

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

Complaint no.	:	2299/2022
Date of filing complaint:		19.05.2022
First date of hearing:		07.07.2022
Date of decision	:	03.01.2024

Neha Chauhan and Bhanu Pratap Singh Resident of: A 156/10 Shiv Durga Vihar, Faridabad, Haryana.	Complainants
Versus	
M/s Signature Builders Pvt Ltd Regd. office: Unit No. 1309, 13 th Floor, Dr. Gopal Das Bhawan, 28 Barakhamba road, New Delhi-110001.	Respondent

CORAM:	
Shri Ashok Sangwan	Member
APPEARANCE:	
Shri Rajender Kumar Advocate	Complainants
Shri Mintu Kumar (AR)	Respondent

ORDER

1. The present complaint 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 provisions of the Act or the rules and regulations made there under or to the allottee as per the agreement for sale executed inter se.

A. Unit and project-related details

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

Sr. No.	Particulars	Details
1.	Name of the project	Orchard Avenue Affordable Group Housing, Sector 93, Hayatpur Village, Gurugram, Haryana.
2.	Project area	5 acres
3.	Nature of the project	Affordable Housing.
4.	DTCP license no. and validity status	1 of 2016 dated 04.02.2016 Valid up to 05.05.2021
5.	Name of licensee	Signature Builder Private Limited.
6.	RERA Registered/ not registered	Registered 11 of 2017 dated 30.06.2017
7.	Unit no.	B-202, Tower B (Page no. 44 of complaint)



8.	Unit area admeasuring	Carpet area- 543.592 sq. ft. Balcony Area- 86.704 sq. ft. (Page no. 44 of complaint)
9.	Environment clearance	29.09.2016 (Page no. 22 of complaint)
10.	Building plan	29.04.2016 (Page 21 of complaint)
11	Date of execution of BBA	30.08.2017 (Page no. 42 of complaint)
12.	Possession clause	5. Possession of the plot 5.1 Within 60 (sixty) days from the date of issuance of Occupancy Certificate, the Developer shall offer the possession of the Said Flat to the Allotee(s). Subject to Force Majeure circumstances, receipt of Occupancy Certificate and Allotee(s) having timely complied with all its obligations, formalities or documentation, as prescribed by Developer in terms of the Agreement and not being in default under any part hereof including but not limited to the timely payment of installments as per the Payment Plan, stamp duty and registration charges, the Developer shall offer possession of the Said Flat to the Allotee(s) within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date"), whichever is later.
13.	Due date of possession	29.03.2021 (Calculated from the date of environment clearance and 6

		months extension in view of HARERA notification No. 9/3-2020 HARERA/GGM (Admn) dated 26.05.2020 on the force majeure event of Covid-19 (Coronavirus).
14.	Basic sale consideration	Rs. 22,17,720/- (As per BBA on page no. 51 of complaint)
15.	Amount paid by the complainants	Rs. 24,62,617/- (Page 44 of Additional documents submitted by complainants dated 12.06.2023, Final statement of accounts dated 27.04.2021)
16.	Legal Notice	19.04.2021 (Page no. 81 of complaint)
17.	Occupation certificate /Completion certificate	20.04.2021 (Page no. 59 of reply)
18.	Offer of possession	29.04.2021 (Page no. 96 of complaint)
19.	Possession certificate /Acknowledgment.	21.06.2021 (Page 109 of reply)

B. Facts of the complaint:

3. The respondent has represented itself as one of the renowned brands in the market of affordable housing. During the course of its business, they had obtained a license bearing No. 01 of 2016 on 5.0

