



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Name of the Builder		RAHEJA DEVELOPERS LTD		
Project Name		KRISHNA HOUSING SCHEME		
Sr. no.	Complaint no.	Title of the case	Appearance on behalf of complainant	Appearance on behalf respondent
1.	601 of 2023	Gaurav Yadav Vs. Raheja Developers Ltd	Mr. Sitanshu Sharma, counsel for complainant, through VC.	None appeared on behalf of respondent.
2.	604 of 2023	Ravinder Kumar Midha Vs. Raheja Developers Ltd	Mr. Sitanshu Sharma, counsel for complainant, through VC.	None appeared on behalf of respondent.
3.	605 of 2023	Rakesh Kumar Singh Vs. Raheja Developers Ltd	Mr. Sitanshu Sharma, counsel for complainant, through VC.	None appeared on behalf of respondent.
4.	882 of 2023	Pamposh Raina Vs. Raheja Developers Ltd	Mr. Gulab Singh Jarodia, counsel for complainant, through VC.	None appeared on behalf of respondent.
5.	1158 of 2023	Manish Kadiyan Vs. Raheja Developers Ltd	Mr. Govind Chauhan, counsel for complainant, through VC.	None appeared on behalf of respondent.

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6.	1231 of 2023	Mahesh Kumar Gupta Vs. Raheja Developers Ltd	Mr. Mohit Dua, counsel for complainant, through VC.	None appeared on behalf of respondent
7.	1267 of 2023	Gauri Nikhil Parmar and anothers. Vs. Raheja Developers Ltd	Ms. Preeti Manderna, counsel for complainant, through VC.	None appeared on behalf of respondent
8.	1287 of 2023	Atul Chaudhary Vs. Raheja Developers Ltd	Mr. Arihant Goyal, counsel for complainant, through VC.	None appeared on behalf of respondent
9.	1359 of 2023	Varun Mahajan Vs. Raheja Developers Ltd	Mr. Arun Kumar, counsel for complainant.	None appeared on behalf of respondent
10.	1581 of 2023	Mr. Manoj Kumar Singh and Mrs. Usha Bala Vs. 1. M/s Raheja Developers Ltd 2. Mr. Navin M Raheja 3. Mohd Yusaf Khan 4. Mr. Ravinder Zutshi	Ms. Reena Rao, counsel for complainant, through VC.	None appeared on behalf of respondent
11.	2188 of 2023	Amit Gupta Vs. Raheja Developers Ltd	Ms. Ruchi Aggarwal, counsel for complainant, through VC	None appeared on behalf of respondent.
12.	621 of 2023	Arti Golas Vs. Raheja Developers Ltd	Mr. Sanjeev Sharma, counsel for complainant, through VC.	None appeared on behalf of respondent
13.	622 of 2023	Abhinav Gupta Vs. Raheja Developers	Mr. Sanjeev Sharma, counsel for complainant, through VC.	None appeared on behalf of respondent
14.	1128 of 2023	Mahesh Kumar Gupta	Mr. Shubham, counsel for complainant,	None appeared on behalf of respondent

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		Vs. Raheja Developers Ltd	through VC.	
15.	1771 of 2023	Sonali Vs. Raheja Developers Ltd	Ms. Sonali, complainant through VC.	None appeared on behalf of respondent

**CORAM: Nadim Akhtar  
Chander Shekhar**

**Member  
Member**

**Date of hearing:18.03.2024**

**ORDER (NADIM AKHTAR-MEMBER)**

1. This order shall dispose off all the 15 above captioned complaints filed before this Authority under section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as RERA, Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.
2. The core issues emanating from above captioned complaints are similar in nature. The complainant in the above referred Complaint No. 601 of 2023 and all other captioned complaints are allottees of the project namely;



Krishna Housing Scheme; being developed by the same respondent/promoter, i.e., Raheja Developers Ltd. The fulcrum of the issue involved in all above captioned cases pertains to failure on the part of the respondent/promoter to deliver timely possession of the unit in question and all complainant(s) are now seeking refund of their paid amount along with the interest. Despite availing opportunities respondent failed to file replies in all the above captioned matters.

