



**HARERA**  
**GURUGRAM**

Complaint No. 2454 of 2022

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

**Complaint no. : 2454 of 2022**  
**First date of hearing: 27.07.2022**  
**Date of decision : 21.05.2024**

**1. Vishal Mathur**

**2. Divya Mathur**

**All RR/o: D-4, Dattaguru, Deonar Village Road,  
Deanor, Mumbai, Maharashtra- 400088**

**Complainants**

**Versus**

**M/s Pareena Infrastructure Pvt. Ltd**  
**Office: Flat no. 2, Palm Apartments, Plot no. 138,  
Sector-6. Dwarka, New Delhi-110075**  
**Also at : C7A, 2<sup>nd</sup> Floor, Omaxe City Center Mall,  
Sohna Road, Sector-49, Gurugram-122018**

**Respondent**

**CORAM:**

**Shri Arun Kumar**  
**Shri Vijay Kumar Goyal**  
**Shri Ashok Sangwan**

**Chairman**  
**Member**  
**Member**

**APPEARANCE:**

**Sh. Abhishek Rao**  
**Sh. Prashant Sheoran**

**Counsel for Complainants**  
**Counsel for Respondent**

**ORDER**

1. The present complaint dated 06.06.2022 has been filed by the complainant/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed



that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made 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 and location of the project	"Coban Residences", Sector-99A, Gurugram
2.	Nature of the project	Residential
3.	Project area	10.5875 acres
4.	DTCP license no.	10 of 2013 dated 12.03.2013 valid up to 11.03.2024
5.	Name of licensee	Monex Infrastructure Pvt. Ltd.
6.	RERA Registered or not registered	Registered and dated GGM/419/151/2020/335 dated 16.10.2020 valid up to 11.03.2024
7.	Unit no. and floor no.	1903 and 19 <sup>th</sup> floor and Tower-1 (As per page no. 21 of the complaint)
8.	Unit area admeasuring	2352 sq.ft. (Super area) (As per page no. 21 of the complaint)
9.	Date of execution of apartment buyer's agreement	13.12.2013 (As per page no. 19 of the complaint)
10.	Possession clause	<b>3.1</b> <i>That the developer shall, under normal conditions, subject to force majeure, complete construction of Tower/Building in which the said flat is to be located within 4 years of the start of construction or execution of this Agreement whichever is later, as per the</i>



		<p>said plans and specifications seen and accepted by the Flat Allottee..... and</p> <p><b>5.1</b></p> <p><b><i>In case within a period as provided hereinabove, further extended by a period of 6(six) months if so required by the developer, the developer is unable to complete construction of the said flat as provided hereinabove (subject to force majeure conditions) to the flat allottee(s), who have made payments as required for in this agreement, then the flat allottee(s) shall be entitled to the payment of compensation for delay at the rate of Rs. 5/- per sq.ft. per month of the super area till the date of notice of possession as provided hereinabove in this agreement. The flat allottee(s) shall have no other claim against the developer in respect of the said flat and parking space under this agreement.</i></b></p> <p><i>(As per page no. 32 and 35 of the complaint)</i></p>
11.	Due date of possession	13.06.2018 (Note: Due date to be calculated 4 years from the date of execution of apartment buyer's agreement i.e., 13.12.2013.) Grace period allowed
12.	Payment Plan	Construction linked payment plan (As per page no. 44 of the complaint)
13.	Basic sale price	Rs.1,14,55,416/- (As per schedule of payments on page no. 44 of the complaint)
14.	Total sale consideration	Rs.1,40,17,752/- (As per schedule of payments on page no. 44 of the complaint)
15.	Amount paid by the complainant	Rs.72,99,822/- (As per cancellation letter on page no. 55 of the complaint)
16.	Reminder/Demand Notices	14.03.2017, 05.01.2021, 13.07.2018 and 19.01.2021
17.	Pre-cancellation letter	10.06.2021 (As per page no.57 of the complaint)



18.	Cancellation letter	12.08.2021 (As per page no. 55 of the complaint)
19.	Occupation Certificate/ completion certificate	Not on record
20.	Offer of possession	14.12.2022

