

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

Complaint no. : 4187 of 2023
First date of hearing: 30.11.2023
Date of decision: 28.03.2024

1. Sh. Anand Kumar
2. Smt. Promila

Complainants

R/o: Jhul Jhuli, Goman Hera, South West
Delhi, Ghuman Hera, Delhi-110073

Versus

M/s Pivotal Infrastructure Pvt. Ltd.
Regd. Office at: 309, 3rd Floor, JMD
Pacific Square, Sector-15, Part-II,
Gurugram-121001.

Respondent

CORAM:

Shri Vijay Kumar Goyal

Member

APPEARANCE:

Sh. Satish Tanwar (Advocate)
Sh. Siddharth Sejwal (AR)

**Complainants
Respondent**

ORDER

1. The present complaint dated 31.08.2023 has been filed by the complainants/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 complainant, 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	"Ridhi Sidhi" at sector 99, Gurgaon, Haryana
2.	Nature of the project	Affordable Group housing
3.	Project area	6.19375 acres
4.	DTCP license no.	86 of 2014 dated 09.08.2014 valid Up to 08.08.2019
5.	RERA Registered/ not registered	Registered vide no. 236 of 2017 dated 19.09.2017 valid upto 08.08.2019
6.	Registration extension vide no.	Harera/GGM/REP/RC/236/2017/EXT/177/2019 Dated 30.12.2019 Valid upto 31.08.2020
7.	Unit no.	1102, 11 th floor, Tower-T3 (As per page no. 26 of the complaint)
8.	Unit area admeasuring	487 sq. ft. (Carpet area) (As per page no. 28 of the complaint)
9.	Date of allotment	06.09.2015 (As per page no. 17 of the complaint)
10.	Date of apartment buyer's agreement	14.01.2016 (As per page no. 27 of the complaint)
11.	Date of building plan approval	17.10.2014 (As per page no. 16 of the reply)
12.	Environmental clearance dated	22.01.2016 (As per page no. 22 of the reply)
13.	Possession clause	8.1 EXPECTED TIME FOR HANDING OVER POSSESSION <i>Except where any delay is caused on account of reasons expressly provided for under this Agreement and other situations beyond the reasonable</i>



		<p><i>control of the Company and subject to the Company having obtained the occupation/completion certificate from the competent authority(ies), the Company shall endeavor to complete the construction and handover the possession of the said Apartment within a period of 4 years from the date of grant of sanction of building plans for the Project or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the Project, whichever is later, subject to timely payment by the Allottee of all the amounts payable under this Agreement and performance by the Allottee of all other obligations hereunder. (As per page no. 37 of the complaint)</i></p>
14.	Due date of possession	22.01.2020 [Due date of possession calculated from the date of environmental clearance dated 22.01.2016]
15.	Total sale consideration	Rs.19,98,000/- (As per page no. 28 of the complaint)
16.	Amount paid by the complainant	Rs.20,60,437/- (As alleged on page no. 6 of the complaint) Rs.21,56,903/- (As per demand letter dated 28.06.2023 on page no. 58 of the complaint)
17.	Occupation certificate	Applied on 22.12.2022 but not yet obtained (As per page no. 43 of the reply)
18.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint:



- i. That after visiting various places in Gurugram in search of a good residential property, the complainants came into contact with the respondent company through publication and its officials by the sales/marketing agent of the respondent, where it was informed to the complainants that the respondent's company is developing an affordable housing project "RIDDHI SIDDHI" affordable group housing society situated at Sector-99, Gurugram and on going through the attractive brochure, the payment plan and assurance given by the officials of the respondent's company regarding constructing the various projects in Gurugram and other districts of Haryana within the stipulated period. It was intimated that the rates of the properties would soar to the great high's and by the reputation of the respondent's company, the complainants decided to have a residential unit in the project of the respondent.
- ii. That complainants duly believed the statement of the representative of respondent and applied with an application no.0349 dated 05.11.2014 and a unit bearing no. 1102 was allotted in Tower-3 having the carpet area of 487.00 sq. ft. along with two-wheeler open parking site and the pro-rata share in the common areas on 11th floor in the project in affordable group housing scheme situated at Sector-99, Gurugram with total sale consideration of Rs.19,98,000/- including all other charges. The complainants duly paid the total consideration of Rs.20,60,437/-.
- iii. That the complainants without making any kind of delay always deposited the amount required as per the payment plan/schedule opted by the complainants immediately on receipt of letters from the respondent company which has also been admitted and acknowledged by the respondent's company officials. The stamp duty