3. The facts of all the complaints filed by the complainants/allottees are almost similar, however, these complaints can be broadly divided in following three categories:-

**(A) Category I:** where Builder Buyer agreement is executed between the parties.

**(B) Category II:** where only allotment letter is issued and same is placed on record but no builder buyer agreement is executed between the parties.

**(C) Category III:** where neither any allotment letter is issued nor Builder Buyer Agreement is executed between the parties. However, complainant had made payments in favour of respondent against a particular unit.

#### **(A) CATEGORY I**

4. The details of the complaints falling under category A, unit no., date of allotment letter, date of builder buyer agreement, total sale consideration



and amount paid by the complainant, offer of possession and relief sought  
are given in the table below:

Krishna Housing Scheme								
Possession Clause in Builder Buyer Agreement:								
<i>"Company shall sincerely endeavour to complete the construction and offer the possession of the said unit within 48 months from the date of the receiving of environment clearance or sanction of building plans whichever is later ("Commencement Period") but subject to force majeure clause of this agreement and timely payments of instalment by the allottee(s)."</i>								
Sr. no.	Complaint no./Title/Date of filing	Reply Status	Unit no.	Date of allotment letter	Date of execution of builder buyer agreement	Total sale consideration (TSC) and amount paid by the complainant (Paid amount)	Offer of possession	Relief sought
1.	601 of 2023 Gaurav Yadav Vs. Raheja Developers Ltd  31.03.2023	Not filed	3012, 3 <sup>rd</sup> floor Tower B1	10.07.2015	10.03.2017	TSC: ₹12,80,380 Paid amount : ₹11,75,439	No	1. Refund of paid amount along with interest. 2. Compensation of amount. ₹10,00,00 3. Pay litigation cost of ₹1,00,000.
2.	604 of 2023 Ravinder Kumar Midha Vs. Raheja Developers Ltd 31.03.2023	Not filed	1010, 1 <sup>st</sup> floor Tower D2	29.11.2016	29.11.2016	TSC: ₹15,24,022 Paid amount: ₹1399169	No	Refund of paid amount along with interest. Compensation of amount ₹10,00,00. Pay litigation cost of ₹1,00,000.
3.	605 of 2023 Rakesh Kumar Singh Vs. Raheja Developers Ltd 31.03.2023	Not filed	6002, 6 <sup>th</sup> floor Tower E3	20.09.2016	20.09.2016	TSC: ₹1657258 Paid amount: ₹828628	No	Refund of paid amount along with interest. Compensation of amount. ₹10,00,00 Pay litigation cost of ₹1,00,000.

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Complaint nos.601,604,605,882,1158,1231,1267,1287,1359,  
1581,2188,621,622,1128 and 1771 of 2023

4.	882 of 2023 Pamposh Raina Vs. Raheja Developers Ltd 11.04.2023	Not filed	12006, 12 <sup>th</sup> floor Tower E4	13.07.2016	13.07.2016	TSC: ₹1657258 Paid amount: ₹ 10,35,786 as per receipts attached and demand letter attached with application dated 11.12.2023)	No	Refund of paid amount along with interest.
5.	1158 of 2023 Manish Kadiyan Vs. Raheja Developers Ltd 19.05.2023	Not filed	6011, 6 <sup>th</sup> floor, Tower C	10.07.2015	03.11.2015	TSC: ₹1524022 Paid amount: ₹13,97,168	No	Refund of paid amount along with interest. Compensate complainant with ₹500000 due to inflation to property market proportionate size of flat in past 5 years. Pay compensation of ₹1000000 for mental agony and financial loss suffered by complainant. Pay ₹200000/- on account of deficiency of services.
6.	1231 of 2023 Madhvi Agarwal daughter of Shri. Jitender Agarwal Vs. Raheja Developers Ltd 29.05.2023	Not filed	10008, 10 <sup>th</sup> floor, Tower C2	02.09.2015	02.09.2015	TSC: ₹1524022 Paid amount: ₹802067/- ( loan disbursement statement attached)	No	Refund of paid amount along with interest. Pay litigation cost of ₹50,000/-. Direct respondent to refund amount of ₹329096 paid to the bank for said disbursement against aforesaid unit along with interest.
7.	1267 of 2023 Gauri Nikhil Parmar and	Not filed	8002, 8 <sup>th</sup> floor,	10.07.2015	30.01.2023	TSC: ₹1491732 Paid amount:	No	

