

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 526 OF 2019

Sunita Devi

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

2. COMPLAINT NO. 527 OF 2019

Manoj Kumar

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

3. COMPLAINT NO. 528 OF 2019

Ashok Kumar

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

4. COMPLAINT NO. 529 OF 2019

Raj Kumar Yadav

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

5. COMPLAINT NO. 530 OF 2019

Chander Shekher Sharma

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

6. COMPLAINT NO. 531 OF 2019

Rajni Devi

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

7. COMPLAINT NO. 532 OF 2019

Suman Lata

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

8. COMPLAINT NO. 533 OF 2019

Satish Kumar

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

9. COMPLAINT NO. 534 OF 2019

Sunita Devi Jindal

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

10. COMPLAINT NO. 535 OF 2019

Ghanshyam Sharma

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

11. COMPLAINT NO. 536 OF 2019

Savitri Yadav

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

12. COMPLAINT NO. 537 OF 2019

Tara Devi

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

13. COMPLAINT NO. 538 OF 2019

Nitin Kumar Goyal and Anr.

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

14. COMPLAINT NO. 539 OF 2019

Ranbir Kaur

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

15. COMPLAINT NO. 540 OF 2019

Sharmila

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

16. COMPLAINT NO. 541 OF 2019

Sushma Khurana

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

17. COMPLAINT NO. 542 OF 2019

Ashok Kumar

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

18. COMPLAINT NO. 543 OF 2019

Subhash Khurana

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

19. COMPLAINT NO. 545 OF 2019

Prakash Chander Gupta

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

20. COMPLAINT NO. 547 OF 2019

Ishwar Singh and Anr.

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

21.COMPLAINT NO. 548 OF 2019

Manish

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

22. COMPLAINT NO. 549 OF 2019

Vijay Kumar Aggarwal and Anr.

....COMPLAINANT(S)

VERSUS

Baderwals Projects Pvt. Ltd.

....RESPONDENT(S)

23.COMPLAINT NO. 974 OF 2019

Mamta Devi

....COMPLAINANT(S)

VERSUS

Baderwals Infra Project Pvt Ltd.

....RESPONDENT(S)

24. COMPLAINT NO. 975 OF 2019

Mangal Sain

....COMPLAINANT(S)

VERSUS

Baderwals Infra Project Pvt Ltd.

....RESPONDENT(S)

25. COMPLAINT NO. 976 OF 2019

Mukesh Devi Yadav

....COMPLAINANT(S)

VERSUS

Baderwals Infra Project Pvt Ltd.

....RESPONDENT(S)

26. COMPLAINT NO. 977 OF 2019

Ram Kishan Yadav

....COMPLAINANT(S)

VERSUS

Baderwals Infra Project Pvt Ltd.

....RESPONDENT(S)

27.COMPLAINT NO. 978 OF 2019

Ramesh Kumar

....COMPLAINANT(S)

VERSUS

Baderwals Infra Project Pvt Ltd.

....RESPONDENT(S)

28. COMPLAINT NO. 979 OF 2019

Suman Yadav

....COMPLAINANT(S)

VERSUS

Baderwals Infra Project Pvt Ltd.

....RESPONDENT(S)

29. COMPLAINT NO. 980 OF 2019

Surender Singh

....COMPLAINANT(S)

VERSUS

Baderwals Infra Project Pvt Ltd.

