HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	**194 of 2023**
Date of filing.:	**27.01.2023**
First date of hearing.:	**11.04.2023**
Date of decision.:	**12.10.2023**

Anil Bahl S/o B.S Bahl
R/o H.No 1761, sector-7E,
Faridabad,
121006 ....COMPLAINANT

VERSUS

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

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

Nadim Akhtar **Member**

Present: - Mr. Shubham, Counsel for the complainant
Through Vc
Mr. Hemant Saini, Counsel for the respondent.

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, Parklands, Sector 80, Faridabad.
2.	Nature of the project.	Group Housing Project
4.	RERA Registered/not registered	Not Registered
5.	Details of unit.	Z22-11, Ground Floor, Z Block, admeasuring super built up area 1203 sq. ft.
6.	Date of allotment	24.12.2009

7.	Date of floor buyer agreement	Not available
8.	Due date of possession	Not available
9.	Basic sale consideration	₹ 25,09,359/-
10.	Amount paid by complainant	₹ 8,86,474/-
11.	Offer of possession.	None

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. Facts of complaint are that the complainant had booked a unit in the project of the respondent namely "Park Elite Floors, Parklands" situated at Sector 80, Faridabad, Haryana by the complainant in the year 2009 upon payment of ₹ 2,50,000/- as a booking amount. As per the booking application form dated 26.05.2009, complainant had opted for a construction linked payment plan. Vide allotment letter dated 24.12.2009, complainant was allotted unit no. Z22-11, Ground Floor, admeasuring 1203 sq. ft. A copy of the allotment letter is placed at page 51 of the complaint file. It is submitted by the complainant that upon repeated enquiries, respondent assured the complainant that construction of the project was going on full swing and the possession of the unit will be delivered on time. It is pertinent to mention that no builder buyer agreement had been executed between the parties with respect to the

allotted unit. That in the year 2015, after a gap of more than 5 years from allotment, respondent vide letter dated 20.02.2015 apprised the complainant about the litigation proceedings with the land owner of the land over which the residential floor, unit no. Z22-11 in Z-Block was allotted to the complainant. A copy of said letter is appended as Annexure-07. Complainant was further informed that the development on said parcel of land(Z Block) had been abandoned due to these circumstances. Respondent offered two options to the complainant, firstly, refund of the entire paid amount or secondly, allotment of another alternate unit in other ready to move in property. However, respondent thereafter started issuing misleading emails to the complainant stating that the development works were commencing in full swing at site. Copy of various emails issued by the respondent are appended as Annure-08.

4. That despite a delay of more than 13 years respondent has failed to develop the project and deliver possession of the booked unit. Respondent has illegally retained the hard earned money of the complainant till date. 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.

5. That the respondent has made fraudulent representations to the complainant and retained the paid amount till date on the basis of false promises of delivery of possession. Respondent has itself admitted to the

complainant that development of the Z block has been abandoned due to litigation with the land owners over said parcel of land. Even thereafter respondent gave false assurances to the complainant for delivery of possession.

6. It is further stated that the complainant intends to withdraw from the project on account of deficiency in services. The complainant seeks complete refund of the paid amount along with interest as per Rule 16 of HRERA Rules 2017 due to failure on the part of respondent in delivery of possession. Hence the present complaint has been filed.

C. RELIEF SOUGHT

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

   i. Direct the respondent to return/refund the full amount deposited by the complainant amounting to ₹ 8,86,474/- with interest.

   ii. Direct the respondent to pay legal expense of ₹ 1,00,000/- incurred by the complainant for filing and pursuing the instant case.

   iii. Any other damages, interest and relief which the Hon'ble Authority may deem fit.

8. During the arguments, learned counsel for the complainant submitted that complainant in this was allotted a unit in the project of the respondent in the year 2009. Thereafter, respondent has failed to execute a builder buyer agreement with respect to the unit in question or deliver possession of the unit despite a delay of more than 13 years. As per its own admission, respondent has stated that the development of the Z-Block, in which the residential floor of the complainant is situated has been abandoned by the respondent company due to land litigation. In these circumstances, complainant wishes to withdraw from the project in question and seek refund of the paid amount.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

9. Learned counsel for the respondent filed detailed reply on 20.07.2023 pleading therein:

10. That the unit in question was booked by the complainant in the year 2009 after making due diligence upon payment of a booking amount of ₹ 2,50,000/-. On 24.12.2009, respondent duly allotted a unit bearing no.22-11 in Z-Block on the ground floor tentatively admeasuring 1203 sq. ft. to the complainant.

11. That there is no builder buyer agreement executed between the parties. Section 18(1) categorically notes refund of the amount in case of non fulfilment of conditions as per the agreement for sale, however, the same

was never executed and as such, no rights to seek refund before this Ld. Authority.