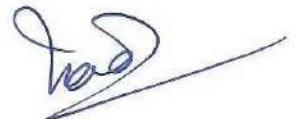
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Complaint nos.601,604,605,882,1158,1231,1267,1287,1359,  
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	another. Vs. Raheja Developers Ltd 30.05.2023		Tower D2			₹1399161		
8.	1287 of 2023 Atul Chaudhary Vs. Raheja Developers Ltd 06.06.2023	Not filed	3002, 3 <sup>rd</sup> floor, Tower D1	14.06.2017	14.06.2017	TSC: ₹1524022 Paid amount: ₹1399737	No	Refund of paid amount along with interest. Compensation of amount. 20 lakh on account of mental agony Pay litigation cost of ₹2,00,000.
9.	1359 of 2023 Varun Mahajan Vs. Raheja Developers Ltd 04.07.2023	Not filed	7012, 7 <sup>th</sup> floor, Tower B2	20.10.2015	20.10.2015	TSC: ₹1280380 Paid amount: ₹1175440	No	Refund of paid amount along with interest. Compensation of amount. 5 lakh on account of mental agony, harassment. Pay litigation cost of ₹1,00,000.
10.	1581 of 2023 Mr. Manoj Kumar Singh and Mrs. Usha Bala Vs. 1. M/s Raheja Developers Ltd 2. Mr. Navin M Raheja 3. Mohd Yusaf Khan 4. Mr. Ravinder Zutshi 14.08.2023		4012, 4 <sup>th</sup> floor, Tower A		14.03.2017	TSC: ₹2320901 Paid amount: ₹ 21,19,297 (as per ledger attached and statement with application dated 19.02.2024)	No	Refund of paid amount OF 2119297/- along with interest. Compensation of amount. 10,00,000 on account of mental agony, harassment. Pay litigation cost of 1,50,000/-.
11.	2188 of 2023 Amit Gupta Vs. Raheja Developers Ltd 05.10.2023	Not filed	12013, 12 <sup>th</sup> floor, tower D1	16.02.2016	16.02.2016	TSC: ₹1524022 Paid amount: ₹1203974/- (as per ledger attached)	No	Refund of paid amount along with interest. Compensation of amount. 5,00,000/- on account. Pay litigation.

**5. CATEGORY I: COMPLAINT NO.601 OF 2023 IS TAKEN AS A  
LEAD CASE AND BRIEF FACTS OF COMPLAINT:**

6. That complainant booked a one bedroom flat on 22.12.2014 and paid ₹78,556/- as booking amount in the project of respondent namely; Krishna Housing Scheme, that is, Affordable Housing project being developed by the respondent and respondent provisionally allotted one bedroom flat bearing unit no. 3012 at 3rd floor in Tower B1 vide allotment letter dated 10.07.2015, having a carpet area of 345.45 sq. ft. chargeable @ Rs.3600 per sq. ft. and balcony area measuring 73.52 sq. ft. chargeable @ Rs.500 per sq. ft. and total sale consideration of unit was ₹12,80,380/- (excluding taxes and levies). Copy of the booking amount payment receipt and provisional allotment letter are annexed as Annexure C-1 and C-2 respectively.
7. That the complainant deposited ₹2,52,429/- vide cheque no. 065243 dated 24.07.2015 drawn on PNB Bank towards 20% cost of the allotted flat vide receipt no. REC0020/02241/15-16 dated 25.07.2015. Copy of the same is attached as Annexure C-3.
8. That on 10.03.2017, a pre-printed, unilateral, one-sided, arbitrary ex-facie Builder Buyer's Agreement was executed inter-se the respondent and the complainant and according to Clause 5.2, the builder proposes to complete the construction and offer of the possession of the said unit within 48 months from the date of the receiving of environment clearance or





sanction of building plans whichever is later ("Commitment Period").

However, respondent failed to offer possession of unit on time. Copy of the Builder Buyer Agreement and the notification dated 19.08.2013 containing information issued by Haryana Govt. (Town and Country Planning Department) is annexed as Annexure C- 4 and C-5 respectively.

