

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

Complaint no.	:	524/2023
Date of filing complaint	:	08.02.2023
First date of hearing	:	02.08.2023
Date of decision	:	27.03.2024

Anish Vohra Resident of: C-417, Defence Colony, New Delhi- 110024	Complainant
Versus	
M/s Vatika Private Limited Regd. office: Unit No. A-002, INXT City Centre, Ground Floor, Block A, Sector 83, Vatika India Next, Gurugram, Haryana-122012	Respondent

CORAM:	
Shri Ashok Sangwan	Member
APPEARANCE:	
Shri Harshit Goyal (Advocate)	Complainant
Shri Venket Rao, Pankaj Chandola and Gunjan Kumar(Advocates)	Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee 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	High Street at INXT, Sector- 83, Village Shikohpur, Sub-Tehsil Manesar, District Gurugram
2.	Project area	14918.258 sq. mtrs.
3.	Nature of the project	Commercial Unit
4.	DTCP license no. and validity status	113 of 2008 dated 01.06.2008 valid upto 31.05.2018
5.	Name of licensee	Browz Technologies Pvt. Ltd. and others.
6.	RERA Registered/ not registered	263 of 2017 dated 03.10.2017 valid upto 02.10.2022
7.	Unit no.	115, 1 st Floor, Tower A (Page no. 15 of complaint)
8.	Unit area admeasuring	1180 Sq. Ft. (Super Area) (Page no. 15 of complaint)
9.	Date of allotment	04.05.2016 (Page no. 15 of complaint)
10.	Date of execution of BBA	Not executed
11.	Possession clause	None
12.	Due date of possession	04.05.2019 <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018- Hon'ble Apex Court observed that "a person cannot be made to wait</i>

	<p><i>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. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract.</i></p> <p>In view of the above-mentioned reasoning, the allotment letter dated 04.05.2016 ought to be taken as the date for calculating the due date of possession. Therefore, the due date for handing over the possession of the unit comes out to be 04.05.2019.</p>
<p>13.</p>	<p>Assured return</p> <p>Clause 3 <i>"3. The developer shall remit an assured monthly return of Rs. 116.66 Per sq. ft. till completion of the building It is stated that the project is in advance stages of construction and the developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete construction of the said Building said commercial unit soon."</i></p> <p>Clause 4 <i>"4. The Allottee authorizes the developer to lease out the said unit, which is part of the commercial complex (mention name of the project) and agrees that the obligation of the developer shall be to lease the said unit along with the other commercial spaces in the commercial complex. The</i></p>



		<p>developer shall lease the unit along with the premises (@Rs100/- per sq. ft. However, in the eventuality the achieved lease return being higher or lower than Rs100/- per sq. ft. the following would be applicable.</p> <p>a. If the achieved rental is less than Rs 100/- per sq. ft. then you shall be refunded @ Rs. 150/- per sq. ft. (Rupees One Hundred Fifty) for every Rs.1/- by which achieved rental is less than Rs. 100/- per sq. ft.</p> <p>b. If the achieved rental is more than 100/- per Sq, ft. shall be liable to pay additional sales consideration Rs. 75/- Per Sq. ft. for every rupee of additional rental achieved."</p> <p>(Allotment letter at Page 16 of complaint)</p>
14.	Basic Sale Price	Rs. 82,60,000/- (Page no. 22 of complaint)
15.	Total sales consideration	Rs. 86,19,310/- (Page no. 22 of complaint)
16.	Amount paid by the complainants	Rs. 86,19,310/- (Receipts at Page no. 17 and 18 of complaint and admitted by respondent at page 5 of reply)
17.	Assured Returns paid by respondent to complainant till October, 2018	Rs. 41,48,124/- (Page no. 40 of reply)
18.	Letter sent to the respondent by complainant	21.08.2019 (Page no. 19 of complaint)
19.	Occupation certificate /Completion certificate	Not obtained
20.	Offer of possession	Not offered

B. Facts of the complaint:

3. That the project in question namely High Street at INXT also known as High Street (Phase 1) is a commercial project spread over an area of 3.34 acres situated at Shikhopur Village, Tehsil Manesar, District Gurugram, Sector 83, Gurugram and comprises of 3 blocks.
4. That the complainant submitted an application form dated 28.04.2016 with respondent company for booking of a commercial space in real estate project namely "High Street at INXT" situated at Sector -83, Gurugram.
5. That the respondent issued an allotment letter dated 04.05.2016 in favor of the complainant, confirming allotment of Unit No. 115, first floor, tower A in the project of the respondent.
6. That as per the said allotment letter dated 04.05.2016, the respondent was liable to pay assured returns of Rs. 1,56,013/- per month to the complainant from 27.04.2016 till the date of completion of construction of the booked unit. The respondent however, failed to pay the promised assured monthly commitment from November 2018 till date.
7. That the complainant also sent a letter dated 21.08.2019 requesting the respondent to pay the pending assured returns since November 2018.
8. That as per clause 4 of the allotment letter dated 04.05.2016, the respondent was also liable to lease the booked unit at the rate of Rs 100 per sq. ft.
9. That the respondent was also liable to deliver possession of the booked unit within a period of 3 years from the date of issuance of allotment letter. Therefore, the due date of delivery of possession was 04.05.2019.

