



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	221 of 2019
Date of re-filing.:	02.11.2023
First date of hearing.:	18.04.2024
Date of decision.:	26.09.2024

Unisys Infosolutions Pvt. Ltd. through its Managing Director
Regd. Office at 1089, NHBC, Sector-13, Urban Estate
Karnal, Haryana-132001

....COMPLAINANT

VERSUS

M/s Ultratech Township Developers Pvt. Ltd
New World Residency, Sector 32,
Karnal, Haryana- 132001

.....RESPONDENT

CORAM: **Chander Shekhar** **Member**
 Dr. Geeta Rathee Singh **Member**
 Nadim Akhtar **Member**

Present: - Mr. Gurfateh Singh Sandhu, Counsel for the complainant
 None for the respondent.

ORDER (NADIM AKHTAR - MEMBER)

1. The captioned complaint was previously adjudicated by this Authority through its order dated 25.09.2019. Based on various facts, arguments and statute, the Authority vide order dated 25.09.2019, rejected the claim of appellant, while observing as under:-

"7. ...the Authority rejects the plea on the point that the respondent after receiving cheque of Rs.9,50,653/- had agreed to deliver him possession on receiving only 5% of the total sale consideration.

8. The net result of the above discussion is that the complainant is entitled to receive the possession on payment of balance dues and the respondent is duty bound to deliver him possession along with interest on the already paid amount due to delay in delivery of possession. The possession which was agreed to be delivered on 19.02.2014 was actually offered on 18.06.2018. The respondent at the time of offering the possession has not calculated the complainant's outstanding liability after adjusting the delay compensation payable from 19.02.2014 onwards. So, the Authority directs the respondent to send a fresh offer of possession to the complainant along with a detailed statement of all payable and receivable amounts. For preparing such statement of account, the respondent will calculate the interest chargeable from complainant as also the interest payable to the complainant for the delayed period @ 9% per annum. The amount of interest payable as delay compensation will be calculated from the agreed date of possession i.e. 19.02.2014 to the date of fresh offer of possession.

9. The complainant is directed to take possession of the purchased flat after paying the outstanding amount within 30 days of the fresh offer to be given by the respondent. He will be at liberty to file a fresh complaint in order to challenge the propriety and illegality of any amount reflected in the statement, which according to him was legally not chargeable. However, such right of filing a fresh complaint will not initially save the complainant from discharging the entire liability reflected in the



statement of the receivable and payable amounts. In case any of the amount shown in the statement of accounts supplied to the complainant is found unjustifiable by this Authority, the Authority will take a serious note of it against the respondent and will take necessary action in accordance with law”

2. Thereafter, applicant on being dissatisfied with the decision of Authority, preferred statutory appeal before Hon'ble Tribunal (Appeal no. 1445 of 2019), which was disposed off vide order dated 29.09.2020. For reference, the relevant part of aforesaid order is recapitulated as under:

“7. We do not find any error or illegality in the aforesaid observations of the Ld. Authority. The appellant could not reveal the identification of the employee of the respondent/promoter who had received the cheque and signed the endorsement below the cheque. It is also not known as to what the designation of the said official was and whether he was authorised by the respondent/company to settle the accounts and to waive of the interest which had become due on delayed payments of instalments. To prove all these facts, the burden was upon the appellant but he has miserably failed to discharge his burden. The Ld. Authority has discussed in detail with respect to the authenticity of the endorsement under the photocopy of the cheque available at page no.65 of the paper book and we have no reasons to differ with.

8. The fact that there could be no lump sum settlement of payment of Rs.9,50,653/- + 5% of the basic sale price is further substantiated from the fact that the basic sale price of the unit was 55,63,728/-, out of that the appellant/allottee had paid Rs.42,35,385/-. The remainder comes to Rs.13,28,443/-. The 5% of the basic sale price was to be paid at the time of offering the possession. The 5% of the basic sale price comes to Rs.3,77,690/-. The remaining amount comes to Rs.9,50,653/-. It means no interest at all on delayed payment has been taken into consideration. Only the basic sale price has been mentioned in the endorsement at page no.67. This fact is not disputed that as per the agreement between the parties, the respondent/promoter was entitled for interest on delayed payment and the statutory dues as per the basic terms and conditions available at page 57. The respondent/promoter was also entitled to receive the



compounded interest not less than 24% per annum on the amount of delayed payment but the ld. Authority has directed the respondent/promoter to charge the interest on delayed payment only @ 9% per annum instead of rate of interest mentioned in the agreement.

