

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

**Complaint no.** : 5276 of 2022  
**Date of order** : 22.05.2024

Jyoti Berry  
**R/o:** H.No.-104, Arjun Marg, DLF City  
Phase-1, Gurugram, Haryana.

**Complainant**

Versus

M/s Emaar MGf Land Limited  
**Office at:** - Emaar Business Park, M.G. Road,  
Sikanderpur, Sector-28, Gurugram.

**Respondent**

**CORAM:**

Shri. Ashok Sangwan

**Member**

**APPEARANCE:**

Shri. Vijender Parmar (Advocate)  
Shri. J.K. Dang (Advocate)

Complainant  
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 provision of the Act or the rules and regulations made thereunder or to the allottee 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	"Palm Terraces Select", Sector-66, Gurugram, Haryana.
2.	Nature of project	Residential
3.	DTCP licence	Licence no. 50 of 2010 Dated 24.06.2010
4.	Unit no.	PTS-01-0001, Floor-Ground, Block-01 (As on page 16 of complaint)
5.	Unit area	2410 sq.ft. (As on page 16 of complaint)
6.	Provisional allotment letter in favour of original allottee	16.08.2010 (As on page 24 of reply)
7.	Buyer's Agreement executed	27.01.2011 (As on page 14 of complaint)
8.	Possession clause	<p><b>Clause 14 POSSESSION</b></p> <p><b>(a) Time of handing over the possession</b></p> <p><i>Subject to terms of this clause and the Allottee(s) having complied with all the terms conditions of this Agreement and not being in default under any of the provisions of Agreement and upon complying with all provisions, formalities, documentation etc prescribed by the Developer, the</i></p>

		<p>Developer shall make all efforts to handover possession of the Unit(which falls within <b>ground plus four floors tower/building</b>)within a period of <b>thirty (30) months from the date of commencement of construction</b>, and for the Unit (which within ground plus thirteen floors tower/building) within a period of thirty six(36) months from the date of commencement of construction, subject to certain limitations as provided in this Agreement and timely compliance of the provisions of this Agreement by the Allottee(s). theAllottee(s) agrees and understands that the Developer shall be entitled grace period of three (3)months, for applying and obtaining the occupation certificate in respect of the Unit and/or the Project.</p> <p>(As on page 33 of complaint)</p>
9.	Due date of possession	31.02.2015 (calculated 30 months from the date of start of construction i.e., 31.07.2012)
10.	Endorsement in favour of complainant	17.04.2018 (As on page 76 of complaint)
11.	Total consideration	Rs.2,10,15,181/- (As per S.O.A dated 10.03.2018 on page no. 68 of complaint)
12.	Total amount paid by the complainant	Rs.1,98,40,358/- (As per S.O.A dated 10.03.2018 on page no. 68 of complaint)
13.	Occupation certificate	25.01.2018 (As on page 121 of reply)
14.	Offer of possession in favour of original allottee	10.03.2018

		(As on page 71 of complaint)
15.	Unit handover letter	20.05.2018 (As on page 130 of reply)
16.	Conveyance deed btw complainant and respondent	06.12.2018 (As on page 134 of reply)
17.	Tri-partite agreement by original allottee	11.06.2013 (As on page 160 of reply)
18.	Indemnity cum undertaking by complainant	13.04.2018 (As on page 127 of reply)

### B. Facts of the complaint

3. The complainant has made the following submission: -

- I. That the respondent is a company working in field of construction and development of residential projects in the name of Emaar MGF Land Pvt. Ltd. The real estate project named "Palm Terraces Select" is situated at Sector-66, Gurugram.
- II. That in 2010, the respondent through its marketing executives and advertisement approached the complainant with an offer to invest and buy an apartment in the project. The respondent had assured the complainant that all the necessary sanctions and approvals have already been secured for the development and completion of the project on time with the promised quality and specification.
- III. Relying upon those assurances, the complainant booked an apartment and apartment bearing no. PTS-01-0001 located on ground floor in Tower-01 admeasuring 2410 sq. ft. for a total sale consideration of

Rs.1,86,38,850/- was allotted to her. Thereafter, the respondent kept on delaying the execution of the Plot Buyer's agreement on one pretext or other. After inordinate and unexplained delay the Flat Buyer's Agreement was executed on 27.01.2011.

