



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

<b>Complaint no.:</b>	<b>1163 of 2023</b>
<b>Date of filing:</b>	<b>09.06.2023</b>
<b>Date of first hearing:</b>	<b>18.07.2023</b>
<b>Date of decision:</b>	<b>29.04.2024</b>

Des Raj Tutlani S/o Sh. Gopal Dass Tutlani,  
R/o EA-134, Inderpuri,  
New Delhi-110012

....COMPLAINANT

VERSUS

1. TDI Infracorp (India) Limited through its Managing Director,  
UG Floor, Vandana Building, 11  
Tolstoy Marg, New Delhi- 110001

2. TDI Realcon Pvt Ltd through its Managing Director,  
UG Floor, Vandana Building, 11  
Tolstoy Marg, New Delhi- 110001

3. India Infoline Housing Finance Ltd through its Managing Director,  
Plot no. 98, Udyog Vihar, Phase-IV  
Gurgaon, Haryana-122015

....RESPONDENT(S)

<b>Complaint no.:</b>	<b>1843 of 2023</b>
<b>Date of filing:</b>	<b>16.08.2023</b>
<b>Date of first hearing:</b>	<b>14.09.2023</b>
<b>Date of decision:</b>	<b>29.04.2024</b>

*had*

M/s Rohan Fabrics through its partner Des Raj Tutlani  
S/o Sh. Gopal Dass Tutlani  
2209/65, Abdul Aziz Road, Naiwala, Karol Bagh,  
New Delhi-110005

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Gurgaon, Haryana-122015

....RESPONDENT(S)

<b>CORAM:</b>	<b>Nadim Akhtar</b>	<b>Member</b>
	<b>Chander Shekhar</b>	<b>Member</b>

**Present: -** Mr. Rit Arora, Counsel for the Complainant in both cases through VC.  
Mr. A.P Nain, Counsel for the respondent no. 1 in both cases through VC.  
None for respondent no. 2 in both cases.  
Mr. Vineet Sehgal, Counsel for the respondent no. 3 through VC in both cases.

**ORDER (NADIM AKHTAR - MEMBER)**

1. Both of captioned complaints are taken up together for hearing as these involve similar issues and are against the same project-‘Water side floors at TDI Lake Grove City, Sonipat’ of respondents. This



order is passed taking complaint no. 1163-2023 titled as Des Raj Tutlani vs TDI Infracorp Ltd & Ors. as a lead case.

2. Present complaint has been filed on 09.06.2023 by complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short 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.

#### A. UNIT AND PROJECT RELATED DETAILS

3. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	Waterside Floors, TDI Lake Grove City, Kundli, Sonipat
2.	Name of the promoter	TDI Infracorp Ltd and Others.
3.	RERA registered/not registered	Un-Registered.
4.	Unit no.	WF-132/GF
5.	Unit area	1400 sq. ft.

6.	Date of builder buyer agreement	19.12.2014
7.	Due date of offer of possession	19.06.2017
8.	Possession clause in BBA -30 months	Clause 28 <i>".....However, if the possession of the floor is delayed beyond a period of 30 months from the date of execution thereof and the reasons of delay are solely attributable to the wilful neglect or default of the company then for every month of delay, the purchaser shall be entitled to a fixed monthly compensation/ damages/ penalty quantified @ Rs 5 per square foot of the total super area of the floor. The purchaser agrees that he shall neither claim nor be entitled for any further sums on account of such delay in handing over the possession of the floor."</i>
9.	Total sale consideration	₹ 62,99,279/-
10.	Amount paid by complainant	₹ 33,77,418/-
11.	Offer of possession (fit-out)	05.07.2023.

## B. FACTS OF THE COMPLAINT

4. Facts of present complaint are that respondent no. 1 and 2 had launched a Group Housing Project with the name and style of 'Waterside floors' situated at TDI Lake Grove City Kundli Sonipat Haryana. Respondent no. 1 was defined as license holder in the floor buyer's agreement for the development of the group housing project. Respondent no. 2 is defined as marketing and branding rights holder

of the respondent no. 1. Respondent no. 3 is the financial institution from which the complainant had availed the housing loan and hence is a necessary party to the dispute.

