

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

Complaint no. : 5337 of 2022
Date of decision : 14.05.2024

Deepankan Gupta
R/o: -C-8/5, GF, Ardee City, Gate no.3,
Sector-52, Gurugram-122002

Complainant

Versus

M/s Elan Limited.
Office at: 1100/25, Block I-1,
Sangam Vihar, New Delhi-110062.

Respondent

CORAM:
Ashok Sangwan

Member

APPEARANCE:
Gaurav Bhardwaj
Jagmohan Krishan Dang

Advocate for the complainant
Advocate for the 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 there under 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 complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.No	Particulars	Details
1.	Name of the project	"Elan Miracle", Sector-84, Village-Hayatpur, Gurugram, Haryana.
2.	Project type	Commercial colony
3.	Area of project	5.91875 acres
4.	RERA registered	Registered 190 of 2017 dated 14.09.2017
5.	Dtcp license	License no. 34 of 2014 dated 12.06.2014
6.	Date of allotment letter	05.03.2019 (As on page 58 of complaint)
7.	Date of execution of BBA	13.06.2019 (As on page 63 of complaint)
8.	Unit no.	FS-340, 3 rd floor (As on page 74 of complaint)
9.	Unit area admeasuring	313 sq.fts. [Actual-area] 625 sq.fts. [Super-area] (As on page 74 of complaint) Unit area increased from 625 sq.fts to 672 sq fts
10.	Possession clause as per BBA	Clause 7 POSSESSION OF THE PREMISES/UNIT: 7.1 Schedule for Possession of the said Premises/Unit: <i>The Promoter agrees and understands that timely delivery of possession of the said premises/unit to the allottee(s) and the common areas to the</i>



association of allottee(s) or the competent authority, as the case may be, is the essence of the Agreement. The Promoter assures to hand over possession of the said premises/unit along with ready and complete common areas with all specifications, amenities and facilities of the project in place **within a period of 48(forty eight) months from the date of this Agreement with an extension of further twelve months**, unless there is delay or failure due to war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure"). If, however, the completion of the Project is delayed due to the Force Majeure conditions then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the said premises/unit, provided that such Force Majeure conditions are not of such nature which make it impossible for the contract to be implemented. The Allottee agrees and confirms that, in the event it becomes impossible for the Promoter to implement the project due to Force Majeure conditions, then this allotment shall stand terminated and the Promoter shall refund to the Allottee the entire amount received by the Promoter from the allottee(s) subject to deduction of non-refundable amounts including but not limited to return on investments paid/payable by the Promoter, interest paid or payable by the allottee(s) to the promoter on delayed payments, brokerage(s)/incentive(s) paid by the developer/discount(s) given, taxes/statutory levies paid/payable, if any], the Allottee agrees that he/she shall not have any rights, claims etc., against the Promoter and that the Promoter shall be released and discharged from all its obligations and liabilities under this Agreement. Its is however clarified that if the developer offer the possession of the unit before the stipulated timeline as mentioned above, the allottee(s) shall take the possession without any protest or demur.

(As on page 80 of complaint)

11.	Due date of possession	12.06.2024
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		(Calculated 48 months + 12 months from date of agreement)
12.	Total sale consideration	Rs.49,93,120 /- (As on page 104 of reply)
13.	Amount paid by the complainant	Rs.24,09,759/- (As admitted by the complainant in pleadings)
14.	Letter for assured return	01.02.2019 (As on page no. 59 of complaint)
15.	Clause for assured return	Clause 1. <i>That Elan Buildcon Private Limited (herein after referred to as "Company"), agrees to pay to the applicant, a Fixed Amount of Rs.21,437/- (Rupees Twenty One Thousand Four Hundred and Thirty Seven Only) per month, subject to Tax Deduction at Source, on the provisional booking in our project titled as "Elan Miracle" situated in Sector-84 , Gurugram, on the amount of Rs.11,43,750/- (Rupees Eleven Lakh Forty Three Thousand Seven Hundred Fifty Only) received through Cheque No. 000152 Dated 01.02.2019, Cheque No. 000006 Dated 08.04.2019 drawn on HDFC Bank.</i> [Emphasis supplied] (As on page no. 59 of complaint)
16.	Letter of Assurance dated 10.04.2019	<i>The company shall pay a fixed amount of Rs.13.00 (Rupees Thirteen Only) per sq.ft. per month after the completion of 30 months with an additional grace period of 6 (six) months from the 10th April 2019 i.e., w.e.f. April 2022 (if possession is not Offered by April 2022) to the applicant till the time of offer of possession, subject to timely payment of installments as per the payment plan attached herewith and if the applicant does not make the payments as per the attached payment plan attached herewith and if the applicant does not make the payments as per the attached payment plan then, Company shall also be entitled to charge interest @21 % p.a for first 60 days and interest @24% after 60 days from the due date of installments.</i>