9. That as per the payment schedule (Annexure -A) attached with the agreement executed between the parties, complainant made the timely payments as per the demands raised by the respondent. Thus, the complainant had made payment of a total sum of ₹11,75,739/- towards total sale consideration of ₹12,80,380/-. Copy of the receipts issued by the respondent is attached as Annexure C-1, C-3, C-6 to C-10.

10. That on 10.07.2019 after completion of four years of allotment dated 10.07.2015, the complainant visited the office of the respondent/developer and asked for the possession of the allotted unit but no satisfactory reply was received. Thereafter the complainant visited many a times the office of the developer for the possession of the unit but when no satisfactory reply was received, complainant suspected some foul play on the part of the developer, hence he contacted some other allottees in this regard. Thereafter, the complainant and other allottees of the same housing scheme visited project site of the Krishna Housing Scheme, where they came to know that no construction of the units has yet been started. It is also pertinent to mention here that the respondent/builder company has



charged the amount as per schedule Annexure- A on the basis of tentative construction schedule but no construction has been made so far. Therefore the respondent has cheated the complainant deliberately and intentionally.

11. That on 27.01.2020 the complainant along with other allottees of the same project, visited the corporate office at New Delhi to meet the Director of the developer company for refund of their deposited amount along with interest but office of the developer refused to refund the amount and no satisfactory reply was given regarding completion of the project.
12. That the main grievance of the complainant in the present complaint is that despite making payment of ₹11,75,439/-, i.e., more than 90% of the purchase price of the unit in a timely manner, respondent has miserably failed to deliver the possession of fully constructed and developed unit as per the specifications shown in the brochure and promised in BBA. Thus, there is an inordinate delay in handing over the possession of the unit.
13. That due to the above acts of the respondent and the unfair terms and conditions of the Builder Buyer agreement, complainant has been unnecessarily harassed by the respondent/developer mentally as well as financially, therefore, respondent is liable to compensate the complainant on account of the aforesaid act of unfair trade practice. There is a prima facie case in favour of the complainant and against the respondent for not meeting its obligations under the Builder Buyers Agreement and the Real Estate (Regulation and Development) Act. 2016, which makes them liable



to answer to this Hon'ble Authority. That the respondent has neither handed over the possession of the flat nor refunded the amount deposited by the complainant along with interest to the complainant, which is against the law, equity and fair play. Therefore being aggrieved person, filing the present complaint before this Hon'ble Authority.

#### **14.RELIEFS SOUGHT**

15.Complainant has sought following reliefs :

- (i) To direct the respondent to refund the amount of ₹11,75,439/- along with prescribed interest from date of payment till date of refund.
- (ii)To direct the respondent to pay complainant a compensation of ₹10,00,000/- for mental agony, harassment, discomfort and undue hardship.
- (iii) To direct the respondent to pay litigation cost of 1,00,000/- to the complainant.
- (iv) To restrain the respondent from giving effect to unfair clauses unilaterally incorporated in builder buyer agreement.
- (v) Any other relief to which the complainant is found entitled by this Hon'ble Authority.

#### **16.REPLY ON BEHALF OF RESPONDENT**

17.Notice was served to the respondent on 05.04.2023 which got successfully delivered on 07.04.2023.Despite availing two opportunities respondent



failed to file his reply on time. Therefore, Authority deems it fit to struck off the defence and decide it ex-parte, as per record available on the file.

18. It is to mention that in complaint no.1581 of 2023, an application dated 06.10.2023, has been filed on behalf of respondent no.4, mentioning that respondent no.4 was associated as an independent director with respondent no.1 till 01.04.2018. The respondent no.4 has resigned from the respondent no.1 on 01.04.2018 and thereafter respondent no.4 has severed all professional ties with the said company and not liable for any acts or omissions on part of respondent no.1. even when the applicant was associated with respondent no.1 he was never a promoter and therefore respondent no.4 is not covered under any clause of RERA, Act of 2016.

### **19. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT**

20. Counsel for complainant reiterated the facts of the complaint and stated that on last date of hearing respondent was directed to file reply, however no reply has been filed by the respondent till date, therefore, requested the Authority to decide the matter on the basis of facts on record.

