That despite, being aware of the payment schedule and the fact that timely payment is essence for completion of the project, the complainant failed to make the requisite payment of the instalment as and when demanded by it in compliance with the payment schedule. On 01.11.2018, the respondent issued a payment reminder calling upon the complainant to make the payment of Rs. 9,40,255.11/-.

(d) That on 06.12.2018, the respondent again issued a payment reminder calling upon the complainant to make the payment of Rs. 4,52,127/-. Owing to the continuous default on account of the complainant, the respondent issued a notice of termination dated 15.02.2022, calling upon him to make the requisite instalment as due towards the said unit. It is evident fact that since starting the complainant failed to adhere to the payment schedule and to pay the instalment as and when demanded by it. Owing to the default, the respondent was forced to run peruse the complainant for the respective instalment.

(e) That the complaint under reply is premature. There is no cause of action arising in favour of the complainant or as much as against the respondent. As per the agreement so signed and acknowledged, the respondent was required to handover the possession of the said unit as per the registration date i.e., 31.03.2022.

(f) It is imperative to bring into the knowledge of the Authority that the buyer's agreement so executed by the complainant is in consonance with the model agreement so notified by the Authority. Moreover, the respondent upon considering the interest of the allottee(s) and its obligations towards them had drafted the agreement well in line with the applicable laws.

(g) That the complainant is trying to mislead the Authority by concealing facts which are detrimental to the complaint at hand. Further, the concerned project is registered with HRERA, Gurugram and the Authority has granted registration no. 40 of 2021. In accordance with the registration certificate granted by the Authority, the due date of completion of the project would be some time in 31.03.2022, and the same was duly communicated to the complainant. Therefore, there arises no occasion of delayed possession and thus this complaint at hand is devoid of any cause of action. The only valid inference that can be drawn out of the futile attempt of the complainant by filing the complaint is that he is an investor and seeks speculative gains.

(h) That it is evident that the entire case of the complainants is nothing but a web of lies, false and frivolous allegations made against it. The complainant has not approached the Authority with clean hands. Hence, the present complaint deserves to be dismissed with heavy costs. It is brought to the knowledge of the Authority that the complainant is guilty of placing untrue facts and is attempting to hide the true colour of his intention.

(i) That the complainant, has suppressed the above stated facts and has raised this complaint under reply upon baseless,

vague, wrong grounds and has mislead the Authority, for the reasons stated above. None of the reliefs as prayed for by the complainant are sustainable before the Authority and in the interest of justice. Hence, the present complaint under reply is liable to be dismissed with cost for wasting the precious time and resources of the Authority.

6. All other averments made in complaint were denied in toto.

7. Both the parties also filed written submissions to substantiate their averments made in the pleadings as well as in the documents and the same were taken on record and have been perused.

8. 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 submissions oral as well as written made by the parties.

E. Jurisdiction of the authority:

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

E. I Territorial jurisdiction

10. 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

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

> ***Section 11(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.*

12. 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 complainant:

F.I. Direct the respondent to refrain from cancelling buyer agreement/ cancellation of the allotment of the unit of the complainant and not to create any third-party rights on the unit.

13. The complainant is an allottee of respondent of unit no. 137, GF admeasuring 515 sq.ft. in its project "Town Square", Sector 82, Gurugram on the basis of letter of allotment dated 14.12.2017 for a basic sale consideration of Rs. 80,95,800/-(taken from letter of allotment, R-2). A buyer's agreement dated 11.01.2021 the unit was executed between the parties. He paid a total sum of Rs. 45,05,669/- against the allotted unit and did not pay the remaining amount despite issuance of reminders dated 01.11.2018, 06.12.2018 ultimately leading to notice for termination vide letter dated 15.02.2022. This action of respondent has been challenged by the allottee being illegal, against the terms and conditions of allotment wherein it is specifically mentioned that 10%, 15%, 25% and 50% of the basic sale price of the unit would be payable as per the payment plan at the time of booking, within 90 days of the booking, within 180 days from the date of booking and on offer of possession respectively. A perusal of statement of account filed with the complaint shows that the allottee has already paid Rs. 45,05,669/- i.e., more than 50% against the basic sale price of Rs. 80,95,800/-. It is pleaded by the complainant that he has already paid more than 50% of the basic sale price of the allotted unit and the remaining amount was required to be paid at the time of offer of possession as evident from letter of allotment dated 14.12.2017. So, issuance of notice for termination dated 15.02.2022 for cancellation of the unit and raising demand for balance amount of

Rs. 6417759/- is nothing but a ploy to defeat the legitimate rights of the complainant. Subsequently, cancellation of buyer's agreement come recovery notice dated 31.03.2022, is also not valid and is liable to be set-aside in view of terms and conditions of allotment and as embodied in the buyer's agreement dated 11.01.2021.