12. That as per clause 12 of the booking form, the due date of possession was not only subjected to circumstances beyond the control of the company but in fact, the timeline for handover of possession had to begin on issuance of sanction letter of the project. The obligation to deliver the unit was restricted to 24 months after attaining the requisite sanctions. That the respondent had applied for approval of building plans on 21.06.2011 and initiated development works. However, the application was withheld with the concerned department. Respondent again submitted the building plan for approval on 08.01.2014. Despite the best efforts made by the respondent the building plans submitted with the concerned department remained unapproved till date, in light of which, the due date of offer of possession has not yet passed and hence the present complaint is premature and liable to be dismissed.

13. 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 implementation an development of the said project have been hindered 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 unforeseeable circumstances and reasons beyond the control of the respondent, the construction got delayed.

14. During the course of hearing, Mr. Hemant Saini, learned counsel for the respondent offered refund of the paid amount to the complainant along with interest @ 9%. Said offer was refused by the learned counsel for the complainant. Mr. Hemant Saini, argued that there is no builder buyer agreement executed between the parties till date. The only document outlining the terms and conditions between the parties is the booking form dated 25.06.2018. In the absence of a builder buyer agreement, the terms and conditions mentioned in the booking form will only govern the relationship between the parties. As per clause 12 of the booking form the delivery of possession of the booked unit was subject to sanctioning of the building plans. Since the building plans are yet to be approved by the concerned department, the due date has not passed and hence, the present complaint is premature and liable to be dismissed. Learned counsel for the respondent has relied upon a judgement passed by Hon'ble HRERA

Gurugram, in Complaint no. 1076 of 2018 titled Neetu Soni. Vs Imperia Wishfield Pvt. Ltd dated 01.02.2019 wherein, it the captioned complaint was dismissed being premature as the date of delivery of possession was yet to come.

E. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

Findings on the objections raised by the respondent.

E.I Objection raised by the respondent regarding the complaint being premature as the due date of possession is yet to arrive.

Complainant in this case had booked a unit in the project of the respondent in the year 2009 upon payment of ₹ 2,50,000/- as the booking amount. Accordingly, complainant was allotted unit no. Z22-11, Ground Floor, admeasuring 1203 sq. ft in the project in question vide allotment letter dated 24.12.2009. It is pertinent to mention that a builder buyer agreement has not been executed between the parties. The only document executed between both the parties is an application dated 26.05.2009 for allotment of a unit in the project of the respondent. As per clause 12 of the application/booking form, the the timeline for handover of possession had to begin on issuance of sanction letter of the project. The obligation to deliver the unit was restricted to 24 months after attaining the requisite sanctions. It is an admitted

fact that till date the respondent has not received the necessary approvals with regard to the sanction of building plans. It is the argument of the respondent that since the timeline for delivery of possession was subject to approval of sanction letter, which are yet to be approved, the actual due date of possession has yet to arrive and hence, the complaint is premature in its filing.

A bare perusal of the facts reveals that the unit had been booked by the complainant in the year 2009 and a specific allotment of unit bearing no. Z22-11 in Z-Block was made to the complainant by December 2009. As per respondent's own submission, the respondent had applied for sanction of building plans, for the first time on 21.06.2011 that is after a gap of nearly one and half year from the allotment. However, the application was withheld with the concerned department. Respondent again submitted the building plan for approval on 08.01.2014. Till then respondent had failed to execute a builder buyer agreement with the complainant qua the booked unit which would have solidified the terms and conditions between both the parties. Respondent has relied upon clause 12 of the application/booking form to establish a timeline for delivery of possession. Since the delivery of possession of the unit is subject to sanctioning of the building plans, the due date of possession has yet to arrive.

Learned counsel for the respondent has placed reliance on judgement passed by Hon'ble HRERA Gurugram, in **Complaint no. 1076 of 2018 titled Neetu Soni. Vs Imperia Wishfield Pvt. Ltd dated 01.02.2019** wherein, the captioned complaint was dismissed being premature as the date of delivery of possession was yet to come. Now delving into the facts and circumstances of cited case i.e Complaint no. 1076 of 2018, it is observed that in said complaint complainant had booked a unit in the project of the respondent in the year 2012. Thereafter, a memorandum of understanding dated 11.07.2016 was available on record for the booked unit according to which the respondent was under obligation to deliver the possession of the subject apartment/unit by 11.01.2020. Since the due date for delivery of possession had yet to arrive and the complainant had approached the Authority in the year 2018 i.e before the date of delivery, hence the complaint was dismissed as premature on this count. However, in the captioned complaint there is no solid date of delivery of possession as there is no builder buyer agreement executed between the parties and further the terms of clause 12 of the booking form with regard to delivery of possession being subjected to sanction of building plan are vague and uncertain and heavily loaded in favour of the promoter. Incorporation of