A



- plus registration charges & administrative charges as mentioned in the payment plan is liable to be payable by the complainants and that too at the time of offer of possession.
- iv. That apart from issuing a payment receipts on different dates, the respondent company also issued an allotment letter dated 06.09.2015 carrying the details of unit allotted and also the details of amount to be deposited by the complainants time to time as per payment plan opted by the complainants.
- v. That the complainants deposited the required amount as per the payment plan opted by the complainants according to the apartment buyer's agreement, which was executed between the complainants and the respondent on 14.01.2016 following carrying all the details of terms and conditions of the said agreement were complied by the complainants time to time as well as the respondent from all the time as and when it was required. The total sale consideration for the allotted unit is Rs.19,98,000/- including of fixtures & fittings, Electricity Connection Charges and other charges and the respondent assured the complainants that he has taken all necessary sanctions for the completion of aforesaid project.
- vi. That as per clause 8.1 of the said agreement dated 14.01.2016, it was agreed and settled that the possession of the said unit/flat shall be handed over to the complainants within a stipulated period of four years from the date of approval of building plans or grant of environment clearance (hereinafter referred to as the "Commencement Date") whichever is later. Hence, from the above said clause as mentioned in buyer's agreement, the respondent was duly bound to handover the physical possession of the above said unit/flat to the complainants positively up to 14.01.2020 and it was



- told by the authorised representative of the respondent that till date they have never delayed the completion of any project they have in their hand.
- vii. That the complainants without making any kind of delay always deposited the amount required as per the payment plan/schedule opted by the complainants immediately on receipt of letters from the respondent and in total the complainants had paid an amount of Rs.20,60,437/-.
- viii. That from the above said timely payments made by the complainants to the respondent leaves no iota of doubt that the complainants have been very sincere and honest while complying with the terms and conditions of above said apartment buyer's agreement.
- ix. That on account of not constructing the above said unit within the stipulated period of 4 years, the complainants kept on requesting the respondent company's officials to complete the construction of the said unit as early as possible and handover the peaceful possession of the said unit. All the times the respondent kept on misguiding and putting forth the complainants on one reason or the others and could not adhere to the terms and conditions as settled and agreed upon between the respondent and the complainants. The respondent had failed to hand over the physical possession of the above said unit to the complainants till date.
- x. That till date the complainants are running from pillar to post to get the physical possession of their unit from the respondent till date but futile as the respondent had failed to complete the said project on the assured time. From the above-said facts, it is clear that despite the request of the complainants to give them physical possession of the

12



- unit, thereby misappropriating the hard-earned money of the complainants.
- xi. That on account of not completing the construction of the unit allotted to the complainants within the stipulated period of 4 years, the complainants have suffered a huge monetary loss besides having sleepless night for the past more than 3 years. The complainants had been burdened by the respondent by paying penal rate of interest to the bank and the complainants have also suffered with great mental harassment and humiliation. The act and conduct of the respondents have also snatched the mental peace of the complainants when the complainants received a demand letter dated 18.06.2023 which is illegal and unjustified and required to be cancelled and the complainants are ready to pay the genuine and actual remaining amount of the total sale consideration.
- xii. That the complainants tried to approach the respondent many times and requested with folded hands to hand over the physical possession and to cancel the said reminder and issue fresh demand letter with actual and genuine balance amount of sale consideration of the said unit. But the respondent did not even bothered to respond the buyer and when the complainants asked to the respondent about the delay possession charges, the respondent threatened the complainants to cancel the said unit. On the other side the complainants are paying a huge amount of rent on account of rental accommodation. Despite several requests of the complainants, the respondent is not giving any heed to the request of the complainants.
- xiii. That the respondent had failed to complete and handover the possession of the allotted unit to the complainants within the stipulated time and cheated the complainants to invest their hard-

