



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

<b>Complaint no.:</b>	<b>3343 of 2022</b>
<b>Date of filing.:</b>	<b>03.01.2023</b>
<b>First date of hearing.:</b>	<b>02.03.2023</b>
<b>Date of decision.:</b>	<b>11.10.2023</b>

Naresh Kumar Makkar  
R/o H.No 119, Ansal Sushant City,  
Near millennium school,  
Sector-19  
Panipat-121004

....COMPLAINANT

VERSUS

1. M/s BPTP Limited  
28 ECE House, 1st Floor, KG Marg, New Delhi, 110001

....RESPONDENTS

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

**CORAM:**                      **Dr. Geeta Rathee Singh**                      **Member**

**Nadim Akhtar**    **Member**

**Present: -**                      Mr. Arjun Kundra, Counsel for the complainant  
   Mr. Hemant Saini, Counsel for the respondents.

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

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

**A. UNIT AND PROJECT RELATED DETAILS**

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project.	Park Elite Floors, Sector 75-89, Faridabad.
2.	Nature of the project.	Group Housing Project
4.	RERA Registered/not registered	Not Registered
5.	Details of unit.	PE-156-FF, admeasuring 1510 sq. ft. First Floor



6.	Date of floor buyer agreement	03.07.2013
7.	Due date of possession	03.07.2015
8.	Possession clause in BBA ( Clause 5.1)	<p>Subject to Clause 14 herein or any other circumstances not anticipated and beyond the control of the seller/ confirming party or any restraints/restrictions from any courts/authorities but subject to the purchasers) having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement including but not limited to timely payment of Total Sale Consideration and other charges and having complied with all provisions, formalities, documentations etc., as prescribed by the Seller Confirming Party whether under this Agreement or otherwise from time to time, the Seller/Confirming Party proposes to offer the handing over the physical possession of Floor to the Purchaser(s) within a period of twenty four (24) months from the date of execution of floor buyer agreement or sanction of building plan, whichever is later. The Purchaser(s) agrees and understands that the Seller/Confirming Party shall be entitled to a grace period of (180) one</p>





		hundred and eighty days, after the expiry of thirty (24) months, for filing and pursuing the grant of an occupation certificate from the concerned authority with respect to the plot on which the floor is situated. The Seller/Confirming Party shall give a Notice of Possession to the Purchasers with regard to the handing over of possession and the event the purchaser(s) fails to accept and take the possession of the said floor within 30 days thereof, the purchaser(s) shall be deemed to be custodian of the said floor from the date indicated in the notice of possession and the said floor shall remain at the risk and cost of the purchaser(s).
9.	Basic sale consideration	₹ 31,45,453.12/-
10.	Amount paid by complainant	₹ 31,13,362.14/-
11.	Offer of possession.	None

### **B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT**

3. Facts of complaint are that a unit had been booked in the project of the respondent namely "Park Elite Floors" situated at Sector 75-89, Faridabad, Haryana by original allottees namely Mr. Deepak Kalra and Mrs Usha Kalra. A floor buyer agreement was executed between both the



original allottees and the respondent on 03.07.2013 in respect of the unit bearing no. PE-156-FF. The basic sale price of the unit was fixed at ₹ 31,45,453.12/-. Thereafter, the unit in question was purchased by the present complainant. The copy of the nomination letter dated 05.09.2013 and endorsement form issued by the respondents to the complainant has been annexed herewith as Annexure C-3. As per clause 5.1 of the agreement, possession of the unit was to be delivered within a period of twenty four (24) months from the date of execution of floor buyer agreement or sanction of building plan whichever is later. Further, the promoter shall be entitled to a grace period of 180 days after expiry of 24 months for filing and pursuing the grant of occupation certificate from the competent Authority. The deemed date of possession works out to 03.07.2015 after expiry of 24 months from the date of execution of the agreement. However, respondent failed to offer possession within the time period stipulated in the agreement.

4. That the possession of the residential floor has been due since July 2015 but till date the same has not been delivered. It is submitted that the complainant has never defaulted in making payment towards any instalment as per the demand raised by the respondents from time to time. Further, that from booking of the unit till date, the respondents have never informed the complainant about any force majeure or any other circumstances which were beyond the reasonable control of the

  
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respondents and has led to delay in completion and development of the project within the time prescribed.