9. It is further pertinent to mention that the Ld. Authority has given the liberty to the complainant to file the fresh complaint to challenge the inaccuracy and illegality of any amount reflected in the statement, which according to him was legally not chargeable. The respondent/promoter has issued the demand notice dated 02.11.2019 (Annexures A5-Colly at page no.145 of the paper book). As per the statement of accounts attached with the said notice, a demand of Rs.11,29,900/- has been raised. If the appellant feels that the said amount has been wrongly charged, the appellant can very well avail the remedy provided by the ld. Authority in the impugned order i.e. to file the fresh complaint to challenge these calculations.

*10. With these observations, we do not find any merit in the present appeal and the same is hereby **dismissed**."*

3. Dissatisfied with the above decisions of this Authority and Hon'ble Appellate tribunal, an appeal under Section 58 of the Real Estate (Regulation and Development) Act, 2016, was filed before the Hon'ble Punjab and Haryana High Court at Chandigarh (Appeal No. 65 of 2020), which was disposed of by order dated 17.07.2023. The operative part of the Hon'ble High Court's order is reproduced below for reference:

36.Unfortunately, the Authority, while deciding the complaint, neither adverted to the point in controversy of 'Ongoing Project'; nor it examined the consequences for non-execution of the Builder Buyers Agreement between the parties. Even learned Tribunal also did not take into consideration this aspect of the matter; rather miserably failed to discharge its duties under the Act of 2016, as well as rules framed thereunder.

37.there is no hesitation to hold that the Authority as well as learned Tribunal failed to address the core issues and



passed the impugned orders in slipshod manner(s); hence the same are legally unsustainable.

38. As a result thereof, there is no option, except to allow the appeal.

39. Consequently, the appeal is allowed; both the impugned orders, dated 25.09.2019 and 29.09.2020, passed by the Authority as well as learned Tribunal, respectively, are hereby set aside.

40. The matter is remanded back to the Authority with the directions to re-examine the same and pass fresh order in accordance with law, expeditiously.

4. Present complaint has been filed by the complainant on 02.11.2023 in compliance with the order dated 17.07.2023 passed by the Hon'ble Punjab and Haryana High Court in RERA Appeal No. 65 of 2020 with the following prayers :

- i. It is prayed that the present application/Complaint be allowed and the file be put up in compliance with the order dated 17.07.2023 Passed by the Hon'ble High Court of Punjab and Haryana in RERA Appeal no. 65 of 2020 and in the interest of justice, equity and fair-play.
- ii. It is prayed that the respondent/Promoter be directed to execute the buyer-seller agreement and deliver the possession of the said flat no. 202 at the earliest.
- iii. It is prayed that the delayed possession interest for the said unit flat no. 202 is given to the complainant within 90 days of the filing of the present complaint as per sections 17, 18 and 19 of the Act.
- iv. It is also prayed that the Complainant/appellant be exempted from producing original copies of the orders of Real Estate Regulatory Authority and Appellate Authority dated 25.09.2019 Annexure A-1



and 29.09.2020 Annexure A-20 respectively and the photocopies of the same be allowed.

A. UNIT AND PROJECT RELATED DETAILS

5. 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.	New World Residency, Sector 32, Karnal
2.	Nature of the project.	Residential
4.	RERA Registered/not registered	Not Registered
5.	Details of unit.	Apartment No. 202, Prayag 2 nd floor, 3BHK, Tower No. 4, New World Residency, Karnal
6.	Unit Area (Super Area)	1822 sq. ft. as per Annexure A-13, pg.51 of the complaint file
7.	Date of provisional application form	20.09.2011
8.	Due date of possession based on the agreed terms by the parties given on page A16 of the complainant file	19.02.2014
9.	Possession clause in provisional application form (Clause 24)	24. <u>Possession:</u> <i>"The Company shall hand over the Unit to the applicant for</i>



		<p><i>his/her occupation and use and subject to the applicant having complied with all the terms and conditions of the Builder Buyers Agreement in the event of his/her failure to take over and/or occupy and use the Unit provisional and/or finally allotted within thirty (30) days from the date of intimation in writing by the company, then the same shall be at his/her risk and cost and the applicant shall be liable to pay to the company holding charge @ Rs. 5/- per sa. ft. of the area per month for the entire period of such delay. If the company fails to allot the unit withing 30 months from the date of execution of Builder Buyers Agreement as authorised then the company shall pay to the applicant compensation @5/-per sq.ft. of the area per month for the period of such delay. The adjustment of holding charges or compensation shall be done at the time of conveyancing of the Unit and not earlier. The holding charges shall be a distinct charge in addition to maintenance charges, and not related to any other charges as provided in this application and Builder Buyers Agreement".</i></p>
10.	Basic sale consideration	₹ 55,63,728/- as per page no. A8 of the complaint file.