- IV. The complainant has paid Rs.1,98,40,358/- towards the sale consideration. According to Clause 14(a) of the Buyers' Agreement, the promised date of delivery was 30 months with a grace period of 3 months i.e., 26.10.2013 but the respondent has not delivered or offered possession of the said apartment. That the respondent finally offered the possession vide its unit handover letter dated 10.03.2018 after making a huge delay of 4 years and 5 months.
- V. That the initial allotment of the flat was in the name of Mr. Bipen Berry, however later on, the name of Mr. Bipen Berry as co-allottee was substituted with the name of his wife Mrs. Jyoti Berry.
- VI. That at the time of the handing over of the possession letter of the apartment the respondent forced the complainant to sign a settlement deed. The respondent threatened the complainant to cancel the unit or forfeit paid amount in case the complainant doesn't sign the settlement deed.
- VII. That the complainant had faced all the financial burdens and hardship from her limited income resources because of the respondent's failure to fulfill its promises and commitments. That the cause of action accrued in favor of the complainant and against the respondent on 28.06.2010 when the said apartment was booked and thereafter when the allotment

letter was issued and on 27.01.2011 when the flats buyer's agreement was executed and thereafter on 26.10.2013 the promised date of the delivery of possession and the cause of action is still continuing as the respondent failed to pay the delay possession charges as per law to the complainant despite repeated requests, reminders and promises.

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

4. The complainant has sought following relief(s):
  - i. Direct the respondent to pay the interest at the prescribed rate on the amount paid on account of delay in delivering possession of said apartment.
5. 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.

**D. Reply by the respondent.**

6. The respondent has contested the complaint on the following grounds: -
  - I. That the present complaint is not maintainable in law or on facts. The present complaint raises several such issues which cannot be decided in summary proceedings. The said issues require extensive evidence to be led by both the parties and examination and cross-examination of witnesses for proper adjudication. Therefore, the disputes raised in the present complaint are beyond the purview of the Authority and can only be adjudicated by the civil court. The present complaint deserves to be dismissed on this ground alone.
  - II. That the complainant is trying to mislead the Authority by making false allegations. The complainant has concealed the fact that the complainant has already taken possession of the unit in question and conveyance deed



- dated 06.12.2018 has already been registered in favour of the complainant.
- III. That the original allottee, Mr. Bipen Berry had approached the respondent sometime in the year 2010 for purchase of an independent unit in its residential project "Palm Terraces Select" at the Palm Drive, Sector 66, Gurgaon.
- IV. That thereafter the original allottee applied for provisional allotment of a unit and in pursuance of the application form, the original allottee was allotted an independent unit bearing no PTS-01-0001, located on the 1<sup>st</sup> Floor of Tower 1, in the project vide provisional allotment letter dated 16.08.2010. The original allottee undertook to be bound by the terms and conditions of the application form. Thereafter, buyer's agreement was executed between the original allottee and the respondent on 27.01.2011. It is pertinent to mention herein that the original allottee willingly and consciously executed the buyer's agreement without raising any objections to the terms and conditions thereof, which are binding upon the original allottee as well as the complainant, as his successor in interest, with full force and effect.
- V. That the original allottee agreed and undertook to make payment of sale consideration as per the payment plan. However, the original allottee as well as the complainant failed to make timely payment of sale consideration. Consequently, the respondent was compelled to issue several payment request letters, reminders etc. requesting the original allottee/complainant to make the payment of outstanding amounts payable by him under the payment plan/instalment plan opted under the buyer's agreement.
- VI. The respondent completed construction and had applied for the Occupation Certificate on 30.06.2017 and was received on 25.01.2018.