14. But it has been argued on behalf of the respondent that though as per the payment plan, the allottee was required to pay at different stages but failed to adhere to the schedule of payment leading to issuance of notice for termination dated 15.02.2022 followed by the cancellation letter dated 31.03.2022. Moreover, the occupation certificate of the project was received on 17.02.2022and the allottee failed to pay despite issuance of reminders dated 20.08.2021 & 15.02.2022 respectively. Then, after cancellation of the allotment in favour of the complainant after notice dated 31.03.2022, third party rights over the same have been created. So, now no cause of action survives to a complainant.

15. Some of the admitted facts of the case of that vide letter dated 14.12.2017, the complainant was allotted a subject unit for a basic sale price of RS. 80,95,800/- against payment of Rs. 4 lac realized on 24.11.2017. It lead to execution of a buyer's agreement between the parties dated 11.01.2021 setting out the terms and conditions of allotment, the total sale consideration, the payment plan and the due date for completion of project and offer of possession. It is not

disputed that out of the above-mentioned basic sale price the complainant paid a sum of RS. 45,05,669/- to the respondent at different times and also evident from statement of account dated 16.02.2022. There is payment plan detailed in the letter of allotment providing as under:

Payment Plan	
At the time of booking	10% of the BSC
Within 90 days of booking	15% of the BSC
Within 180 days from the date of booking	25% of the BSC
On offer of possession	50% of the BSC

16. A perusal of the above-mentioned plan shows that the complainant was required to pay 50% of the basic sale price i.e., 40,47,900/- upto 180 days of the booking of the unit and the remaining 50% of the basic sale consideration was to be paid at the time of offer of possession. It has come on record that the complainant has already paid 45,05,669/- to the respondent. But despite paying that amount, the respondent started raising demands against the amount due as evident from letter dated 15.02.2022 by referring to letter dated 20.08.2021 and vide which it raised a demand for Rs. 64,17,759/- from the complainant. But the complainant did not comply with that demand leading to cancellation of the allotment vide letter dated 31.03.2022. Though, during the proceedings of the case, the respondent disclosed about having received occupation

certificate of the project on 17.02.2022, but there is nothing on the record to show that after its receipt, any intimation along with offer of possession of the allotted unit was given to the complainant. As per payment plan contained in letter of allotment dated 14.12.2017, the respondent could have raised demand against 50% of the basic sale consideration of the allotted unit on offer of possession. The same could have been done after receipt of occupation certificate of the project and not otherwise. So, the notices dated 15.02.2022and 31.03.2022 issued against the complainant raising demand for the amount due and cancelling the allotment of the allotted unit are not as per the terms and conditions of allotment/buyer's agreement and the same are liable to be set-aside.

17. Now the question for consideration arises as to when the cancellation of the allotted unit on the ground of non-payment has been set aside, then creating any third-party rights over the same is legally sustainable. The answer is in the negative. When the cancellation of the allotment of the unit is not as per terms and conditions of allotment/buyer's agreement, then creating any third-party rights over the same and without disclosing any particulars, consideration and date of its creation creates a doubt about the veracity of that version and which is nothing but after though just to defeat the legitimate rights of the allottee over the allotted unit.

F.II Direct the respondent to pay delayed possession charges from the due date of possession till the valid offer of possession.

18. In 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."*

19. Clause 7.1 of the agreement to sell provides for handing over of possession and is reproduced below:

> **7. *Possession of the commercial space/unit***
>
> *7.1 Schedule for possession of the said commercial space/unit—*
>
> *Subject to timely payment of amounts due by the Allottee to the promoter per agreed payment plan/schedule, as given in Schedule D of the Agreement, and clause 18 of the present Agreement, the Promoter agrees and understands that timely delivery of possession of the commercial space/unit to the Allottee(s) and the common areas to the association of allottee's or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017 is the essence of the Agreement*

20. **Payment of delay possession charges at prescribed rate of interest:** Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has

been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

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

21. 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.

22. Consequently, as per website of the State Bank of India i.e., https://sbi.co.in, the marginal cost of lending rate (in short, MCLR) as on date i.e., 13.04.2023 is **8.70%.** Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.70%**.

23. 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—

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 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. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., **10.70%** by the respondent/promoter which is the same as is being granted her in case of delayed possession charges.