5. The respondents were bound by the provisions and terms and conditions of the agreement and deliver possession of the unit within time prescribed in the floor buyers agreement. However, the respondents have miserably failed to complete the project and offer legal possession of the booked unit complete in all aspects. It is submitted that even after a lapse of more than ten years from deemed date of delivery of possession, respondent is not in a position to offer possession of the booked unit to the complainant.
6. That in case of delay in construction and development, the respondent had made the provision of only Rs 5 per sq ft. of the super built up area per month as compensation to the purchaser in the agreement whereas in case of delay in payment of instalments by complainant, it had provided for the delay penalty @ 18% interest compounded quarterly. The complainant is aggrieved by such unilateral construction of the agreement as Rs 5 per sq ft is 2-3% and is thus too less compared to the exorbitant 18% rate of interest.
7. It is further stated that till date, the respondent has neither provided possession of the flat nor refunded the deposited amount along with interest. Therefore, the complainant is left with no other option but to approach this Authority. Hence the present complaint has been filed.



**C. RELIEF SOUGHT**

8. That the complainant seeks following relief and directions to the respondent:-

- i. Direct the respondent to deliver immediate possession of the unit PE-156-FF admeasuring 1510 sq ft, BPTP Park Elite floors, Parklands Sector-84, Faridabad after due completion and receipt of occupancy certificate along with all the promised amenities and facilities and to the satisfaction of the complainant;
- ii. Direct the respondents to pay prescribed rate of interest as per the RERA Act, on the amount already paid by the complainant from the promised date of delivery, i.e, 03rd July 2015 till the actual physical and legal delivery of possession; and
- iii. Pass an order restraining the respondents from charging any amount from the complainant which do not form part of the floor buyers agreement dated 03.07.3015 and/or is illegal, and arbitrary .
- iv. Any other relief which the applicant is entitled for under the Real Estate (Regulation & Development) Act,2016 and the

  
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Haryana State Real Estate (Regulation and Development)

Rules, 2017.

9. During arguments, learned counsel for the complainant submitted that respondent in its reply has taken a plea that the allotment of the unit allotted to the complainant had been terminated vide termination letters dated 17.09.2018 and 19.11.2018 since the complainant failed to remit the timely payments to the respondent as per payment schedule. However, complainant argued that complainant has already made a payment of ₹ 31,13,362.14/- against basic sale consideration of ₹ 31,45,453.12/- which is almost the entire sale price despite inordinate delay in completion of construction works. Complainant has abided by the terms and conditions of the payment schedule whereas the respondent has failed to complete the construction and development of the project till date. He further drew attention of the Authority to the payment receipt annexed by the respondent at page 149 of the reply. This payment receipt is dated 04.04.2019 and has been issued by the respondent for an amount of ₹ 3,91,000/-. If the allotment of the unit in favour of the complainant had already been terminated on 19.11.2018, then respondent should have returned the amount paid by the complainant after forfeiture as per the terms of the floor buyer agreement. Rather the respondent had later in the year 2019, i.e after the supposed

  
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termination, accepted a huge payment of ₹ 3,91,000/- from the complainant in lieu of the booked unit. By accepting the payment of said amount and issuance of receipt dated 04.04.2019 in favour of the complainant, respondent had itself nullified the termination of the unit of the complainant. Even thereafter respondent sent various emails to the complainant wherein respondent had promised that possession of the unit will be delivered by June 2023. A copy of email dated 09.11.2022 is placed at page 80 of the complaint. If complainant was a genuine defaulter, respondent should have acted on the letter on termination in the year 2018 itself as per the terms and conditions. Now after a gap of 5 years respondent cannot be allowed to sit over a stale termination despite being itself at fault for delay in delivery of possession. Therefore, he prayed that the alleged letter of termination dated 17.09.2018 and 19.11.2018 issued by the respondent be set aside and respondent be issued directions to deliver possession of the unit to the complainant after receipt of occupation certificate along with delay interest for delay in delivery of possession.