- VII. That the original allottee was offered possession of the unit in question through letter of offer of possession on 10.03.2018. Through this letter, the original allottee was called upon to remit balance payment including delayed payment charges and to complete the necessary formalities/documentation necessary for handover of the unit in question to the original allottee. However, the original allottee did not come forward to obtain possession of the unit in question.
- VIII. It is respectfully submitted that in terms of clause 15(b) of the buyer's agreement, stamp duty and registration charges are payable by the complainant and therefore the complainant/original allottee approached the respondent to get the unit in question endorsed/transferred in the name of the complainant, in order to save the stamp duty payable on their part. Consequently, at the joint request of complainant/original allottee, the said unit was transferred/endorsed in the name of the complainant in terms of which, the complainant agreed and undertook to be bound by the Buyer's Agreement dated 27.01.2011. It is pertinent to mention herein that the transfer documents were voluntarily and consciously executed by the complainant out of her own free will. It is submitted that the complainant, being the wife of the original allottee, had conducted her own due diligence and had fully satisfied herself about all aspects of the project.
- IX. That thereafter the complainant was handed over the possession of the unit in question. A unit handover letter dated 20.05.2018 was executed by the complainant admitting and acknowledging herself to be fully satisfied with the unit in all respects and that the liabilities and obligations of the respondent as enumerated in the allotment letter or the buyer's agreement stand satisfied and that the complainant is not left with any claim against the respondent. That after execution of the unit handover letter dated 20.05.2018 and taking possession of the unit, the complainant



is not left with any claim against the respondent. It needs to be highlighted that the conveyance deed dated 06.12.2018 was duly executed and registered in favour of the complainant. The transaction between the complainant and the respondent stands concluded and no right or liability can be asserted by the respondent or the complainant against the other at variance with the terms and conditions thereof.

- X. That the contractual relationship between the complainant and the respondent is governed by the terms and conditions of the buyer's agreement on 27.01.2011. Clause 14 of the Buyer's Agreement provides that subject to force majeure conditions and delay caused on account of reasons beyond the control of the respondent, and subject to the allottee not being in default of any of the terms and conditions of the same, the respondent expected to deliver possession of the unit within a period of 36 months plus 3 months grace period, from the date of commencement of construction i.e. 31.07.2012. In the present case, the original allottee/complainant are chronic defaulters who have failed to make timely payment of sale consideration as per the payment plan and is/are thus in breach of the Buyer's Agreement. The time period for delivery of possession automatically stands extended in the case of the complainant.
- XI. That it is reiterated that clause 16 of the agreement further provides that in case of delay caused due to non- receipt of occupation certificate, completion certificate or any other permission/sanction from the competent authorities, no compensation or any other compensation shall be payable to the allottees. It is respectfully submitted that the time taken by the statutory authorities in granting the occupation certificate in respect of the project needs to be excluded in determining the time period utilised for implementation of the project.

XII. That it needs to be highlighted that the respondent has paid an amount of Rs. 1,96,203 /- as benefit on account of interest on EDC. Furthermore, an amount of Rs. 4,66,186 /- has been credited by the respondent to the account of the complainant as a gesture of goodwill. The aforesaid amount has been accepted by that without prejudice to the contentions of the respondent, it is submitted that the present complaint is barred by limitation. The complainant has alleged that the possession of the unit was to be given not later than October, 2013 and therefore cause of action, if any, accrued in favor of the complainants in October 2013. Moreover, the complainant has already taken possession on 20.05.2018 and Conveyance Deed has also been registered in her favor on 06.12.2018. Hence, the institution of the present complaint beyond a period of three years, is barred by limitation and liable to be dismissed on this account as well.

7. 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 on the basis of these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority**

8. The respondent has raised a preliminary objection/submission that the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of the complaint on ground 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**

9. 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.

#### **E. II Subject matter jurisdiction**

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per 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;*

11. 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.

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

##### **F. I Whether the complainant can claim delayed possession charges after execution of the conveyance deed.**

12. The respondent stated that the complainant has alleged that possession of the unit was to be given not later than October, 2013 and therefore the cause of action, if any, accrued in favour of the complainant in 2013. Also, that the conveyance deed of the unit has already been executed in favour of the complainant on 06.12.2018. The transaction between the parties stands concluded upon the execution of conveyance deed.