earned money on believing upon their false assurances. The respondent in a master minded and scripted way succeeded to their ulterior motive and cause wrongful losses to the complainants and wrongful gains to themselves. Thus the respondent has not only breached the trust of the complainants but also in a planned and thoughtful way cheated/defrauded the complainants. The complainants due to respondent's said acts, conduct and misdeeds suffered mental agony, sorrow, trauma and apathy. The respondent involved in the swindling and embezzlement of funds of not only of the complainants but similarly situated innocent people at large. That due to the illegal acts and conduct of the respondent, the complainants had suffered to great mental agony, physical harassment, financial loss, humiliation, hence the respondent is liable to pay the delay possession charges on paid amount to the complainants as per Act of 2016.

C. Relief sought by the complainants:

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

- i. Direct the respondent to handover the legal and rightful possession of the apartment.
- ii. Direct the respondent to pay interest for every month of delay at the prevailing rate of interest.
- iii. Direct the respondent to cancel the illegal demand letter dated 28.06.2023.

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 at the very outset it is submitted that the present complaint is not maintainable or tenable in the eyes of law. The complainants have misdirected themselves in filing the above captioned complaint before the Authority as the subject matter of the claim does not fall within the jurisdiction of the Authority.
 - b. That the respondent was granted a license bearing no. 86 of 2014 dated 09.08.2014 for the development of an affordable group housing residential colony on the land admeasuring area of 6.19375 acres situated in the revenue state of village Kherki-Marja Dhankot, Sector-99, Gurugram. The respondent thereafter, obtained all the relevant approvals and sanctions to commence the construction of the project. The respondent obtained the approvals of the building plans on 17.10.2014 and also obtained the environmental clearance on 22.01.2016.
 - c. That the respondent further obtained the registration under Act of 2016 and was granted the registration no. 236 of 2017. The said RERA registration was valid till 08.08.2019 which was extended by the Hon'ble Authority till 31.08.2020.
 - d. That it is clearly evident from the aforesaid approvals granted by the various authorities, the respondent was entitled to complete and build the project till 31.08.2020. However, due to the outbreak of the pandemic Covid-19 in March 2020, a national lockdown was imposed as a result of which all the construction works were severely hampered. Keeping in view of the difficulties in completing the project by real estate developers, the Hon'ble Authority granted

A



6 months extension to all the under-construction projects vide order dated 26.05.2020. Thereafter due to the second covid-19 wave from January to May 2021 once again the construction activities came to a standstill. The pandemic led to severe shortage of labour which resulted in the delay in completing the construction of the project for which the time of 6 months granted by the Hon'ble Authority was not sufficient as the effect of labour shortage continued well beyond for more than 12 months after the covid-19 lockdown. Furthermore, the pandemic lockdown caused stagnation and sluggishness in the real estate sector and had put the respondent in a financial crunch, which was beyond the control of the respondent.

- e. That the construction of the project had been stopped/obstructed due to the stoppage of construction activities several times during this period with effect from 2016 as a result of the various orders and directions passed by Hon'ble National Green Tribunal, Environment Pollution (Control and Prevention) Authority, National Capital Region, Haryana State Pollution Control Board, Panchkula and various other authorities from time to time. The stoppage of construction activities abruptly had led to slowing down of the construction activities for months which also contributed in the delay in completing the project within the specified time period.
- f. That the delivery of the unit by the respondent within the agreed period of 4 years from the date of grant of building approvals or from the date of grant of environmental clearance whichever is later, was incumbent upon the complainants making timely payments. The complainants, in the present matter, have failed to make timely payments and there were substantial delays in making the payments of the due instalments as is evident from the demand letter.