### **(B) CATEGORY II**

21. The details of the complaints falling under category B, unit no., date of allotment letter, date of builder buyer agreement, total sale consideration



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and amount paid by the complainant, offer of possession and relief sought  
are given in the table below:

Affordable Housing Scheme 2013								
"Clause 5(iii) (b) : All flats in a specific project shall be allotted in one go within four months of sanction of building plans or receipt of environmental clearance whichever is later and possession of flats shall be offered within the validity period of 4 years of such sanction/ clearance. Any person interested to apply for allotment of flat in response to such advertisement by a coloniser may apply on the prescribed application form alongwith 5% amount of the total cost of the flat."								
Sr. no.	Complaint no./Title/Date of filing	Reply Status	Unit no.	Date of allotment letter	Date of execution of builder buyer agreement	Total sale consideration (TSC) and amount paid by the complainant (Paid amount)	Offer of possession	Relief sought
1.	621 of 2023 Arti Golas Vs. Raheja Developers Ltd 24.03.2023		1005, 1 <sup>st</sup> floor, Tower E5	10.07.2015	Not executed	TSC: ₹1657258 Paid amount: ₹1521343	No	Refund of paid amount along with interest. Pay litigation cost of 1,00,000/-.
2.	622 of 2023 Abhinav Gupta Vs. Raheja Developers Ltd 24.03.2023		4005, 4 <sup>th</sup> floor, Tower F	10.07.2015	Not executed	TSC: ₹1657258 Paid amount: ₹1521351	No	Refund of paid amount along with interest. Pay litigation cost of 1,00,000/-.
3.	1128 of 2022 Mahesh Kumar Gupta Vs. Raheja Developers Ltd 01.06.2023		10009, 10 <sup>th</sup> floor, Tower C2	10.07.2015		TSC: ₹1524022 Paid amount: ₹1400355 ( receipts of 11,22,221+ ₹80725 dated 06.07.2015 taken from demand letter dated 11.07.2015+ ₹197409 dated 18.01.2016 taken from demand	No	Refund of paid amount along with interest. Pay litigation cost of 1,00,000/-.

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						letter dated 08.1.2018		
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**22.CATEGORY II: COMPLAINT NO.621 OF 2023 IS TAKEN AS A**

**LEAD CASE AND BRIEF FACTS OF COMPLAINT:**

23.Present case of the complainant is that upon the representation by the respondent and advertisement published, the respondent was to construct a residential colony in the name and style of "Krishna Housing Scheme", located at sector-14, Sohna, Gurgaon, Haryana under the provisions of Affordable Housing Policy 2013. By way of draw of lots held on 06.07.2015 at HUDA Gymkhana Club, Sector-29, Gurgaon, the complainant was allotted a unit no. 1005, 1st floor, Tower E5, admeasuring carpet area of 452.33 sq. ft. and balcony area of 57.74 sq. ft. for a total consideration of ₹16,57,258/- vide allotment letter dated 10.07.2015 which is annexed as Annexure I.

24.That the complainant had paid a total amount of ₹15,21,343/- from December 2014 till January 2018, as per the statement of account dated 20.04.2019, which annexed as Annexure II. That based on the clause 5 (iii) (b) of the Affordable Housing Policy, 2013, the possession of flats shall be offered within the validity period of 4 years of sanction of building plans or receipt of environmental clearance, however, the possession of the said unit has not been offered till date.



25. That despite making payment of the substantial amount by the complainant, the possession of the unit in question has not been offered till date to the complainant, therefore, the complainant seeks indulgence of the Hon'ble Authority seeking refund of the paid amount along with interest.

## **26. RELIEFS SOUGHT**

27. Complainant has sought following reliefs :

- (i) The Respondent be directed to refund the entire amount received from the complainant and pay interest to the complainant on the amount paid by the complainant from the date of payments made till the date of refund as per section 2 (za) and 18 of the RERA.
- (ii) That this Hon'ble Authority may direct the Respondent to pay litigation cost @ Rs. 1,00,000/- to the complainant.
- (iii) That as per section 4 (2) (1) (d) of the Act, a direction be issued for forensic audit of the society accounts for the fact to come in surface alone by the people who worked on behalf of the society as person.