That the respondent has failed to offer lawful and legal possession of the booked unit along with occupation certificate till date.

10. That the respondent has also failed to execute the builder buyer agreement with respect to the booked unit till date.
11. That the complainant had invested his hard-earned money on the basis of false promises made by the respondent. However, the respondent has failed to abide by all its obligations stated orally and under the allotment letter duly issued by it.
12. Therefore, the complainant is forced to file the present complaint before this Hon'ble authority under Section 31 of Real Estate Regulation and Development Act, 2016 read with Rule 28 of Haryana Real Estate (Regulation and Development) Rules, 2017 to seek redressal of the grievances against the respondent company.

C. Relief sought by the complainants:

13. The complainant has sought the following relief(s):
 - i. Direct the respondent to pay pending Assured monthly return charges of Rs. 1,56,013/- per month accrued from the month of November, 2018 along with interest to the complainant.
 - ii. Direct the respondent to pay delayed possession charges from due date of delivery of possession till date of offer of possession along with occupation certificate of the booked unit.
 - iii. Direct the respondent to execute and register the conveyance deed of the booked unit.
14. 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) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent.

15. The respondent contested the complaint on the following grounds:

- a. That the complainant is simply investor who approached the respondent for investment opportunities and for steady assured returns and rental income. That the complainant being the investor in the project has no locus standi to file the present complaint.
- b. That on 22.04.2016, post being satisfied with the specifications of the project, the complainant decided to invest and thus booked a unit and paid an amount of Rs. 5,00,000/- for further registration.
- c. That the respondent vide allotment letter dated 06.05.2016, allotted a unit no. 115, first floor, admeasuring 1180 sq. ft. for total sales consideration of Rs. 86,19,310/- in the project of the respondent. However, upon knowing the assured return scheme, the complainant paid an amount of Rs. 81,19,310/- for making the steady monthly returns.
- d. That the said allotment letter authorise the respondent to lease out the unit in question upon completion of the project in terms of clause 4 and clause 5, but does not have a possession clause for physical possession.
- e. That the respondent herein had been paying the committed return for every month to the complainant without any delay till November, 2018. As of November 2018, the complainant had already received an amount of Rs. 41,48,124/- as assured returns under the said agreement. However, post November 2018, the respondent could not pay the agreed assured returns due to change in the legal position and illegality of making the payment of the

same. The enactment of the BUDS Act forced the respondent to discontinue the payment of assured returns.

- f. Furthermore, the project was hindered due to force majeure reasons beyond the control of the respondent such as direction of Hon'ble National Green Tribunal, Environment Pollution Control Authority, Haryana State Pollution Control Board, Commissioner Municipal Corporation Gurugram, Hon'ble Supreme Court, Covid 19 pandemic, etc. which caused a delay in completion of the project.

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

E. Jurisdiction of the authority:

17. 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

18. 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

19. 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 of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

20. 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.

F. Findings on the objections raised by the respondent:

F.I Objections regarding force Majeure.

21. The respondent-promoter has raised the contention that the construction of the unit of the complainant has been delayed due to force majeure circumstances such as orders passed by the Hon'ble NGT, Environment Protection Control Authority, and Hon'ble Supreme Court. 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. On perusal of records brought before this Authority, it is of the view that the allotment of the unit was done on 04.05.2016 though no specific timeline was specified as to the due date of handing over of possession, therefore, in view of "**Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018**" wherein the Hon'ble Apex Court 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. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract."

22. The due date of possession had to be calculated from the date of allotment, therefore the due date becomes 04.05.2019. Therefore, the plea advanced in view of Covid 19 pandemic has no merit since the due date of possession for the complainant's unit was much prior to the occurrence of the pandemic.

F.II Objection regarding complainant being an investor.