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

10. Learned counsel for the respondent filed detailed reply on 05.06.2023 pleading therein:

  
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11. It is submitted that the unit in question was booked by the by original allottees namely Mr. Deepak Kalra and Mrs Usha Kalra on 20.05.2009. On 24.12.2009, respondent duly allotted a unit bearing no. J-20b-FF on the first floor to the complainant. That since, at the time of allotment of the unit to the complainant, the layout plan was tentative, thus later with the consent and at the request of the complainant, the unit of the complainant was changed from J-20b-FF to unit no. PE-156-FF admeasuring 1510 sq. ft. A floor buyer agreement was executed between both the original allottees and the respondent on 03.07.2013. The original allottees had opted for a construction linked payment plan.
12. That, thereafter, the unit was transferred to the complainant by the original allottees and the same was endorsed by the respondent on 05.09.2013. Respondent has admitted allotment and execution of floor buyer agreement in favour of complainant. It is stated that in terms of floor buyer agreement dated 03.07.2013 respondent proposed to handover the possession of the unit within a period of 24 months from the execution of floor buyer agreement or sanction of building plan, whichever is later along with a grace period of 180 days for filing and grant of occupation certificate. Therefore, the due date of possession arrives at 03.01.2016.
13. As per the payment plan, respondents had raised various demands letters to the complainant. However, the complainant on numerous

  
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occasions failed to remit the demands within stipulated time period. Constrained by the default of the complainant respondent on 11.12.2017, 20.02.2018 and 09.04.2018 issued the reminder letters followed by last and final opportunity letters dated 31.07.2018 and 18.09.2018. On account of continuous default on the part of the complainant, respondent issued letters dated 17.09.2018 and 19.11.2018 for termination of the unit allotted to the complainant. Copies of the various letters issued by the respondent to the complainant have been placed at pages 107 to 147 of the reply.

14. It has further been submitted that possession timelines with regard to the unit had been diluted due to force majeure conditions which were beyond the control of the respondent. That the construction of the project was going on in full swing but it got affected due to the circumstances beyond control of the respondent such as NGT order prohibiting construction activity, ban on construction by Supreme Court of India in M.C Mehta v. Union of India, ban by Environment Pollution (Prevention and Control) Authority etc. Further, the construction of the project had been marred by the COVID-19 pandemic whereby the government of India had imposed a nationwide lockdown on 24.04.2020 which was only partially lifted on 31.05.2020. Thereafter, a series of lockdown has been faced by the citizens of India including the complainant and the respondent which continued upto the year 2021. That due to aforesaid

  
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unforeseeable circumstances and reasons beyond the control of the respondent, the construction got delayed.

15. During the course of hearing dated 03.10.2023, part arguments of both parties had been heard. Thereafter, learned counsel for the respondent had sought time to file written submissions relevant to the case. Today, Mr. Hemant Saini, learned counsel for the respondent submitted that he does not wish to file anything further beyond the oral arguments and the reply filed on 05.06.2023. During his arguments, Mr. Saini, submitted that the complainant had stepped into the shoes of the original allottees in the year 2013 being aware of the factum that timely payment of the instalments is of the essence. However, complainant defaulted in making payments on numerous occasions due to which the respondent was constrained to terminate the allotment of the unit vide letter of termination dated 17.09.2018 and 19.11.2018. Respondent had regularly apprised the complainant with respect to the latest stages of constructions achieved at site. Copies of various construction update emails sent to the complainant have been placed at pages 126,129,133, 136-138 and 150-152 of the reply. Complainant was duty bound to make payments within stipulated time. However, when the complainant relentlessly defaulted in making payments, the respondent was constrained to cancel the allotment of the unit. On account of the default on the part of the complainant, complainant is only entitled to



seek refund of the paid amount along with admissible interest after forfeiture of earnest money.