13. It had been contended by the respondent that on execution of the conveyance deed, the relationship between both the parties stands concluded and no right or liabilities can be asserted by the respondent or the complainant against the other. Therefore, the complainant is stopped from claiming any interest in the facts and circumstances of the case.
14. It is important to look at the definition of the term "deed" itself in order to understand the extent of the relationship between the allottee and the promoter. A deed is a written document or an instrument that is sealed, signed, delivered by all the parties to the contract i.e., buyer and seller. It is a contractual document that includes legally valid terms and is enforceable in a court of law. It is mandatory that a sale deed should be in writing and both the parties involved must sign the document. Thus, a conveyance deed is essentially one wherein the seller transfers all rights to legally own, keep and enjoy a particular asset, immovable or movable. In this case, the assets under consideration are immovable property. On signing a conveyance deed, the original owner transfers all legal rights over the property in question to the buyer, against a valid consideration usually monetary. Therefore, a "conveyance deed" or "sale deed" implies that the seller signs a document stating that all authority and ownership of the property in question has been transferred to the buyer.
15. From the above it is clear that on execution of a sale/conveyance deed, only the title and interest in the said immovable property (herein the allotted unit) is transferred. However, the conveyance deed does not conclude the relationship or marks an end to the liabilities and obligations of the promoter towards the said unit whereby the right, title and interest has been transferred in the name of the allottee on execution of the conveyance deed.

16. The allottee has invested her hard-earned money and there is no doubt that the promoter has been enjoying benefits of and the next step is to get her title perfected by executing the conveyance deed which is the statutory right of the allottee. Also, the obligation of the developer-promoter does not end with the execution of a conveyance deed. Therefore, in furtherance to the Hon'ble Apex Court judgement and the law laid down in case titled as **Wg.Cdr. Arifur Rahman Khan and Aleya Sultana and Ors. Vs. DLF Southern Homes Pvt. Ltd. (now known as BEGUR OMR Homes Pvt. Ltd.) and Ors. (Civil appeal no. 6239 of 2019) dated 24.08.2020**, the relevant paras are reproduced herein below:

*"34 The developer has not disputed these communications. Though these are four communications issued by the developer, the appellants submitted that they are not isolated aberrations but fit into the pattern. The developer does not state that it was willing to offer the flat purchasers possession of their flats and the right to execute conveyance of the flats while reserving their claim for compensation for delay. On the contrary, the tenor of the communications indicates that while executing the Deeds of Conveyance, the flat buyers were informed that no form of protest or reservation would be acceptable. The flat buyers were essentially presented with an unfair choice of either retaining their rights to pursue their claims (in which event they would not get possession or title in the meantime) or to forsake the claims in order to perfect their titles to the flats for which they have paid valuable consideration. In this backdrop, the simple question which we need to address is whether a flat buyer who espouses a claim against the developer for delayed possession can as a consequence of doing so be compelled to defer the right to obtain a conveyance to perfect their title. It would, in our view, be manifestly unreasonable to expect that in order to pursue a claim for compensation for delayed handing over of possession, the purchaser must indefinitely defer obtaining a conveyance of the premises purchased or, if they seek to obtain a Deed of Conveyance to forsake the right to claim compensation. This basically is a position in which the NCDRC has espoused. We cannot countenance that view.*

*35. The flat purchasers invested their hard earned money. It is only reasonable to presume that the next logical step is for the purchaser to perfect the title to the premises which have been allotted under the terms of the ABA. But the submission of the developer is that the purchaser forsakes the remedy before the consumer forum by seeing a Deed of conveyance. To accept such a construction would lead to an absurd consequence of requiring the purchaser either to abandon a just claim as a condition for obtaining the conveyance or to indefinitely delay the execution of the Deed of Conveyance pending protracted consumer litigation."*

17. The authority has already taken a view in **Cr. No. 4031/2019** and others titled as **Varun Gupta V/s Emaar MGF Land limited and others** and observed that the execution of a conveyance deed does not conclude the relationship or marks an



end to the liabilities and obligations of the promoter towards the subject unit and upon taking possession, and/or executing conveyance deed, the complainant never gave up his statutory right to seek delayed possession charges as per the provisions of the said Act.

18. After consideration of all the facts and circumstances, the authority holds that even after execution of the conveyance deed, the complainant allottee cannot be precluded from his right seek delay possession charges from the respondent-promoter.