- Acres Land in village Hayatpur, District-Gurugram, Sector-93, Haryana for developing affordable housing under the Haryana Government Affordable Housing Policy, 2013 valid till 03.02.2021.
4. After the receipt of the aforesaid license, it got its building plans approved vide memo No. ZP-1110/AD (RA)/2016/8352 and environment clearance certificate from the state environment impact assessment authority Haryana vide memo No. SEIAA/HR/2016/859 from the concerned departments.
 5. The respondent had launched the Orchard avenue project and invited applications from the general public by advertising the same in various newspapers of the state as per the Affordable Housing Policy, 2013.
 6. Meanwhile the RERA has come into existence and as per the RERA guidelines, it registered its Orchard avenue project with Haryana Real Estate Regulatory Authority at Panchkula vide RERA Registration Number 011 of 2017.
 7. Based on the invitation of the respondent, the complainant submitted its application vide application number 14240 along with 5% of the total cost i.e. Rs.1,10,886/- being the booking amount as per the Affordable Housing Policy, 2013 for participating in the draw of the apartments.
 8. After conducting the scrutiny of the files by the DTCP office, on 13.02.2018 the draw of the project was conducted in the presence of the officials of the DGTCP/DC, Gurugram and the flat bearing

- number B-202 (2 BHK TYPE B) on 2nd Floor was allotted to the allottee(s).
9. After getting the allotment of the respective apartment, the allottee(s) has paid the next instalment of 20% of the total cost as per the payment plan agreed between the parties and subsequently the flat buyer agreement was executed between the parties on 30.07.2017.
 10. The allottee(s) had fulfilled all their commitments/obligations as per the flat buyer agreement i.e., making the timely payment as per the payment schedule agreed between the parties but the respondent has failed to keep his commitment of handing over the physical possession of the respective apartment on 30.09.2020.
 11. To the surprise of the allottee(s) even the project license of the respondent got expired on 03.02.2021 and same was renewed post (2) two months on 20.04.2021.
 12. After delay in getting the possession of the respective apartment, the allottee(s) started following up with the respondent over phones, e-mail and even visited their office for so many days allottee(s) has not received any response, failing which the allottee(s) were left with no option sent a legal notice dated 19.04.2021 to the respondent seeking possession & compensation towards the delay in possession @ 15% P.A. as per the flat buyer agreement.

13. That meanwhile after the delay of more than six months, the respondent got the occupation certificate and same was communicated to the allottee(s) and the final demand notice was issued.
14. On 26.04.2021, the allottee(s) received the final demand notice with a component of maintenance charges even though as per the affordable housing policy, the respondent had to maintain the colony free-of-cost for a period of five years from the date of grant of occupation for which the government has provided 4% commercial component.
15. The allottee(s) objected to the said maintenance charges but the respondent did not pay heed to the objection and rather warned the allottee(s) either to clear all the dues or face more delay in delivering the possession of the apartment. Since the allottee(s) were left with no option, they cleared all the dues as stated in the final demand notice without prejudice to his right for seeking legal relief under the proper provisions of the law before respective authority/tribunal/court or any other. Further, the allottee(s) as per the Affordable Housing Policy are allowed to get 5-year free maintenance services from the date of possession.
16. Even after clearing all the dues as per the final demand notice, the allottee(s) have not received any communication till date regarding the handing over of the physical possession of the apartment.

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17. Thereafter, on the request of the allottee(s) the advocate has sent another reminder through E-mail dated 25.05.2021.
18. The respondent has not completed the construction work at site and after delay of approx. ten Months on 26.06.2021, the possession of the apartment was handed over to the allottee(s).

C. Relief sought by the complainants:

19. The complainants have sought the following relief(s):
 - i. Direct the respondent to refund the illegal maintenance charges charged from the allottee(s).
 - ii. Direct the respondent to pay compensation for the delay in giving the physical possession of the respective apartments till handing over the physical possession of the respective apartment from the due date.
 - iii. Direct the respondent to complete all pending work and provide all amenities, facilities as per the builder buyer agreement.