		<p><i>The offer of possession shall not be dependent upon the grant of completion certificate and/or occupation certificate. The Company shall stand discharged of all liabilities completely after of possession.</i></p> <p>[Emphasis supplied]</p> <p>(As on page no. 109 of complaint)</p>
17.	Occupation certificate	15.03.2023 (As per list of documents submitted by the respondent on 20.09.2023)
18.	Offer of possession for fit outs	07.09.2021 (As on page 110 of complaint)
19.	Conveyance deed	Not executed

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:
- I. That the complainant is a respectable and law-abiding citizen and is an allottee within the meaning of Section 2 (d) of The Real Estate (Regulation and Development) Act, 2016. The respondent company, M/s Elan Buildcon Private Limited is a limited company incorporated under the Companies Act, 1956 and is *inter alia* engaged in the business of providing real estate services.
 - II. That in 2018, the respondent advertised about development of its new commercial colony project namely "Elan Miracle" situated in Sector-84, Gurugram Haryana. The respondent painted a rosy picture of the project in their advertisement representing that the project aims at providing commercial space comprising of high street retail with double heights shops, huge multi-activity atrium –



space, lower ground floor dedicated to hypermarket and retail shops, one of the nation's largest superplex by PVR cinema, multi cuisine restaurant and kids zone.

- III. That believing the representations of the respondent and in the lookout for an affordable commercial space for himself, the complainant booked a unit in the project and paid an amount of Rs.2,50,000/- towards the booking of the unit on 01.02.2019.
- IV. That thereafter on 05.03.2019, the respondent issued an allotment letter of retail and commercial unit bearing no. FS-340 admeasuring 625 sq. ft. on the 3rd floor in the project at the total sale consideration of Rs.46,71,875/-under the special fixed return payment plan.
- V. That on 01.02.2019, a letter consisting of terms and conditions for fixed amount on provisional booking was given to the complainant in which a fixed amount of Rs.21,437/- per month was agreed to be given to the complainant by the respondent till the time of offer of possession along with amenities like electricity and water and further ready to move in state of the said unit.
- VI. That the complainant during the period of 2019 contacted the respondent to execute the builder buyer agreement but respondent failed to execute the same and kept on demanding money. The complainant even vehemently asserted that failing execution of agreement, the complainant shall not make any payment to the respondent but the respondent threatened the complainant to cancel the allotment of the said and to forfeit the deposited amount.

Left with no other option the complainant kept on paying the as and when demanded by the respondent.

VII. That builder buyer agreement was executed between the complainant and the respondent on 12.06.2019. It is pertinent to mention here that all the payments have been paid by the complainant within 12 months of booking. The total amount paid so far is Rs.24,01,480 against the total sale consideration of Rs.46,71,875/- That the respondent issued a letter of assurance in which the respondent stated it will pay a fixed amount of Rs 13.00 per sq. ft per month after the completion of 30 months with a grace period of 6 months from 10 April 2019 i.e., w.e.f 01st April 2022 to the applicant till the time of offer of possession and if applicant does not make the payment as per the attached plan, then the respondent shall also be entitled to charge interest 21% p.a. for first 60 days and interest @24% after 60 days from the due date of installments. The rate of interest is totally arbitrary and high.