**B. Facts of the complaint**

3. The complainants have made the following submissions in the complaint:

I. That the complainants had booked a unit in the project named 'Coban Residences' of the respondent at Sector 99A, Gurugram, Haryana and the complainants was allotted unit no. T-1, 1903, Tower 1, at 19<sup>th</sup>Floor, admeasuring 2355 Sq. Ft, at Sector 99A Gurgaon on 27.07.2013. The builder buyer agreement was executed on 13.12.2013. That the complainants till date had made the payment of Rs. 72,99,822/- as per the agreed terms and as per builder buyer agreement. The possession of the unit was to be handed over by respondent to complainants within 48 months from the execution of the builder buyer agreement. The possession was to be handed to the Respondent on 12.12.2017. That almost 4 years 5 months have lapsed, the respondent still failed to handover the possession of the said unit

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

4. The complainants have sought following relief(s).

I. **Direct the respondent to pay delay possession charges along with prescribed rate of interest.**

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.
- a. That the present complaint is not maintainable in the eyes of the law. The complainants have not come with clean hands before this Hon'ble forum and have concealed the true and material facts.
  - b. That the respondent is in the process of developing several residential group housing colonies in Gurugram, out of them one is "Coban Residences" at Sector 99A. That the respondent has already applied for occupation certificate and very soon same will be granted.
  - c. That quite conveniently certain pertinent facts have been concealed by the complainant. The concealment has been done with a motive of deriving undue benefit through an order, which may be passed by this Hon'ble Authority at the expense of the respondent.
  - d. That the respondent continues to bonafidely develop the project in question despite of there being various instances of non-payments of installments by various allottees. This clearly shows unwavering commitment on the part of the respondent to complete the project. Yet, various frivolous petitions, such as the present one seriously hampers the capability of the respondent to deliver the project as soon as possible. The amounts which were realized from the complainants have already been spent in the development work of the proposed project. On the



other hand the respondent is still ready to deliver the unit in question of this due completion to the complainant, of course, subject to payment of due installments and charges.

- e. Admittedly completion of project is dependent on a collective payment by all the allottees and just because few of the allottees paid the amount, demand does not fulfill the criteria of collective payment. It is submitted that numerous allottees have defaulted on the payment demanded by the respondent, resulted in delaying of completion of project, yet the respondent is trying to complete the project as soon as possible by managing available funds.

Sr.	Year	Total Demand	Total Amount	Balance Not Received (Amt. in Cr.)
1.	2013	45.57	37.47	8.09
2.	2014	29.36	19.32	10.03
3.	2015	9.87	8.76	1.11
4.	2016	51.9	29.07	22.83
5.	2017	22.52	18.85	3.67
6.	2018	16.27	15.36	0.92
7.	2019	0.23	1.34	-1.11
8.	2020	4.21	0.54	3.67



	Total	179.93	130.71	49.21
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f. That from said worksheet prepared by the accounts department of respondent on the basis of record available. It is crystal clear that over a period of time numerous allottees have defaulted in their payments at the relevant stages of construction and it is not possible to construct with inadequate funds. Thus the situation of non -payment of amount by the allottees is beyond the control of respondent. It is submitted that even in the Apartment Buyer Agreement it was stated that period of 4 years 6 months was subjected to normal conditions and force majeure and with any stretch of imagination situations faced by respondents are not normal. It is submitted that if we go through table given above more than 30% payment was not received by the respondents yet the work at the site is completed approximately 80 to 90 percent. That it is the faults of those allottees who had committed defaults and respondent should not be made to suffer for the same.