D. Reply by the respondent.

20. The complainants as well as other allottees of the project had made detailed and elaborate enquiries with regard to the location of the project, sanctions accorded by the concerned statutory authorities, specifications of the project as well as capacity, competence and capability of the respondent to successfully undertake the conceptualization, promotion, construction, development and implementation of the project. Only after being fully satisfied in all respects, the complainant and other allottees proceed to submit

- their applications for obtaining allotment of apartments in the Affordable group housing project. This has also been recorded in the agreement of sale at recital "L".
21. The complainant has not fulfilled all its commitment/obligations as per flat buyer agreement. The complainants did not make payment of consideration as per the agreed payment schedule. The respondent has not failed to keep its commitment of delivery of physical possession of the apartments on 30th September 2020. It is wrong and denied that the delivery of physical possession of the apartments was to be made up to the aforesaid date.
 22. The complainant had not followed up the matter with the respondent with regard to delivery of physical possession. The complainants had not visited the office of the respondent several times for obtaining physical possession of the apartment.
 23. That respondent had initially conveyed to the complainants that physical possession of the allotted unit would be delivered to them within a period of 4 years from the approval of building plans or grant of environmental clearance, whichever was later but subject to, amongst others, force majeure circumstances, intervention of statutory authorities, receipt of the occupation certificate etc.
 24. Prior to the expiry of said period, the deadly and contagious Covid-19 pandemic had struck. The same had resulted in unavoidable delay in delivery of physical possession of the apartment. In fact, Covid 19 pandemic was an admitted force majeure event which was beyond the power and control of the respondent. That for all Real

estate projects registered under Real Estate Regulation and Development Act, where completion date, revised completion date or extended completion date was to expire on or after 15th of March, 2020, the period of validity for registration of such projects had been ordered to be extended by Haryana Real Estate Regulatory Authority vide order dated 27th of March, 2020. The Haryana Real Estate Regulatory Authority, Gurugram had issued order/direction dated 26th of May, 2020 whereby the Hon'ble Authority had been pleased to extend the registration and completion date of Real Estate Projects by 6 months, due to outbreak of Covid-19 (Corona Virus).

25. The respondent had also suffered devastatingly because of outbreak and spread of Covid-19. The concerned statutory authorities had earlier imposed a blanket ban on raising of construction. Advisories had been issued by the statutory authorities to the developers to ensure that no retrenchment of staff/labour was done and further the staff/labour were adequately fed and provided for. Subsequently, the said embargo had been lifted to a limited extent. However, in the interregnum, large scale migration of labour had occurred which had also been extensively reported in printed and electronic media. Availability of raw material remained a major cause of concern. In fact, the aforesaid force majeure events had completely affected the ability of the respondent to continue with the construction. Despite diligent efforts, the respondent had been unable to carry on construction/

development/implementation of its projects including the project in question during the aforesaid period which in any case should not be considered for determining the period for delivery of physical possession of the apartment of the complainants.

26. Following orders made by several authorities also caused delay in timely completion of the project i.e. NGT, Haryana state pollution control board, Commissioner MCG. These orders also constitute force majeure circumstance.
27. The complainants were well aware that the delay had occurred on account of force majeure circumstances already mentioned hereinbefore. Thus, it could not have been claimed by the complainants that any delay could be attributed to the respondent. The complainants are not entitled to seek any compensation for the alleged delay in delivery of physical possession. The complainants are not entitled to claim interest at the rate of 15% per annum or any other rate from the respondent. The dispatch of the notice dated 19th of April 2021 does not confer any right whatsoever in favour of the complainants and the same does not adversely affect the rights of the respondent in any manner whatsoever. Further, the complainants were well aware of the reasons for delay which were completely beyond the power and control of the respondent.
28. It is wrong and denied that after a delay of more than 6 months the respondent was able to obtain the occupation certificate. The application for grant of occupation certificate had been submitted by the respondent in the office of Directorate of Town & Country Planning,

Haryana, Chandigarh on 11-12-2019. The application referred to above was completed in all respects. The respondent had diligently followed the matter with the concerned statutory authority for the purpose of issuance of occupation certificate. That the occupation certificate was eventually issued by Directorate of Town & Country Planning, Haryana, Chandigarh vide Memo bearing number ZP-__1110/AD(RA)/2021/10234 dated 20-4-21. The delay in the issuance of occupation certificate cannot be attributed to the respondent.