VIII. That on 07.09.2021, the respondent issued an offer of possession for fit-outs and settlement of dues for the unit stating that the construction has been completed and the occupation certificate for said project has been applied for which means it is not a genuine offer of possession. It is further to note that no offer of possession can be made to the allottee without obtaining occupation certificate from concerned department.

- IX. That the respondent, stopped making payment on account of assured return after issuing the illegal offer of possession for fit-outs without obtaining occupation certificate, as per letter 01.09.2019. The complainant than approached the respondent to enquire about the non- payment of assured return as the possession has not been offered yet after obtaining occupation certificate but to the utter shock of the complainant, the respondent clearly refused to make the payment on account of assured return on the ground of issuing the offer of possession for fit outs.
- X. That the respondent retained the hard earned money of the complainant for so many years beyond the due date of possession thereby highlighting unfair trade practice on their part and also breach of terms and conditions of the agreement and deficiency in the services on part of the respondent as against the complainant.
- XI. That as per section 18 of the Real Estate (Regulation and Development) Act, 2016, the promoter is liable to pay interest to the allottees of an apartment, building or project for a delay or failure in handing over of such possession as per the terms and agreement of the sale.

C. Relief sought by the complainant

4. The complainant has sought following relief(s).
- I. Direct the respondent to make the payment of Rs.21,437/- till September 2020 and further Rs.29,062/- on account of assured

- return from 01.02.2019 till valid offer of possession after obtaining occupation certificate.
- II. Direct the respondent to declare the offer of possession for fit-out dated 07.09.2021 as illegal, null and void being without obtaining occupation certificate.
 - III. Direct the respondent not to charge beyond the terms and conditions as mentioned in builder buyer agreement.
 - IV. May pass any other order as the authority may deem fit and proper in the interest of justice.
5. On the date of hearing, the authority explained to the respondent/promoter about the contravention 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. The complainant after making extensive research, had approached the respondent expressing his interest in purchasing a commercial unit in the commercial complex being developed by the respondent known as "Elan Miracle", situated in sector-84, Gurugram.
 - II. That thereafter, the complainant was allotted a commercial space/unit tentatively admeasuring 625 sq.ft. forming part of unit no. FS-340 on the third floor of the project, subject, inter-alia, to increase or decrease on basis of variation in calculation of actual super-area of the premises which were to be determined at the time of offer of possession.

- III. That, unit no. FS-340, was provisionally allotted in favour of the complainant vide allotment letter dated 05.03.2019. The buyer's builder agreement was executed between the respondent and the complainant on 12.06.2019.
- IV. The respondent informed the complainant vide letter dated 19.06.2021 that occupation certificate in respect of the project had been applied for on 09.06.2021. The complainant was further informed that the final statement of account would be sent by the respondent shortly thereafter.
- V. That vide offer of possession for fit-out letter dated 07.09.2021 the respondent offered possession of the unit to the complainant for fit-outs and settlement of dues. Also, the complainant was informed that there was a slight increase in the super-area of the allotted unit, from 625 sq.ft. to 672 sq.ft due to the increase in super-area. It is pertinent to mention that the respondent has offered the possession of the unit in the project for fit-outs at their end so that as and when the occupation certificate is issued by the Town and Country Planning Department, the commercial operations from the units can be commenced without there being any loss of time. Therefore, keeping in view the interest of all the allottees in mind, the respondent issued offer for possession for fit-outs in the complex. Since, the complainant did not come forward to take possession, reminders dated 12.10.2021, second reminder dated 12.11.2021 and third reminder dated 28.12.2021 were sent by the respondent to the complainant.
- VI. That in terms of Clause 7 of the Buyer's agreement, possession of the unit was agreed to be offered to the complainant within 48 months from the date of execution of the Buyer's agreement (with

grace period of 12 months and subject to force majeure conditions and events beyond the power and control of the respondent. That it is a matter of admitted fact that the buyer's agreement was executed on 12.06.2019. Hence, the respondent has offered possession of the unit to the complainant well before the agreed timelines for delivering possession.

