




HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No. 1364 of 2023 date of Decision 17.12.2024 Vijay Kumar Dubey V/s TDI Infrastructure Ltd.

In the above noted captioned complaint order dated 17.12.2024 was uploaded on the website of the Authority on 17.12.2024. However, it was brought to the notice of the Authority by the office that in Para 44 at line No. 2 it was inadvertently written as “₹ /- as per details given below” instead of “₹ 60, 66,701”. /- as per details given below and in Para 45 (i) at line No. 3 it was inadvertently written as “table provided in Para No. 61 of this order” instead of “table provided in Para No. 41 of this order”. Consequently correct order has now been re-uploaded to the website of the Authority. This order shall be treated as part of earlier uploaded order. After uploading the correct order on the website of the Authority file be consign^{ed} to the record room.


Chander Shekhar
Member


Dr. Geeta Raneer Singh
Member



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1364 of 2023
Date of filing:	18.07.2023
First date of hearing:	23.08.2023
Date of pronouncement:	17.12.2024

Vijay Kumar Dubey, S/o Sh. Vyas Jee Dubey
R/o C-302, 2nd floor, Millennium Apartment,
Sector-18, Rohini, Delhi- 110089.

...COMPLAINANT

VERSUS

TDI Infrastructure Ltd.

Through Director/ Authorised Representative

10 Shaheed Bhagat Singh Marg, Near Gole Market, New Delhi-110001

Also at Vandana building, Upper Ground floor, 11 Tolstoy Marg,

Connaught Place, New Delhi- 110001

...RESPONDENT

CORAM: **Dr. Geeta Rathee Singh**
Chander Shekhar

Member
Member

Present: - Adv. Satish Mishra, Id. Counsel for complainant.
Adv. Shubhnit Hans, Id. Counsel for respondent.

Satish

ORDER

1. Present complaint has been filed by complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottees as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

Sr. No.	Particulars	Details
1.	Name of the project	"Tuscan Floors", Near TDI Mall in Tuscan City, Kundli, Sonipat
2.	Name of the promoter	TDI Infrastructure Ltd.
3.	RERA registered/not registered	Un-Registered
4.	DTCP Licence no.	177 of 2017 dated 13.04.2007
5.	Unit No. allotted	T-75/TF
6.	Unit area	1164 sq. ft.,



		(later increased to 1429 sq. ft.)
7.	Date of allotment	03.12.2010
8.	Date of Independent Floor Buyer Agreement	30.03.2011
9.	Due date of offer of possession	30.09.2013 (30 months from the date of execution of B.B.A as per Clause 30 of Agreement)
10.	Basic Sale Price	Rs.21,50,000/- (as per BBA)
11.	Amount paid by complainant	Rs. 24,32,611/-
12.	Offer for fit out possession	11.11.2014
13.	Whether O.C received or not	O.C not received till date

B. FACTS OF THE COMPLAINT AS STATED BY THE COMPLAINANT

3. Facts of the complaint are that complainant had booked a unit in the respondent project namely, "Tuscan Floor" near TDI Mall in Tuscan City, Kundli, District Sonipat, by making payment of Rs.3,00,000/- in year 2010, following which allotment letter dated 03.12.2010 was issued for unit no.T-75/TF admeasuring 1164 sq.ft. Copy of allotment letter is annexed as annexure A-1 colly. Thereafter, Independent Floor Buyer Agreement was executed between the parties on 30.03.2011 and construction linked plan was opted vide said agreement. As per clause 30 of the Independent Floor Buyer Agreement, possession thereof was to be granted within 30 months

Kathar

from the date of execution of the agreement. Copy of the Independent floor buyer agreement is annexed herewith as annexure A-1 colly.

4. Complainant had made payment of Rs.24,32,611/- upto 13.08.2013 against total sale consideration of Rs.26,08,926/-. The complainant to fulfill his obligation had to take a loan from the bank amounting to Rs.10,00,000/- @ 10.75% P.A. The said loan account was closed almost after a decade on 10.06.2022 by the bank after granting no objection certificate to the complainant.
5. That on 11.11.2014, the respondent in haste issued a fit-out offer of possession of the unit for said unit booked by the complainant and asked to take possession. Further, vide said offer, respondent raised a demand of Rs.9,11,734.56/- (which is now Rs.22,33,428.65/- as on 16.06.2022) and demanded that dues be cleared by 11.12.2014. It is submitted by complainant that respondent arbitrarily increased the total cost of the flat from Rs.26,08,926/- to Rs.35,38,871/- in the statement of account appended along-with the possession offer. In said offer, the area of the unit has been increased from 1164sq. ft. to 1429 sq.ft. Thus, there was increase in area of 265 sq.ft. and that too without consulting the complainant. It is submitted here that respondent, in order to avoid any process of law and to cover up for its own wrongs by committing breach of conditions as stipulated in the



agreement, hurriedly issued the said fit-out/soft possession letter without obtaining the Occupancy Certificate just to fulfil the lacunas which reflects that the same was just a mere formality to escape from their illegal acts (Annexure A-3).