29. It is wrong and denied that the final demand notice contained any component of maintenance charges. The aforesaid notice was not in violation of the Affordable Housing Policy. The contents of the Affordable Housing Policy have been completely misinterpreted and misconstrued by the complainants. The relevant provisions of license and statutory provisions pertaining to liability of payment of charges by the complainants in the Affordable Group Housing Project: -
- i. Clause 2 (c) of license bearing no.1 of 2016 dated 4.02.2016 granted for the project to the respondent by Directorate of Town and Country Planning, Haryana, Chandigarh. It provides that the company shall maintain and upkeep all roads, open spaces, public parks and public health services for the period of five years from the date of issue of the completion certificate unless earlier relieved of this responsibility and thereupon to transfer all such roads, open spaces, public parks and public health services free of cost to the Govt. or the local authority, as the case may be in accordance with provisions of Section 3(3) (a) (iii) of

the Haryana Development and Regulation of Urban Areas Act, 1975.

- ii. Clause 4(v) of Affordable Housing Policy dated 19th of August 2013. It provides: Maintenance of colony after completion of project- A commercial component of 4% is being allowed in the project to enable the coloniser to maintain the colony free-of-cost for a period of five years from the date of grant of occupation certificate, after which the colony shall stand transferred to the "association of apartment owners" constituted under the Haryana Apartment Ownership Act 1983, for maintenance. The coloniser shall not be allowed to retain the maintenance of the colony either directly or indirectly (through any of its agencies) after the end of the said five-year period. Engaging any agency for such maintenance works shall be at the sole discretion and terms and conditions finalised by the "association of apartment owners" constituted under the Apartment Ownership Act 1983.
30. The respondent had not imposed a condition precedent for clearance of operational costs/utility charges for the purpose of delivery of physical possession. It is wrong and denied that allottee was left with no option but to clear the dues as stated in the final demand notice.
31. It is wrong and denied that even after clearing all dues as per final demand notice, the complainants did not receive any communication regarding delivery of physical possession of the apartment. In fact, the complainants have taken the physical possession of the apartment duly delivered to them by the respondent.

32. It is wrong and denied that construction work had not been completed by the respondent at the site. No rectification of any nature is required at the end of the respondent. The respondent has discharged its liabilities.

E. Jurisdiction of the authority:

33. The plea of the respondent regarding the rejection of the complaint on the grounds of jurisdiction stands rejected. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E. I Territorial jurisdiction

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

E. II Subject matter jurisdiction

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

Section 11(4)(a)

Be responsible for all obligations, responsibilities, and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all

the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

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

34. So, given 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 complainants at a later stage.

F. Findings on the objections raised by the respondent:

F.I Objections regarding force Majeure.

35. The respondent-promoter has raised the contention that the construction of the tower in which the unit of the complainants is situated, has been delayed due to force majeure circumstances such as orders passed by the Hon'ble National Green Tribunal, and various state authorities such as Haryana State Pollution Control Board district, Commissioner Municipal Corporation, Gurugram, etc. The pleas of the respondent advanced in this regard are devoid of merit. The orders passed were for a very short period of time and thus, cannot be said to impact the respondent-builder leading to such a delay in the completion. Furthermore, the respondent should have foreseen such situations. Thus, the promoter respondent cannot be given any leniency on the basis of aforesaid reasons and it is a well-settled principle that a person cannot take benefit of his own wrong. Furthermore, the respondent seeks an

extension in the timeline for due date of possession in view of the Covid 19 pandemic and HARERA notification no. 9/3-2020 dated 26.05.2020. On perusal of records brought before this Authority, it is of the view that the respondent-developer proposed to handover the possession of the allotted unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. In the present case, the due date of approval of building plan is 29.04.2016 and environment clearance is 29.09.2016. The due date is calculated from the date of environment clearance being later, so, the due date of subject unit comes out to be 29.09.2020. As per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainants is 29.09.2020 i.e. after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. As such the due date for handing over of possession comes out to be 29.03.2021.