such clause 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. Respondent has failed to apprise the Authority with regard to the reasons that caused delay in taking necessary approvals from the concerned department for sanctioning of the building plans. Respondent had also evaded from its liability of executing a proper builder buyer agreement with the complainant. Such an act of the respondent raises a genuine doubt in the minds of the complainant/allottee with regard to the conduct of the respondent. As a matter of fact, possession in this case has been inordinately delayed beyond a reasonable period of time. Complainant had booked the unit in the year 2009. Since then respondent did not provide any communication to the complainant with regard to stage of construction or delivery of possession of the unit. Now it has been more than 13 years and even now respondent is not in a position to comment about timeline for delivery of possession. In these circumstances, complainant cannot be forced to wait for an indefinite amount of time for delivery of possession just to give benefit to the respondent to cover up its lacunae. Complainant is entitled to seek refund of the paid amount along with interest on account of deficiency in service on the part of the respondent.

In observing so, Authority places its reliance on a judgement passed by Hon'ble Apex Court in 2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr wherein it has been observed that a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Further in absence of builder buyer agreement it cannot rightly ascertain as to when the possession of said plot was due to be given a period of 3 years has been observed as a reasonable period of time to complete construction and deliver possession of the unit.

Considering the aforementioned observations, in present complaint, respondent had allotted a unit bearing no. Z22-11, in Z-Block to the complainant on 24.12.2009, meaning thereby that a relation had begin between both the parties qua th said unit and respondent had begun raising demands for the same. Now taking a period of 3 years from the said date as a reasonable time to complete development works in the project and handover possession to the allottee, the deemed date of possession comes to 24.12.2012. It is observed that respondent builder should have delivered possession of the booked unit by the year 2012 to the complainant. Now the contention of the respondent that the

complaint is premature on the count that the due date of possession is yet to arrive cannot be accepted as is vague, unfounded and bad in the eyes of the law.

It is pertinent to mention that in its written pleadings , complainant has submitted that in the year 2015, after a gap of more than 5 years from allotment, respondent vide letter dated 20.02.2015 apprised the complainant about the litigation proceedings with the land owner of the land over which the residential floor, unit no. Z22-11 in Z-Block was allotted to the complainant. A copy of said letter is appended as Annexure-07. Upon perusal of the document dated 20.02.2015, it is found that said document does not bear any official representation/ authorised signatories of the respondent company. Further the document is merely a print of the statement made above on A4 sheets to an extent that it raises a doubt on the authenticity of said document. Said document has been denied by the respondent in its reply. Further, at the time of making oral pleadings, learned counsel for the complainant did not place reliance on the said document. Therefore, Authority deems it appropriate to not take said document into consideration at the time of formulating the observations.

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

As per observations recorded in para EI of this order, the possession of the unit should have been delivered by 24.12.2012, 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. Looking at this aspect as to whether the said situation or circumstances was in fact beyond the control of the respondent or not. The obligation to deliver possession within a period of 24 months from builder buyer agreement was not fulfilled by respondent. There is delay on the part of the respondent and the various reasons given by the respondent 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. The 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 2014, and the NGT order referred by the respondent pertains to the 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 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."

Moreover, the respondent has not given any specific details with regard to delay in payment of instalments by many allottees. 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.

EIII Objection raised by the respondent regarding non applicability of Section 18(1) of the RERA Act 2016

In its written submissions, it has been pleaded by the respondent that complainant is not entitled to seek refund of the paid amount as per Section 18(1) of the RERA Act 2016 since said clause provides for refund of the amount in case of non fulfilment of conditions as per the agreement for sale. Since, there is no builder buyer agreement executed between the parties, the complainant cannot seek refund before the Authority. A bare perusal of Section 18(1)(a) of the RERA Act 2016 would reveal that the said section provides for relief of refund of paid amount in cases where the promoter fails to complete or is unable to give possession of an apartment, plot or building, in accordance with the terms of the agreement for sale or, as the

case may be, duly completed by the date specified. Now as per the observations recorded in the preceding paragraph, it has been observed that when in the absence of a builder buyer agreement, a clear due date of possession cannot be established, then complainant allottee cannot be asked to wait for an indefinite amount of time on account of lacunae on the part of the respondent for failing to execute a builder buyer agreement. As such a period of 3 years is taken as a reasonable period of time and accordingly respondent was duty bound to deliver possession to the complainant by the year 2012. Since the respondent had not only failed to executed a builder buyer agreement but also failed to deliver possession within stipulated time, therefore, complainant-allottee is entitled to seek refund of the paid amount along with interest as covered under Section 18(1) of the act. Thus, the objections of the respondent with regard to applicability of Section 18 of the RERA Act are hereby rejected. Relevant part of Section 18 of the RERA Act are reproduced below for reference:-

