

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

Complaint no. : 2836 of 2020
Date of filing of
complaint: 01.10.2020
Date of decision : 14.11.2023

Mrs. Simrat Kaur Gadh & Mr. Rikhi Roop Singh &
Mr. Harpal Singh
R/o: R/o BS - 85 - B, Shalimar Bagh, Delhi -
110088

Complainants

Versus

M/s Ireo Grace Realtech Pvt. Ltd
Office: C-4, 1st Floor, Malviya Nagar, New Delhi-
110017.

Respondent

CORAM:

Shri Vijay Kumar Goyal
Shri Ashok Sangwan
Shri Sanjeev Kumar Arora

**Member
Member
Member**

APPEARANCE:

Sh. Sukhbir Yadav
Sh. M.K. Dang

**Counsel for the complainants
Counsels for the Respondent**

ORDER

1. The present complaint dated 01.10.2020 has been filed by the complainants/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations,

responsibilities and functions under the provision of the Act or the Rules and regulations made there under or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainants, 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	"The Corridors", Sector- 67A, Gurugram
2.	Nature of project	Group Housing Colony
3.	RERA registered/not registered	Registered Registered in 3 phases Vide 378 of 2017 dated 07.12.2017 (phase I) Vide 377 of 2017 dated 07.12.2017 (phase-II) Vide 379 of 2017 dated 07.12.2017 (Phase-III)
4.	DTPC License no.	05 of 2013 dated 21.02.2013
	Validity status	20.02.2021
	Name of licensee	M/s Precision Realtors Pvt. Ltd. And 5 others
	Licensed area	37.5125 acres
5	Date of approval of building plan	23.07.2013 (As per page no. 71 of reply)



6	Date of environment clearance	12.12.2013 (as per page no. 75 of reply)
7	Date of allotment	21.05.2015 (As per page no. 111 of complaint)
8	Unit no.	904, 9 th floor, C-6 Tower [As per page no. 57 of complaint]
9	Unit measuring	1483 sq. ft. [As per page no. 57 of complaint]
10	Date of execution of Floor buyer's agreement	07.11.2014 (Page no. 51 of complaint)
11	Possession clause	13.3. Possession Subject to Force Majeure, as defined herein and further subject to the Allottee having complied with all its obligations under the terms and conditions of this Agreement and n having defaulted under any provision(s) of this Agreement including but not limited to the timely payment of all dues and charges including the total Sale Consideration, registration charges, stamp duty and other charges and also subject to the Allottee having complied w all formalities or documentation as prescribed by the Company, the Company proposes offer the possession of the <i>said Apartment to the Allottee within a period of 42 (Forty Tw months from the date of approval of the Building Plans and/or fulfillment of the precondition imposed thereunder ("Commitment Period").</i>

		The Allottee further agrees and understand that the Company shall additionally be entitled to a period of 180 days ("Grace Period"), aft the expiry of the said Commitment Period to allow for unforeseen delays beyond the reasonable control of the Company
12.	Due date of possession	23.01.2017 (Calculated from the date of approval of building plan) Grace period is not allowed
13.	Total sale consideration	Rs. 1,63,14,979/- [As per page no. 129 of complaint]
14.	Total amount paid by the complainant	Rs. 1,52,27,987/- (As per SOA on page no. 129 of complaint)
15.	Occupation certificate dated	31.05.2019 (as per page no. 88 of reply)
16	Offer of possession	11.06.2019 (As per page no. 114 of complaint)

B. Facts of the complaint

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

- I. The complainants booked a 2BHK+S unit on 25.03.2013 and paid 10,00,000/- as booking amount. The respondent allotted a unit bearing No. CD-C6-09-904 on 9th Floor Tower C6 having super area of 1483.28 Sq. Ft. in the project "**The Corridors**", Sector -67A, Gurugram. The apartment was booked for total sale consideration of Rs. 1,63,14,979/-.

including basic price, PLC, EDC, IDC, club membership, IFMS and service tax (plan annexed on page no. 41 of apartment buyer agreement). At the time of booking, the respondent made claims of luxury living and also allured the complainants with claims about the amenities and services offered as part of the development, i.e. football field, school, hospital, retail, clubhouse, creche, jogging trail, spa, café and commercial centre.