23. The respondent has taken a stand that the complainant is the investor and not a consumer, therefore, he is not entitled to the protection of the Act thereby not entitled to file the complaint under Section 31 of the Act. The respondent also submitted that the preamble of the Act states that

the Act is enacted to protect the interest of consumers of the real estate sector. The authority observes that the respondent is correct in stating that the Act is enacted to protect the interest of consumers of the real estate sector. It is a settled principle of interpretation that a preamble is an introduction of a statute and states the main aims & objects of enacting a statute but at the same time preamble cannot be used to defeat the enacting provisions of the Act. Furthermore, it is pertinent to note that any aggrieved person can file a complaint against the promoter if the promoter contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the allotment letter, it is revealed that the complainant is a buyer, and he has paid a total price of Rs. 86,19,310/- to the promoter towards the purchase of an apartment in its project, at this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"2(d) "allottee" about a real estate project, means the person to whom a plot, apartment, or building, as the case may be, has been allotted, sold (whether as freehold or leasehold), or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"

24. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the allotment letter executed between promoter and complainant, it is crystal clear that the complainant is an allottee as the subject unit was allotted to him by the promoter. The concept of investor is not defined or referred to in the Act. As per the definition given under Section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having the status of "investor". The

Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled as M/s Srushti Sangam Developers Pvt Ltd. Vs. Sarvapriya Leasing (P) Ltd. Anr. has also held that the concept of investors is not defined or referred to in the Act. Thus, the contention of a promoter that the allottee being an investor is not entitled to protection of this act also stands rejected.

G. Findings on relief sought by the complainants.

25. The common issues with regard to assured return, delay possession charges and execution of conveyance deeds is involved in the aforesaid complaints.

G.I Assured return

26. The complainant is seeking unpaid assured returns on monthly basis as per clause 3 of the allotment letter dated 04.05.2016 at the rates mentioned therein. It is pleaded that the respondent has not complied with the terms and conditions of the said allotment letter. Though for some time, the amount of assured returns was paid but later on, the respondent refused to pay the same by taking a plea that the same is not payable in view of enactment of the Banning of Unregulated Deposit Schemes Act, 2019 (hereinafter referred to as the Act of 2019), citing earlier decision of the authority (*Brhimjeet & Anr. Vs. M/s Landmark Apartments Pvt. Ltd., complaint no 141 of 2018*) whereby relief of assured return was declined by the authority. The authority has rejected the aforesaid objections raised by the respondent in **CR/8001/2022 titled as Gaurav Kaushik and anr. Vs. Vatika Ltd.** wherein the authority while reiterating the principle of prospective ruling, has held that the authority can take different view from the earlier one on the basis of new facts and law and the pronouncements made by the apex



court of the land and it was held that when payment of assured returns is part and parcel of builder buyer's agreement (maybe there is a clause in that document or by way of addendum, memorandum of understanding or terms and conditions of the allotment of a unit), then the builder is liable to pay that amount as agreed upon and the Act of 2019 does not create a bar for payment of assured returns even after coming into operation as the payments made in this regard are protected as per Section 2(4)(l)(iii) of the Act of 2019. Thus, the plea advanced by the respondent is not sustainable in view of the aforesaid reasoning and case cited above.

27. The money was taken by the builder as deposit in advance against allotment of immovable property and its possession was to be offered within a certain period. However, in view of taking sale consideration by way of advance, the builder promised certain amount by way of assured returns for a certain period. So, on his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of his grievances by way of filing a complaint.
28. The builder is liable to pay that amount as agreed upon and can't take a plea that it is not liable to pay the amount of assured return. Moreover, an agreement defines the builder/buyer relationship. So, it can be said that the agreement for assured returns between the promoter and allottee arises out of the same relationship and is marked by the original agreement for sale.
29. It is not disputed that the respondent is a real estate developer, and it had not obtained registration under the Act of 2016 for the project in question. However, the project in which the advance has been received by the developer from the allottee is an ongoing project as per Section

3(1) of the Act of 2016 and, the same would fall within the jurisdiction of the authority for giving the desired relief to the complainant besides initiating penal proceedings. So, the amount paid by the complainants to the builder is a regulated deposit accepted by the latter from the former against the immovable property to be transferred to the allottee later on.

G.II Delay possession charge.

30. In the present complaint, the complainant intend to continue with the project and are seeking possession of the subject unit and delay possession charges as provided under the provisions of Section 18(1) of the Act which 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."

31. The builder buyer agreement was not executed between the parties. The due date is calculated to be 3 years from the allotment letter 04.05.2016 in terms of the "***Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018***". Accordingly, the due date of possession comes out to be 04.05.2019. As per the allotment letter, the respondent developer was under an obligation to further lease out the unit of the complainant post completion.

32. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges. 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 sub-section (7) of section 19]

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."