## **E. FINDINGS AND OBSERVATIONS OF THE AUTHORITY**

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

#### **E.I Objection raised by the respondent with regard to deemed date of possession .**

As per clause 5.1 of the floor buyer agreement dated 03.07.2013, possession of the unit was to be delivered within a period of twenty four (24) months from the date of execution of floor buyer agreement or sanction of building plan whichever is later. Further, the promoter shall be entitled to a grace period of 180 days after expiry of 24 months for filing and pursuing the grant of occupation certificate from the competent Authority. The deemed date of possession works out to 03.07.2015 after expiry of 24 months from the date of execution of the agreement. At the outset, it is relevant to comment with regard to clause of the agreement where the possession has been subjected to sanction of building plan that the drafting of this clause is vague and uncertain and heavily loaded in favour of the promoter. Incorporation of such clause in the builder buyer agreement by the promoter is just to evade the liability towards



timely delivery of the unit and to deprive the allottee of his right accruing after delay in delivery possession. Further, respondent has failed to place on record any document to show/prove as to what was the exact date for sanction of the building plans, thus the date of execution of the builder buyer agreement is taken as the date for calculating the deemed date of possession. The agreement further provides that promoter shall be entitled to a grace period of 180 days after expiry of 24 months for filing and pursuing the grant of occupation certificate with respect to the plot on which the floor is situated. It is a matter of fact, that the promoter did not apply to the concerned Authority for obtaining completion certificate/occupation certificate within the time limit prescribed by the respondent/promoter in the floor buyer agreement, i.e, immediately after completion of construction works within 24 months. Thus, the period of 24 months expired on 03.07.2015. As per the settled principle no one can be allowed to take advantage of its own wrong. Accordingly, this grace period of 180 days cannot be allowed to the promoter.

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**E.II Objection raised by the respondent regarding force majeure conditions.**

The due date of possession in the present case as per clause 5.1, is 03.07.2015. Therefore, question arises for determination as to whether any situation or circumstances which could have happened prior to this date due to which the respondent could not carry out the construction activities in the project can be taken into consideration. It is pertinent to mention that the obligation to deliver possession within a period of 24 months from builder buyer agreement was not fulfilled by respondent. There is delay on the part of the respondent and various reasons given by the respondent are NGT order prohibiting construction activity; ceasement of construction activities during the COVID-19 period and delay in payments by many customers leading to cash crunch.

Herein all the pleas/grounds taken by the respondent to plead the force majeure condition happened after the deemed date of possession. Various reasons given by the respondent such as the NGT order, Covid outbreak etc. are not convincing enough as the due date of possession was in the year 2015 and the NGT order referred by the respondent pertains to year 2016. It is pertinent to mention that the respondent has failed to place

on record any copy of the orders of the NGT justifying the applicability of the ban so imposed upon construction.

Therefore the respondent cannot be allowed to take advantage of the delay on his part by claiming the delay in statutory approvals/directions. As far as delay in construction due to outbreak of Covid-19 is concerned Hon'ble Delhi High Court in the case titled as *M/s Halliburton Offshore Services Inc. vs Vedanta Ltd & Anr. bearing OMP (1) (Comm.) No. 88/2020 and I.A.s 3696-3697/2020* dated 29.05.2020 has observed that:

*“69. The past non-performance of the contractor cannot be condoned due to Covid-19 lockdown in March,2020 in India. The contractor was in breach since september,2019. Opportunities were given to the contractor to cure the same repeatedly. Despite the same, the contractor could not complete the project. The outbreak of pandemic cannot be used as an excuse for non-performance of a contract for which the deadline was much before the outbreak itself. The respondent was liable to complete the construction of the project and the possession of the said unit was to be handed over by September,2019 and is claiming the benefit of lockdown which came into effect on 23.03.2020, whereas the due date of handing over possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, Authority is of view that outbreak of pandemic cannot be used an excuse for non-performance of contract for which deadline was much before the outbreak itself.”*

  
J. K. Ramesh

So, the plea of respondent to consider force majeure conditions towards delay caused in delivery of possession is without any basis and the same is rejected. Also, the respondent has pleaded that the project delayed due to non-payment of instalments by many customers. However, the respondent has not placed any document to show that there was a major default.

