

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

Complaint no.: 1613 of 2022  
Order reserved on: 24.01.2024  
Order pronounced on: 11.03.2024

Ms. Manju Kherwa

**Resident of:** 717, Sector 20, HUDA, Sirsa, Haryana

**Complainant**

**Versus**

Signature Global Private Limited

**Regd. Office Address:** Unit No. 1309, At 13<sup>th</sup> Floor, Dr.  
Gopal Das Bhawan, 28, Barakhamba Road, New Delhi-  
110001

**Respondent**

**CORAM:**

Sh. Ashok Sangwan

**Member**

**APPEARANCE:**

Sh. Jagrup Singh Hazra (Advocate)

**Complainant**

Sh. Niraj Kumar (Advocate) and Sh. Mintu Kumar (AR  
of the Company)

**Respondent**

**ORDER**

1. The present complaint has been filed by the complainant/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 thereunder or to the allottees as per the agreement for sale executed *inter se*.



**A. Unit and project related details**

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

Sr. No	Particulars	Details
1.	Name of the project	"Signum-93", Sector- 93, Gurugram, Haryana
2.	Nature of project	Group Housing Complex
3.	RERA Registered/ Not Registered	Registered 11 of 2017 dated 30.06.2017 valid upto 29.09.2020
4.	DTPC License no.	1 of 2016 dated 04.02.2016
	Validity upto	05.05.2023
	Licensed area	5 Acres
5.	Unit no.	FF-12 (Tower-A) (Page no. 64 of complaint)
6.	Unit admeasuring	Carpet area- 59.245 sq ft (Page no. 64 of complaint)
7.	Date of execution of floor buyer's agreement	14.12.2017 (Page no. 54 of complaint)
8.	Possession Clause	<b>8. Possession clause</b> 8.1 "The developer assures to handover possession of the unit along with ready on Sep-2020". <b>(Emphasis supplied).</b>
9.	Due date of delivery of possession	30.03.2021 (An additional extension of 6 months provided to the developer in view of HARERA Notification no. 9/3-2020.)



10.	Total Sale Price	Rs. 12,52,100/- (Page no. 64 of Complaint)
11.	Total amount paid by the complainants	Rs. 10,25,372/- (Page no. 108 of Complaint, as per customer ledger dated 10.09.2021)
12.	Occupation Certificate	29.12.2023 for Phase II comprising of Towers H, I, J, K, L, M and N only.
13.	Offer for Possession	15.06.2021 (Page no. 97 of Complaint)
14.	Reminders	28.07.2021, 24.08.2021
15.	Pre-cancellation notice	17.09.2021, 11.10.2021 (Page no. 109 & 111 of complaint)
16.	Cancellation letter	28.02.2022 (Page no 125 of complaint)

### B. Facts of the complaint:

3. The complainant has made the following submissions: -

- I. That the respondent promoter developed the residential project with commercial retail shops namely, "Signum - 93", at village Hayatpur, Sector-93, Gurugram. That the respondent got its project registered on 30.06.2017 bearing registration no. 11/2017.
- II. That the complainant had applied for the retail shop in the project by way of an application form dated 06.11.2017. That as per the said application form, the basic sale price of the unit was Rs. 9400/- per square feet and EDC/IDC charges were Rs. 604/- per square feet.
- III. That the complainant had paid Rs. 2,00,000/- as the booking amount being part payment towards the total sale price of the unit and had been allotted Shop No. FF - 12, by virtue of builder buyer agreement.