....RESPONDENT(S)

CORAM: Rajan Gupta

Anil Kumar Panwar Dilbag Singh Sihag Chairman Member Member

Date of Hearing: 17.10.2019

Hearing: 5th

Present: - Mr. Harsh Aggarwal, Counsel for complainants (in Complaint No. 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 545, 547, 548 and 549 of 2019)

Mr. Sandeep Yadav, Counsel for complainants (in Complaint No. 974, 975, 976, 977, 978, 979 and 980 of 2019)

Mr. Binesh Kumar, appearing on behalf of State Government

Mr. Amarpal, on behalf of respondent

Ms. Srishti, Counsel for respondent

Ms. Vaishnavi R. Iyer, Counsel for respondent (in all the Complaints)

ORDER (DILBAG SINGH SIHAG- MEMBER)

- 1. Today is the 5th hearing of the captioned bunch of complaints. The principle issues in dispute between the parties have been captured in the orders dated 18.09.2019, 30.07.2019 and order dated 11.04.2019 of this Authority. The findings in those orders shall be read as a part of this final order.
- 2. The complaint no. 526 of 2019 has been taken as the lead case. Facts of all the complaints with minor variations are similar, therefore, the entire bunch of 29 complaints is being disposed of by this common order.
- 3. Brief facts of the lead case no. 526 of 2019 are that the complainant booked a plot measuring 274.37 Sq. yards at the rate of Rs.5200 per Sq. yard with total basic sale price about Rs. 14.26 lakhs in the project promoted by respondent at Mahendergarh. The plot was booked in 2008 on payment of booking amount of Rs. 2 lakhs. The complainant has in all paid Rs. 10,80,800/-. Admittedly, 90 percent work of the colony has been completed. The due date of possession was the year 2016 whereas the possession has still not been offered because of an ongoing controversy of the respondent-developer with Town and Country Planning Department regarding the rate at which External Development Charges (EDC) shall be applicable on the colony in question being set up in a relatively backward area of the State i.e. District Mahendergarh. The complainant is requesting for early handing



over of the possession of plot and payment of compensation for the delay caused in delivery of the possession.

4. The case of the respondent is that almost 90 percent infrastructural works have already been completed. They are in a position to offer possession of the plots since the year 2010-11 or so, but due to confusing policies of the Town & Country Planning Department, rate of EDC applicable on the colonies located in backward areas like Mahendergarh could not be finalized, as a result of which possession could not be offered to the Allottees. More importantly, the rate of EDC has still not been finalized.

Further, the rate of EDC as was applicable in the year 2008 and the rates applicable at present are vastly different. If the present rates are made applicable on the allottees, it will put heavy and un-bearable financial burden upon the allottees which the respondent is trying to avoid and is pursuing the matter with Town and Country Planning Department for finalizing the rate of EDC in a reasonable manner.

5. In response to the tentative observations and various queries posed by the Authority in its earlier hearings, learned counsel for the respondent, Mr. Amar Pal, submitted his submissions in writing. He orally submitted as follows:



(i) Mr. Amar Pal, learned counsel drew attention of the Authority to clause 4(ii) of the agreement made with one of the allottees Smt. Pista Devi, who is not a complainant in this matter, as reproduced below:

"4 (ii). External Development Charges: The buyer shall be liable to pay the External Development Charges (EDC) in respect of said plots as determined by the Director, Town and Country Planning, Haryana (DTCP). Such amount shall be paid by the buyer as and when demanded by DTCP or the promoter on behalf of DTCP. In case the same is enhanced by the concerned authority the same shall be paid by the buyer on prorata basis as and when demanded, the provision of this effect shall be incorporated in the sale/conveyance deed to be executed by buyer and shall be binding upon the buyer."

Shri Amar Pal stated that this stipulation is applicable on all the allottees of the project. Further, this condition has been incorporated as per requirement of the Town & Country Planning department.