25. The complainant was allotted the unit in question on 14.12.2017 for a basic sale price of RS. 80,95,800/-, leading to execution of buyer's agreement dated 11.01.2021 between the parties. As per clause 7.1 of the buyer's agreement the due date for completion of the project and offer of possession was mentioned till the validity of registration i.e., 31.03.2022. It is not disputed that against the above-mentioned sale price the complainant paid more than 50% and the remaining amount was to be paid at the time of offer of possession. The occupation certificate of the project was received on 17.02.2022. Neither any intimation about the same was sent to the complainant nor any offer of possession of the allotted unit along with remaining 50% of the amount due was sent to the allottee. The Authority is of considered view that for a valid offer of possession, it must have following components:

i. Possession must be offered after obtaining occupation certificate.

ii. The subject unit should be in a habitable condition.

iii. The possession should not be accompanied by unreasonable additional demands.

The respondent issued letter dated 15.02.2022 i.e., wherein issuing a pre-termination letter before grant of occupation certificate dated 17.02.2022 and thereafter issuing termination letter dated 31.03.2022. The due date of handing over of possession of was 31.03.2022. The termination of the allotment of the unit has already been held to be invalid as detailed above and the said unit stands restored in the favour of the complainant.

26. It is an admitted fact that the possession of the unit was not offered to the complainant on the basis of occupation certificate dated 17.02.2022. But the fact cannot be ignored that occupation certificate of the project has been obtained on 17.02.2022 before due date of handing over of possession i.e. 31.03.2022. Further, on the other hand, Section 19(10) of Act lays down obligation upon the complainant to take the possession of the allotted unit within two months from grant of occupation certificate. Furthermore, since the validity of cancellation was under dispute none of the parties can be held responsible for non-fulfillment of their part of obligation i.e., the respondent for not offering the possession and the complainant for not making payment towards consideration of

unit. Keeping in view the matrix of facts involved and to balance the rights of both the parties and considering that the due date of handing over of possession was 31.03.2022 i.e., after grant of occupation certificate on 17.02.2022, respondent is directed to set-aside the cancellation dated 31.03.2022 and is directed to make fresh offer of possession, keeping in view the essential components of offer of possession as described above within 60 days from the date of this order failing which the complainant shall be entitled to delay possession charges as per provisions of section 18 of the Act, 2016 w.e.f. the due date of possession i.e., 31.03.2022 till the date of offer of possession by the respondent of the allotted unit or similarly situated alternate unit of the same size at the same price.

F.III Direct the respondent to refrain from charging the PLC, IFMS, and EDC/IDC

27. **PLC: -** The Authority observes that the subject unit was allotted vide allotment letter dated 14.07.2022, and as per payment plan annexed with the said letter, no PLC has been charged. Thereafter, the buyer's agreement was executed on 11.02.2021, and as per the terms and conditions of the said agreement, the subject unit was not preferentially located, nor any amount has been charged on account of PLC as per payment plan annexed with the said agreement. In view of the above, the Authority is of the view that the respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.

IFMS: It is held that the respondent may be allowed to collect a reasonable amount from the allottees under the head "IFMS". However, the authority directs that the respondent must always keep the amount collected under this head in a separate bank account and shall maintain that account regularly in a very transparent manner. If any allottee of the project requires the respondent to give the details regarding the availability of IFMS amount and the interest accrued thereon, the respondent must provide details to the allottee. It is further clarified that out of this IFMS/IBMS, no amount can be spent by the respondent for the expenditure it is liable to incur to discharge its liability and obligations as per the provisions of section 14 of the Act.

EDC/IDC: The BSP of the unit is exclusive of EDC and IDC and other statutory deposits. These are charges required to be paid by the company to relevant authorities and shall be payable by the buyer at such rates as may then be applicable and in such proportion as the sale area of the unit bears to the total sale area of all the apartments in the project. The respondent is justified in demanding EDC & IDC as it is included in the total sale consideration but since these charges are payable on actual payment basis the respondent cannot charge a higher rate against EDC/IDC as actually paid to the concerned authority. Therefore, the respondent is directed to provided calculation of EDC & IDC.

H. Directions of the Authority:

28. 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 cancellation of the allotted unit vide letter dated 31.03.2022 being bad and against the provisions of the builder buyer agreement and hence hereby set-aside.

ii. The respondent is further directed to offer the subject unit or a similar situated alternate unit of same size at same price; to the complainant within a period of 60 days from the date of uploading of this order failing which the complainant shall be entitled to delay possession charges as per provisions of section 18 of the Act, 2016 w.e.f. the due date of possession i.e., 31.03.2022 till the date of offer of possession by the respondent.

iii. The complainant is directed to pay outstanding dues, if any as per section 19 (6) & (7) of the Act, 2016. 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% and equivalent rate of interest shall be paid by the respondent in case of delay possession charges as per section 2(za) of the Act.

iv. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.

29. Complaint stands disposed of.

30. File be consigned to the registry.

V.l –
Vijay Kumar Goyal
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.04.2023