

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

**Complaint no.** : 1415 of 2022  
**Date of complaint** : 31.03.2022  
**Date of order** : 20.09.2023

Rohit Narang  
R/o: - 18, Ponderosa LN Nesconset, NY 11767.  
Rajesh Bhatia  
(Through Special Power of Attorney of Sh. Rohit Narang)  
R/o: - A2/801, Chloris Apartment, Sector- 19,  
Faridabad- 121001.

**Complainant**

**Versus**

M/s Raheja Developers Limited.  
**Regd. Office at:** W4D, 204/5, Keshav Kunj,  
Cariappa Marg, Western Avenue,  
Sainik Farms, New Delhi- 110062.  
**Also, at:** - 317, Raheja Mall, 3<sup>rd</sup> Floor,  
Sector- 47, Sohna Road, Gurugram- 122001.

**Respondent**

**CORAM:**  
Ashok Sangwan

**Member**

**APPEARANCE:**  
S P Chopra (Advocate)  
Garvit Gupta (Advocate)

Complainant  
Respondent

**ORDER**

1. The present complaint dated 31.03.2022 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 allottee as per the agreement for sale executed *inter se*.

**A. Unit and project related details**

2. The particulars of unit details, 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 tabular form:

| S. N. | Particulars                            | Details  |
|-------|--|--|
| 1.    | Name of the project                    | "Raheja Revanta", Sector 78, Gurugram, Haryana   |
| 2.    | Project area                           | 18.7213 acres  |
| 3.    | Nature of the project                  | Residential Group Housing Colony   |
| 4.    | DTCP license no. and validity status   | 49 of 2011 dated 01.06.2011 valid up to 31.05.2021   |
| 5.    | Name of licensee                       | Sh. Ram Chander, Ram Sawroop and 4 Others  |
| 6.    | Date of environment clearances         | 23.10.2013<br>[Note: - the date of EC is taken from the complaint no. 737/2021/3678/2019 of the same project being developed by the same promoter]         |
| 7.    | Date of revised environment clearances | 31.07.2017<br>[Note: - the date of revised EC is taken from the complaint no. 737/2021/3678/2019 of the same project being developed by the same promoter] |
| 8.    | RERA Registered/ not registered        | Registered vide no. 32 of 2017 dated 04.08.2017  |
| 9.    | RERA registration valid up to          | 31.01.2023<br>5 Years from the date of revised Environment Clearance i.e., 31.07.2022 + 6 months in view of covid -19.                                     |
| 10.   | Unit no.                               | IF51-03, 2 <sup>nd</sup> floor, Tower/block- IF51 (Page no. 55 of the complaint)   |
| 11.   | Unit area admeasuring                  | 1960.840 sq. ft. (Page no. 55 of the complaint)  |



|     |   |   |
|-----|---|---|
| 12. | Allotment letter  | 01.06.2012<br>(Page no. 46 of the reply)  |
| 13. | Date of execution of agreement to sell - Raheja Revanta | 01.06.2012<br>(Page no. 51 of the complaint)  |
| 14. | Possession clause                                       | <b>4.2 Possession Time and Compensation</b><br><i>That the Seller shall sincerely endeavor to give possession of the Unit to the purchaser <b>within thirty-six (36) months in respect of 'TAPAS' Independent Floors</b> and forty eight (48) months in respect of 'SURYA TOWER' from the date of the execution of the Agreement to sell and after providing of necessary infrastructure specially road sewer &amp; water in the sector by the Government, but subject to force majeure conditions or any Government/ Regulatory authority's action, inaction or omission and reasons beyond the control of the Seller. <b>However, the seller shall be entitled for compensation free grace period of six (6) months in case the construction is not completed within the time period mentioned above.</b> The seller on obtaining certificate for occupation and use by the Competent Authorities shall hand over the Unit to the Purchaser for this occupation and use and subject to the Purchaser having complied with all the terms and conditions of this application form &amp; Agreement To sell. In the event of his failure to take over and /or</i> |



|     |   |  |
|-----|---|--|
|     |   | <p><i>occupy and use the unit provisionally and/or finally allotted within 30 days from the date of intimation in writing by the seller, then the same shall lie at his/her risk and cost and the Purchaser shall be liable to compensation @ Rs.7/- per sq. ft. of the super area per month as holding charges for the entire period of such delay....."</i></p> <p>(Page no. 65 of the complaint).</p>   |
| 15. | Grace period  | <p><b>Allowed</b></p> <p>As per clause 4.2 of the agreement to sell, the possession of the allotted unit was supposed to be offered within a stipulated timeframe of 36 months plus 6 months of grace period. It is a matter of fact that the respondent has not completed the project in which the allotted unit is situated and has not obtained the occupation certificate by June 2015. As per agreement to sell, the construction of the project is to be completed by June 2015 which is not completed till date. <b>Accordingly, in the present case the grace period of 6 months is allowed.</b></p> |
| 16. | Due date of possession  | <p>01.12.2015</p> <p>(Note: - 36 months from date of agreement i.e., 01.06.2012 + 6 months grace period)</p>   |
| 17. | Basic sale consideration as per BBA at page no. 86 of the complaint | <p>Rs.1,05,85,304/-</p>  |
| 18. | Total sale consideration as per customer ledger dated               | <p>Rs.1,12,60,600/-</p>  |