11.	Amount paid by complainant	₹ 51,86,038/-
12.	Occupation Certificate	17.07.2018
13.	Offer of possession	01.01.2019

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT:-

6. Facts of the present complaint are that the complainant purchased unit No. 202, Tower T-4, Prayag, under a construction-linked payment plan from the respondent for a total sale consideration of Rs. 55,63,728/-.
7. That, on 30.09.2014, the complainant made an initial payment of Rs. 3,58,969/- as per the respondent's demand. Subsequently, further payments were made on 21.04.2015 (Rs. 3,00,000/-), 13.07.2015 (Rs. 2,00,000/-), 20.10.2015 (Rs. 3,00,000/-), and 23.02.2016 (Rs. 3,00,000/-). These payments were all in response to the respondent's demands for further amounts as construction progressed under the agreed payment plan.
8. That on 21.04.2017, the respondent raised a demand for Rs. 25,66,749/-, which included Rs. 16,95,026/- as interest. Complainant objected to this demand, stating that the amount was excessive. They requested additional time to resolve the discrepancy and arrange for payment. Despite this, the respondent issued another demand on 07.08.2017. this time for Rs.



25,64,456/-, with the interest component recalculated at Rs. 16,92,733/-.
The complainant noticed inconsistencies in these calculations, especially with the fluctuating interest amounts.

9. That in September 2017, both parties reached an agreement to settle the outstanding payments. The respondent agreed to reduce the total outstanding amount to Rs. 9,50,653/-, excluding the 5% balance of Rs. 3,77,690/-, which was to be paid at the time of possession. The complainant paid the agreed amount of Rs. 9,50,653/- on 07.09.2017 via cheque annexed as Annexure A-6, page 33 of the complaint file.
10. Despite the previous settlement, on 18.06.2018, the respondent issued a possession letter demanding an additional amount of Rs. 26,03,005/-, including Rs. 18,40,557/- as interest. The complainant averred that he strongly objected to this new demand, citing the earlier settlement where they had cleared all dues. He also pointed out that the demand was inconsistent with previous demands, raising further questions about the respondent's interest calculations. On 08.08.2018, the respondent issued another letter threatening to cancel the complainant's allotment if the payment was not made within the stipulated time.
11. That on 10.10.2018, another demand letter for Rs. 26,84,260/- was sent to the complainant. The complainant submitted that he noted that the amounts demanded in each of these letters were slightly different, suggesting a lack



of clarity or errors in the respondent's calculations. He continued to protest against the demands, maintaining that they had already fulfilled their payment obligations under the settlement agreement.

12. That despite these demands for payment, the unit in question remained incomplete, with significant construction issues. Complainant highlighted that several critical aspects of the unit, such as electricity, sanitary fittings, and roof work, were not finished. Moreover, the complainant was not allowed to inspect the unit to confirm its status. This refusal further raised concerns about the actual condition of the unit, and whether possession could legitimately be handed over.

13. That on 27.12.2018, respondent issued a final demand of Rs. 27,59,710/-, promising that the unit would be handed over upon payment of this amount. However, complainant noted that the unit was still incomplete and that the issues with construction have not been addressed. Respondent's repeated demands for payment without fulfilling their obligation to complete construction created a situation of ongoing dispute between the parties.

14. It is pertinent to note that after the remand of the case from the Hon'ble High Court of Punjab and Haryana, the complainant has filed several applications before this Authority seeking complete adjudication of the present matter, as detailed below:



- i. Application dated 16.11.2023: The complainant submitted an application praying for early listing and early hearing of the present complaint, emphasizing the need for speedy justice.
- ii. Application dated 15.03.2024: The complainant filed an application seeking an interim injunction against the sale of Flat No. 202, Prayag, Tower No. 4, New World Residency, Karnal, by the respondent, during the pendency of the present complaint.
- iii. Application dated 12.06.2024: Another application was submitted to place on record the calculation details along with the allotment letter of the apartment in question, as directed by this Authority vide its order dated 18.04.2024.
- iv. Application dated 04.07.2024: Further, an application filed to place on record the tracking report of the notice sent via registered mail and the acceptance of notice via Munadi by the respondent, in compliance with the directions of this Authority.
- v. Application dated 26.09.2024: Lastly, the complainant submitted an application to place on record an updated calculation sheet showing the interest on delayed possession for the said flat in the respondent's project up to the current date, as directed by this Authority. The updated calculation sheet has been annexed as Annexure A1.