- IV. That a builder buyer agreement was executed between the respondent and the complainant on 12.12.2017 and unit bearing no. FF-12 on first floor, having carpet area of 59.245 sq. ft. was allotted to the complainant. That as per the clause 3.2 of the builder buyer agreement, the total price of the unit was Rs. 12,52,100.64/-, comprising of basic sale price of Rs. 11,76,504/- along with EDC, IDC, IAC and any interest there on amounting to Rs. 75,596.64/-. That the total price of the unit was told to be escalation free. That the total price mentioned in builder buyer agreement and charged by the builder is highly inflated on the basis of the aforementioned facts.
- v. That at the time of allotment, the respondent fixed the total price of the above unit to be Rs. 12,52,100.64/- whereas, the price mentioned in the application form was Rs. 9400/- per sq. ft. along with EDC/IDC charges of Rs. 604/- per sq. ft. However, as per customer ledger dated 10.09.2021, per unit cost was Rs. 9400/- per sq. ft. and EDC/IDC of Rs. 500/- per sq. ft. That the actual price of the unit should be Rs. 5,56,903/- along with EDC/IDC of Rs. 29,622.5/- and accordingly, the total price of the unit should be Rs. 5,86,525.5/- only. That the respondent through unfair practices have caused huge financial loss to the complainant.
- vi. That the total amount paid by the complainant is Rs. 10,00,283/-. That the due date of handing over of possession was September, 2020. That the letter of offer of possession was given on 15.06.2021 and therefore there is delay in handing over the possession of the unit.
- vii. That the above-mentioned offer of possession dated 15.06.2021 was challenged by the complainant with a request to reissue a valid offer of possession, by way of e-mail dated 07.07.2021 on the following grounds:



- a) In Final Statement of Account letter, the basic sale price is mentioned to be Rs. 12,88,270/-however, as per clause 3.2 of the agreement, the basic sale price is Rs. 11,76,504/-.
- b) An additional charge of Rs. 70,976/- is not appropriate as the complainant had already paid the due amount of Rs. 75,597/- under the contract.
- c) The complainant had made timely payments, still the respondent imposed late fees on most of his demands without specifying the reasons. Although removal of late payment fees is always promised but still it continues to appear on demand letters for no reason.

- VIII. That the customer ledger dated 10.09.2021 shows the super built up area as 137.05 sq. ft., carpet area as 69.92 sq. ft., rate as Rs. 9400/- and amount as Rs. 12,88,270/-. However, during a personal visit to the site on 10.09.2021, the complainant got the carpet area measured by the project site team and the actual carpet area was found to be 58.245 sq. ft. which is even less than the carpet area of 59.245 sq. ft. mentioned in the builder buyer agreement.
- IX. That the carpet area of 69.92 sq. ft. mentioned in the customer ledger dated 10.09.2021 is incorrect and moreover, it is more than 5% of the carpet area of 59.245 sq. ft. originally allotted to the complainant as per the builder buyer agreement. Therefore, Clause 3.7 of the builder buyer agreement is attracted which specifies that increase in carpet area can be upto a maximum of 5% of the carpet area of the unit.
- X. That the complainant had requested to the respondent through e-mails, calls and had also sent a legal notice to rectify its fault and fix the total price of the unit as per the actual carpet area of the unit which is 58.245 sq. ft.
- XI. That instead of making the corrections, the respondent sent the notice of cancellation of booking dated 11.10.2021. It is pertinent to mention herein



that no outstanding amount is due against the complainant, as the complainant had already paid the excess amount.

- XII. That due to breach of the builder buyer agreement by the respondent and also fraud committed by the respondent, the complainant has decided to withdraw from the project and instead claim full refund of the amount of Rs. 10,00,283/- along with interest of Rs. 3,98,091.32/- calculated for 1562 days from 07.11.2017 to 19.02.2022 at the interest rate of 9.30% and further delayed interest for suffering huge financial loss.

**C. Written Submissions by the complainant:**

4. That the complainant filed the written submissions dated 08.02.2024 in compliance of orders passed the Authority dated 24.01.2024 and made the following submissions:
- I. That the Haryana Real Estate (Regulation and Development) Act, 2016 provides a concrete and specific definition of the carpet area and the unit has to be sold on the basis of carpet area only. That as per clause 3.2 of the builder buyer agreement which is also reproduced at page no. 2 of the reply by the respondent, it is clearly admitted fact that the cost of the commercial unit allotted to the complainant is to be based on carpet area of 59.245 sq. ft. That the actual carpet area was found to be 58.245 sq. ft. which is even less than 59.245 sq. ft. and accordingly, the total price of the unit should have been Rs. 5,86,525.50/-.
  - II. That the Respondent had taken undue advantage of the innocent complainant by wrongly calculating the total price of unit under clause 3.2 of the builder buyer agreement on the basis of super area of the unit, instead of the carpet area.
  - III. That any sale of the real estate project on any other basis except on carpet area basis after coming into force of the Haryana Real Estate



(Regulation and Development) Act, 2016 may be declared as null and void by the Authority.