A ✓

- g. That the present project is an affordable group housing project being developed in accordance with the provision of the Affordable Housing Policy, 2013. The allotment price of the unit was fixed by the Government of Haryana and in terms of the policy, the respondent was paid the allotment price in instalments. Though, the allotment price was fixed by the Government of Haryana in the year 2013 but the same was not revised till date. Although the construction cost has increased the manifolds but the Government of Haryana had failed to increase the allotment price. The Government of Haryana had failed to take into account the increase in the construction cost since the policy in the year 2013. If by conservative estimates the construction cost is deemed to have increased by 10% every year then till date the construction costs have got doubled since the date of promulgation of Affordable Housing Policy, 2013. The license for the project was granted on 11.08.2014 and the respondent was permitted to sell the units at the allotment price of Rs.4000/- per sq. ft., the project is being constructed by the respondent and is near completion.
- h. That the project is an affordable group housing project being developed in accordance with the provisions of the Affordable Housing Policy, 2013, wherein the Government of Haryana has set a razor thin margin to make housing available for all. Thus, the grant of interest at the prescribed rate as per Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 as applicable to other normal group housing real estate projects is wholly unreasonable and unjust, will impose unnecessary financial burden on the respondent and it shall have a cascading effect on the

A

development and construction works of the project and in obtaining all other relevant approvals.

- i. That since the project is located at a prime location near the Dwarka Expressway, Gurugram and there is huge premium in the open market on the flats situated in the project which would compensate the allottees of the project in more than adequate manner including any compensation for the delay in delivery of the project. This is further to note here that the respondent is not seeking any enhancement of price or payment other than what has been prescribed under the Affordable Housing Policy, 2013.
 - j. That the various contentions raised by the complainant are fictitious, baseless, vague, wrong, and created to misrepresent and mislead the Authority for the reasons stated above. That it is further submitted that none of the relief as prayed for by the complainant are sustainable, in the eyes of law. Hence, the complaint is liable to be dismissed with imposition of exemplary cost for wasting the precious time and efforts of the Authority. That the present complaint is an utter abuse of the process of law, and hence deserves to be dismissed.
7. 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 those undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority:

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

A



of jurisdiction stands rejected. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

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

Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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.

9. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Findings on objections raised by the respondent:



F.I Objection regarding delay due to force majeure circumstances

10. The respondent-promoter raised the contention that the construction of the project was delayed due to force majeure conditions such as certain environment restrictions by Department of Environment and Climate Change and Haryana State Pollution Control Board, weather conditions in NCR region, increase in cost of construction material and shortage of labour, etc. But all the pleas advanced in this regard are devoid of merit. Therefore, it is nothing but obvious that the project of the respondent was already delayed, and no extension can be given to the respondent in this regard. The events taking place such as restriction on construction due to weather conditions were for a shorter period of time and are yearly one and do not impact on the project being developed by the respondent. 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 handover the possession and to pay delayed possession charges at the prevailing rate of interest

11. The above-mentioned relief(s) sought by the complainant is taken together being inter-connected.

12. In the present complaint, the complainants intend to continue with the project and are 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)

A



13. Clause 8.1 of the apartment buyer's agreement provides for handing over of possession and is reproduced below for ready reference:

8. Handing over of possession

8.1 Expected Time for Handing over Possession

"Except where any delay is caused on account of reasons expressly provided for under this agreement and other situations beyond the reasonable control of the company and subject to the company having obtained the occupation/completion certificate from the competent authority(ies), the company shall endeavor to complete the construction and handover the possession of the said apartment within a period of 4 years from the date of grant of sanction of building plans for the project or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the project, whichever is later, subject to timely payment by the allottee of all the amounts payable under this agreement and performance by the allottee of all other obligations hereunder."

(Emphasis supplied)

14. The due date of possession of the apartment as per clause 8.1 of the apartment buyer's agreement is to be calculated as 4 years from the date of environmental clearance i.e., 22.01.2016 being later. Therefore, the due date of possession comes out to be 22.01.2020.

15. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges at the prescribed rate as per the Act of 2016. Section 18 provides that where an allottee does not intend to withdraw from the project, she 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%.

A



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.