|     |   |   |
|-----|---|---|
|     | 12.05.2021 page no. 120 of the complaint  |   |
| 19. | Amount paid by the complainant  | Rs.71,46,302/-<br>(As per customer ledger dated 12.05.2021 page no. 120 of the complaint) |
| 20. | Occupation certificate /Completion certificate                                      | Not received  |
| 21. | Offer of possession   | Not offered   |
| 22. | Withdrawal request made by the complainant through legal notice                     | 06.05.2021<br>(Page no. 106 of the complaint)   |
| 23. | Delay in handing over the possession till date of filing complaint i.e., 31.03.2022 | 6 years 3 months and 30 days  |

**B. Facts of the complaint**

3. The complainant has made the following submissions: -

- I. That the complainant is the allottee of a residential apartment /Villa in the respondent's project namely "Raheja's Revanta", situated at Sector-78, Gurugram. The under-construction project is registered with this authority, bearing registration no. 32 of 2017. The complainant is aggrieved on account of violation of clause 4.2 of the builder buyer agreement executed on 01.06.2012 in respect of the allotted apartment/Villa No. IF51-03 admeasuring 1960.84 sq. ft. of the aforesaid project, for not giving possession on due date which is an obligation of the promoter under section 11(4)a of the Act *ibid*.
- II. That, Sh. Rajesh Bhatia, through whom this complaint is being instituted, is the special power of attorney holder of the complainant and is fully conversant with the facts and circumstances of the case. However, vide a special power of attorney dated 19.03.2022, he has



- been empowered to engage counsel, sign vakalatnama, sign and verify the pleadings, complaint, list of witness, affidavit etc., make statement and depose about the case and to do all other acts, deeds, and things for the proper pursuance of said complaint.
- III. That the representative of the respondent had approached the complainant and induced him to book a residential apartment /Villa in the said project being developed by the respondent. Accordingly, he booked for allotment an apartment/ Villa in the said project vide an application dated 24.11.2011 along with booking amount of Rs.9,48,695/- plus service tax, education cess and H Cess etc. total amounting to Rs.9,73,123/-. Thereafter, the respondent vide allotment letter dated 01.06.2012, allotted a residential apartment/villa bearing no. IF51-03 admeasuring 1960.84 sq. ft. in the said project.
- IV. That subsequent to the allotment of the said apartment/villa, a buyer's agreement dated 01.06.2012, has also executed between the parties for the said apartment/villa. As per the terms and conditions of the said agreement, the total sale consideration of the said apartment was agreed to be Rs.1,05,85,304/- inclusive of basic price, external development charges, exclusive of, preferential location charges (wherever applicable), interest free maintenance security (IFMS) and exclusive right to use reserved/open car parking.
- V. That the complainant opted construction link payment plan in the said agreement. As per clause no. 4.2 of the buyer's agreement dated 01.06.2012, the possession of the said apartment/Villa was to be offered within a period of 36 months from the date of said agreement with a grace period of 6 months i.e., on or before 01.12.2015.
- VI. That the complainant, on his part has regularly paid all the instalments, as per the agreed payment plan and the demands made



by the respondent from time to time. In all, complainant has paid a sum of Rs.71,46,302/- till date towards the part sale consideration of said apartment.

- VII. That the complainant visited the site of project and the apartment/villa booked in particular, he observed that the respondent has not even started the construction activity on site as regards the booking of the apartment allotted to him was concerned and all the construction link demands raised by the respondent were illegal and fraudulent whereas the complainant had been making payments as per demands made by the respondent from time to time, relying on the respondent's credibility. After visiting the site of the project, complainant also sent an email on 03.04.2017 informing the respondent that no excavation work was found of the unit allotted to him during his visit at the site of the project.
- VIII. That in response to the various mails sent by the complainant, the respondent vide their reply mails dated 13.04.2017 and 01.05.2017 have admitted that the demands were raised erroneously by mistake and have offered to pay interest @10% on the advance payments received amounting to Rs.39,23,162/- till the desired milestones of construction in respect the apartment booked by him.
- IX. That as per the terms and condition of the agreement dated 01.06.2012, the possession of the said apartment was to be offered within a period of 36 months from the date of execution of the agreement with a grace period of 6 months i.e., on or before 01.12.2015. Even after a delay of more than 5 years, respondent has failed to deliver the possession of the said apartment. Even as per the present situation of construction at site, there are no signs of delivery of possession for the said apartment in near future. He cannot be made



to wait for an indefinite period to take possession of the said apartment in terms of agreement. The clauses of the agreement are wholly one-sided and entirely loaded in favour of the respondent and against the complainant at every step.