> *"(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:"

15. As has been admitted between both the parties, upon booking, a unit bearing no. Z22-11, Ground Floor, admeasuring 1203 sq. ft had been allotted to complainant in the project of the respondent namely "Park Elite Floors, Parklands" situated at Sector 80, Faridabad, Haryana vide allotment letter dated 24.12.2009. No builder buyer agreement had been executed between the parties in respect of the aid unit. In absence of builder buyer agreement it cannot be rightly ascertained as to when the possession of said plot was due to be given to the complainant As per observations recorded in para EI of this order, a period of three years from the date of allotment i.e 24.12.2009 is being taken as a reasonable period of time for the respondent to complete construction and deliver possession of the unit to the complainant. Thus, the deemed date of possession works out to 24.12.2012. Now even after a lapse of 10 years respondent is not in position to deliver possession of the booked unit to the complainant. On account of inordinate delay in delivery of

possession, complainant wishes to withdraw from the project and seek refund of the paid amount along with interest.

16. The facts set out in the preceding paragraph demonstrate that construction of the project had been delayed beyond a reasonable period of time thus causing inordinate delay and suffering to the complainant. Respondent has neither developed the project in question nor returned the amount paid by the complainant till date. 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 has already waited for a long period of time and is not willing to wait further. In the circumstances, the provisions of Section 18(1)(a) of the Act clearly come into play by virtue of which the complainant is seeking refund of paid amount along with interest on account of default in delivery of possession of booked unit within a reasonable period of time.

17. Further, Hon'ble Supreme Court in the matter of "Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others " in CIVIL APPEAL NO(S). 6745 6749 OF 2021 has observed that in case of delay in granting possession as per agreement for sale, allottee has an unqualified right to seek refund of amount paid to the promoter along with interest. Para 25 of this judgement is reproduced below:

> *"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."

18. So, the Authority finds it to be a fit case for allowing refund in favour of complainant. The complainant will be entitled to refund of the paid amount from the dates of various payments till realisation. 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"."

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. 12.10.2023 is 8.75%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.75%.

20. Hence, Authority directs respondent to pay refund to the complainant on account of failure in timely 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 date of various payments till actual realisation of the amount.

21. Authority has got calculated the interest on the total paid amount from the date of respective payments till the date of this order i.e 12.10.2023 at the rate of 10.75% and said amount works out to ₹ 12,70,477/- Complainant shall be entitled to further interest on the paid amount till realisation beginning from 13.10.2023 at the rate of 10.75%:

Sr. No.	**Principal Amount (in ₹)**	**Date of payment**	**Interest Accrued till 12.10.2023 (in ₹)**
1.	250000	30.05.2009	3,86,485/-
2.	2,72,537/-	20.09.2008	4,14,743/-
3.	2,31,814	21.10.2009	3,48,539/-
4.	97,830/-	16.07.2012	1,18,306/-
5.	9,211/-	10.05.2021	2,404/-
Total:	861392/-		12,70,477/-

22. It is pertinent to mention that complainant has claimed to have paid an amount of ₹ 8,86,474/- to the respondent in lieu of booked unit. Said amount has also been admitted by the respondent vide statement of accounts dated 10.05.2021 annexed as Annexure 09. However, out of said amount, complainant has actually only paid an amount of ₹ 8,61,392/- to the respondent and has received an amount of ₹ 25,081.65/- as timely payment discount. Timely payment discount is a discount given by the respondent to the allottees who make requisite payments on time and receive benefit of the same towards the sale consideration. This amount is made a part of the payment made towards sale consideration of the booked unit. This amount is never actually paid by the allottee nor received by the respondent. It is just an added benefit towards booked unit. Captioned complaint pertains to refund of the paid and the complainant is not continuing with the project, this amount cannot be entertained as payment made towards sale consideration. The actual amount paid by the complainant and received by the respondent is ₹ 8,61,392/- only. Therefore, the total paid amount for the purpose of refund and calculation of interest is being taken as ₹ 8,61,392/- only. It is further pertinent to mention that the complainant has only annexed receipt for an amount of ₹ 8,52,181/-. For the remaining amount of ₹ 9,211/- the date of receipt is being taken as 10.05.2021 i.e the date

statement of account by which this amount has been admitted by the respondent .

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 is directed to refund the entire amount of ₹ 21,31,869/- (till date of order i.e 12.10.2023) to the complainant and pay further interest beginning from 13.10.2023 till actual realisation of the amount at the rate of 10.75%.

(ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017.

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]