## **28. REPLY ON BEHALF OF RESPONDENT**

29. Notice was served to the respondent on 05.04.2023 which got successfully delivered on 07.04.2023. Despite availing two opportunities respondent failed to file reply on time. Therefore, Authority deems it fit to struck off the defence and decide it ex-parte, as per the record available on the file.



**30. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT**

31. Counsel for complainant reiterated the facts of the complaint and stated that on last date of hearing respondent was directed to file reply, however no reply has been filed by the respondent till date, therefore, requested the Authority to decide the matter on the basis of facts on record.

32. In complaint no.621 of 2023, clause (iii) of relief was neither argued nor pressed upon during the course of hearing.

**(C) CATEGORY III**

33. The details of the complaints falling under category C, unit no., date of allotment letter, date of builder buyer agreement, total sale consideration and amount paid by the complainant, offer of possession and relief sought are given in the table below:

Sr. no.	Complaint no./Title/Date of filing	Reply Status	Unit no.	Date of allotment letter	Date of execution of builder buyer agreement	Total sale consideration (TSC) and amount paid by the complainant (Paid amount)	Offer of possession	Relief sought
1.	1771 of 2023 Sonali Vs. Raheja Developers Ltd 04.08.2023		13009, 13 <sup>th</sup> floor Tower C2 (As per ledger attached and demand letters)	No allotment letter attached	No BBA attached	TSC: ₹1524022 (as per para 3(i) of pleadings) Paid amount: ₹1185806	No	Refund of paid amount along with interest. To compensate complainant of ₹12000/- per month for stay in rent premises.



**34.CATEGORY III: COMPLAINT NO.1771 OF 2023 IS TAKEN AS A  
LEAD CASE AND BRIEF FACTS OF COMPLAINT:**

35. That as per affidavit filed by complainant on 15.01.2024, case of the complainant is that complainant/deponent applied for allotment of unit in affordable housing scheme in project Krishna Housing Scheme situated in sector-14, Sohna, Haryana. Complainant booked unit for total sale consideration of ₹15,24,022/- and complainant was allotted unit no.13009, 13<sup>th</sup> floor, Raheja Krishna-C2, S No.2,7,8 village Raisika, Sector -14, Sohna. After booking of unit complainant applied for home loan of ₹13,00,000/- @8.25% per annum from HDFC bank in respect of unit. Copy of loan is attached as Annexure A. Complainant signed the agreement with the respondent in month of July 2015 however, respondent kept the original BBA with him, saying that BBA will be provided only after signing of higher officials. Complainant kept on requesting the respondent through emails to provide the BBA, no satisfactory reply was given by the respondent.
36. Complainant had paid an amount of ₹1185806/- against the total sale consideration of ₹1524022/-. Respondent issued various demand letters dated 15.07.2015 and 26.11.2019 which are annexed as Annexure C and E.



37. Respondent committed to offer possession of flat within 4 years from date of receiving environment clearance or approval of building plan, however respondent failed to fulfil its obligations.

**38. RELIEF SOUGHT:**

39. Complainant sought following reliefs:

- (i) To direct respondent to refund the paid amount along with interest.
- (ii) To direct respondent to compensate ₹12000/- per month to the deponent/complainant as she compelled to stay in rent premises.
- (iii) To compensate for mental agony and distress caused to her because of misconduct of the respondent along with cost for filing and pursuing this complaint.
- (iv) To pay ₹5,00,000/- as compensation for the pain, agony and harassment and torture caused to complainant.
- (v) Any other relief which Authority deems fit.

**40. REPLY ON BEHALF OF RESPONDENT**

41. Notice was served to the respondent on 24.08.2023 which got successfully delivered on 29.08.2023. Despite availing two opportunities respondent failed to file reply on time. Therefore, Authority deems it fit to struck off the defence and decide it ex-parte, as per the record available on the file.



**42. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT**

43. Complainant herself reiterated the facts of the complaint and stated that on last date of hearing respondent was directed to file reply, however no reply has been filed by the respondent till date, therefore, requested the Authority to decide the matter on the basis of facts on record.