- II. That thereafter the complainants continued to pay each of the remaining installments as per payment schedule of the builder buyer agreement and have already paid the more than **100% amount of the purchase**, along with other allied charges demanded from time to time till 26.05.2017. The complainants, however, observed that there was no progress in construction of subject flat as per the committed time frame, and accordingly raised their grievance to the respondent(s). Though the complainants were always ready and willing to pay the remaining installments provided if there is progress in the construction of the flat
- III. That on 21.05.2015, respondent issued a letter for change in payment plan of the flat and on request of complainants, therefor the payment plan was changed as "construction linked payment plan with relaxed milestones" from the existing payment plan i.e. construction linked payment plan.
- IV. That on 11.06.2019, the respondent issued a letter of notice of possession to the complainants stating that the unit bearing No. CD-C6-09-904, Type-2BHK+S Floor 9, Tower C6 in project corridors is ready for possession and asked to complete further formalities for handing over of possession and conveyance deed of the flat.

- V. That the respondent made demand Rs. 8,97,838/- against BSP, Developmental Charges & Electrical Connection Charges etc. and demand Rs. 1,47,500/- against club membership charges, the said demands were paid by the complainants on 10.07.2019. it is pertinent to mention here that the basic amenities promised as per the buyers agreement are not yet completed & the project is still under construction.
- VI. That on 29.07.2019, the complainants sent grievance emails to the respondent regarding the late payment interest being charged on them & despite of being informed to the respondent regarding late payment issues it is being charged and the complainants also asked to schedule their visit for possession of the flat. further many emails were exchanged regarding site visit and the possession of the flat.
- VII. That on 06.01.2020 the complainants sent a detailed email to the respondent, raising several issues that needed to be addressed before the complainants could take possession of the flat. i.e., flat was not complete and not ready for occupation, amenities promised at time of allotment were not completed as per builder buyer agreement. Further many emails were sent to the respondent regarding their disappointment on their site visit of their flat and stated that they were shocked to see that the project is still miles away from the completion and the basic amenities were also not completed.
- VIII. That on 22.01.2020, the respondent sent a statement of account, acknowledging that the complainants had paid Rs. 1,52,27,987/-, which is more than 100% of the total cost of the flat.

- IX. That on 24.01.2020, the complainants sent a legal notice to the respondent alleging for non-completion project and amenities and asked to refund the paid amount along with interest and also asked for compensation for mental agony and harassment.
- X. It is highly germane to mention here that the complainants have not just purchased four walls and a roof, but have purchased all the allied amenities and facilities as promised at the time of receiving the payment. The Complainants have paid Rs. 1,52,27,987/- and after paying such a huge amount, the basic infrastructure promised as part of the project has not been completed. The complainants have specifically paid Rs. 1,47,500/- as club charges, however, the construction for the club house yet not completed.
- XI. That the work on other amenities, like external, internal MEP (Services) of project are not yet completed. The construction is ongoing on parallel basis in number of flats and even post 6 years of Launch, the respondent has failed to complete the construction of all flats reflecting a disregard, unprofessionalism and negligence upon their part. Based on the present status of the project, it seems that the project will take at least another two years to be completed in all respects, subject to willingness and intent of the respondent to complete the project.
- XII. That for the first-time cause of action for the present complaint arose **in November, 2014**, when the buyer agreement containing unfair and unreasonable terms was, for the first time, forced upon the allottees. The cause of action further arose **in April, 2018**, when the respondent party failed to handover the possession of the flat as per the buyer agreement. Further the cause of action again arose on various occasions, including

on: a) October, 2018; b) Feb. 2019; c) May, 2019, d) July, 2019 and on many time till date, when the protests were lodged with the respondent party about its failure to deliver the project and the assurances were given by them that the possession would be delivered by a certain time. The cause of action is alive and continuing and will continue to subsist till such time as this Hon'ble Authority restrains the respondent party by an order of injunction and/or passes the necessary orders.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s).

- I. Direct the respondent to refund the paid-up amount.
- II. Direct the respondent to award a compensation of Rs. 30,00,000/- towards unfair practices and providing deficient services to the complainant.
- III. Cost of litigation and mental agony of Rs. 20,00,000/-.