The aforementioned applications demonstrate the complainant's consistent efforts to ensure the thorough and expeditious adjudication of the present case.

C. RELIEFS SOUGHT

15. That the complainant sought following reliefs and directions to the respondent before it was remanded from the Hon'ble High court:-

“(i) This Hon'ble Authority may kindly be pleased to award compensation in favour of the applicant to be paid by the respondent to the tune of Rs. 20 Lakh/- i.e. for the period of delay of 52 months alongwith interest @ 18% per annum from February 2014 till realization.

(ii) This Hon'ble Authority may kindly be pleased to direct the respondent to deliver the possession of the apartment to the applicant upon receiving 5% of the payment of the total consideration or direct the respondent to refund the amount already deposited by the applicant alongwith interest at the rate of 18% p.a. from the dates of payments of instalments till its realization.

(iii) This Hon'ble Authority may kindly be pleased to quash and set-aside any other measures and steps threatened to be taken by the Respondent qua the Applicant or the property in question.

(iv) Grant costs and reasonable compensation to the Applicant, as this Hon'ble Authority deems just and proper in the facts and



circumstances of the case as per the cases already decided by this Hon'ble Authority.

(v) Grant such other and further reliefs and orders in favour of the Applicant and against the Respondent as this Hon'ble Authority would deem just and proper in the facts and circumstances of the present case and as also would be warranted in equity."

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

16. Despite successful service of dasti notice to the respondent on 17.05.2024, respondent has not filed its reply. The case was listed for hearing on 18.04.2024, 04.07.2024 and 22.08.2024 but despite grant of multiple opportunities, the respondent has not filed the reply as yet. Today also, none has appeared on behalf of respondent. It is pertinent to note that the proceedings before the Authority are summary in nature and are to be decided on the basis of the documents available on record. Sufficient opportunities have been afforded to the respondent to file reply and also to argue the matter. Since reply has not been filed and none is appearing to argue on behalf of the respondent, the Authority decides to proceed with this matter ex-parte.

E. ORAL SUBMISSIONS/ARGUMENTS OF LEARNED COUNSEL FOR THE COMPLAINANT

17. Ld. counsel for complainants reiterated the basic facts of the case and stated that the unit in question was booked on 20.09.2011, yet despite a significant



passage of time, possession of the unit has not been handed over by the respondent. The complainant further asserts that on 18.06.2014, an incomplete possession was offered, which they refused to accept due to non-fulfillment of key obligations, including the non-completion of club house facilities. Additionally, the occupation certificate was issued on 17.07.2018, but no completion certificate has been granted till date. The complainant also pointed out that the progress report of the project has not been uploaded as required, and the project status indicates that it has lapsed. In essence, the complainant contends that the unit remains incomplete, construction defects have not been resolved, and the respondent's continued demands for payments without completing construction have led to an ongoing dispute and harassment of the complainant.

18. During the oral hearing today, the complainant submitted before the Authority that he seeks immediate possession of the unit in question along with the interest for delayed possession from the respondent. The complainant emphasized that the delay has caused significant hardship, and accordingly, he is entitled to relief in the form of possession and compensation for the extended delay.

F. ISSUES FOR ADJUDICATION

19. Whether complainants are entitled to relief of delay interest of residential unit booked by them for delay in delivery of possession from the date of payment till delivery of physical and vacant possession of the said unit?



G. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

20. In compliance with the directions of the Hon'ble Punjab and Haryana High Court to re-examine and adjudicate the matter expeditiously, this Authority has afforded multiple opportunities to the respondent to file a reply. Despite repeated opportunities, the respondent has failed to file reply and also to argue the matter. In the interest of justice and mindful of the High Court's clear observations on the urgency and substance of the case, this Authority is compelled to proceed with the matter ex parte and pass this order accordingly after carefully reconsidering the matter, taking into account the issues raised by the complainant and respondent.

G.I Issue regarding whether the project shall be considered as on-going project and the provisions of the RERA Act, 2016 be applicable to such real estate projects or not?