- VII. That after the receipt of offer of possession letter dated 07.09.2021, the complainant never raised any objection to the increase in super-area within 30 days in accordance with Clause 31 of the Buyer's Agreement executed between the parties. However, the complainants also deliberately refrained from making payment of the demanded amounts. In fact the complainant was duly informed and explained the area calculations in one of his visit to the office of the respondent.
- VIII. That, the contractual relationship between the respondent and the complainant is governed by the buyer's agreement executed between the parties. The complainant cannot set up any claim which is contrary to the terms and conditions of the buyer's agreement. The complainant is contractually bound to make payment of the demanded amounts and take possession of the unit in questionns
- IX. That the complainant is estopped from filing the present complaint by his own acts, conduct and acquiescence. The project in which the complainant has booked the unit is being developed by Elan Limited, however Elan Buildcon Pvt Ltd. has been wrongly impleaded as a party in the petition. The petition is liable to be dismissed on this ground alone since no orders can be passed against Elan Buildcon Pvt Ltd. as the complainant has executed the

Builder Buyer Agreement with Elan Limited and not Elan Buildcon Pvt. Ltd. All the documents related to allotment have been issued by Elan Limited. Reference to "Respondent" in the present petition shall mean and imply Elan Limited and not Elan Buildcon Pvt Ltd., which is a separate legal entity and has no locus in the present transaction. That Elan Buildcon Pvt Ltd has nothing to do with the present project or the complainant.

- X. That the complainant has got no locus standi or cause of action to file the present complaint. The present complaint is based on an erroneous interpretation of the provisions of the Act as well as an incorrect understanding of the terms and conditions of booking, as shall be evident from the submissions made in the following paras of the present reply. The respondent craves leave of authority to refer to and rely upon the terms and conditions set out in the application form as well as the terms and conditions for payment of fixed amount, in detail at the time of the hearing of the present complaint, so as to bring out the mutual obligations and the responsibilities of the respondent as well as the complainant thereunder.
- XI. That 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 can only be adjudicated by the civil court. The present complaint deserves to be dismissed on this ground alone.
- XII. That in so far as the respondent is concerned, the respondent has already completed construction well within the agreed timelines

for delivery of possession and within the period of registration of the project under RERA. The application for issuance of occupation certificate was submitted to the competent authority as far back as on 14.01.2020 and the same is pending before the competent authority. There is no default or lapse in so far as the respondent is concerned.

E. Jurisdiction of the authority

7. 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

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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

9. 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;

10. 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 complainant at a later stage.

F. Findings on the objections sought by the respondent

F.I. Objection regarding wrongful impleadment of Elan Limited as a party in the petition.

11. The respondent have raised the contention that the complainant has wrongly impleaded Elan Limited as a party to the petition. The project in which the complainant has booked the unit is being developed by Elan Buildcon Pvt. Ltd. Thus, the petition is liable to be dismissed on this ground alone since no orders can be passed against Elan Limited as the complainant has executed the Builder Buyer Agreement with Elan Buildcon Pvt. Ltd. and not Elan Limited. All the documents related to allotment have been issued by Elan Limited. Reference to "Respondent" in the present petition shall mean and imply Elan Buildcon Pvt Ltd and not Elan Limited, which is a separate legal entity and has no locus in the present transaction. Thus, the complainant is estopped from filing the present complaint by his own acts, conduct and acquiescence.
12. However, all the pleas advanced in this regard are devoid of merit. On the perusal of the documents and Performa "B" of the present complaint, it is very much evident that the complainant/allottee have filed the complaint against Elan Buildcon Private Limited and Elan Buildcon Private Limited is party to the suit, not Elan Limited. Therefore, the contention of the respondent about wrongful impleadment of the respondent stands rejected.