That other than above stated factor there are lots of other reason i.e NGT Orders, Environment Pollution (Prevention and Control) Authority orders, Haryana State Pollution Control Board, Panchkula orders, Commissioner, Municipal Corporation, Gurugram orders, which hamper the progress of construction of in many cases complete stoppage of construction work.



g. That the situation of COVID pandemic is in the knowledge of everyone, that since march 2020 till now our country has seen mass migration of laborers, complete lockdown in whole of the country, curfews and several other restrictions. That present situation seriously hampers the construction progress in real estate sector. That from march 2020 till now, there have been several months where construction work was completely stopped either due to nationwide lock down or regional restrictions, that metro cities like Gurgaon and Delhi suffered from a major outburst of COVID cases and deaths in such a number which can't be comprehended. That there has severe dearth of labour due to state imposed restrictions. That developers were helpless in these times since they had no alternative but to wait for the situation to come under control. That even RERA has extended the time limits for completion of project vide notification dated 26-05-2020, by six months. But the aforesaid was the period evidencing the first wave but the relaxation in restrictions were seen at fag end of year 2020 however soon thereafter our country saw a more dangerous variant of COVID from the month of March 2021 and only recently restrictions have been lifted by the government. That whole of this consumed more than 11 months wherein 2/3<sup>rd</sup> time there could be no construction and rest of the time construction progressed at very slow pace to several restrictions imposed by state government on movement and number of person allowed etc. That the Hon'ble authority would appreciate the fact that developer has to face several difficulties in construction of project few





out of the several are already discussed above and moreover complainant did not opt services of respondent against a single unit isolated from whole of the project or other units in same tower. That at the time of seeking allotment in the project of respondent, complainant very well knew that unit / apartment in question is a part of tower consisting of several other units and the unit shall be completed along with other units which belong to other allottees. It is submitted that merely because few allottees have paid on time, it does not fulfill the criteria of complete payment required for construction of whole of the tower/project. That the complainant knew that without complete payment on time from all allottees it is not possible or quite difficult to complete the project on time. It is submitted that for the same reason the clause of "force majeure" was made part of agreement. It is submitted that it is absolutely beyond the control of developer to get money from the buyer on time. It is submitted that after a demand was raised, the only thing developer can do is to send a reminder and in extreme cases cancellation. But reminders / cancellation do not bring money which the developer had already incurred and is incurring continuously. That even the Hon'ble Apex court has already held that notice, order, rules, notification of the Government and/or other public or competent authority, including any prohibitory order of any court against development of property comes under force majeure and period for handing over of the possession stood extended during the prevalence of the force majeure event.

- h. That material, labor and other requirements does not comes for free and if allottees wishes to get the possession on time than it is their legal duty to pay on time, since without money it is not possible to construct the project on time.
- i. That the construction is reciprocal to amount paid and it is not possible to raise complete construction without getting complete amount. That in such cases if refund is granted than it would be absolutely against the natural justice. It is pertinent to mention here that whatsoever amount which was received by respondent qua construction has already been utilized for construction and it is the complainant who never paid the amount demanded. Thus he cannot put blame upon respondents. Thus keeping in view of above stated facts and circumstances, present complaint is not maintainable and deserves to be dismissed.
7. All other averments made in the complaints were denied in toto.
8. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority**

9. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

10. 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**

11. 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) The promoter shall-

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

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

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

12. 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 objections raised by the respondent:**

**F.I Objection regarding delay due to force majeure circumstances**

13. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as various orders



passed by the Hon'ble Supreme Court or NGT, lockdown due to outbreak of Covid-19 pandemic and non-payment of instalments by different allottees. Further, the authority has gone through the possession clause of the agreement and observed that the respondent-developer proposes to handover the possession of the allotted unit within a period of 4 years from the date of start of construction or date of execution of buyer's agreement, whichever is later." In the present case, the date of execution of buyer's agreement is 13.12.2013 and date of start of construction is not on record. So, the due date is calculated from the date of execution of buyer agreement which comes out to be 13.06.2018 (including grace period), which is prior to the occurrence of Covid-19 restrictions and hence, the respondent cannot be benefitted for his own wrong. Though there has been various orders issued to curb the environment pollution, but these were for a short period of time. So, the circumstances/conditions after that period can't be taken into consideration for delay in completion of the project. Though some allottees may not be regular in paying the amount due but the interest of all the stakeholders concerned with the said project cannot be put on hold due to fault of on hold due to fault of some of the allottees. Thus, the promoter/respondent cannot be given any leniency based on aforesaid reasons and the plea advanced in this regard is untenable.