- X. That the complainant vide emails dated 25.02.2019, 03.06.2019, 04.06.019, 24.02.2020, 19.04.2021, 20.04.2021 and 22.04.2021 has repeatedly asked the respondent about the current status of construction of the unit allotted to him and the respondent has repeatedly extended the deadline of completion of the construction of the project vide their emails dated 29.11.2018, 06.06.2019, 29.02.2020, 20.04.2021, 22.04.2021 and 23.04.2021.
- XI. That, the respondent has now further extended the deadline for completion of the project by the end of 2022 tentatively and for these reasons, the complainant has no faith in the promises made by the respondent from time to time. He cannot be made to wait for an indefinite period for taking possession of the said unit in terms of buyer's agreement.
- XII. That the respondent's deliberate and intentional act of avoiding to handover possession of the apartment to the complainant and using complainant's money for several years is in violation of the Act of 2016 and the rules of 2017.

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

4. The complainant has sought following relief(s).
- i. Direct the respondent to refund the entire amount deposited alongwith prescribed rate of interest.
  - ii. Levy a penalty of 5% of the estimated cost of the real estate project for breach of its obligation to deliver possession on time under the RERA Act.





5. The respondent/promoter put in appearance through company's A.R and Advocate and marked attendance on 12.07.2022, 04.10.2022, 01.02.2023 and 12.07.2023. Despite specific directions it failed to comply with the orders of the authority. It shows that the respondent is intentionally delaying the procedure of the court by avoiding filing of the written reply. Therefore, vide proceeding dated 12.07.2023, it was observed that, "*This is the 4th date of hearing in the matter. It shows that the respondent is intentionally delaying the proceedings of the authority by non-filing of written reply. Hence, it's defence is ordered to be struck off for not filing reply.*"

6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the complainant.

**D. Jurisdiction of the authority**

7. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**D.I Territorial jurisdiction**

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

**D.II Subject-matter jurisdiction**



9. 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) The promoter shall-

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

**Section 34-Functions of the Authority:**

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

10. 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.
11. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357*** and reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest



*thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."*

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

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

**E.I. Direct the respondent to refund the entire amount deposited alongwith prescribed rate of interest.**

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

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

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

- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or  
(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

**he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:**

**Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of**



*delay, till the handing over of the possession, at such rate as may be prescribed."*

*(Emphasis supplied)*

14. As per clause 4.2 of the agreement to sell dated 01.06.2012 provides for handing over of possession and is reproduced below:

#### **4.2 Possession Time and Compensation**

*That the Seller shall sincerely endeavor to give possession of the Unit to the purchaser **within** thirty-six (36) months in respect of 'TAPAS' Independent Floors **and forty eight (48) months in respect of 'SURYA TOWER' from the date of the execution of the Agreement to sell** and after providing of necessary infrastructure specially road sewer & water in the sector by the Government, but subject to force majeure conditions or any Government/ Regulatory authority's action, inaction or omission and reasons beyond the control of the Seller. **However, the seller shall be entitled for compensation free grace period of six (6) months in case the construction is not completed within the time period mentioned above.** The seller on obtaining certificate for occupation and use by the Competent Authorities shall hand over the Unit to the Purchaser for this occupation and use and subject to the Purchaser having complied with all the terms and conditions of this application form & Agreement To sell. In the event of his failure to take over and /or occupy and use the unit provisionally and/or finally allotted within 30 days from the date of intimation in writing by the seller, then the same shall lie at his/her risk and cost and the Purchaser shall be liable to compensation @ Rs.7/- per sq. ft. of the super area per month as holding charges for the entire period of such delay....."*

15. At the outset, it is relevant to comment on the preset possession clause of the agreement wherein the possession has been subjected to providing necessary infrastructure specially road, sewer & water in the sector by the government, but subject to force majeure conditions or any government/regulatory authority's action, inaction or omission and reason beyond the control of the seller. The drafting of this clause and incorporation of such conditions are not only vague and uncertain but so heavily loaded in favour of the promoter and against the allottee that even a single default by the allottee in making payment as per the



plan may make the possession clause irrelevant for the purpose of allottee and the commitment date for handing over possession loses its meaning. The incorporation of such a clause in the agreement to sell by the promoter is just to evade the liability towards timely delivery of subject unit and to deprive the allottee of his right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such a mischievous clause in the agreement and the allottee is left with no option but to sign on the dotted lines.