5. That being impressed with the assurances and promises of the respondents, with respect to the timely delivery of the unit, quality construction and payment of EMI until possession, the complainant made the booking of the unit on 30.04.2013 through application for booking. Pursuant to said booking, parties entered into floor buyer agreement on 19.12.2014. As per clause 28 of it, possession of the floor was supposed to be delivered latest by 19.06.2017. Copy of agreement is annexed as Annexure C-2.
6. That not only did the respondents abused their dominant position and employed unfair trade practices, they also miserably failed in completing the construction and development of the residential floor within the promised time frame, i.e., upto 19.06.2017. There is no outstanding amount payable by the complainant as of today as the possession of the unit is not offered to the complainant till date. Complainant had chosen a construction linked plan and till date complainant has already paid an amount of Rs 33,77,418/-
7. That the complainant has been deprived of the use of his money since 2013, whereas the respondents continue to enjoy the hard earned money of the complainant without any repercussions. Moreover,



respondents have miserably delayed the construction and development of the project. The possession of the residential floor has been due since 19 June,2017 but till date the same has not been delivered and there is no sign of completion of the same in near future.

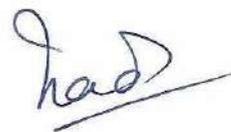
8. That at time of booking of unit, the respondents had proposed to make the payment of the monthly EMI, if the loan was availed by the complainant through the financial institution of the liking of the respondents. Evidently, the respondents were in arrangement with India Infoline Housing Finance Limited (IIHFL) and thus under the garb of Subvention Scheme they lured the complainant to avail loan from the India Infoline Housing Finance Limited to the tune of Rs 15,87,322/-.
9. That the complainant was assured that the respondents shall make the payment of the Pre-EMI until possession, as such was the scheme under which the loan was availed. The complainant was not supposed to feel the pinch of the payment of EMI until he has had the possession of the unit. But contrary to their assurances, the respondents failed to make the payment of the pre-EMI only after few installments and entire burden for payment fell upon the shoulders of the complainant. Copy of the Tripartite Agreement dated nil, 2014 and the MOU dated 31.12.2015 are annexed as Annexure C-4.



10. That the complainant has paid a huge sum of money to the IIHFL towards the interest component only. Complainant is entitled to the reimbursement of the same alongwith prescribed rate of interest. Further, the project of the respondent is far from completion even today. The complainant cannot be expected to wait endlessly for the possession of his unit and is entitled to the refund of his paid amount alongwith prescribed rate of interest. Hence the present complaint has been filed.

### **C. RELIEF SOUGHT**

11. Complainant in his complaint has sought following reliefs:
- i. Direct the Respondent no. 1 and 2 to refund the sum of Rs 33,77,418/- to the complainant, with prescribed rate of interest, from the date of respective payment of installments until the actual realization.
  - ii. Direct the respondent no. 1 and 2 to reimburse the complainant, amount paid by him to the respondent no. 3 towards the Pre-EMI (interest component) as per the terms of the MOU dated 31.12.2015, alongwith prescribed rate of interest from the date of respective payment of installments until actual realization.
  - iii. May pass any other order or orders as this Hon'ble Authority may deem fit under the facts and circumstances of the matter.



**D. REPLY SUBMITTED ON BEHALF OF RESPONDENT NO. 1**

Learned counsel for the respondent no. 1 filed detailed reply on 30.10.2023 pleading therein:

12. That the complainant herein is an investor and not a consumer.
13. That the provisions of the RERA Act, 2016 are prospective in nature and not retrospective.
14. That the complainant have merely alleged in the complaint about delay on part of the respondent in handing over of possession of the flat booked by the complainant. Whereas respondents have been acting in consonance with the buyer's agreement duly executed between the complainants and the respondent and no contravention of the same can be projected on the respondent.
15. That the respondent had made huge investments in obtaining approvals and carrying on the construction and development of the project and despite several adversities has completed the construction of the project and has offered possession of the unit to the complainant on 05.07.2023 and has sent the offer of possession alongwith statement of account to the complainant. Copy of offer of possession alongwith postal receipt is attached as Annexure R-1.
16. That Kundli real estate market is one of the worst performing real estate market for the last 9-10 years which resulted in slowdown sale of units. Many factors including the Covid pandemic, Restriction of construction