21. The respondent, in the earlier adjudication of this case by the Authority, raised objections contending that the project in question falls outside the purview of the Real Estate (Regulation and Development) Act, 2016. The respondent argued that the project does not qualify as an "on-going project" as defined under rule 2(o) of the Haryana Real Estate (Regulation and Development) Rules, 2017. According to the respondent, the project was substantially complete and hence does not fall within the scope of the Act.



22. Upon careful perusal of rule 2(o) of the Haryana Real Estate (Regulation and Development) Rules, 2017, the Authority observes that an "on-going project" is defined as follows:

"2(o). Ongoing project' means a project for which a license was issued for development under the Haryana Development and Regulation of Urban Areas Act, 1975, on or before 1st May 2017, and where development works were yet to be completed on the said date, but does not include:

*(i) any project for which, after completion of development works, an application under Rule 16 of the Haryana Development and Regulation of Urban Areas Rules, 1976, or under sub-clause 4.10 of the Haryana Building Code, 2017, has been made to the Competent Authority on or before publication of these rules; and
(ii) that part of any project for which part completion/completion or occupation certificate or part thereof has been granted on or before publication of these rules."*

23. In the present case, the application for the occupation certificate (OC) was made on 24.07.2017 and the OC was granted on 17.07.2018. The respondent's argument, therefore, rests on the timing of the application for the OC and whether this falls within the definition of an ongoing project. The Authority finds it pertinent to rely on the judgment of the Hon'ble Supreme Court in *Newtech Promoters and Developers Pvt. Ltd. v. State of UP & Ors. [Civil Appeal Nos. 6745-6749 of 2021]*, which clarifies the scope and applicability of the Act to ongoing projects. The Apex Court held that:

"37. Looking to the scheme of the Act of 2016, and Section 3 in particular, all 'ongoing projects' that commenced prior to the Act, and in respect of which a completion certificate has not been issued, are covered under the Act. It manifests that the legislative intent is to make the Act applicable not only to the projects which



were yet to commence after the Act became operational but also to bring under its fold the ongoing projects to protect the inter se rights of stakeholders, including allottees, home buyers, promoters, and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer, and supervise the unregulated real estate sector within the fold of the real estate authority."

24. The Hon'ble Supreme Court has made it clear that any project where a completion certificate had not been issued before the enactment of the RERA Act 2016 would fall within the scope of on-going projects. This ruling reinforces the legislative intent to ensure that all such projects, where the development is incomplete and a completion certificate has not been issued before the RERA Act, are subject to the provisions of the Act.
25. Additionally, clause (ii) of rule 2(o) clearly stipulates that a project is deemed to be on-going if the occupation certificate is granted after the publication of the rules. In the present case, the OC was granted on 17.07.2018, which is after the relevant rules were published, thereby bringing the project within the purview of an "on-going project."
26. Therefore, after a careful and harmonious reading of clauses (i) and (ii) of rule 2(o), along with the Hon'ble Supreme Court's ruling in **Newtech Promoters and developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021**, it is evident that the project in dispute falls under the category of an "on-going project." As such, the provisions of the RERA Act, 2016, are applicable to the present project and the respondent is bound by the statutory obligations outlined therein.



27. Accordingly, the Authority concludes that the respondent's contention that the project does not fall within the scope of the Act is devoid of merit. The project is clearly covered under the definition of "on-going project," and the earlier order of this Authority dated 25.09.2019 was appropriately passed within the legal framework of the RERA Act, 2016.

G.II Issue regarding the non- execution of Builder Buyer Agreement?

28. It is pertinent to note that the non-execution of the BBA has never been disputed by the complainant, who has continued to make payments without raising any objections regarding the execution of the BBA. The complainant, in fact, has attached the provisional application form, which contains the essential terms and conditions of the project. These terms have governed the relationship between the parties, and thus, at this advanced stage, it is neither possible nor feasible to require the parties to execute the BBA. This Authority further observes that the terms provided in the provisional application form reflect the basis on which the parties have conducted themselves and that these terms were duly considered during prior adjudications.

29. The terms and conditions of the proposed BBA, as attached in the file by the complainant, were taken on record and thoroughly examined by this Authority during its prior proceedings. The findings and conclusions drawn in the order dated 25.09.2019 were based on those terms, along with the



materials available on record at that time. This Authority reiterates that the earlier order was in line with the summary nature of these proceedings, which are confined to matters formally placed on record. The Authority is not tasked with overseeing or enforcing the execution of the BBA, as this obligation rests solely with the parties.