16. **Due date of handing over possession and admissibility of grace period:** As per clause 4.2 of the agreement to sell, the possession of the allotted unit was supposed to be offered within a stipulated timeframe of 36 months plus 6 months of grace period, in case the construction is not complete within the time frame specified. It is a matter of fact that the respondent has not completed the project in which the allotted unit is situated and has not obtained the occupation certificate by June 2015. However, the fact cannot be ignored that there were circumstances beyond the control of the respondent which led to delay in completion of the project. Accordingly, in the present case the grace period of 6 months is allowed.
17. **Admissibility of refund along with prescribed rate of interest:** The complainant is seeking refund the amount paid by him at the prescribed rate of interest. However, the allottee intends to withdraw from the project and are seeking refund of the amount paid by them in respect of the subject unit with interest at prescribed rate as provided under rule 15 of the rules. Rule 15 has been reproduced as under:

*Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]*



(1) *For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.*

*Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.*

18. 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.
19. 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., 20.09.2023 is **8.75%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.70%**.
20. On consideration of the circumstances, the documents, submissions and based on the findings of the authority regarding contraventions as per provisions of rule **28(1)**, the authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 4.2 of the agreement to sell dated form executed between the parties on 01.06.2012, the possession of the subject unit was to be delivered within a period of 36 months from the date of execution of buyer's agreement which comes out to be 01.06.2015. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over of possession is 01.12.2015.
21. Keeping in view the fact that the allottee/complainant wishes to withdraw from the project and demanding return of the amount received by the promoter in respect of the unit with interest on failure of the promoter to complete or inability to give possession of the plot in



accordance with the terms of agreement for sale or duly completed by the date specified therein. The matter is covered under section 18(1) of the Act of 2016.

22. The due date of possession as per agreement for sale as mentioned in the table above is 01.12.2015 and there is delay of 6 years 3 months and 30 days on the date of filing of the complaint. The authority has further, observes that even after a passage of more than 7.8 years till date neither the construction is complete nor the offer of possession of the allotted unit has been made to the allottees by the respondent /promoter. The authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the unit which is allotted to them and for which they have paid a considerable amount of money towards the sale consideration. It is also pertinent to mention that complainants have paid almost 99% of total consideration till 2018. Further, the authority observes that there is no document place on record from which it can be ascertained that whether the respondent has applied for occupation certificate/part occupation certificate or what is the status of construction of the project. In view of the above-mentioned fact, the allottee intends to withdraw from the project and is well within the right to do the same in view of section 18(1) of the Act, 2016.
23. Moreover, the occupation certificate/completion certificate of the project where the unit is situated has still not been obtained by the respondent /promoter. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the allotted unit and for which he has paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of



India in ***Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., civil appeal no. 5785 of 2019, decided on 11.01.2021***

*"... The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottees cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."*

24. Further in the judgement of the Hon'ble Supreme Court of India in the cases of ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra) reiterated in case of M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020*** decided on 12.05.2022. it was observed:
25. *The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."*
25. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottee as per agreement for sale under section 11(4)(a). The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottee, as the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to





return the amount received by him in respect of the unit with interest at such rate as may be prescribed.

26. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to refund of the entire amount paid by them at the prescribed rate of interest i.e., @10.75% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

**E.II Levy a penalty of 5% of the estimated cost of the real estate project for breach of its obligation to deliver possession on time under the RERA Act.**

27. In view of the findings detailed above on issues no. 1, the above said relief become redundant as the complete amount paid by the complainant is being refunded back.

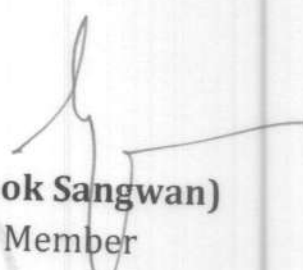
**F. Directions of the authority**

28. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondent/promoter is directed to refund the amount i.e., Rs.71,46,302/- received by it from the complainant along with interest at the rate of 10.75% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount.



- ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
  - iii. The respondent is further directed not to create any third-party rights against the subject unit before full realization of the paid-up amount along with interest thereon to the complainant and even if, any transfer is initiated with respect to subject unit, the receivables shall be first utilized for clearing dues of complainant-allottee.
29. Complaint stands disposed of.
30. File be consigned to registry.

  
**(Ashok Sangwan)**  
Member

Haryana Real Estate Regulatory Authority, Gurugram  
Dated: 20.09.2023