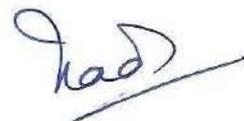


activity in NCR region due to pollution and farmer's agitation impacted the developed as it resulted in stoppage of construction for more than 2 years in the past. It is pertinent to mention here that the complainant was not punctual in making timely payment of instalments and interest is chargeable on account of delay. The outstanding amount of unit is Rs 68,35,825/- as on 19.07.2023 but complainant has neither come forward to make payment of due amount and to accept possession of unit.

17. It is pertinent to mention here that neither reply has been filed by respondent no. 2 nor anyone has put in appearance on behalf of it. Respondent no. 3 has not filed reply, however, Adv. Vineet Sehgal has put in appearance on behalf of it.

**E. ARGUMENTS OF COMPLAINANT AND LEARNED COUNSEL FOR RESPONDENT NO. 1 AND RESPONDENT NO. 3.**

18. During oral arguments, ld. Counsel for complainant submitted that the possession of the unit was supposed to be delivered by the year 2017. However, respondent has offered possession to the complainant on 19.07.2023 that too without obtaining occupation certificate. A valid offer of possession is yet to be made to the complainant. Even in its reply respondent has failed to provide surety in regard to the grant of occupation certificate. Complainant who has already waited for so many years does not wish to wait endlessly for delivery of possession of flat and insists upon refund of



paid amount with interest and reimbursement of interest component as prayed for in relief clause.

19. Learned counsel for the respondent no. 1 reiterated arguments as were submitted in written statement and further stated that application for grant of occupation certificate has already been filed before the competent authority, i.e., DTCP Haryana and the same is still pending with the DTCP. It is the complainant who is at fault by not coming forward to accept possession of the floor after making payment of outstanding dues.

20. Learned counsel for respondent no. 3 has stated that no relief in particular has been prayed against respondent no. 3. So, name of respondent no. 3 be deleted from array of parties.

#### **F. ISSUES FOR ADJUDICATION**

- i. Whether the complainant is entitled to refund of amount deposited by him along with interest in terms of Section 18 of Act of 2016?
- ii. Whether the complainant is entitled to reimbursement of interest component in terms of MOU dated 31.12.2015 alongwith interest?

#### **G. FINDINGS ON THE OBJECTIONS RAISED BY THE RESPONDENT NO. 1.**

##### **G.I Objection regarding retrospective application of provisions of RERA Act, 2016.**

Respondent no. 1 in its reply has raised an objection that the provisions of RERA Act, 2016 cannot be applied retrospectively. Reference can be made



to the case titled M/s Newtech Promoters & Developers Pvt. Ltd. vs. State of UP & Ors. Etc. (supra), wherein the Hon Apex Court has held as under:-

“41. The clear and unambiguous language of the statute is retroactive in operation and by applying purposive interpretation rule of statutory construction, only one result is possible, i.e., the legislature consciously enacted a retroactive statute to ensure sale of plot, apartment or building, real estate project is done in an efficient and transparent manner so that the interest of consumers in the real estate sector is protected by all means and Sections 13, 18(1) and 19(4) are all beneficial provisions for safeguarding the pecuniary interest of the consumers/allottees. In the given circumstances, if the Act is held prospective then the adjudicatory mechanism under Section 31 would not be available to any of the allottee for an ongoing project. Thus, it negates the contention of the promoters regarding the contractual terms having an overriding effect over the retrospective applicability of the Act, even on facts of this case.” “45. At the given time, there was no law regulating the real estate sector, development works/obligations of promoter and allottee, it was badly felt that such of the ongoing projects to which completion certificate has not been issued must be brought within the fold of the Act 2016 in securing the interests of allottees, promoters, real estate agents in its best possible way obviously, within the parameters of law. Merely because enactment as prayed is made retroactive in its operation, it cannot be said to be either violative of Articles 14 or 19(1)(g) of the Constitution of India. To the contrary, the Parliament indeed has the power to legislate even retrospectively to take into its fold the preexisting contract and rights executed between the parties in the larger public interest.” “53. That even the terms of the agreement to sale or home buyers agreement invariably indicates the intention of the developer that any subsequent legislation, rules and regulations etc. issued by competent authorities will be binding on the parties. The clauses have imposed the applicability of subsequent legislations to be applicable and binding on the flat buyer/allottee and either of the parties, promoters/home buyers or allottees, cannot shirk from their responsibilities/liabilities under the Act and implies their challenge to the violation of the provisions of the Act and it negates the contention advanced by the appellants regarding contractual terms having an overriding effect to the retrospective applicability of the Authority under