30. However, the responsibility for executing the Builder Buyer Agreement lies jointly with both the respondent-promoter and the complainant. It is a contractual obligation that must be fulfilled by the parties themselves, and it is not within the purview of this Authority to compel the execution of the BBA. This Authority's role is confined to adjudicating the matters brought before it based on the documents and evidence submitted by the parties.

31. In light of the remand by the Hon'ble High Court, this Authority is relying on the documents and evidence provided by the parties. Given the circumstances, no further adjudication on the issue of BBA execution is required.

32. The Authority has gone through 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 that the complainants have paid ₹51,86,038/- against the basic sale price of ₹55,63,728/-. In relation to the total amount paid by complainants, a statement of account has been annexed at page no. 35 of the complaint book. Further, upon perusal of file, it is observed that complainant has annexed a table detailing the amounts paid by



them along-with the interest that they seek from respondent till today, i.e. 26.09.2024 along with affidavit. It is clearly mentioned that an amount of ₹51,86,038/- has been paid by complainants. Therefore, it is an admitted fact that total amount of ₹51,86,038/- stands paid by complainants.

33. It is an undisputed fact that the respondent was obligated to deliver possession of the unit to the complainant by 19.02.2014. However, the respondent offered possession to the complainant on 18.06.2018 which was prior to the issuance of the occupation certificate (OC) dated 17.07.2018, rendering this offer invalid. Later, another offer of possession was made on 01.01.2019 vide possession letter annexed as Annexure R-12 in the respondent's file. It is observed that this offer was made following the issuance of the occupation certificate (OC) dated 17.07.2018. Therefore, valid offer of possession was made on 01.01.2019.

34. Hence, it is pertinent to note that there is delay of more than 4 years in offering a valid possession by the respondent to the complainant. Complainant herein is entitled to delayed possession interest which is provided under the proviso to Section 18 (1) of the Act,

Section 18 (1) proviso reads as under :-

“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".

35. The definition of term 'interest' is defined under Section 2(za) 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;

36. 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. 26.09.2024 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate + 2% i.e., 11.10%.

Payment of delayed possession charges at the prescribed rate of interest.

Interest for every month of delay, till the handing over of possession at such rate, as it has been prescribed under rule 15 of the rules.

Rule 15 has been reproduced as under;

"Rule 15. Prescribed rate of interest- (Proviso to section 12, section



18 and sub-section (4) and subsection (7) of section 19/ (1) For the purpose of proviso to section 12; section 18, and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate + 2%; Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public".

37. In view of aforesaid observations and reasoning, the Authority hereby concludes that the complainant is entitled for the delay interest from 19.02.2014 (deemed date of possession) to 01.01.2019 (date on which a valid offer was sent to the complainant after obtaining occupation certificate from the competent Authority dated 17.07.2018).

38. It is pertinent to note that the complainant has annexed a table detailing the amounts paid by them, along with the interest sought from the respondent up to the present date, i.e., 26.09.2024, supported by an affidavit annexed as Annexure A1. However, it has been observed that the SBI MCLR rate has not been correctly applied, as it does not reflect the current prevailing rate of interest.

39. Hence, Authority has got calculated the interest on total paid amount from the deemed date of possession till the date of valid offer of possession at the rate of 11.10% till and said amount works out to ₹20,25,776/- as per detail given in the table below:



Sr. No.	Principal Amount	Deemed date of possession or date of payment whichever is later	Interest Accrued till 01.01.2019
1.	11,57,323/-	19.02.2014	6,25,772
2.	06,49,680/-	22.04.2014	3,39,037
3.	06,10,444/-	22.04.2014	3,18,561
4.	03,58,969/-	19.09.2014	1,70,954
5.	03,58,969/-	30.09.2014	1,69,753
6.	03,00,000/-	23.04.2015	1,23,164
7.	02,00,000/-	16.07.2015	77,001
8.	03,00,000/-	23.10.2015	1,06,469
9.	03,00,000/-	25.02.2016	95,065
	Total = ₹42,35,385/-		Total = ₹20,25,776/-

H. DIRECTIONS OF THE AUTHORITY

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

- (i) Respondent shall grant immediate possession to the complainant within a period of 30 days from the date of uploading of this order. Said offer of possession shall be inclusive of a detailed statement of payable and receivable amounts including the delay interest admissible to the



complainant on account of delay caused in delivery of possession.

(ii) Respondent is directed to pay the delay interest of Rs. 20,25,776/- as calculated in para 39 of this order to the complainant within 90 days from the date of uploading of this order.

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


.....
CHANDER SHEKHAR
[MEMBER]


.....
DR. GEETA RATHEE SINGH
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]