(ii) Mr. Amar Pal referred to the letter dated 20.12.2010 issued by the Financial Commissioner & Principal Secretary to Government Haryana, Town & Country Planning Department, point (ii) of which reads "Wherever colonizer has not charged the EDC from the allottees, he shall submit an undertaking to the department to this affect. He will also insert a condition in sale purchase agreement that EDC will be paid by the allottee to the

Government directly if so directed by the Director, Town & Country Planning Department". Mr. Amar Pal stated that the aforesaid provision Clause 4 sub clause ii. in the agreement has been incorporated in accordance with the quoted para (ii) of the policy dated 20.12.2010 of the State Government.

dated 16.06.2008 written by Director, Town & Country Planning Department to certain developers, including the respondent M/s Baderwals Infrastructure Projects Pvt. Ltd., suggesting that in 2008 the applicable rates of EDC were Rs. 22.46 lakhs per acre. The letter further stipulates that "The rate of External Development Charges are under review and are likely to be finalized soon. There is likelihood of substantial enhancement in these rates. You will therefore be liable to deposit the enhancement rates of External Development Charges as and when determined and demanded as per prescribed schedule by the DTCP Haryana. An undertaking may be submitted in this regard."

Mr. Amar Pal further stated that the aforesaid Sub clause (ii) of clause 4 of the agreement was incorporated in accordance



with this stipulation made by the department at the time of granting license.

Learned counsel further drew the attention of the Authority towards letter dated 14.07.2011 vide which EDC for various urban estates in the State were notified. No rates, however, were notified for District Mohindergarh. For areas like Mahendragarh Para 4 of the policy provided as follows:

It is further intimated that in meeting held on 19.10.2010 under the Chairmanship of Financial Commissioner and Principal Secretary to Govt. Harvana. Town and Country Planning Department which was also attended by DGTCP, it was decided that the EDC of urban estates falling in the Low Potential Zone may be worked out as early as possible i.e. by 28.02.2011. Since the fixing of EDC for every separate urban estate may take long time, it was decided that average of EDC of Low Potential Zone area namely Jind, Agroha, Taraori, Fatehabad, Dadri, Sirsa be applied for other urban estates falling in the Low Potential Zone where EDC has not been worked out."

According to Mr. Amar Pal, the onus was on the State Government to determine the average rate of EDC applicable in the low potential ones including District Mahendergarh where the

colony in question is located. This exercise has not been completed even now.

- (iv) It is evident from the letter dated 18.09.2019 of the Town & Country Planning Department that as per the earlier referred to policy dated 14.07.2011 the rate of EDC applicable for District Mahendergarh for the calendar year 2010 works out to Rs.54.97 lakh per acre.
- (v) As per the respondent they have been constantly pursuing the matter with Director, Town & Country Planning Department for communicating to them the rate of EDC applicable on their colony but the department has not been able to finalize the rates even now. He specifically referred to letter dated 21.03.2012 addressed to Director, Town & Country Planning stating that the respondent wishes to offer possession to the plot holders as the allottees are pressing hard for the same but the same is not possible for the want of finalization of EDC rates, consequently the rates cannot be conveyed to the allottees for payment against the plots. For this reason, possession has not been offered. The respondent has not been able to recover/charge EDC amount from the allottees because the rates have not been finalized by the department.



- (vi) While above correspondence between the respondent-developer on one hand and the department was going on, license of the colony expired.
- (vii) The license of the colony was scheduled to be renewed somewhere in the year 2011-12. The earlier license could not be renewed for the reason of a small change in the ownership of a piece of land in the colony amongst the sister concern. A detailed letter in this regard had been written by the respondent company to the Director on 24.08.2012. On the basis of request of the respondent a Letter of Intent (LOI) for grant of a new license in respect of the colony, however, was issued vide letter dated 31.12.2013 which inter-alia stipulated that the interim rate of EDC shall be Rs.76.3807 lakhs per acre. Finally, however, a new license no.156 of 2014 was issued in favour of the respondent which presumably stipulates the rate of EDC as was shown to be applicable in the LOI i.e. Rs. 76.3807 lacs per acre.
- (viii) The counsel for the respondent then referred a letter dated 23.08.2019 written by them to the Director, Town & Country Planning Department seeking clarification regarding the rates of EDC applicable on their colony which is located in backward area



of the State. They drew the attention of the department that vide the letter of intent for grant of license EDC at the rate of Rs.76.3807 lakhs per acre has been demanded, whereas Council of Ministers, Haryana in its meeting held on 03.02.2016 had determines the rate of EDC applicable in Mahendergarh District to be Rs.52.048 lakh per acre w.e.f. 01.01.2016 to 31.03.2019.