44. In complaint no.1771 of 2023, clause (ii) of relief was neither argued nor pressed upon during the course of hearing.

**45. ISSUE FOR ADJUDICATION**

46. Whether the complainants in all the above captioned complaints are entitled to refund of the amount deposited by them along with interest in terms of Section 18 of Act of 2016?

**47. OBSERVATIONS AND DECISION OF AUTHORITY**

48. The Authority has gone through the facts of the complaints as submitted by the complainants. In light of the background of the matter, Authority observes as under:

- i. **Category I:** That in complaint no.601 of 2023, complainant booked unit in the project "Krishna Housing Scheme" which is an Affordable Housing Scheme being developed by the respondent/promoter namely; Raheja Developers Ltd. and



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complainant was allotted unit no.3012, 3<sup>rd</sup> floor, Tower B1, in the said project at Sector-14, Sohna, Haryana. The builder buyer agreement was executed between the parties on 10.03.2017. Complainant had paid a total sum of ₹11,75,739/- against the basic sale consideration price of ₹12,80,380/- .

As per clause 5.2 of the agreement respondent/developer was under obligation to hand over the possession to the complainant within 48 months from the date of approval of building plans or grant of environment clearance whichever is later.

ii. **Category II** : In complaint no.621 of 2023, complainant booked unit in the project "Krishna Housing Scheme" which is an Affordable Housing Scheme being developed by the respondent/promoter namely; Raheja Developers Ltd. and complainant was allotted unit no.1005, 1<sup>st</sup> floor, Tower E5, in the said project at Sector-14, Sohna, Haryana vide allotment letter dated 10.07.2015 and complainant had paid a total sum of ₹1521343/- against the basic sale consideration price of ₹1657258/-As no builder buyer agreement was executed between the parties, but the fact remains that respondent allotted the unit in favour of complainant and said allotment was governed "Affordable Housing Policy- 2013". As per clause 5 (iii) (b) of said policy, possession to be offered within 4 years from date of



sanction of building plans or receipt of environmental clearance whichever is later.

- iii. Category III :** It is matter of record, that in complaint no.1771 of 2023, complainant booked unit in the project “Krishna Housing Scheme” which is an Affordable Housing Scheme being developed by the promoter namely; Raheja Developers Ltd. and complainant was allotted the unit no.13009, 13<sup>th</sup> floor, Tower C2 as per the customer ledger attached by the complainant. The facts remains that in present complainant, that there is no allotment letter nor any builder buyer agreement but respondent allotted the unit in favour of complainant and said unit was allotted in project of respondent namely; Krishna Housing Scheme. Said project is governed “Affordable Housing Policy- 2013” and as per clause 5 (iii) (b) of said policy, possession to be offered within 4 years from date of sanction of building plans or receipt of environmental clearance whichever is later.
- iv.** It comes to the knowledge of the Authority while dealing with the cases against the same respondent namely; M/s Raheja Developers Ltd., the respondent/ developer received approval of building plans on 27.04.2015 and got the environment clearance on 09.03.2015. That means, as per possession clause, a period of 4 years is to be



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taken from 27.04.2015 and therefore, date of handing over of possession comes to 27.04.2019.

- v. Period of 4 years is a reasonable time to complete development works in the project and handover possession to the allottee, however, respondent failed to hand over possession to the complainants. After paying their hand earned money, legitimate expectations of the complainant(s) would be that possession of the unit will be delivered within a reasonable period of time. However, respondent has failed to fulfill its obligations as promised to the complainant(s). Thus, complainant(s) is at liberty to exercise their right to withdraw from the project on account of default on the part of respondent to offer legally valid possession and seek refund of the paid amount along with interest as per section 18 of RERA Act.
- vi. Further, Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others* " in Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgement is reproduced below:

"25. *The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is*



*not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.”*

The decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession. The complainants wishes to withdraw from the project of the respondent, therefore, Authority finds it fit cases for allowing refund in favour of complainant.

vii. In complaint no.1581 of 2023, the plea of respondent no.4 vide application dated 06.10.2023, that respondent no.4 was associated as an independent director with respondent no.1 till 01.04.2018 and thereafter respondent no.4 resigned from



01.04.2018 and severed all ties with the company stands rejected as when the complainant enters into an agreement with the respondents in the year 2017, respondent no.4 was associated with the respondent no.1. Therefore, respondent no.4 is jointly and severally liable with the respondent no.1.

viii. The definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

*(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;*

ix. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is 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”.*

Consequently, as per website of the state Bank of India i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date, i.e.,18.03.2024 is 8.85%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 10.85%.

