BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.:	**6817 of 2022**
Date of filing:	**21.10.2022**
Order pronounced on:	**22.08.2024**

Amit Madaan
R/o: - 3308, Sec-19 D, Chandigarh-160019, Haryana **Complainant**

Versus

Spaze Towers Pvt. Ltd.
Regd. Office at: - Tower-C, Spazedge, Sector-47, Gurugram, Haryana **Respondent**

CORAM:
Shri Vijay Kumar Goyal **Member**

APPEARANCE:
Shri Vibhor Agarwal Complainant
Shri Harshit Batra (Advocate) Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee 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 provision 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 complainants, 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 of the project	"TRISTAAR"
2.	Nature of the project	Commercial
3.	DTCP license no. and validity status	72 of 2013 dated 27.07.2013 valid up to 26.07.2017
4.	Allotment letter	01.09.2014 (page 76 of complaint)
5.	Unit no.	19, ground floor (page 40 of reply)
6.	Unit admeasuring	335 sq. ft. super area (as per BBA page 40 of reply) 256 sq. ft. super area (as per offer of possession dated 05.05.2021 page 110 of reply)
7.	Date of execution of Buyers agreement	20.12.2014 (page 18 of complaint)
8.	Possession clause	*11(a)* *The Developer based on its present plans and estimates and subject to all just exceptions endeavours to complete construction of the Said Building/Said Unit in terms of the approvals (including the renewal extended period described therein) and in accordance with the terms of this Agreement unless there shall be delay or failure due to department delay or due to any circumstances beyond the power and control of the Developer or Force Majeure conditions including but not limited to reasons mentioned in clause 11(b) and 11(c) or due to failure of the Allottee(s) to pay in time the Total Consideration of any part thereof and other charges and dues/payments mentioned in this Agreement or any failure on the part of the Allottee(s) to abide by all or any of the terms and conditions of this Agreement. In case there is any delay on the part of the Allottee(s) in making of payments to the Developer then notwithstanding rights available to the Developer elsewhere in this Agreement, the period for implementation of the project shall also be extended by a span of time equivalent to each delay on the part of the Allottee(s) in remitting payments) to the Developer*
9.	Due date of possession	20.12.2017 (calculated from the date of buyer's agreement) *(Due date calculated in accordance with*

		Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018-SC); MANU/SC/0253/2018 *as no specific time period mentioned in possession clause)*
10.	Basic sale consideration	Rs.41,85,155/- (as per payment plan page 65 of complaint)
11.	Amount paid by the complainant	Rs.45,80,796/- (as per table sheet submitted by the respondent)
12.	Invitation for objection for approval of building plans by respondent	16.11.2018 (page 95 of reply)
13.	Legal notice by complainant for refund	21.04.2022 (page 83 of complaint)
14.	Occupation certificate	03.05.2021 (page 107 of reply)
15.	Offer of possession	05.05.2021 (page 110 of reply)

B. Facts of the complaint.

3. The complainant has made the following submissions: -

a) That in July 2014, the respondent's marketing representative contacted the complainant and showed rosy picture of the project and informed that the project would be completed in thirty-six months, i.e., before July 2017.

b) Thereafter, on basis of respondent's promises, the complainant was lured to make one allotment application dated 07.08.2014 for booking shop no. 19 ground floor admeasuring 335 sq. ft in the respondent's project. On 01.09.2014, the respondent issued one allotment letter to complainant.

c) That the respondent took a booking amount of Rs.2,00,000/- and then again took additional amount of Rs.4,68,069/-. Thereafter, on 20.12.2014 the respondent made the complainant sign a buyers' agreement wherein clauses in the agreement were completely one-sided and unfair.

d) That the complainant requested the respondent to add the clauses for specific time of possession of project and delay penalty clause. However, the

respondent refused to do the same and informed the complainant that it would forfeit the entire booking amount if the complainant does not sign the buyers' agreement.

e) That the respondent raised several demands from time to time and made the complainant deposit an amount of Rs.45,80,796/-. Further, for several years the complainant repeatedly kept on asking the respondent regarding completion of project and delivery of the shop, but the respondent kept on giving one excuse or another. The complainant also wrote numerous emails enquiring about the delivery of shop. But all the emails written to respondent fell on deaf ears and respondent did not give any response to the complainant.

f) That on 05.02.2022, complainant's representative visited the project and came to know that the respondent has divided the unit no. 19 into two halves and labelled them as unit no. 19 and unit no. 20. When the complainant made enquiry from respondent's officials, they refused to give any reasons or justifications for the same.

g) That the respondent has completely changed the dimensions of unit no. 19 without any prior permission and has not even informed the complainant regarding any such decision. The respondent has deprived the complainant from his hard-earned money.