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

5. The complainants have sought following relief(s):

1. Direct the respondent to refund the entire amount paid by the complainant along with interest.
6. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

**E. Reply by the respondent.**

7. The respondent has contested the complaint by filing reply on the following grounds: -

- i. That the complainant vide application dated 06.11.2017 had applied for allotment of retail shop in the project and subsequently was allotted a retail shop no. FF-12 in the project having carpet area of 59,245 sq. ft. and a builder buyer agreement dated 12.12.2017 was executed between the parties and the terms and conditions agreed upon for handing over the possession of the said unit besides other obligations of the parties.
- ii. That in terms of clause 3.2 of the builder buyer agreement dated 12.12.2017, the price of the unit comprised of basic sale price of Rs. 11,76,504/- and another Rs. 75,596.64/- towards EDC, IDC, IAC and interest thereon aggregating to Rs. 12,52,100.64/- excluding GST and cess or any other charges which may be levied in connection with the development/construction of the project paid/payable by the respondent upto the date of handing over the possession of the unit to the allottees or the government authority, as the case may be, after obtaining the



necessary approvals from the Government Authority for the purpose of such possession.

- iii. That as per clause 8.1 of the builder buyer agreement, the possession of the unit was agreed to be offered on September, 2020, unless there is delay or failure due to force majeure events. The Allottee also agreed that in the event the project is delayed due to force majeure conditions then the respondent shall be entitled to the extension of time for delivery of possession of the unit.
- iv. That the proposed period of delivery of physical possession was subject to force majeure events and allottee having complied with all obligations of allotment in a timely manner and further subject to completion of formalities/documentation as prescribed by the respondent and not being in default of any clause of the agreement.
- v. That prior to the completion of the project, various force majeure circumstances (such as construction bans, Covid-19 pandemic, various lockdowns etc) affected the regular development of the real estate project. The deadly and contagious Covid-19 pandemic had struck which have 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.
- vi. That the outbreak of Covid-19 has been declared as a pandemic by the World Health Organization. Advisories/ directions including lockdown/ restrictions have been issued by the Govt. of India and also by the State Govt. The said pandemic has had serious consequences and was so deadly and contagious that complete lockdown was imposed several times not only in Haryana but in India and rest of the world also. That even lockdown was withdrawn various restrictions continued to be imposed.



- vii. That it is also matter of record that Gurugram falls within the area of NCR and different competent authorities such as the Hon'ble Supreme Court, National Green Tribunal (NGT), Municipal Corporation Gurugram (MCG) etc. had directed ban on construction activities in Delhi NCR due to rise in pollution level mainly in festive season/ winter season for various periods thereby severely affecting the regular development of the real estate projects.
- viii. That the respondent has already made the offer of possession to the complainants vide letter dated 15.06.2021 after receipt of occupation certificate from the concerned department. In terms of the possession letter there being an increase in carpet area from 59.245 sq. ft. to 69.92 sq. ft. and the final super area being 137.05sq. ft., the basic price was increased to Rs. 12,88,270/- against Rs. 11,76,504/- and final account statement was also sent to the complainant demanding a payment of Rs. 5,02,576/- towards the balance payment of basic cost along with taxes and another sum of Rs. 70,976/- towards other charges and late fee of Rs. 2,525/-.
- ix. That the complainant had refused to take possession of the unit till date for which the complainant is liable to pay holding charges and maintenance charges in addition to the outstanding amount.
- x. That the Complainant was all along aware about the cost of the unit given that the respondent vide e-mail dated 16.11.2017 had enclosed the Invoice dated 13.11.2017 for a sum of Rs. 1,95,305/- which provided the details of the unit as super area of 125.160 sq. ft. @ Rs. 9,400/- sq. ft. and the complainant paid through NEFT transaction dated 19.01.2018 against the said invoice without any protest and further the Respondent shared the ledger dated 13.12.2017 with the complainant wherein also the area of the



unit was provided as 125.160 sq. ft. and the rate was provided as Rs. 9,400/- per sq. ft. It is respectfully submitted that the complainant has for the first time raised the issue of area and related cost by way of this complaint which is malafide since the complainant owe a sum of Rs. 5,02,576/- towards the balance payment of basic cost along with taxes and another sum of Rs. 70,976/- towards other charges and late fee of Rs. 2,525/- to the respondent and want to take undue advantage of the situation.