- (ix) Another representation made vide letter dated 22.01.2019 was referred to again vide which a request was made to the department for applying EDC at the rate of Rs. 52.048 lakhs per acre instead of Rs.76.3807 lakhs per acre.
- 6. The sum and substance of the aforesaid submissions made by respondents is that they were originally granted a license in 2008. At that time tentative applicable rate of EDC was Rs. 22.46 lakh per acre. The license was granted with the stipulation that the rate of EDC will be revised substantially. For these reasons precise rate of EDC applicable could not be communicated to the allottees while booking their plots. To cover themselves, the respondents incorporated clause 4 (ii) in the agreement that the EDC at the rates determined by the department shall be applicable on all the allottees. Further, respondent has been making continuous correspondence with the department for fixing the rates of EDC for their colony but the department

failed to do so. The department though notified a policy in the year 2011 for fixing EDC for whole of the State, but they did not specify the EDC for District Mahendergarh. The policy of 2011 only provided that "average of EDC of low potential urban areas shall be applicable for other low potential zones" but no specific rate was finalised. In the meantime, the license of the colony expired and an application was filed for renewal of the license by the respondent. Instead of renewing the license a new license was granted by the department wherein EDC at much higher rate of Rs. 76.3807 lakhs per acre was levied. The Council of Ministers however, in the year 2016 decided that the rate of EDC applicable for the year 2011 shall be Rs. 52.048 lakhs per acre. According to the respondent, the department should have communicated the rates as were decided by the Council of Ministers in the year 2016 on the basis of which they would have issued the demand notice to the allottees and the matter would have been settled. The department however kept dillydallying and made no specific or clear communication about the rates of EDC applicable in Mahendergarh. The respondent has been pointedly asking the department about the rate of EDC which they should collect from the allottees for depositing with the State Government, but the department failed to communicate the same to the respondent despite constant efforts, which has resulted into the creation of this problem in hand. It is for these reasons that



despite completion of the colony in all respect the possession has not been offered to the allottees.

- 7. The Authority has gone through the submissions made by both the parties it observes and orders as follows:
 - (i) On account of the said stipulation in the original license, the licensee-developer could not indicate the specific and precise EDC payable by the allottees, because of which the same could not be collected. To cover themselves against un-foreseen eventualities the respondent inserted clause 4 sub clause (ii) in the agreement vide which the buyers were made liable to pay EDC as and when determined by the department and that such amount shall be paid by the buyers when demanded. Further, in case the rates are enhanced by the department the same shall also be payable by the buyers on pro-rata basis. Accordingly, the promoters recovered the basic sale price from the allottees but did not recover any EDC from them. Since recovery of EDC would have become very difficult after offering possession, the same was not offered. It is relevant to note that EDC is a liability which is owed by the allottees towards the State Government. Developer of a colony is only a medium for collection of the same for transmitting to the State Government.

- (ii) Admittedly, department did not specify the EDC to be recovered from the respondent. Further, despite clear decision of the Council of Ministers, Haryana in the year 2016 that the EDC rates shall be Rs. 52.048 lakhs per acre in 2010-11, still while issuing the new license in the year 2013, the department imposed EDC at the rate of Rs. 76.3807 lakhs per acre. This should have been later revised to Rs. 52.048 lakhs per acre as per decision of the Council of Ministers. More seriously despite all the facts being placed before it, the department has not rectified its stand even now. Even though figures have not been placed before the Authority, it is certain that the department would also impose huge amount of interest to be paid by the respondent company, the burden of which would also fall upon the allottees. This situation cannot be accepted. For the fault of the department, the allottees or the promoter cannot be made to suffer.
- (iii) The respondent has completed the colony to the extent of 90 percent. The complainants do not refute the contention of the respondent that rest of development works as well as repair/maintenance of the broken roads etc. is possible to be completed within 3-4 months' time.