6. That the complainant sent a legal notice on 27.07.2015 to respondent to withdraw the illegal demands made in said possession offer for arbitrary increase in area (almost 23% increase in area) without any intimation or consultation with complainant which is in strict violation of section 14 of RERA Act, 2016. Further vide said legal notice, complainant requested the respondent to cancel the allotment and refund back his entire amount along-with interest. However, respondent did not revert back to such legal notice and continued to make illegal demands towards the unit in lieu of possession offer. Further, complainant submitted that as per settled law, an offer of fit-out/soft possession is not to be construed as a legal or valid offer of possession.
7. That the complainant submitted that he even visited the site and found out that the basic amenities were completely missing from the said spot. After this, he enquired about the completion certificate from respondent, however this request was also denied by them. Thus, the complainant submitted that there is no reason for him to accept such illegal offer of possession.



8. That further as per complainant, he fought for his genuine grievances and continued seeking answers to their valid queries from respondent builder but all in vain. Thus, with no option left, complainant approached consumer court at State Commission Delhi vide Case no. CC/43/2016. Seeing no progress in the case, he waited for 3 years and later withdrew the case for initiating proceedings before another forum. That, thereafter, when nation was struck with pandemic- covid 19 in March 2020, he suffered a lot on many accounts and did not file any case then. However, later he approached Delhi Govt.'s Mediation and Conciliation Center on 12.10.2022. Nevertheless, respondent failed to settle the dispute and remained adamant on holding on to the amounts of complainant. Meanwhile, complainant approached the Authority vide letter dated 01.12.2023 and in answer to it he was advised to file a complaint on the online portal of the Authority in prescribed format along-with requisite fees and copies for redressal of his grievances.
9. That complainant submits that there is an extraordinary delay of almost 8 years since 2015, however same is not on the part of complainant, rather respondent. Complainant had issued legal notice for cancellation of unit and refund of amount was sent to respondent, and since then complainant has been pursuing his remedies before the other forum. He further submitted that



even Section 71 (1) of the RERA Act of 2016 provided for transferring complaint from consumer fora to RERA Authority. Thus, on being convinced on the efficacy of RERA, complainant submits that he withdrew the case from Consumer Forum and filed it before the RERA Panchkula Authority.

10. That complainant submits that the *Hon'ble Supreme Court of India vide its order dated 10th January 2022 disposed off the Miscellaneous Application No. 21 of 2022* by passing directions as mentioned below: -

"The order dated 23rd March 2020 is restored and in continuation of orders dated 8th March 2021, 27th April 2021 and 23rd September 2021, it was directed that in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15-03-2020 till 28-02-2022 shall stand excluded and the balance period of limitation remaining as on 03-10-2021 if any, shall become available with effect from 01-03-2022 and in cases where period of limitation- expired between 15-03-2020 till 28-02-2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01-03-2022, also if the actual balance period is greater than 90 days then longer period shall apply. Further, the period from 15-03-2020 till 28-02-2022 shall stand excluded for computing limitation period prescribed under various laws for institution of proceedings, termination of proceedings, condonation of delay".



Thus, complainant submits that he is well within the limitation period to file present complaint since the possession was offered on 11.11.2014, legal notice sent on 27.7.2015, consumer case filed in 2016 and withdrawn on 18.01.2019. Due to Covid-19 limitation period from 15-03-2020 till 28-02-2022 excluded by Supreme Court, then Delhi Govt. Complaint filed before Mediation & Conciliation Centre on 12.10.2022, got disposed on 22.03.2023 and thereafter vide letter dated 01.12.2022 received from Authority, he was advised to file the complaint in proper format before RERA Authority. Thus, the present complaint filed on 18.06.2023 online is well within the limitation period.

C. RELIEFS SOUGHT

11. In view of the facts mentioned above, the complainant pray for the following directions to respondent/ developer/ builder:-
 - i. The complainant prays for refund of entire amount with interest, invested in project so far till the date of its actual realization or money is transferred in Complainant's bank account.
 - ii. The complainant further pray indulgence of this Hon'ble forum/Authority in settlement of accounts with respondent, if any pending, in every possible manner since almost 95% amount is already paid.