D. Reply by the respondent

5. The respondent has contested the complaint on the following grounds.

- a. That based on the said application, the respondent vide its allotment offer letter dated 12.08.2013 allotted to the complainants apartment no. CD-C6-09-904 having tentative super area of 1483.28 sq.ft for a sale consideration of Rs. 1,46,05,050/-. The apartment buyer's agreement was executed between the parties on 07.11.2014 only after reminders dated 28.05.2014 and 19.08.2014 were sent by the respondent to the complainants. The complainants agreed to be bound by the terms contained in the apartment buyer's agreement. It is pertinent to mention herein that when the complainants had booked the unit with the respondent, the Real Estate (Regulation and

- Development) Act, 2016 was not in force and the provisions of the same cannot be applied retrospectively.
- b. That the respondent raised payment demands from the complainants in accordance with the agreed terms and conditions of the allotment as well as of the payment plan and the complainants defaulted from the very inception. It is submitted that vide payment request letter dated 17.04.2013, the respondent had raised the payment demand towards the second installment for the net payable amount of Rs. 18,13,569/- However, the same was credited towards the total sale consideration amount only after reminder dated 14.05.2013 was sent by the respondent.
 - c. That vide payment request letter dated 18.03.2014, the respondent raised the third installment demand for the net payable amount of Rs.16,84,292/-. However, the complainants remitted the amount only after reminders dated 13.04.2014 and 04.05.2014 were sent by the respondent to the complainants.
 - d. That on account of the request of the complainants, the payment plan was changed to the plan with the relaxed milestones and the same was intimated to the complainants vide letter dated 21.05.2015. Thereafter, the respondent sent various reminder letters to clear the outstanding dues but complainant failed to do so.
 - e. That the possession of the unit was to be offered to the complainants in accordance with the agreed terms and conditions of the Buyer's Agreement. It is submitted that Clause 13.3 of the buyer's agreement states that 'subject to force majeure as defined herein and further subject to the allottee having complied with all formalities or



documentation as prescribed by the company, the company proposes to offer the possession of the said apartment to the allottee within a period of 42 months from the date of approval of the building plans and/or fulfillment of the preconditions imposed thereunder (Commitment Period). The allottee further agrees and understands that the company shall be additionally be entitled to a period of 180 days (Grace Period)... ". Furthermore, the complainants have further agreed for an extended delay period of 12 months from the date of expiry of the grace period as per Clause 13.5 of the apartment buyer's agreement.

- f. That from the aforesaid terms of the buyer's agreement, it is evident that the time was to be computed from the date of receipt of all requisite approvals. Even otherwise construction can't be raised in the absence of the necessary approvals. It is pertinent to mention here that it has been specified in sub- clause (iv) of clause 17 of the approval of building plan dated 23.07.2013 of the said project that the clearance issued by the ministry of environment and forest, government of India has to be obtained before starting the construction of the project. It is submitted that the environment clearance for construction of the said project was granted on 12.12.2013. Furthermore, in Clause 39 of Part-A of the environment clearance dated 12.12.2013 it was stated that fire safety plan was to be duly approved by the fire department before the start of any construction work at site. It is pertinent to mention herein that as per Clause 35 of the environment clearance certificate dated 12.12.2013, the project was to obtain permission of Mines & Geology Department for excavation of soil before the start of construction. The

requisite permission from the Department of Mines & Geology Department has been obtained on 04.03.2014.

- g. That last of the statutory approvals which forms a part of the pre-conditions was the fire scheme approval which was obtained on 27.11.2014 and that the time period for offering the possession, according to the agreed terms of the buyer's agreement would have lapsed only on 27.11.2019. The complainants are trying to mislead this Hon'ble Authority by making baseless, false and frivolous averments. The respondent completed the construction of the tower in which the unit allotted to the complainants is located and applied for the grant of the occupation certificate on 06.07.2017. The occupation certificate was granted by the concerned authorities on 31.05.2019. Furthermore respondent has even offered the possession of the unit to the complainants vide notice of possession dated 11.06.2019. The respondent had even sent a letter dated 06.08.2019 to the complainants stating the possession would be subject to the completion of all documentations and payment by the complainants.
- h. That the complainants were bound to take the possession of the unit after making payment of the due amount and completing the documentation formalities as the Holding Charges are being accrued as per the terms of the Apartment Buyer's Agreement and the same is known to the complainants as is evident from a bare perusal of the Notice of Possession. However, the complainants have not done the needful till date.
6. All other averments made in the complaint were denied in toto.

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

E. Jurisdiction of the authority

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

E.I Territorial jurisdiction

9. 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.