*the provisions of the Act which is completely misplaced and deserves rejection. 54. From the scheme of the Act 2016, its application is retroactive in character and it can safely be observed that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. At the same time, it will apply after getting the ongoing projects and future projects registered under Section 3 to prospectively follow the mandate of the Act 2016.”*

The provisions of the Act are retroactive in nature and are applicable to an act or transaction in the process of completion. Thus, the rule of retroactivity will make the provisions of the Act and the Rules applicable to the acts or transactions, which were in the process of the completion though the contract/ agreement might have taken place before the Act and the Rules became applicable. Hence, it cannot be stated that the provisions of the Act and the Rules made thereunder will only be prospective in nature and will not be applicable to the agreement for sale executed between the parties prior to the commencement of the Act.

**G.II Objections raised by the respondent stating that complainant herein is an investor.**

The complainant herein is the allottee/homebuyer who has made a substantial investment from his hard earned savings under the belief that the promoter/real estate developer will handover possession of the booked unit within 3-4 years of allotment but his bonafide belief stood shaken when the promoter failed to offer a valid possession of the booked unit till date without any reasonable cause. It is after an inordinate delay in handing over



of possession that complainant has approached this Authority for seeking refund of paid amount with interest in terms of provisions of RERA Act,2016 being allottee of respondent-promoter. As per definition of allottee provided in clause 2(d) of RERA Act,2016, present complainant is duly covered under it and is entitled to file present complaint for seeking the relief claimed by him. Clause 2(d) of RERA Act,2016 is reproduced for reference:-

*“Allottee-in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter and includes the person who subsequently acquires the said allotment through sale, transfer, or otherwise but does not include a person to whom such plot, apartment or building as the case may be, is given on rent”.*

Complainant has been allotted floor in the project of respondent by the respondent/promoter itself and said fact is duly admitted by the respondent in builder buyer agreement dated 19.12.2014. Also, the definition of allottee as provided under Section 2 (d) does not distinguish between an allottee who has been allotted a unit for consumption/self-utilization or investment purpose. So, the plea of respondent to dismiss the complaint on the ground that complainant herein is investor does not hold merit and same is rejected.

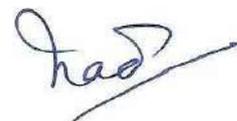


## H. OBSERVATIONS AND DECISION OF THE AUTHORITY

21. The Authority has gone through the rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both parties, Authority observes as follows:

(i) Admittedly, complainant had purchased the floor in the project of the respondent no. 1 by way of executing builder buyer agreement on 19.12.2014 with respondent no. 1 and 2 against which an amount of ₹33,77,418/- has been paid to the respondent no. 1 and 2. Out of said paid amount, last payment of ₹12,340/- was made to respondent no. 1 and 2 on 23.11.2019 which implies that respondent no. 1 and 2 is in receipt of total paid amount since year 2019 whereas fact remains that no valid offer of possession duly supported with occupation certificate of the booked floor has been made till date. It is pertinent to mention here that builder agreement for unit in question was executed with respondent no. 1 and 2. For paid amount, statement of account attached at page no. 60 of complaint has been issued by respondent no. 1 and receipts attached at page no. 63,64 and 67 has been issued by respondent no. 2. Meaning thereby that both respondent no. 1 and 2 had received amount from complainant towards sale consideration of unit.