G. Findings on the the relief sought by the complainant

G.I. Declare the offer of possession for fit-out dated 07.09.2021 as illegal, null, void

13. There is a contractual relationship between the complainant and the respondent which is governed by the Builder Buyer Agreement, executed between them. However, it is seen that the drafting of the clauses in the builder buyer agreement are not only vague and uncertain but so heavily loaded in favour of the promoter and by the allottee in fulfilling formalities and documentations etc as prescribed by the promoter. In the present case, the respondent/builder have misused its dominant position and drafted a clause in the letter containing terms and conditions for fixed return which is completely vague and is against the statutory rights of the complainant/allottee whereby it says that the offer of possession is not dependent on the grant of occupation certificate.
14. The authority would express its views regarding the concept of a "valid offer of possession". It is necessary to clarify this concept because, after a valid and lawful offer of possession, the liability of the promoter for the delayed offer of possession comes to an end. On the other hand, if the possession is not valid and lawful, the liability of the promoter continues till a valid offer is made and the allottee remains entitled to receive interest for the delay caused in handing over of possession. The Authority after a detailed consideration of the matter has concluded that a valid offer of possession must have the following components:
- a. The possession must be offered after obtaining an occupation certificate/completion certificate.*
 - b. The subject unit must be in a habitable condition.*

c. Possession should not be accompanied by unreasonable additional demands.

15. In the present case, the first and foremost condition of a valid offer of possession is not fulfilled. The occupation certificate in respect of the project in question where the subject unit is situated was granted by the concerned authority on 15.03.2023 and the same is evident from as per the list of documents submitted by the counsel of respondent on 20.09.2023. The respondent offered the possession for fit out of the allotted unit before obtaining occupation certificate i.e., on 07.09.2021. Hence, the said offer is not a valid offer of possession.

G.II. Direct the respondent to make the payment of Rs. 21,437/-per month on account of assured return from 01.02.2019 till September 2020 and further Rs.29,062/- on account of assured return till the date of valid offer of possession after obtaining occupation certificate.

16. The complainant has sought assured returns on monthly basis as per the terms and conditions for fixed amount of Rs.21,437 /- per month, till September 2020 and further Rs. 13/- per sq.ft till the date of issuance of valid offer of possession by the company. According to the letter of assurance dated 01.02.2019 (page no. 59 of complaint) wherein the respondent agreed to pay to the complainant a fixed amount of Rs.21,437/- from the date of provisional booking of the unit i.e., 01.02.2019 till offer of possession.
17. Also, there is a letter of assurance dated 10.04.2019 (on page no. 109 of complaint) wherein, the respondent have stated that the company shall pay the allottee a fixed amount of Rs.13.00 per sq.ft. per month after the completion of 36 months (30 months with an additional grace period of 6 months). Herein, the respondent have created an additional liability on itself that if possession is not offered till April 2022, then the



allottee will be given an fixed amount of Rs.13.00 per sq.ft. As the occupation certificate was obtained on 15.03.2023 so, from April 2022, the respondent is liable to pay Rs.13.00 per sq.ft. to the allottee.

18. The letter dated 01.02.2019 regarding the terms and conditions for fixed amount on provisional booking and letter of assurance dated 10.04.2019 can be considered as an agreement for sale interpreting the definition of the agreement for "agreement for sale" under section 2(c) of the Act and broadly by taking into consideration the objects of the Act. Therefore, the promoter and allottee would be bound by the obligations contained in the memorandum of understandings and the promoter shall be responsible for all obligations, responsibilities, and functions to the allottee as per the agreement for sale executed inter-se them under section 11(4)(a) of the Act. An agreement defines the rights and liabilities of both the parties i.e., promoter and the allottee and marks the start of new contractual relationship between them. This contractual relationship gives rise to future agreements and transactions between them. Therefore, different kinds of payment plans were in vogue and legal within the meaning of the agreement for sale. One of the integral parts of this agreement, the letter dated 24.05.2019 is the transaction of assured return inter-se parties. The "agreement for sale" after coming into force of this Act (i.e., Act of 2016) shall be in the prescribed form as per rules but this Act of 2016 does not rewrite the "agreement" entered between promoter and allottee prior to coming into force of the Act as held by the Hon'ble Bombay High Court in case **Neelkamal Realtors Suburban Private Limited and Anr. v/s Union of India & Ors.**, (Writ Petition No. 2737 of 2017) decided on 06.12.2017. Since the agreement defines the buyer-promoter relationship therefore, it can be said that the agreement for assured return between the