33. The legislature in its wisdom in the subordinate legislation under the Rule 15 of the Rules has determined the prescribed rate of interest. Consequently, as per 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., 27.03.2024 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
34. 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—

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 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;"

35. On consideration of documents available on record and submissions made by the complainant and the respondent, the authority is satisfied that the respondent is in contravention of the provisions of the Act. The possession of the subject unit was to be completed within a stipulated time i.e., by 04.05.2019.
36. However now, the proposition before it is as to whether the allottee who is getting/entitled for assured return even after expiry of due date of possession, can claim both the assured return as well as delayed possession charges?
37. To answer the above proposition, it is worthwhile to consider that the assured return is payable to the allottees on account of provisions in the BBA or an addendum to the BBA. The assured return in this case is payable as per "Clause 3 of the allotment letter". The rate at which assured return has been committed by the promoter is Rs. 116.66/- per sq. ft. of the super area per month till the completion of the building which is more than reasonable in the present circumstances. If we compare this assured return with delayed possession charges payable under Proviso to Section 18(1) of the Act, 2016, the assured return is much better i.e., assured return in this case is payable at Rs. 1,37,658/- per month till completion of building whereas the delayed possession charges are payable approximately Rs. 63,567/- per month. By way of assured return, the promoter has assured the allottee that they would be entitled for this specific amount till completion of construction of the

said building. Moreover, the interest of the allottee is protected even after the completion of the building as the assured returns are payable even after completion of the building. The purpose of delayed possession charges after due date of possession is served on payment of assured return after due date of possession as the same is to safeguard the interest of the allottee as their money is continued to be used by the promoter even after the promised due date and in return, they are to be paid either the assured return or delayed possession charges whichever is higher.

38. Accordingly, the authority decides that in cases where assured return is reasonable and comparable with the delayed possession charges under Section 18 and assured return is payable even after due date of possession till the date of completion of the project, then the allottees shall be entitled to assured return or delayed possession charges, whichever is higher without prejudice to any other remedy including compensation.

39. On consideration of the documents available on the record and submissions made by the parties, the complainants have sought the amount of unpaid amount of assured return as per the terms of allotment letter. As per clause 3 of allotment letter dated 04.05.2016, the promoter had agreed to pay to the complainant allottee Rs.116.66/- per sq. ft. on monthly basis till completion of the building. The said clause further provides that it is the obligation of the respondent promoter to lease the premises. It is matter of record that the assured return was paid by the respondent-promoter till October 2018 at the rate of Rs. 116.66/- per sq. ft., but later on after October 2018, the respondent refused to pay the same by taking a plea of the Banning of Unregulated Deposit Schemes Act, 2019. But that Act of 2019 does not

create a bar for payment of assured returns even after coming into operation and the payments made in this regard are protected as per Section 2(4)(iii) of the above-mentioned Act.

40. In the present complaint, OC/CC for the block in which unit of complainant is situated has not been received by the promoter till this date. The authority is of the view that the construction cannot be deemed to complete until the OC/CC is obtained from the concerned authority by the respondent promoter for the said project. Therefore, considering the facts of the present case, the respondent is directed to pay the amount of assured return at the agreed rate as per the terms of the clause 3 of the allotment letter.

41. The respondent is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainant and failing which that amount would be payable with interest @ 8.85% p.a. till the date of actual realization.

G.III. Conveyance Deed

42. Section 17(1) of the Act deals with duties of promoter to get the conveyance deed executed and the same is reproduced below:

"17. Transfer of title.-

(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

43. The authority observes that OC in respect of the project where the subject unit is situated has not been obtained by the respondent promoter till date. As on date, conveyance deed cannot be executed in respect of the subject unit, however, the respondent promoter is contractually and legally obligated to execute the conveyance deed upon receipt of the occupation certificate/completion certificate from the competent authority. In view of above, the respondent shall execute the conveyance deed of the allotted unit within 3 months from the final offer of possession after the receipt of the OC from the concerned authority and upon payment of requisite stamp duty by the complainant as per norms of the state government.

H. Directions issued by the Authority:

44. 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 handover possession of the unit on obtaining the occupation certificate to the complainant, as per the terms of the allotment letter.
- II. The respondent is directed to pay the amount of assured return at the agreed rate as per clause 3 of the allotment letter dated 04.05.2016 i.e. at Rs. 116.66/-sq. ft. per month on super area of the unit till completion of construction of the said Building. The amount of assured return already paid i.e. Rs. 41,48,124/- by the



respondent to the complainant may be adjusted while paying the residual assured return.


- III. The respondent is directed to pay the outstanding accrued assured return amount till date along with interest rate of 8.85% per annum within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainant and failing which that amount would be payable with interest @ 8.85% p.a. till the date of actual realization.
- IV. The respondent shall execute the conveyance deed of the allotted unit within the 3 months from the final offer of possession after the receipt of the OC from the concerned authority and upon payment of requisite stamp duty as per norms of the state government.
- V. The respondent shall not charge anything from the complainant which is not the part of the builder buyer agreement.

45. Complaint stands disposed of.

46. File be consigned to the Registry.

Dated: 27.03.2024

HARERA
GURUGRAM


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