**E.III Objection raised by the respondent regarding delivery of possession of booked unit in view of letter of termination dated 17.09.2018 and 19.11.2018.**

A unit in this case had been booked in the project of the respondent in the year 2005 for a basic sale consideration of ₹ 31,45,453.12/- against which the complainant has claimed to have paid an amount of ₹ 31,13,362.14/-. As per clause 5.1 of the agreement possession of the unit was to be delivered within a period of twenty four (24) months from the date of execution of floor buyer agreement and observations recorded in Clause E.I of this order, possession of the unit should have been delivered by 03.07.2015. However, respondent failed to deliver possession of the booked unit within the time period stipulated in the agreement. Complainant in this case had opted for a construction linked payment plan. It is a matter of fact that





complainant has already paid an amount of ₹ 31,13,362.14/- out of ₹ 31,45,453.12/- to the respondent which is almost the entire basic sale consideration. As per agreed payment plan, the remaining payment was payable by the complainant at the time of offer of possession. As per the facts, the respondent is yet to offer possession of the unit to the complainant. Respondent in its reply has claimed that complainant had failed to meet the demands raised by the respondent vide demand letters dated 11.12.2017, 20.02.2018 and 09.04.2018. By the time these letters were issued to the complainant, possession of the unit had already been delayed more than two years. Upon perusal of these demand letters it is observed that respondent has failed to mention the latest stage of construction against which this particular demand has been raised or status of offer of possession as the same has already been delayed. Respondent in its reply has annexed copies of email sent to the complainant on numerous occasions apprising the complainant of the construction update but the same include a weblink to latest photographs of the site which have not been appended. So, these emails cannot be taken into account to verify the claim of the respondent.



Respondent in its reply has submitted that on account of continuous default on the part of the complainant, respondent issued letters dated 17.09.2018 and 19.11.2018 for termination of the unit allotted to the complainant after issuing several reminder letters. As per clause 7.1 of the floor buyer agreement, after terminating the unit of the complainant, respondent should have begun the process to refund the amount paid by the complainant after forfeiture of earnest money. However, despite issuing a letter of termination, respondent did not initiate any process for refund of paid amount. Respondent has not placed on record any communication with the complainant wherein the same has been initiated. Rather respondent has placed on record a receipt issued on 04.04.2019 for an amount of ₹ 3,91,000/- accepted from the complainant after the alleged termination towards the booking of the unit in question. Thereafter, in several representations placed on record by the complainant, respondent has carried on communication with the complainant for delivery of possession of the unit and not for refund of paid amount on account of termination. A bare perusal of email dated 09.11.2022 sent to the complainant indicates that the respondent has continued with the allotment



of the complainant as per its record and intends to deliver possession. In light of these facts, the letter of termination issued by the respondent becomes stale and cannot be considered a valid termination. Respondent being well aware of the facts had accepted the payment of ₹ 3,91,000/- from the complainant post the date of termination and had hence itself continued the allotment of the complainant. Therefore, the claim of the respondent that the unit in question stands terminated and complainant is only allowed refund of paid amount cannot be entertained. Accordingly, it is observed that the complainant is entitled to seek possession of the booked unit along with delay interest for delay in delivery of possession.

16. As has been admitted between both the parties that upon booking, a unit bearing no. J-20b-FF had been allotted to original allottees in the project of the respondent namely "Park Elite Floors" situated at Sector 75-89, Faridabad, Haryana vide allotment letter dated 24.12.2009. Said unit was later changed to unit no. PE-156-FF admeasuring 1510 sq. ft upon mutual consent of the parties and a floor buyer agreement qua the said unit was executed on 03.07.2013. Complainant stepped into the

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shoes of the original allottees in the year 2013 and the same was endorsed by the respondent vide nomination letter dated 05.09.2013.

17. As per clause 5.1 of the agreement and the observations as recorded in subheading 'E-I' of this order, possession of the unit should have been delivered by 03.07.2015. It is an admitted fact that the delivery of possession of the unit has been delayed by the respondent by more than 8 years from the deemed date of possession as per the agreement entered between the parties. Learned counsel for respondent orally submitted during hearing proceedings that the respondent company is yet to receive occupation certificate in respect of the unit of the complainant. Complainant is willing to wait for possession of the unit till the receipt of occupation certificate and is further claiming delay interest for the delay caused in delivery of possession.
18. The facts set out in the preceding paragraph demonstrate that construction of the project had been delayed beyond the time period stipulated in the buyer's agreement. The Authority observes that the respondent has failed to fulfil its obligation stipulated in BBA dated 03.07.2013. Possession of the unit should have been delivered by 03.07.2015. However, an offer of possession is yet to be issued by the respondent. Fact remains that respondent in his written statement has not specified as to when possession of booked unit will be offered to the complainant. Complainant, however, does not wish to withdraw from the