(ii) During the course of hearing, ld. counsel for respondent no. 3 has requested to delete the name of respondent no.3 from array of



parties. Perusal of file reveals that no allegation has been specified against respondent no. 3 in pleadings and no relief in particular has been sought against respondent no. 3. Considering this fact, no direction is issued against respondent no. 3 in this order.

(iii) Authority observes that the floor in question was allotted to complainant by way of executing builder buyer agreement dated 19.12.2014. In terms of clause 28 of it, respondent was under an obligation to deliver possession within 30 months, i.e., latest by 19.06.2017. In present situation, respondent failed to honour its contractual obligations without any reasonable justification.

(iv) Respondent no. 1 vide letter dated 05.07.2023 had offered possession for fit-out to the complainant along with demand of ₹ 43,52,552/- but said offer of possession was issued without obtaining occupation certificate. Complainant filed present complaint seeking refund of paid amount along with interest, as the respondent no. 1 and 2 have failed in their obligations to deliver legally valid possession as per the terms of Builder buyer's agreement.

(v) Despite making full and final payment towards booking of floor complainant has sought relief of refund of paid amount for the reason that respondent no. 1 is not in a position deliver a valid possession of the flat. Complainant had invested his hard earned money in the project with hopes of timely delivery of possession. However,



possession of flat was offered to the complainant after a delay of more than five years. Fact remains that respondent no. 1 is yet to receive occupation certificate meaning thereby that a valid possession is yet to be offered to the complainant.

(vi) When an allottee becomes a part of the project it is with hopes that he will be able to enjoy the fruits of his hard earned money in terms of a safety and security of his own home. However, in this case due to peculiar circumstances complainant has not been able to enjoy the fruits of his investment capital as the possession of the flat in question is shrouded by a veil of uncertainty. Complainant had invested a huge amount of ₹33 Lakh with the respondent no. 1 and 2 by the year 2019 to gain possession of a residential floor. However, respondent no. 1 is not in a position to offer a valid offer to the complainant since the project is yet to receive occupation certificate. Since respondent no. 1 is not in a position to offer a valid offer of possession in foreseeable future, complainant who has already waited for more than eight years does not wish to wait for a further uncertain amount of time or a valid possession. Complainant is at liberty to exercise his rights to withdraw from the project on account of default on the part of respondent no. 1 and 2 to deliver possession and seek refund of the paid amount.



(vii) 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."*

22. The decision of the Hon'ble 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 complainant wishes to withdraw from the



project of the respondent, therefore, Authority finds it to be fit case for allowing refund in favour of complainant.

23. 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;*

24. 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. 29.04.2024 is 8.85%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 10.85%.

25. 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".*

26. From above discussion, it is amply proved on record that the respondent no. 1 and 2 has not fulfilled its obligations cast upon them under RERA Act, 2016 and the complainant is entitled for refund of deposited amount along with interest. Thus, respondent no. 1 and 2 will be liable to pay the complainant interest from the date amounts were paid till the actual realization of the amount. Authority directs respondent no. 1 and 2 to refund to the complainant the paid amount of ₹33,77,418/- along with interest 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 amount along with interest calculated at the rate of 10.85% till the date of this order and total amount works out to ₹ 36,12,865/- as per detail given in the table below:

In complaint no. 1163/2023

Sr. No.	Principal Amount in ₹	Date of payment	Interest Accrued till 29.04.2024
1.	5,00,000	30.04.2013	5,97,196



2.	10,35,746	26.10.2013	11,81,975
3.	1,70,505	12.01.2015	1,72,124
4.	15,34,545	12.01.2015	15,49,117
5.	1,00,000	07.08.2015	94,796
6.	11,942	18.11.2019	5769
7.	12,340	22.11.2019	5942
8.	12,340	23.11.2019	5946
9.	Total=33,77,418/-		Total=36,12,865/-
10.	Total Payable to complainant	33,77,418 +36,12,865=	69,90,283/-