h) That complainant has taken loan from ICICI Bank to make payments for the shop and is already paying a high rate of interest on the amount of loan taken from ICICI Bank. The respondent is responsible for this huge monetary loss to the complainant. The respondent has put the entire lifelong savings and earnings of the complainant on stake and has caused immense mental pain, suffering and stress to complainant.

i) As per clause 10 of the builder-buyer agreement if in case any change modification or alterations are made resulting in +/-20% change of the super area of the said unit any time prior to and upon the grant of occupation

certificate, the developer shall intimate in writing to the allottees the changes thereof and the resultant change and the developer have to take the written consent of the allottee.

j) That prior to the written consent mentioned in clause 10 of the builder-buyer agreement no alterations and modification be made. The respondent did not ask for the written consent nor even informed the complainant about the material changes that were made in the subject unit.

k) That clause 11 and 12 of buyer agreement provides the procedure of taking possession of the unit. These were unilateral and one-sided clauses completely in favour of builder. Despite the same, the respondent has not complied with these clauses.

l) That the complainant got one legal notice dated 21.04.2022 issued to the respondent and the same was duly served to it. However, the respondent did not give any reply to the legal notice.

m) That the respondent is liable for refund the entire amount along with interest @ 18% to the complainant. The complainant has suffered bank interest, loss of appreciation in property.

C. Relief sought by the complainant.

4. The complainant has sought following relief:

i. Direct the respondent to refund the total amount paid by the complainant along with the prescribed rate of interest.

ii. Respondent be directed to pay compensation of Rs.2,00,000/- (rupees two lacs only) on account of loss of opportunity and mental agony which has been undergone by the complainant;

iii. Respondent be directed to pay compensation of Rs.10,00,000/- (rupees ten lakhs only) in lieu of interest paid by complainant to its bank;

iv. Respondent be directed to pay litigation cost of Rs.1,00,000/- (rupees one lac only) to the complainant.

D. Reply by the respondent.

5. The respondent contested the complaint on the following grounds: -

a) That in the year 2014, complainant learned about the commercial project launched by the respondent under the name of "SPAZE TRISTAAR" and visited the office of the respondent to know the details of the project and conducted his independent enquiries.

b) That after being completely satisfied with the development status of the project, the complainant vide application form dated 07.08.2014 applied for the registration of the retail space of the respondent's project with full knowledge and subject to all the laws, notifications and rules applicable to the change in area, which were been duly explained by the respondent. The complainant, in his application opted for the construction linked payment plan.

c) Further, on 01.09.2014 the complainant was provided with the allotment of tentative unit bearing unit no. 19, ground floor tentatively admeasuring 335 sq. ft. As per the allotment letter dated 01.09.2014 any further/additional EDC/IDC or statutory levies/demand shall be paid by the allottee on a pro-rata basis.

d) Thereafter, on 20.12.2014 a buyer's agreement was executed between the parties. The agreement was executed willingly, voluntarily, and consciously after complete understanding of the parties with respect to the terms and conditions thereof and no protest of any kind was laid by the complainant.

e) That the subject unit size was tentative in nature and subject to change, as was categorically agreed by the parties in terms of clauses 1.7 and 1.8. Moreover, the building plan of the project was subject to change.

f) Further, in around 2018 the building plan of the project was proposed to be revised for which, the due process was followed by the respondent before the DTCP and the request of the respondent was first provisionally approved

on 13.11.2018 subject to publications having been made. In complete compliance of the said order of DTCP, the respondent issued public notices in Indian Express, The Tribune and Dainik Bhaskar on 16.11.2018, pursuant to which, the revised building plan was finally approved on 14.01.2019. A letter dated 16.11.2018 was also sent to the complainant for inviting the objections/ suggestions for approval of revised building plan.

g) That while approving the building plan, DTCP categorically that "Vide Memo no. 8733 dated 21.12.2018, STP, Gurugram has informed that no objection has been received from any allottee in respect of the amendments made in the building plans". After following the due process of the law, the building plans stood revised. The area of the unit was revised to 256 sq. ft. and same was confirmed after the completion of the building and obtainment of the occupancy certificate and was thereafter duly communicated to the complainant.

h) Furthermore, the construction of the project has been duly done by the respondent within the promised timelines, as promised. As per the clause 11 (a) of the buyer's agreement, the subjective due date for handover of possession was dependent on the approvals including renewals and extensions.

i) That the concerned approval for development of the project was granted by the Authority which was duly taken vide registration certificate number 247 of 2917 dated 26.09.2017. That firstly, the Authority extended the same by 6 months vide Notification No. 9/3-2020 HARERA/GGM dated 02.05.2020, thereby extending the end date to 30.12.2020.

j) Thereafter, on 12.01.2021 the respondent applied for the extension of the registration under section 6 of the Act for which project registration proceedings were carried on under complaint no. 883 of 2021, wherein, the request for extension of the project was approved, vide proceedings dated 04.10.2021.