project and is rather interested in getting the possession of his unit. Learned counsel for the complainant has clearly stated that complainant is ready to wait for possession of unit after completion of construction and receipt of occupation certificate. In the circumstances, the provisions of Section 18 of the Act clearly come into play by virtue of which while exercising the option of taking possession of the unit, the allottee can also demand, and the respondent is liable to pay, interest for the entire period of delay caused at the rates prescribed. The respondent in this case has not made any offer of possession to the complainant till date. So, the Authority hereby concludes that the complainant is entitled for the delay interest from the deemed date, i.e, 03.07.2015 up to the date on which a valid offer is sent to him after receipt of occupation certificate. Upon receipt of occupation certificate, respondent shall issue an offer of possession to the complainant within a period of one month along with a detailed statement of payable and receivable amounts including the delay interest admissible to the complainant on account of delay caused in delivery of possession. As per Section 18 of Act, interest shall be awarded at such rate as may be prescribed. The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

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



*Explanation.-For the purpose of this clause-*

*(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*

*(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;*

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

***“Rule 15: “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 (NCLR) 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”..”*

As per Section 19(10) of the RERA Act, it is the duty of the allottee to accept the offer of possession issued after receipt of the



occupation certificate within a period of two months from said date.

Complainant, therefore, shall be duty bound to accept the said offer of possession and to take physical possession of the said unit within a period of two months of the offer of possession issued by the respondent after receipt of occupation certificate.

19. Consequently, as per website of the state Bank of India i.e. <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date i.e. 11.10.2023 is 8.75%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.75%.
20. Hence, Authority directs respondent to pay delay interest to the complainant for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 10.75% (8.75% + 2.00%) from from the due date of possession i.e 03.07.2015 till the date of a valid offer of possession.
21. Authority has got calculated the interest on total paid amount from due date of possession, i.e, 03.07.2015 till the date of this order, i.e, 11.10.2023 which works out to ₹ 26,13,657/- and further monthly of ₹ 27,508/- as per detail given in the table below:



Sr. No.	Principal Amount (in ₹)	Deemed date of possession or date of payment whichever is later	Interest Accrued till 05.07.2023 (in ₹)
1.	27,21,860.46/-	03.07.2015	24,23,369/-
2.	3,91,000/-	04.04.2019	1,90,240/-
3.	501.68/-	20.11.2022	48/-
<b>Total:</b>	31,13,362.14/-		26,13,657/-
<b>Monthly interest:</b>	31,13,362.14/-		27,508/-

22. It is pertinent to mention that complainant has claimed to have paid an amount of ₹ 31,13,362.14/-, which has also been admitted by the respondent vide statement of accounts dated 20.11.2022 annexed as Annexure C-4. However, complainant has only attached receipts for an amount of ₹ 31,12,860.46/-. For the remaining amount of ₹ 501.68/- the date of 20.11.2022, vide which the respondent has admitted to having received the said payment has been taken for the purpose of calculating the admissible interest.

#### F. DIRECTIONS OF THE AUTHORITY

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



(i) Respondent shall issue an offer of possession to the complainant within a period of one month from the date of receipt of occupation certificate. Said offer of possession shall be inclusive of a detailed statement of payable and receivable amounts including the delay interest admissible to the complainant on account of delay caused in delivery of possession.

(ii) Respondent is directed to pay upfront delay interest of ₹ 26,13,657/- (till date of order, i.e, 11.10.2023) to the complainant towards delay already caused in handing over the possession within 90 days from the date of this order and further monthly interest @ ₹ 27,508/- (admissible from 12.10.2023 till the date of offer of possession after receipt of occupation certificate).

(iii) Complainant is directed to accept the offer of possession issued by the respondent and take physical possession within a period of two months from said date. Complainant will remain liable to pay the balance consideration amount to the respondent at the time of possession offered to him.

(iv) The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed





rate, i.e, 10.75% which is the same rate of interest which the promoter shall be liable to pay to the allottees.

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

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



.....  
NADIM AKHTAR  
[MEMBER]



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