In complaint no. 1843/2023

Sr. No.	Principal Amount in ₹	Date of payment	Interest Accrued till 29.04.2024
1.	5,00,000	30.04.2013	5,97,196
2.	10,35,746	26.10.2013	11,81,975
3.	25,16,078	14.12.2015	22,88,666
4.	16,262	18.11.2019	7855
5.	16,804	23.11.2019	8092
6.	16,804	25.11.2019	8082
7.	Total=41,01,694/-		Total=40,91,866/-
8.	Total Payable to complainant	41,01,694+40,91,866=	81,93,560/-

## H. DIRECTIONS OF THE AUTHORITY

27. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) Respondent no. 1 and 2 are directed to refund the entire paid amount of ₹ 33,77,418/- with interest of ₹ 36,12,865/- in complaint no. 1163/2023 and paid amount of ₹ 41,01,694/-

with interest of ₹ 40,91,866/- in complaint no. 1843/2023. It is further clarified that respondent will remain liable to pay interest to the complainant till the actual realization of the amount.

(ii) A period of 90 days is given to the respondent no. 1 and 2 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.

28. Regarding second issue as mentioned in paragraph no.F (ii) of this order, it is observed that complainant is seeking reimbursement of interest component of instalment which had been paid by him on behalf of respondent no. 1 to the respondent no. 3. Said reimbursement is sought with prescribed rate of interest. Perusal of file reveals that builder buyer agreement was executed between complainant and respondent no. 1 and 2 on 19.12.2014. Thereafter, tripartite agreement was executed between complainant and respondent no. 1 and respondent no. 3 on 24.12.2014. Memorandum of understanding (MOU) was executed between complainant and respondent no. 1-TDI Infracorp Ltd on 31.12.2015. Clause 14 of said MOU is reproduced below for reference:-

"14. That, the Second Party availing loan under this scheme shall be entitled to reimbursement of only interest component every month by way



*of cheques, till the date of offer of possession, provided the Second Party does not default in the payment of any installment. It has been mutually agreed that in case of any default on the part of Second Party or in case of intimation from the Bank, the First Party shall immediately stop the reimbursement of interest component and the same will not be revived under any circumstances, even if the Second Party makes good the default."*

As per aforesaid clause, respondent no. 1 is liable to reimburse the interest component of instalment of every month by way of cheque to the complainant (Second party). Complainant's version is that respondent no. 1 and 2 be directed to reimburse the amount paid by him to respondent no. 3 towards the pre-EMI (interest component) as per the terms of MOU dated 31.12.2015 alongwith prescribed rate of interest. Fact remains that MOU dated 31.12.2015 was executed only with respondent no. 1, i.e., TDI Infracorp Ltd. Further, in complaint no. 1163/2023, the copy of MOU attached at pg no. 74 of complaint bears the signature of first party, i.e., respondent no. 1 only. In complaint no. 1843/2023, copy of MOU has not been attached by complainant. On the other hand, respondent no. 1 in its reply has not stated anything towards the plea of MOU or reimbursement of interest component raised by complainant. Moreover, complainants in both the cases have not furnished any calculation of interest component to prove that as to how much amount of interest component has to be paid by the respondent no. 1 and upto what date? How much amount-interest component has been



paid by the complainant on behalf of respondent no. 1 to respondent no. 3. Neither any precise amount nor any dates have been mentioned in the pleadings. In case, if said amount has to be allowed to be refunded then no exact calculation can be worked out as relevant details are not available at file. Moreover, proper signed copies/validly executed MOU are not placed on record by complainants.

29. In these circumstances, the complaints are disposed of allowing refund of paid amount with interest to the complainants as mentioned in aforesaid paragraphs. In respect of relief no. (ii) pertaining to reimbursement of interest component, complainants are at liberty to file fresh complaints with better documents alongwith proper calculations of their respective claims.
30. With these directions, above mentioned cases are **disposed of**. Files be consigned to record room after uploading of order on the website of the Authority.

  
.....  
CHANDER SHEKHAR  
[MEMBER]

  
.....  
NADIM AKHTAR  
[MEMBER]