**G Findings on the relief sought by the complainants.**

**G.I Direct the respondent to pay the delay possession charges alongwith prescribed rate of interest..**

14. The complainant was allotted unit no 1903, 19<sup>th</sup> floor in tower 1 in the project "Coban Residences" by the respondent-builder for a total



- consideration of Rs. 1,40,17,752/- against which the complainant paid an amount of Rs. 72,99,822/-. The buyer agreement executed between the parties on 12.12.2013 and due date of possession comes out to be 12.06.2018 including grace period. .
15. The contention of the respondent is that the complainants have defaulted in making payment with respect to allotted unit. The respondent has placed on record the reminder letters sent to complainants regarding payment of dues. Accordingly, the respondent had issued reminder letters dated 14.03.2017, 05.01.2021, 13.07.2018 and 19.01.2021 for payment of dues. But the complainant did not pay any heed to the respondent due to which the respondent issued pre-cancellation letter dated 10.06.2021 and finally cancelled the unit vide letter dated 12.08.2021.
16. Upon perusal of documents and submissions made by both the parties, the Authority observes that the respondent-builder issued a cancellation notice dated 12.08.2021 on account of non-payment by the complainant. However, the respondent filed an amended reply on 01.05.2024 wherein the respondent additionally submitted that an offer of possession dated 14.12.2022 was made to the complainant. The cancellation letter dated 12.08.2021 stands revoked itself as the respondent itself offered the possession to the complainant after cancelling the unit which clarifies the intention of the respondent to continue with the buyer's agreement executed between the parties. In view of the above, the said cancellation made by the respondent is hereby quashed.
17. It is important to note that the complainants have sought the relief of refund along with interest through the complainant but vide proceeding dated 21.12.2023, the proxy counsel for the complainant stated that the complainant-allottee is willing to take possession of the allotted unit after

adjustment of delayed possession charges to be paid by the respondent and same was not objected by the respondent.

18. In the present complaint, the complainant intend to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

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

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

.....

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

***(Emphasis supplied)***

19. Clause 3.1 of the apartment buyer's agreement provides for handing over of possession and is reproduced below for ready reference:

**3.1**

*That the developer shall, under normal conditions, subject to force majeure, complete construction of Tower/Building in which the said flat is to be located within 4 years of the start of construction or execution of this Agreement whichever is later, as per the said plans and specifications seen and accepted by the Flat Allottee (with additional floors for residential units if permissible) with such additions, deletions, alterations, modifications in the layout, tower plans, change in number, dimensions, height, size, area or change of entire scheme the developer may consider necessary or may be required by any competent authority to be made in them or any of them. To implement all or any of these charges, supplementary sale deed(s)/agreements, if necessary will be got executed and registered by the developer which the flat allottee(s) undertakes to execute.....*

***(Emphasis supplied)***

20. At the inception, it is relevant to comment on the pre-set possession clause of the floor buyer's agreement wherein the possession has been subjected to numerous terms and conditions and force majeure circumstances. The drafting of this clause is not only vague but so heavily loaded in favour of the promoters that even a single default by the allottee in fulfilling obligations, formalities and documentations etc. as prescribed by the promoter may

make the possession clause irrelevant for the purpose of allottees and the commitment date for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is just to evade the liability towards timely delivery of subject unit and to deprive the allottee of his right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such mischievous clause in the agreement and the allottee is left with no option but to sign on the dotted lines.

21. **Admissibility of grace period:** The promoter has proposed to hand over the possession of the unit within 4 years of the start of construction or execution of this Agreement whichever is later. The buyer's agreement was executed on 13.12.2013 and date of start of construction is not on record. So, the due date is calculated from the date of execution of buyer's agreement i.e., 13.12.2013 which comes out to be 13.12.2017. Further, it was provided in the buyer's agreement that promoter shall be entitled to a grace period of 6 months after the expiry of the said committed period.
22. The Authority put reliance on the judgement of the Hon'ble Appellate Tribunal in appeal no. 433 of 2022 tilted as Emaar MGF Lamd Limited Vs Babia Tiwari and Yogesh Tiwari, wherein it has been held that if the allottee wishes to continue with the project, he accepts the term of the agreement regarding grace period of three months for applying and obtaining the occupation certificate. The relevant para is reproduced below:

*As per section 18 of the Act, if the project of the promoter is delayed and if the allottee wishes to withdraw then he has the option to withdraw from the project and seek refund of the amount or if the allottee does not intend to withdraw from the project and wishes to continue with the project, the allottee is to be paid interest by the promoter for each month of the delay. In our opinion if the allottee wishes to continue with the project, he accepts the term of the agreement regarding grace period of three months for applying and obtaining the occupation certificate. So, in view of the above*



*said circumstances, the appellant-promoter is entitled to avail the grace period so provided in the agreement for applying and obtaining the Occupation Certificate*

23. Therefore, in view of the above judgement and considering the provisions of the Act, the authority is of the view that, the promoter is entitled to avail the grace period so provided in the agreement for applying and obtaining the occupation certificate. Thus the due date of handing over of possession comes out to be 13.06.2018.

24. **Admissibility of delay possession charges at prescribed rate of interest:**

The complainants are seeking delay possession charges at the prescribed rate of interest on the amount already paid by them. 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.*

25. 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.

26. 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., 21.05.2024





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

27. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, 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;"*

28. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same as is being granted to the complainants in case of delayed possession charges.
29. On consideration of the documents available on record and submissions made by both the parties, 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. By virtue of clause 3.1 of the agreement, the possession of the subject apartment was to be delivered within 4 years of the start of construction or execution of this Agreement whichever is later. For the reasons quoted above, the due date of possession is to be calculated from the date of execution of buyer agreement i.e., 13.12.2013 and the said time period of 4 years months expired on 13.12.2017. As far as grace period is concerned, the same is allowed for the

reasons quoted above. So, the due date of possession comes out to be 13.06.2018.

30. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the allotted unit to the complainants as per the terms and conditions of the buyer's agreement dated 13.12.2013 executed between the parties. It is the failure on part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 13.12.2013 to hand over the possession within the stipulated period.
31. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the respondent offered the possession of the unit in question to the complainants only on 14.12.2022 after obtaining occupation certificate from the competent authority. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. This 2 months' of reasonable time is being given to the complainants keeping in mind that even after intimation of possession practically he has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e. 13.06.2018 (calculated from the date of execution of buyer agreement) till the date of offer of possession (14.12.2022) plus two months i.e., 14.02.2023. The complainants are further directed to take possession of the allotted unit after clearing all the dues within a period of 2 months and failing which legal consequences as per the provisions of the Act will follow.



32. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainants are entitled to delay possession charges at rate of the prescribed interest @ 10.85% p.a. w.e.f. 13.06.2018 till the date of offer of possession (14.12.2022) plus two months i.e., 14.02.2023; as per provisions of section 18(1) of the Act read with rule 15 of the Rules.

**F. Directions of the authority**

33. 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 delayed possession interest at the prescribed rate i.e., 10.85% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e., 13.06.2018 till offer of possession (14.12.2022) plus two months i.e., up to 14.02.2023 as per proviso to section 18(1) of the Act read with rule 15 of the rules.
- ii. The arrears of such interest accrued from 13.06.2018 till date of this order shall be paid by the promoter to the allottee within a period of 90 days from date of this order as per rule 16(2) of the rules and any amount towards the delay possession interest already paid or credited in account of allottee shall be adjusted/deducted from such payable amount, if any.
- iii. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85 % by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.



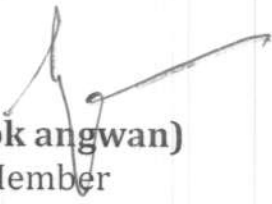
**HARERA**  
**GURUGRAM**

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- iv. The respondent shall not charge anything from the complainant which is not the part of the apartment buyer's agreement. No holding charges shall be levied as per law settled by **Hon'ble Supreme Court in Civil Appeal no. 3864-3889/2020 decided on 14.12.2020**

34. Complaint stands disposed of.

35. File be consigned to registry.

  
(Ashok Angwan)  
Member

  
(Vijay Kumar Goyal)  
Member

  
(Arun Kumar)  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 21.05.2024

**HARERA**  
**GURUGRAM**