- G. Findings on relief sought by the complainants.**
- G.I Direct the respondent to refund the illegal maintenance charges charged from the allottee(s).**

36. The complainant contends that the respondent-developer has illegally charged maintenance charges upon them vide invoice dated 27.04.2021, and that it is the violation of the Affordable Housing Policy, 2013. On the other hand, the respondent contends that the said charges are as per the aforesaid policy and hence justified. Both the parties place reliance on clause 4(v) of the Affordable Housing Policy, 2013.
37. As per clause 4(v) of affordable housing policy 2013, the component of maintenance charges is included in the total price for enabling the colonizer to maintain the colony free-of-cost for a period of 5 years from the date of grant of occupation certificate, after which the colony shall stand transferred to the "association of apartment owners". The relevant part of the policy is reproduced hereunder:

"Maintenance of colony after completion of project: A commercial component of 4% is being allowed in the project to enable the coloniser to maintain the colony free-of-cost for a period of five years from the date of grant of occupation certificate, after which the colony shall stand transferred to the "association of apartment owners constituted under the Haryana Apartment Ownership Act 1983, for maintenance. The coloniser shall not be allowed to retain the maintenance of the colony either directly or indirectly (through any of its agencies) after the end of the said five years Period. Engaging any agency for such maintenance works shall be at the sole discretion and terms and conditions finalised by the association of apartment owners constituted under the Apartment Ownership Act 1983"

38. The respondent has charged "User chrg for operational cost of utility services" worth Rs. 24,246/- upon the complainants as per the invoice dated 27.04.2021. It is the view of this Authority that the said demand is illegal and contravenes the clause 4(v) of affordable housing policy 2013. Therefore, the respondent is directed to refund the amount received by it on account of maintenance charges along with interest @10.85% from the date of payment till its realization.

G.II Direct the respondent to pay compensation for the delay in giving the physical possession of the respective apartments till handing over the physical possession of the respective apartment from the due date.

39. In the instant case, the space buyer agreement was executed between the complainants and the respondent on 30.08.2017, and as per clause 5 of the said agreement, the possession was to be handed over within 4 years from the date of approval of building plans or grant of environment clearance, whichever is later. The said clause is reproduced below:

"5.1 Within 60 (sixty) days from the date of issuance of Occupancy Certificate, the Developer shall offer the possession of the Said Flat to the Allotee(s). Subject to Force Majeure circumstances, receipt of Occupancy Certificate and Allotee(s) having timely complied with all its obligations, formalities or documentation, as prescribed by Developer in terms of the Agreement and not being in default under any part hereof including but not limited to the timely payment of installments as per the Payment Plan, stamp duty

and registration charges, the Developer shall offer possession of the Said Flat to the Allottee(s) within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date"), whichever is later."

The building plan was approved on 29.04.2016, and environment clearance was provided on 29.09.2016. Therefore, the due date of possession shall be calculated from the date of environment clearance i.e. 29.09.2016, hence the due date of possession comes out to be 29.03.2021 (Additional extension of months provided in view of HARERA notification no. 9/3-2020 dated 26.05.2020).

40. There has been a delay in obtaining the occupation certificate by the respondent, the said OC was obtained on 20.04.2021. Thereafter the respondent issued an offer of possession on 29.04.2021. The complainants thereafter acknowledged hand over of physical possession on 21.06.2021. After this, the complainant filed a complaint with this Authority on 19.05.2022. Now the complainants are seeking delayed possession charge.
41. In the instant case, the complainants wish to continue with the project and are seeking DPC as provided under the proviso to sec 18(1) of the Act. Sec 18(1) proviso reads as under:

"Section 18: - Return of amount and compensation
18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

.....
Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

42. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

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

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

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

43. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
44. Consequently, as per the website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as of the date i.e., 03.01.2024 is **8.85%**. Accordingly, the prescribed rate of interest will be the marginal cost of lending rate +2% i.e., **10.85%**.