E.II Subject-matter jurisdiction

10. 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.

11. 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.
12. 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(C), 357 and followed 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."

13. 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.

F. Findings on the relief sought by the complainants.

F.1 Direct the respondent to refund the amount paid by the complainant.

14. The complainant booked a unit bearing no. 904, 9th floor, C-6 Tower admeasuring area 1483 sq.ft. in the project developed by the name "the corridors" for a consideration of Rs. 1,63,14,979/- against which the complainant paid sum of Rs. 1,52,27,987/-. The complainants are seeking refund of the amount deposited by them on the grounds that when the offer of possession was made by the respondent, the unit of the complainants were far from complete and further, the amenities and facilities promised by the respondent in the brochure as well as in the BBA were not provided at the time of offer of possession. The complainants invites attention to part occupation certificate dated 31.05.2019 which pertains to only 14 towers and amenities like club house and community center are not part of the occupation certificate.

15. Further, the complainant placed on record copy of order passed by Hon'ble NCDRC in case no.1277 of 2017 decided on 1.11.2021 case titled as *Aloke Anand Versus M/s Ireo Pvt. Ltd.* and later upheld by Hon'ble Supreme Court in Civil Appeal NO.180 of 2022 with Civil Appeal NO.268 of 2022 case titled as *M/s Ireo Pvt. Ltd. Versus Aloke Anand and others* wherein refund has been allowed after obtaining OC.

16. On the contrary, the respondent states that all the amenities were available, and the offer of possession was made after obtaining occupation

certificate dated 31.05.2019. So far as completion of the unit is concerned, the unit was complete in all respects and certain time is required to make the unit ready for handing over which was communicated to the complainant vide email dated 06.08.2019 which cannot be construed to be admission of the fact that the unit was incomplete.

17. The respondent has placed reliance on the order dated 11.01.2021 passed by Hon'ble Supreme Court of India in civil appeal no. 5785 of 2019 titled as *Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors.* wherein Hon'ble Apex Court has made two categories of allottees: firstly, where the allotment falls in respect of the towers where the developer has been granted occupation certificate and offer of possession has been made (Chart A allottees); and secondly, where the allotment falls in respect of the towers where the developer has not been granted occupation certificate so far (Chart B allottees). In respect of Chart A allottees, the Hon'ble Supreme Court of India while declining the relief of refund along with interest has held that chart A allottees are obligated to take possession, since the construction was completed, and possession was offered to the allottees after issuance of occupation certificate. The chart B allottees were held entitled to refund of the entire amount deposited by them along with interest as occupation certificate was not available and it was held that the allottees cannot be made to wait indefinitely for possession of the apartments allotted to them nor can they be bound to take alternate apartment.

18. The authority is of view that the reference given by the complainant of order passed by Hon'ble NCDRC in case no.1277 of 2017 decided on 1.11.2021 case titled as *Aloke Anand Versus M/s Ireo Pvt. Ltd.* and later

upheld by Hon'ble Supreme Court in Civil Appeal NO.180 of 2022 with Civil Appeal NO.268 of 2022 case titled as *M/s Ireo Pvt. Ltd. Versus Alope Anand and others* wherein refund has been allowed after obtaining OC is not applicable on the present complaint as the facts of both the cases are not similar. It is pertinent to mention here that in Civil Appeal No. 180 of 2022, the respondent was not in the position to handover the possession of the unit even after the interim order passed by the NCDRC (where respondent were directed to deliver possession of the allotted apartment to the complainant on payment of demanded dues by the complainant within 1 month of the date of payment), later it was upheld by the Hon'ble Supreme Court of India wherein refund was allowed along with prescribed rate of interest. Where it was observed that though the interim direction was issued on 16 February 2018, the email of the appellant dated 25 September 2018 indicates that the possession could not be handed over due to the absence of an adequate work force at the site. In the present case, the complainants have filed this application/complaint on 1.10.2020 after possession was offered to them on 11.06.2019. The allottees never earlier opted/wished to withdraw from the project even after the due date of possession and only when offer of possession was made to him and demand for due payment was raised then only filed a complaint before the authority.

19. The section 18(1) is applicable only in the eventuality where the promoter fails to complete or unable to give possession of the unit in accordance with terms of agreement for sale or duly completed by the date specified therein. This is an eventuality where the promoter has offered possession of the unit after obtaining occupation certificate and on demand of due

payment at the time of offer of possession, the allottee wishes to withdraw from the project and demand return of the amount received by the promoter in respect of the unit with interest at the prescribed rate.