- (iv) Now, a situation is being faced in which the respondent has no malafide intentions; they have completed the colony in full earnest; they are ready to hand over possession at the basic rate price as stipulated in the allotment letter/agreement, but only on account of non-finalization of rates of EDC by the department the possession has not be handed over and the fate of hundreds of allottees is hanging fire. It is a sad commentary on the functioning of the Town & Country Planning Department.
- 8. Keeping in view the aforesaid facts and circumstances, the Authority considers it just and fair to order as follows:-
 - (i) As per the decision of the Council of Ministers of Haryana of the year 2016 the rate of EDC applicable in the year 2010-11 was Rs. 52.048 lakh per acre. The respondent shall issue demand notices to the allottees for payment of EDC in respect of their plots calculated at this rate of Rs. 54.048 lakh per acre. The demand notice in this regard shall be delivered to all the allottees within a period of 30 days. A table of EDC to be collected from the allottees shall also be hosted on the website of the respondent.
 - (ii) An Escrow account shall be opened by the respondent for receiving the aforesaid EDC from all the allottees. The entire amount

collected in the Escrow account, after adjusting the amount already paid, shall be directly remitted to the Department of Town & Country Planning. No money can be used from this Escrow Account for any other purpose.

- (iii) Within four months of uploading of this order on the website of the Authority, the respondent shall complete all the remaining development works and send an offer of possession to the allottees. The offer of possession shall be accompanied with the statement of accounts specifying therein the balance of basic sale price to be paid and the EDC amount calculated in accordance with this order. All the allottees shall accept the possession of plots after payment of all the dues to the respondent. After acceptance of the possession, conveyance deed shall also be executed within a further period of 30 days from the date of acceptance of possession.
- (iv) The allottees will not be entitled to any compensation for delay in handing over possession because the delay has been caused for the reasons beyond the control of the respondent. The above stated reasons for delay in offering possession shall be treated as force majeure condition. The respondent has been making their best efforts to get the rate of EDC finalised but it is on account of delay

in decision on the part of the State Government that the rate could not be finalized and possession could not be offered. Further, it is to be presumed that if a person chooses to be part of an underdevelopment project, he also has consented to share risks which arise on account of circumstances beyond the control of the either of the parties.

(v) Within 30 days from uploading of the orders by this Authority, a detailed representation accompanied by this order shall be filed by the respondent before the Principal Secretary, Town & Country Planning Department by way of additional application in the already pending appeal before him. Learned Principal Secretary shall duly take into account the facts and circumstances of the matter, especially the fact that it is the department which did not finalise and communicate the applicable EDC to the respondent which has resulted in this situation of non-payment by the respondent. It was expected from the department that precise amount of EDC payable by the licensee at the time of grant of license was conveyed within a reasonable period of time. Accordingly, the rate of EDC should have been communicated in the year 2008 itself or at best within a further reasonable period of 3-4 months. The department could not



finalise this matter even up to 2016. More seriously, even after decision of the Council of Ministers in 2016, the department has still not conveyed the revised rates to the respondent.

Further-more, while granting the LOI for grant of a new license in (vi) the year 2013 the department stipulated a very high rate of EDC as Rs. 76.3807 lakh per acre. This was not the rate applicable in the backward areas of the State as defined vide policy dated 14.07.2011 of the State Government. Admittedly the Council of Ministers in 2016 correctly read it to be Rs. 52.048 lakh per acre which shows that the rates indicated by the department in the LOI were incorrect. It is expected from learned Principal Secretary that he would take note of all the facts and circumstances and determine the correct rate of EDC payable by the respondent/allottees. It would be expected from the department to consider that the respondent does not appear to have defaulted in any manner in paying EDC dues, and further not collecting the same from allottees, therefore no interest or penal interest shall be charged from them for the entire period of nonpayment. It is to be understood by the department that Allottees cannot be subjected to the burden of penal interest for no fault of

their, nor can the promoter be made to pay from his own pocket for no fault of his.