k) That, in light of the specific provision of the agreement, the due date is calculated from the validity of the registration certificate which was 30.06.2020. The validity of the registration certificate was extended till 30.12.2020 and further extended vide order dated 04.10.2021, thereby extending the validity further beyond October 2021. The respondent has duly fulfilled its obligation in a timely manner and after completing the completion of the project, applied for the occupancy certificate on 12.10.2020 and has attained the occupancy certificate on 03.05.2021, after which, the offer of possession was duly made on 05.05.2021, i.e., before the expiry of due date of offer of possession.

l) The construction of the project faced significant delays due to various force majeure events, such as restrictions on diesel vehicles, stone crushers, and brick kilns imposed by the NGT and other certain orders passed by the authorities. These directives hindered the supply of raw materials essential for construction activities, leading to a total delay of 377 days. Additionally, orders from environmental authorities and courts further impacted construction activities. Despite these challenges, the respondent managed to progress with the construction, obtain necessary approvals, and offer possession of the unit. Given the circumstances were beyond the control, the respondent should be granted an extension of 377 days and the complaint should be dismissed, considering the external factors that caused delays in the project completion including covid-19 pandemic.

m) Additionally, the complainants have defaulted in making the due payments of the unit over the years of development of the unit despite having complete knowledge and understanding of the fact that timely payment was the essence of the contract. In such circumstances reminders dated 29.06.2017 and 16.11.2017 were issued to the complainants requesting the to make the complete payment. That, the complainants have paid Rs.58,07,796/-.

n) That the complainant's relief of refund, cannot be granted in the present circumstance, especially after the due completion of the project, grant of occupancy certificate and issuance of offer of possession. The right of the allottee to seek refund under the Act can only be exercised after the passing of the due date and before issuance of offer of possession.

o) Therefore, no refund can be granted to the complainants. As, the respondent has duly fulfilled the obligations as per the Act, 2016 and the buyer's agreement. However, the complainants have not brought out the same and has consciously attempted to tarnish the reputation of the respondent.

6. All other averments made in the complaint were denied in toto.

7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority.

8. 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

9. 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

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(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.

11. 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 complainants at a later stage.

12. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors." SCC Online SC 1044 decided on 11.11.2021*** wherein it has been laid down as under:

> *"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."*

13. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the matter of **M/s *Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra),*** the authority has the jurisdiction to

entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Finding on objections raised by the respondent.

F.I. Objection regarding the complainants being investors.

14. The respondent has taken a stand that the complainant is investor and not consumer, therefore, they are not entitled to the protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. The respondent also submitted that the preamble of the Act states that the Act is enacted to protect the interest of consumers of the real estate sector. The authority observed that the respondent is correct in stating that the Act is enacted to protect the interest of consumers of the real estate sector. It is settled principle of interpretation that preamble is an introduction of a statute and states main aims & objects of enacting a statute but at the same time preamble cannot be used to defeat the enacting provisions of the Act. Furthermore, it is pertinent to note that any aggrieved person can file a complaint against the promoter if the promoter contravenes or violates any provisions of the Act or rules or regulations made thereunder. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

> *"2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"*

15. In view of above-mentioned definition of "allottee" as well as all the terms and conditions of the apartment buyer's agreement executed between promoter and complainants, it is crystal clear that the complainants are allottee(s) as the subject unit was allotted to them by the promoter. The concept of investor is not defined or referred in the Act. As per the definition given under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a

party having a status of "investor". Thus, the contention of promoter that the allottee being an investor is not entitled to protection of this Act stands rejected.

F.I. Objection regarding force majeure conditions.

16. The respondent-promoter has pleaded that the construction of the project was delayed by 377 days due to force majeure events, including restrictions on diesel vehicles, stone crushers, and brick kilns imposed by the National Green Tribunal (NGT) and other authorities, as well as lockdowns related to the Covid-19 pandemic. They assert that these factors hindered the supply of essential raw materials, thus causing delays in the construction. However, this objection does not address the specific relief sought by the complainant. The complainant's request is for a refund paid because the unit was altered beyond the agreed terms, not because of delay in possession. Therefore, the respondent's claim about force majeure events does not align to the complainant's request for a refund and is not relevant to the instant complaint.

G. Findings on the relief sought by the complainants.

G.I Direct the respondent to refund the total amount paid by the complainant along with the prescribed rate of interest.

17. That the complainant booked a unit no. 19, ground floor in the project of the respondent namely, "TRISTAAR" admeasuring 335 sq. ft. super area for an agreed basic sale consideration of Rs. 41,85,155/- against which the complainant paid an amount of Rs.49,53,299/- and the builder buyer agreement was executed for the subject unit on 20.12.2014 between the parties. Further, the respondent offered the possession of the subject unit to the complainant on 05.05.2021 after obtaining occupation certificate dated 03.05.2021 from the competent authority. However, the complainant intends to withdraw from the project and is seeking refund of the paid-up amount due to decrease in super area of the unit from 335 sq. ft. to 256 sq. ft.