45. The definition of the term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

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

Explanation. —For the purpose of this clause—

(i) The rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest that 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;"

46. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., **10.85%** by the respondent/ promoter which is the same as is being granted to it in case of delayed possession charges.
47. On consideration of the circumstances, the documents, submissions made by the parties, and based on the findings of the authority regarding contravention as per provisions of rule 28(2), the Authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 5 of the agreement executed between the parties on 30.08.2017, the possession of the subject unit was to be delivered within 4 years from the date of

approval of building plans or grant of environment clearance, whichever is later. Therefore, the due date for handing over possession was 29.03.2021. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The authority is of the considered view that there is a delay on the part of the respondent to offer possession of the allotted unit to the complainants as per the terms and conditions of the buyer's agreement dated 30.08.2017 executed between the parties.

48. Accordingly, it is the failure of the promoter to fulfil its obligations and responsibilities as per the agreement dated 30.08.2017 to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4) (a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottees shall be paid, by the promoter, interest for every month of a delay from the due date of possession i.e. 29.03.2021 till the date of the offer of possession i.e. 29.04.2021 plus 2 months at the prescribed rate i.e., 10.85 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

G.III Direct the respondent to complete all pending work and provide all amenities, facilities as per the builder buyer agreement.

49. The complainants have not made any specific pleadings regarding the aforesaid relief sought and has failed to produce any documents in support of their claim before this Authority to showcase the pending work, etc. Therefore, no direction with respect to the same can be given.

H. Directions issued by the Authority:

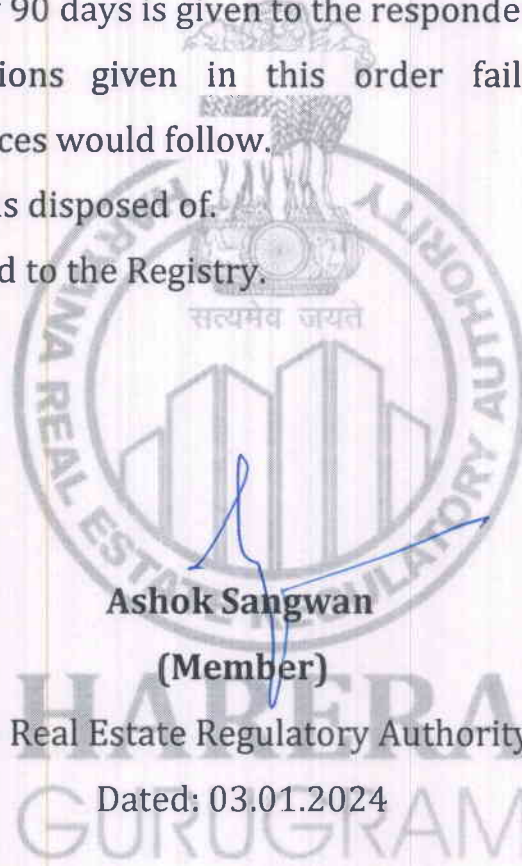
50. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance with obligations cast upon the promoter as per the functions entrusted to the Authority under section 34(f) of the Act of 2016:

- I. The respondent is directed to refund the amount received by it on account of maintenance charges, along with interest @10.85% from the date of payment till its realization.
- II. The respondent is directed to pay delay possession charges to the complainants against the paid-up amount at the prescribed rate of interest i.e. 10.85% p.a. for every month of a delay from the due date of possession i.e. 29.03.2021 till the date of offer of possession i.e. 29.04.2021 plus two months, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
- III. The rate of interest chargeable from the allottee by the promoter, in case of default, shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay



the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

- IV. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - V. The respondent shall not charge anything from the complainants which is not part of the buyer's agreement.
 - VI. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.
51. Complaint stands disposed of.
 52. File be consigned to the Registry.



Ashok Sangwan
(Member)

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 03.01.2024