(vii) If learned Principal Secretary determines the rate of EDC to be Rs.54.97 lakh per acre, the same shall remain applicable and the matter will be settled. Further, no interest or penal interest appears to be payable by the respondent/allottees. However, in case a higher rate is determined by the learned Principal Secretary, or interest / penal interest is imposed, the respondent may exercise his legal rights of filing a writ petition before the Hon'ble High Court. In that eventuality the rates finalized by the Hon'ble High Court shall become payable by all the allottees and the respondent shall be entitled to collect the same from them. The respondent shall have legal rights to recover the additional amount so decided by the Hon'ble High Court from the allottees and the allottees shall be legally bound to pay the same.

9. Disposed of in above terms.

RAJAN GUPTA [CHAIRMAN]

Separati order appended.

[MEMBER]

ANIL KUMAR PANWAR

DILBAG SINGH SIHAG [MEMBER]

Having carefully gone through the judgement authored by Hon'ble Chairman, the under signed member regrets inability to go with the findings whereby promoter has been absolved of his liability to compensate the allottees for the delay in handing over possession.

- 2. Respondent's plea is that almost 90 percent infrastructural works have been completed and they are in a position to offer possession of the plots since the year 2010-11 but due to confusing policies of the Town and Country Planning Department, rate of EDC applicable on the colonies located in backward areas like Mohindergarh could not be finalized and therefore, possession could not be offered to the allottees.
- 3. No doubt that the rate of EDC has still not been finalized but then the question requiring determination is whether non- finalisation of EDC rate had precluded the respondent from offering possession? The answer, in the facts and circumstances of this case, has to be necessarily in the negative for the reasons stated hereinafter:
- The Town and Country Planning Department in the letter dated
 20.12.2011 on which promoter himself has relied and relevant extract of



which is reproduced by Hon'ble Chairman in para 5. ii. of judgement, didn't cast any duty on the promoter to charge the EDC from the allottees. The only duty cast was that if the promoter had not charged the EDC, he should insert a condition in sale purchase agreement that EDC will be paid by the allottee to the Government directly. The respondent's own case is that he had inserted said kind of condition in the agreements entered with the allottees of his project. So, where was an occasion for the respondent in this case to defer delivery of possession to the allottees on account of non-finalisation of EDC rates for Mohindergarh district by the Town and Country Planning Department.

agreement in compliance of letter dated 20.12.2010, the respondent was expected to apply for OC and deliver possession to the allottees if his project was complete. He didn't proceed in that direction. Instead, he delayed delivery of possession by indulging in an issue with the department over a matter in respect of which he had already discharged his liability by incorporating the required condition in sale purchase agreement. So, the fact that the respondent had never applied for OC and had avoided till date an occasion for the authorities to inspect and verify that his project was complete, will invite an inference that he had chosen to open issue with the department regarding



finalisation of EDC only with dual intention of buying time for completing his project and for escaping his liability towards paying compensation for delay in delivery of possession on the pretext of non-finalisation of EDC rates for Mohindergarh district.

4. In the backdrop of the circumstances discussed above, it has to be necessarily held that the respondent had not acted diligently for ensuring timely delivery of possession to the allottees and therefore, he can't be allowed to claim that delay in delivery of possession has occurred due to reasons beyond his control. There would have been a scope for him to so claim if he had applied for OC on time and the department had refused to entertain his application or to grant him OC due to non-deposit of EDC dues. That is however not the situation in the present case and therefore, the respondent is liable to pay and the complainants are entitled to receive interest on the already paid amounts from the agreed date of possession to the actual date of delivering possession due to delay in handing over possession.

ANIL KUMAR PANWAR [MEMBER]