- x. From above discussion, it is amply proved on record that the respondent has not fulfilled its obligations cast upon him under RERA Act, 2016 and the complainant(s) are entitled for refund of deposited amount along with interest. Thus, respondent is liable to pay the complainants interest from the date the amounts were paid till the actual realization of the amount.
- xi. Therefore, Authority allows refund of paid amount along with interest to the all the complainants at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017, i.e., at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 10.85% (8.85% + 2.00%) from the date amounts were paid till the actual realization of the amount. Authority has got calculated the total amounts along with interest as per detail given in the table below:



Sr. no.	Complaint no.	Amount paid	Interest	Total
1.	601 of 2023	₹11,75,439/-	₹9,67,239/-	₹21,42,678/-
2.	604 of 2023	₹13,99,169/-	₹11,37,233/-	₹25,36,402/-
3.	605 of 2023	₹8,28,628/-	₹6,55,183/-	₹14,83,811/-
4.	882 of 2023	₹10,35,786/-	₹8,31,172/-	₹18,66,958/-
5.	1158 of 2023	₹13,97,168/-	₹11,45,148/-	₹25,42,316/-
6.	1231 of 2023	₹8,02,067/-	₹7,14,651/-	₹15,16,718/-
7.	1267 of 2023	₹13,99,161/-	₹11,50,371/-	₹25,49,532/-
8.	1287 of 2023	₹13,99,737/-	₹11,48,036/-	₹25,47,773/-
9.	1359 of 2023	₹11,75,440/-	₹9,67,514/-	₹21,42,954/-
10.	1581 of 2023	₹21,19,297/-	₹16,35,204/-	₹37,54,501/-
11.	2188 of 2023	₹12,03,974/-	₹10,07,793/-	₹21,98,432/-
12.	621 of 2023	₹15,21,343/-	₹12,50,232/-	₹27,71,575/-
13.	622 of 2023	₹15,21,351/-	₹12,53,312/-	₹27,74,663/-
14.	1128 of 2023	₹14,00,355/-	₹11,47,564/-	₹25,47,919/-
15.	1771 of 2023	₹11,85,806/-	₹10,03,495/-	₹21,89,301/-

- xii. In complaint no.1581 of 2023, complaint has sought refund of an amount ₹21,19,297/- as per relief clause, however, as per application dated 19.02.2024, complainant stated that he had paid an amount of ₹21,22,867/-. On perusal of complaint file and documents on record, it is found that complainant had paid total



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amount of ₹21,19,297/- only. Therefore, Authority grant refund of  
₹21,19,297/- along with interest.

xiii. Further, the complainants in all complaints are seeking compensation on account of mental agony, litigation cost and physical harassment caused to the complainants. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. & ors.*" (supra,), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

#### **49.DIRECTIONS OF THE AUTHORITY**

50.Hence, the Authority hereby passes this order and issue following directions under Section 37 of the Act to ensure compliance of obligation




Complaint nos.601,604,605,882,1158,1231,1267,1287,1359,  
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cast upon the promoter as per the function entrusted to the Authority  
under Section 34(f) of the Act of 2016:

- (i) Respondent(s) is directed to refund the amount to the complainant as specified in the table provided in para (xi) of this order. It is further clarified that respondent(s) will remain liable to pay the complainant interest till the actual realization of the amount.
- (ii) Respondent(s) is also directed to deposit the cost of ₹5000/- payable to the Authority and ₹2000/- payable to the complainant in complaint nos.601, 604, 605, 621, 622, 882, 1128, 1158, 1231, 1267 and 1287 of 2023.
- (iii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.

**51.Disposed off.** File be consigned to record room after uploading of the order on the website of the Authority.

  
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**CHANDER SHEKHAR**  
[MEMBER]

  
.....  
**NADIM AKHTAR**  
[MEMBER]