18. On contrary the respondent submitted that as per the agreed terms of the agreement executed between the parties the area of the unit was tentative and subject to change as per the revision of the building plans.

19. Clause 10 of the agreement provides for alteration in change in unit. Same is extracted below:

> ***In case of any alteration/modifications resulting in 20% change in the Super Area of the Said Unit any time prior to and upon the grant of occupation certificate, the Developer shall intimate in writing to the Allottee(s) the changes thereof and the resultant change, if any, in the Total Consideration of the Said Unit to be paid by the Allottee(s) and the Allotee(s) agrees to deliver to the Developer written consent or objections to the changes within thirty (30) days from the date of dispatch by the Developer****. In case the Allottee(s) does not send his written consent, the Allottee(s) shall be deemed to have given unconditional consent to all such alterations/modifications and for payments, if any, to be paid in consequence thereof. If the Allottee(s) objects in writing indicating non-consent/objections alterations/modifications then in such case alone the Developer may at its sole discretion decide to cancel this Agreement without further notice and refund the entire money received from the Allottee(s) within ninety (90) days from the date of receipt of funds by the Developer from resale of the said unit. Upon le decision of the Developer to cancel the Said Unit, the Developer shall be discharged from all its obligations and liabilities under this Agreement and the Allottee(s) shall have no right, interest or claim of any nature whatsoever on the Said Unit and the Parking Space(s), if allotted.*

20. Upon consideration of the above-mentioned clause agreed between the parties wherein it was agreed between the parties that the builder-respondent may alter the super area up to 20% any time prior to and upon the grant of occupation certificate and the developer shall intimate in writing to the allottee the changes thereof and the resultant change. In, the present matter the complainant got to know about the change in super area vide offer of possession dated 05.05.2021 wherein the super area of the subject unit was reduced by 79 sq. ft. from 335 sq. ft. to 256 sq. ft. i.e. approx. 23% which is contrary to the terms of the above clause.

21. Further, clause 1.6 of the agreement provides for refund of the paid-amount on alteration in the unit and is reproduced below:

> *The Allottee(s) agrees and acknowledges that any change in the sanction of the building plan, from time to time and Allottee(s) acknowledges that in such an eventuality, the dimensions of the Said Unit allotted to the Allottee can change.* ***If such changes are made due to re- sanctioning of the Plan, offer for alternative unit or in case the Allottee is not satisfied with the same the***

Developer shall have the authority to refund the amount received by the Allottee(s). The Allottee(s) shall be informed about the said changes by a written notice at the address mentioned in this Agreement.

22. It is pertinent to note that the complainant's request for refund is consistent with the terms and conditions of the agreement. Therefore, the complainant is entitled to a refund of the amount paid to the respondent.

23. **Admissibility of refund at prescribed rate of interest**: The complainant intends to withdraw from the project and is seeking refund of the amount paid by him in respect of the subject unit with interest at prescribed rate as provided 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.*

24. 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.

25. 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., 22.08.2024 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.

26. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, 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—
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 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;"

27. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottees as per the allotment letter under section 11(4)(a). The promoter has failed to give possession of the unit in accordance with the terms of buyer's agreement. Accordingly, the promoter is liable to the allottee, as he wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by the respondent in respect of the unit with interest at such rate as may be prescribed.

28. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to refund of the entire amount paid by him at the prescribed rate of interest i.e., @ 11.10% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

G.II Respondent be directed to pay compensation of Rs.2,00,000/- (rupees two lacs only) on account of loss of opportunity and mental agony which has been undergone by the complainant;

G.III Respondent be directed to pay compensation of Rs.10,00,000/- (rupees ten lakhs only) in lieu of interest paid by complainant to its bank.

G.IV Respondent be directed to pay litigation cost of Rs.1,00,000/- (rupees one lac only) to the complainant.

29. The complainant is seeking relief w.r.t compensation and litigation cost in the aforesaid reliefs, ***Hon'ble Supreme Court of India in civil appeal titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors.*** Supra held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation.

H. Directions of the Authority

30. 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/promoter is directed to refund the entire amount received by it from the complainant/allotee against the subject unit i.e. Rs.45,80,796/- along with prescribed rate of interest @ 11.10% p.a. from the date of each payment till the actual date of refund of the deposited amount as per provisions of section 18(1) of the Act read with rule 15 of the rules, 2017.

II. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

31. Complaint stands disposed of.

32. File be consigned to registry.

Dated: 22.08.2024

(Vijay Kumar Goyal)
Member
Haryana Real Estate Regulatory
Authority, Gurugram