**F.II. Whether the complaint is barred by limitation or not?**

19. So far as the issue of limitation is concerned, the Authority is cognizant of the view that the law of limitation does not strictly apply to the Real Estate Regulation and Development Authority Act of 2016. However, the Authority under section 38 of the Act of 2016, is to be guided by the principle of natural justice. It is universally accepted maxim and the law assists those who are vigilant, not those who sleep over their rights. Therefore, to avoid opportunistic and frivolous litigation a reasonable period of time needs to be arrived at for a litigant to agitate his right. This Authority of the view that three years is a reasonable time period for a litigant to initiate litigation to press his rights under normal circumstances.
20. It is also observed that the Hon'ble Supreme Court in its order dated 10.01.2022 in MA NO.21 of 2022 of Suo Moto Writ Petition Civil No.3 of 2020 have held that the period from 15.03.2020 to 28.02.2022 shall stand excluded for purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.
21. In the present matter the cause of action arose on 10.03.2018 when the offer of possession was made by the respondent. The complainant has filed the present complaint on 02.08.2022 which is 4 years 4 months and 8 days from the date of cause of action. In the present case the three year period of delay in filing of the case also after taking into account the exclusion period from 15.03.2020 to 28.02.2022 would fall on 28.02.2023. In view of the above, the Authority is of the



view that the present complaint has been filed within a reasonable time period and is not barred by the limitation.

**G. Findings regarding relief sought by the complainant**

**G.1 Direct the respondent to pay the interest at the prescribed rate on the amount paid on account of delay in delivering possession of said apartment.**

22. In the present complaint, the complainant intends to continue with the project and is seeking possession of the unit and delayed possession charges as per section 18(1) of the Act and the same 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.

.....  
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."

(Emphasis supplied)

23. Clause 14(a) of the builder buyer's agreement (in short, the agreement) dated 27.01.2011, provides for handing over possession and the same is reproduced below:

14(a)  
**Possession of the said flat**

"Subject to terms of this clause and the Allottee(s) having complied with all the terms conditions of this Agreement and not being in default under any of the provisions of Agreement and upon complying with all provisions, formalities, documentation etc prescribed by the Developer, the Developer shall make all efforts to handover possession of the Unit (which falls within **ground plus four floors tower/building**) within a period of **thirty (30) months from the date of commencement of construction**, and for the Unit (which within ground plus thirteen floors tower/building) within a period of thirty six (36) months from the date of commencement of construction, subject to certain limitations as provided in this Agreement and timely compliance of the provisions of this Agreement by the Allottee(s). the Allottee(s) agrees and understands that the Developer shall be entitled grace period of three (3) months, for applying and obtaining the occupation certificate in respect of the Unit and/or the Project.

24. The buyer's agreement was executed on 27.01.2011. As per clause 14 of the agreement the respondent was to offer the possession of the unit to the allottee within 30 months from the date of start of construction. Therefore, the due date comes out to be 31.04.2015.

25. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges however, 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 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.

26. 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.
27. 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., 22.05.2024 is **8.85%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.85%**.
28. The definition of term 'interest' as defined under section 2(z) 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;"*


29. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. The authority has observed that the apartment buyer agreement was executed on 27.01.2011 and the possession of the subject unit was to be offered with in a period of 30 months plus 3 months from date of commencement of construction. The authority calculated due date of possession from the date of commencement of construction i.e., 31.07.2012 being later which comes out to be 31.01.2015. As far as grace period is concerned, the same is allowed. Therefore, the due date of handing over possession is 31.04.2015. The respondent has failed to handover possession of the subject unit on the due date. 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 delay on the part of the respondent to offer of possession of the allotted unit to the complainant as per the terms and conditions of the agreement to sell dated 27.01.2011 executed between the parties. Further, the authority observes that the respondent obtained the occupation certificate on 25.01.2018 and offered possession to the complainant on 10.03.2018. The unit was handed over to the complainant on 20.05.2018 and conveyance deed was executed on 06.12.2018.
30. 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 complainant is entitled to delay possession charges at rate of the prescribed interest @ 10.85% p.a. w.e.f. 31.04.2015 till actual handing over of possession or offer of possession plus two months, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

**H. Directions of the authority: -**

31. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the authority under sec 34(f) of the Act: -
- i. The respondent/promoter shall pay interest at the prescribed rate i.e., 10.85% for every month of delay on the amount paid by the complainant from the due date of possession i.e., 31.04.2015 till the date of offer of possession plus 2 months or handover of possession whichever is earlier after adjustment/deduction of the amount already paid if any towards delay in handing over of possession as per proviso to section 18(1) of the Act read with rule 15 of the rules.
  - ii. The respondent is directed to pay arrears of interest accrued, if any, after adjustment in statement of account, within 90 days from the date of this order as per rule 16(2) of the Act,
32. Complaint stands disposed of.
33. File be consigned to the registry.

Dated: 22.05.2024

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