promoter and allottee arises out of the same relationship. Therefore, it can be said that the real estate regulatory authority has complete jurisdiction to deal with assured return cases as the contractual relationship arise out of agreement for sale only and between the same parties as per the provisions of section 11(4)(a) of the Act of 2016 which provides that the promoter would be responsible for all the obligations under the Act as per the agreement for sale till the execution of conveyance deed of the unit in favour of the allottees.

19. The present complaint was fixed for pronouncement of order on 13.03.2024. Vide proceedings dated 13.03.2024, the Authority had made following observations:

"Order pronounced.

- i. The respondent is directed to pay the amount of assured return at the agreed rate of Rs.21,437/- per month from the date of provisional booking i.e., 01.02.2019 till valid offer of possession.*
- ii. The respondent is further directed to pay an additional amount of Rs.13.00 sq.ft. per month w.e.f 10.04.2022 till valid offer of possession as per letter dated 10.04.2019"*

20. However, while preparing the detailed order, it has come to the notice of the Authority that the relief of assured return from the date of provisional booking i.e., 01.02.2019 till the valid offer of possession has been inadvertently recorded in the proceedings of day dated 13.03.2024 as the assured return was payable upto the offer of possession. Here in the present complaint, the offer of possession was not valid as it was made in the absence of occupation certificate. Therefore, the assured return is liable to be given upto grant of occupation certificate, only after which a valid offer of possession could have been made. Consequently, the case was scheduled for re-hearing before the full bench, and the proceedings dated 13.03.2024 were amended as follows:

"The relief of assured return at the agreed rate of Rs.21,437/- per month in the factual matrix of the present complaint deserves to be allowed from the date of provisional booking i.e., 01.02.2019 **till obtaining the occupation certificate**. Also, as per letter dated 10.04.2019, the respondent is further directed to pay an additional amount of Rs.13.00 sq.ft. per month w.e.f 10.04.2022 till the date of obtaining the occupation certificate"

21. In the present case, the respondent has offered the possession of the unit vide offer of possession for fit outs on 07.09.2021 which was before obtaining the occupation certificate. The said offer of possession for fit-outs is no doubts bad in the eyes of law but the authority is of the view that by the said offer of possession, the respondent wanted to intimate to the complainant that the unit is complete on its part and applied for the occupation certificate. Thus, the authority thinks fit that as and when the occupation certificate is obtained, it will amount to offer of possession. Under section 19(10) of the Act, the allottee is under an obligation to take the possession of this unit within two months of the date of grant of occupation certificate. The authority directs the respondent to pay arrears of assured return which was agreed between the respondent and the complainant vide letter dated 01.02.2019 and 10.04.2019.

H. Directions of the authority

22. 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 is directed to pay the arrears on amount of assured return on monthly basis as per terms and conditions for fixed amount of Rs.21,068 /- per month from 01.02.2019 till April 2022 and further pay an additional amount of Rs.13.00 sq. ft. per month w.e.f 10.04.2022 till the obtaining of occupation certificate after deducting any amount



that has already been paid by the respondent to the allottee on account of assured returns, if any.

- ii. The respondent is directed to hand over possession of the unit to complainant within 60 days of this order.
 - iii. The respondent is also directed to pay the outstanding accrued assured return amount till the date at the agreed rate within 90 days from the date of 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 not charge anything from the complainant which is not a part of the buyer's agreement
23. Complaint stands disposed of.
24. File be consigned to registry.

(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 14.05.2024