20. The due date of possession as per agreement for sale as mentioned in the table above is 23.01.2017. The allottees in this case has filed this application/complaint on 01.10.2020 after possession_ was offered to them on 11.06.2019. As per the section 19(10) every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building , as the case may be. In the present case, the complainants did not take the possession as they had objection to completion of the unit as well as demands which were raised by the respondent. It is pertinent to mention here that the allottee never earlier opted/wished to withdraw from the project even after the due date of possession and only when offer of possession was made and demand for due payment was raised, then only, he filed a complaint before the authority.
21. The right under section 18(1)/19(4) accrues to the allottees on failure of the promoter to complete or unable to give possession of the unit in accordance with the terms of the agreement for sale or duly completed by the date specified therein. If allottees have not exercised the right to withdraw from the project after the due date of possession is over till the offer of possession was made to them, it impliedly means that the allottees tacitly wished to continue with the project. The promoter has already invested in the project to complete it and offered possession of the allotted unit.

22. 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 allottees as per agreement for sale. This judgement of the Supreme Court of India recognized unqualified right of the allottees and liability of the promoter in case of failure 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. It is observed by the authority that the allottees invest in the project for obtaining the allotted unit and on delay in completion of the project never wished to withdraw from the project and when unit is ready for possession, such withdrawal on considerations other than delay such as reduction in the market value of the property and investment purely on speculative basis will not be in the spirit of the section 18 which protects the right of the allottees in case of failure of promoter to give possession by due date either by way of refund if opted by the allottees or by way of delay possession charges at prescribed rate of interest for every month of delay.
23. Since the occupation certificate has already been obtained from the competent authority on 31.05.2019 and thereafter an offer of possession has already stand made on 11.06.2019 and hence, no case for full refund with interest is made. The respondent has already made offer for possession and is still willing to hand over the possession after adjustment of DPC and hence, the complainant allottee may take the possession on payment of outstanding amount, if any, after adjustment of delay possession charges. No holding charges shall be levied and no demand for any amount which is not part of BBA shall be made. The respondent shall

issue an updated revised account statement after adjustment of delay possession charge at the prescribed rate of interest @10.75% from due date possession i.e. 23.01.2017 till offer of possession i.e. 11.06.2019 plus 2 months i.e. 11.08.2019 to the complainant as per proviso to section 18(1) of the Act read with rule 15 of the rules within 15 days and thereafter the complainant allottee may take the possession on payment of outstanding amount, if any remains, within next 4 weeks. However, if the complainant allottee is not interested in taking the possession and seeking refund which may be made after deduction of earnest money as per Regulation alongwith interest at the prescribed rate of interest @ 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 on the refundable amount, from the date of filing of this complaint i.e., 01.10.2020 requesting for refund of the amount till actual refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

FII: Compensation

24. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section

72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation.

G. Directions of the authority

25. 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 shall issue an updated revised account statement after adjustment of delay possession charge at the prescribed rate of interest @10.75% from due date possession i.e. 23.01.2017 till offer of possession i.e. 11.06.2019 plus 2 months i.e. 11.08.2019 to the complainant as per proviso to section 18(1) of the Act read with rule 15 of the rules within 15 days and thereafter the complainant allottee may take the possession on payment of outstanding amount, if any remains, within next 4 weeks. Further, the respondent is directed not to charge holding charges and any other charges which is not part of the buyer's agreement.
- ii. The rate of interest chargeable from the allottees by the promoters, in case of default shall be charged at the prescribed rate i.e., 10.75% by the respondent/promoters which is the same rate of interest which the promoters would be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act
- iii. In case the allottee fails to pay the outstanding dues and take possession as per the aforesaid directions, the promoter may proceed with cancellation/ surrender by deducting earnest money as per Regulation alongwith interest at the prescribed rate of interest @

10.75% p.a. on the refundable amount, from the date of filing of this complaint i.e., 01.10.2020 requesting for refund of the amount till actual refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid

iv. 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.

26. Complaint stands disposed of.


27. File be consigned to registry.



(Sanjeev Kumar Arora)
Member



(Ashok Sangwan)
Member



(Vijay Kumar Goyal)
Member

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 14.11.2023

HARERA
GURUGRAM