16. 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.
17. 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., 28.03.2024 is **8.85%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.85%**.
18. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:
- "(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
- Explanation. —For the purpose of this clause—*
- (i) *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) *the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*
19. Therefore, interest on the delay payments from the complainant 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 complainant in case of delayed possession charges.



20. The Authorized representative of the respondent during proceedings of the day dated 28.03.2024 stated that the construction is completed and an application for the grant of occupation certificate has already been made to the concerned authority on 22.12.2022 but occupation certificate is yet to be obtained.
21. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. The due date of handing over possession is 22.01.2020. A document is placed on record by the respondent which shows that an application for grant of occupation certificate was made on 22.12.2022 which is yet to be approved by the competent authority. Therefore, the respondent has failed to handover possession of the subject apartment till date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of respondent is established. As such the allottees shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 22.01.2020 till offer of possession of the said unit after obtaining the occupancy certificate from the concerned authority plus two months or actual handing over of possession, whichever is earlier, at prescribed rate i.e., 10.85 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.
22. During proceedings of the day dated 28.03.2024, the counsel for the complainants has brought to the notice of the Authority that the amount



paid by the complainants to the respondent towards instalment is Rs.20,60,437/- and Rs.96,465/- towards taxes as per demand letter dated 28.06.2023 placed on page no. 58 of the complaint confirming the same. Thus, the amount paid by the complainants comes to Rs.21,56,903/-.

G.II Direct the respondent to cancel the illegal demand letter dated 28.06.2023.

23. The respondent vide demand letter 28.06.2023 has raised the following demands other than the payment schedule:

S. No.	Instalment description	Amount
1.	Advance electric consumption charge	Rs.4,500/-
2.	Labour Cess	Rs.6427/-
3.	Legal Charge	Rs.17,700/-
4.	Property to creation charges	Rs.1,770/-
5.	Upgradation electric charges	Rs.71,581/-
6.	Water Connection charges	Rs.5,900/-
7.	Interest as on 28.06.2023	Rs.14156/-
Total		Rs.1,29,704/-

The Authority has gone through the payment schedule and apartment buyer's agreement which clearly shows that the demands raised by the respondent are in consonance with the apartment buyer's agreement except labour cess and administrative charges/legal charges of Rs.17,700/-. But in terms of the order passed by the authority in complaint titled as *Varun Gupta Versus Emaar MGF Land Ltd. (CR/4031/2019)*, the respondent can charge the administrative charges/legal charges up to a nominal amount of Rs.15,000/-. The issue



of labour cess has already been dealt by the authority in complaint titled as *Mr. Sumit Kumar Gupta and Anr. Vs. Sepset Properties Private Limited (CR/962/2019) decided on 12.03.2020*, where it was held that since labour cess is to be paid by the respondent, as such no labour cess should be charged by it. Thus, the respondent is directed to withdraw the unjustified demand on the pretext of labour cess. The builder is supposed to pay a cess for the welfare of the labour employed at the site of construction and which goes to welfare boards to undertake social security schemes and welfare measures for building and other construction workers. So, the respondent is not liable to charge the labour cess. In view of the same, the respondent can charge an amount of Rs.15,000/- on account of administrative charges/legal charges and no labour cess can be charged.

H. Directions of the Authority:

24. 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 delay interest on the paid-up amount by the complainants at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e., 22.01.2020 till offer of possession of the said unit after obtaining the occupancy certificate from the concerned authority plus two months or actual handing over of possession, whichever is earlier.
- ii. The arrears of such interest accrued from 22.01.2020 till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order and interest for

A



- every month of delay shall be paid by the promoter to the allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.
- iii. The complainants are directed to pay outstanding dues, if any remains after adjustment of interest for the delayed period, the respondent shall handover the possession of the allotted unit on obtaining of occupation certificate.
- iv. The respondent shall not charge anything from the complainants which is not the part of the apartment buyer's agreement.
- v. The rate of interest chargeable from the allottee(s) 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.
25. Complaint stand disposed of.
26. File be consigned to registry.


(Vijay Kumar Goyal)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 28.03.2024