8. All other averments made by the complainant were denied in toto.
9. That on the last date of hearing dated 24.01.2024, the Respondent submitted that the unit of the complainant had been cancelled on 28.02.2022 on account of non-payment of the balance dues.
10. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and oral as well as written submissions made by the parties.

#### **F. Jurisdiction of the authority**

11. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

##### **F.1 Territorial jurisdiction**

12. 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 entire Gurugram District for all purpose 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.



**F.II Subject matter jurisdiction**

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

**Section 11.....(4) The promoter shall-**

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

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

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

14. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

**G. Findings on the objections raised by the respondent.****G.I Objection regarding force majeure.**

15. The respondent promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as various orders passed by the Haryana State Pollution Control Board from 01.11.2018 to 10.11.2018, lockdown due to outbreak of Covid-19 pandemic which further led to shortage of labour and orders passed by National Green Tribunal (hereinafter, referred as NGT). But all the pleas advanced in this regard are devoid of merit. The passing of various orders passed by NGT during the month of November is an annual feature and the respondent should have



taken the same into consideration before fixing the due date. Similarly, the various orders passed by other authorities cannot be taken as an excuse for delay. Further, the authority has gone through the possession clause of the agreement and observed that the respondent-developer proposes to handover the possession of the allotted unit by September, 2020. In the present case, the due date comes out to be 30.03.2021. ***That as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due date on or after 25.03.2020.*** The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 30.09.2020 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. So, in such case the due date for handing over of possession comes out to 30.03.2021.

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

**H.I Direct the respondent to refund the amount paid by the complainant along with interest.**

16. In the present case, the complainant was allotted a unit no. FF-12, in tower-A in the project "Signum-93" by the respondent-builder for a total consideration of Rs.12,52,100/- vide builder buyer agreement dated 14.12.2017. The complainant paid a sum of Rs. 10,25,372/- to the respondent against the allotted unit. The due date of delivery of possession was 30.03.2021. The respondent offered the possession of the unit on 15.06.2021 and the same was challenged by the complainant vide an e-mail dated 07.07.2021 with a request to reissue a valid offer of possession. The respondent on the other hand cancelled the allotment of the unit on 28.02.2022 on account of non-payment of the outstanding dues amounting to Rs. 5,02,576/- towards the balance sale



consideration. Thereafter, the complainant by filing the present complaint dated 28.04.2022 is seeking the relief refund of the total paid up amount along with the interest.

17. On consideration of documents available on record and submissions made by both the parties the Authority is of view that on the basis of provisions of the allotment, the complainant was allotted above mentioned unit for a sale consideration of Rs.12,52,100/-. The complainant paid a sum of Rs. 10,25,372/- to the respondent against the allotted unit. That on perusal of case file and submissions made by the complainant, it has come to the knowledge of the Authority that though the respondent had mentioned in clause 3.2 of the agreement that the total price of the unit had been calculated in accordance with the carpet area of the unit, however to the contrary the same had been calculated as per the super area of the unit. That in accordance with application form dated 06.11.2017 and customer ledger dated 10.09.2021, per unit cost against per sq. ft. of area was fixed to be Rs. 9,400/-. The carpet area of the unit was 59.245 sq. ft. whereas the super area of the unit was 125.160 sq. ft. That the calculations with respect to the total price of the unit are detailed with the help of the table below:

Rate as per Application form dated 06.11.2017 and Customer ledger dated 10.09.2021 = Rs. 9,400/- per sq. ft.		Amounts mentioned by respondent under clause 3.2 of the agreement
Calculations as per the Old Carpet Area = 59.245 sq. ft.	Calculations as per the Revised Carpet Area = 69.92 sq. ft.	Carpet area = 59.245 sq. ft. Super area = 125.160 sq. ft.
Basic Sale Price = Rs. 5,56,903/-	Basic Sale Price = Rs. 6,57,248/-	Basic Sale Price = Rs. 11,76,504/-
EDC/IDC = Rs. 29,622/-	EDC/IDC = Rs. 34,960/-	EDC/IDC = Rs. 75,596/-
Total Price = Rs. 5,86,525/-	Total Price = Rs. 6,92,208/-	Total Price = Rs. 12,52,100/-



18. That even though the revision/increase in super area is not to be considered, still the respondent had acted malafide by calculating the total price of the unit in accordance with the super built up area of the unit and not against the carpet area of the unit. That the total price of the unit comes out to be Rs. 5,86,525/- however, the same had been calculated and mentioned to be Rs. 12,52,100/- in clause 3.2 of the builder buyer agreement by the respondent promoter. That therefore, the complainant had already paid the amount almost twice the total price of the unit and accordingly the offer of possession dated 15.06.2021 accompanied with a final account statement demanding further payment of Rs.5,02,576/- towards the balance payment of basic cost along with taxes and another sum of Rs.70,976/- towards other charges and late fee of Rs.2,525/- is illegal, arbitrary and unjustified.
19. Also, it is pertinent to mention here that the respondent had increased the carpet area from 59.245 sq. ft. to 69.92 sq. ft. and further increased the super area from 125.160 sq. ft. to 137.05 sq. ft. That there had been an increase in carpet area of the unit by more than 15% whereas as per clause 3.7 of the builder buyer agreement, increase in carpet area was permissible to the extent of 5% only. Therefore, the offer of possession made by the respondent dated 15.06.2021 does not constitute a valid offer of possession.
20. The respondent further cancelling the allotment of the complainant vide cancellation letter dated 28.02.2022 is also invalid, there being no default in making payment by the complainant to the respondent towards the said unit in question. However, the complainant intend to withdraw from the project and is seeking return of the amount paid by her in respect of subject unit along with interest at the prescribed rate as provided under section 18(1) of the Act. Sec. 18(1) of the Act is reproduced below for ready reference.

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



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

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

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

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

**21. Admissibility of refund along with prescribed rate of interest:** The allottee intend to withdraw from the project and is seeking refund of the amount paid by him in respect of the subject unit with interest at prescribed rate as provided under rule 15 of the rules. Rule 15 has been reproduced as under:

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

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

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

**22.** 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 ease uniform practice in all the cases.

23. 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 on date i.e., 13.03.2024 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate + 2% i.e., 10.85%.

24. The definition of 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 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;"*

25. Keeping in view the fact that the allottee complainant wishes to withdraw from the project and demanding return of the amount received by the promoter in respect of the unit with interest on failure or inability of the respondent to issue a valid offer of possession of the unit in accordance with the terms of builder buyer agreement. The matter is covered under section 18(1) of the Act of 2016.

26. The Hon'ble Supreme Court of India in the cases of ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra)*** reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India &***



**others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022.** observed as under: -

*"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."*

27. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottees as per the allotment letter under section 11(4)(a). The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of allotment letter. Accordingly, the promoter is liable to the allottees, as they wish to withdraw from the project, without prejudice to any other remedy available, to return the amount received by the respondent in respect of the unit with interest at such rate as may be prescribed.
28. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such, the complainants are entitled to refund of the entire amount paid by them at the prescribed rate of interest i.e., @ 10.85% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of



refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

**I. Directions of the Authority**

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

- I. The respondent/promoter is directed to refund the amount i.e., Rs.10,25,372/- received by it from the complainants along with interest at the rate of 10.85% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount.
- II. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

30. Complaint stands disposed of.

31. File be consigned to registry.

**Dated: 13.03.2024**

**Ashok Sangwan**  
**Member**  
(Haryana Real Estate Regulatory  
Authority, Gurugram)