- iii. Also further the Authority must see no illegal charges get levied on complainant during the pendency of case on any account, be it of delay interest charges as reflected in current statement of account dated 16.06.2022 as compared to 11.11.2014 during possession offer.
- iv. Also the Hon'ble Court must consider the fact that the loan of Rs. 10,00,000/- was repaid by complainant alone from sanction date of 10.01.2012 to 10.06.2022.
- v. Also since the RERA Act doesn't prescribe any limitation period for filing of complaint, the same may kindly be applied here on the principles of natural justice, if any in this case. Otherwise also cause of action is recurring one here. Thus, case is very well covered within limitation.
- vi. Any other relief which this Authority may deem fit in the present circumstances may also be awarded to the complainant.

D. REPLY ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed reply on 05.04.2024 pleading therein:

12. That complainant had voluntarily invested in the project of the respondent namely "Tuscan Floors", Near TDI Mall in Tuscan City, Kundli, Sonipat. The said project of respondent is covered under license No. 177 of 2007



dated 13.04.2007 annexed as Annexure R-1 and the respondent company had already applied to the Director General of Town and Country Planning, Haryana, for grant of Occupation Certificate for said project vide letter dated 09.05.2014 annexed as Annexure R-2 with reply.

13. That the Real Estate (Regulation & Development) Act, 2016 was not in existence at the time of commencement of construction of the said project. Also, an occupation certificate was applied by the respondent company way back in 2014, therefore, the present complaint is not maintainable and falls outside the purview of the Real Estate (Regulation & Development) Act, 2016. The RERA Act came into effect in 2016 and cannot be held to be retrospective in nature. In a recent judgment, the Hon'ble Supreme Court in the matter titled as "*Newtech Promoters and Developers Pvt. Ltd. vs. State of UP and others*", in *Civil Appeal Nos. 6745-6749 of 2021* has held that application of the Real Estate (Regulation & Development) Act, 2016 is retroactive in character. Thus, if the Act is given a retrospective application, the same would be unjust and would gravely prejudice the respondent company. Further, the agreement was executed on 30.03.2011, which is much prior to the date when RERA Act came into existence. Accordingly, the agreement executed between the parties is binding on them and RERA Act and rules have no force to the already agreed terms and conditions of the



flat buyer agreement executed between the parties. Therefore, respondent submits that the complainant is bound by the terms and conditions of the agreement and as such cannot withdraw his consent.

14. Further, respondent states that complainant has already been offered possession on 11.11.2014, therefore, the present complaint must be dismissed. Further he submits that complainant herein is an investor and has accordingly invested in the project of the respondent company for the sole reason of investing and earning profits and speculative gains, therefore the captioned complaint deserves to be dismissed *in toto*.
15. That no cause of action has occurred in favour of complainant and the present complaint is barred by limitation as the complainant has been sleeping over its rights for almost 10 years from the date of possession. Thus, the captioned complaint is miserably hit by the *principle of delay and laches*. Thus, no cause of action has arisen in favour of complainant to file the captioned complaint.
16. That the handing over of the possession has always been tentative and subject to force majeure conditions as duly mentioned under clause 30 of the agreement and the complainant have been aware about the same at all times. Thus, the complainant cannot be allowed to raise wrong, false and frivolous



claims especially when complainant has already accepted the possession and are residing in the said unit.

17. That further, the complainant has on various occasions had defaulted in making time payment as per payment scheduled agreed between the respondent company and complainant, therefore, respondent company had also issued various reminder letters in past to complainant to clear their outstanding dues. Hence delay in handing over possession cannot be solely attributed to the respondent company but only due non-payment by the complainant on various occasions.
18. That the complainant is just indulging in forum shopping in order to get the favorable order despite the fact that he has not paid the outstanding dues for the unit in question and is just trying to take the benefit of his own wrong and negligence.
19. That the respondent has not made any violation of the Act or the Rules made thereunder. The reliefs claimed by complainant are denied and claims made therein are not maintainable and are hence, liable to be dismissed.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

20. During oral arguments learned counsel for the complainant and respondent have reiterated arguments as mentioned in their written submissions.



F. FINDINGS ON THE OBJECTIONS RAISED BY THE RESPONDENT

F.1. Objection regarding veracity of the complaint.

21. Respondent has raised a preliminary objection that the captioned complaint does not bear the signature of the complainant, and even the affidavit so attached with the complaint has been attested without any signature of the complainant. In this regard, it is observed that page-17 of the complaint provides for a verification paragraph wherein the complainant Mr. Vijay Kumar Dubey, s/o Shri Vyas Jee Dubey had affirmed and verified that the contents of the above complaint are true and correct. The verification is under the signature of the complainant. On perusal of file, it is observed that an affidavit has been attached at page no.18 of the complaint and the same bears the signatures of the deponent i.e. Vijay Kumar Dubey. Hence, there appears no valid reason to doubt the veracity of the complaint or the contents therein.

F.2. Objection regarding execution of BBA prior to the coming into force of RERA Act,2016

22. One of the averments of respondent is that provisions of the RERA Act of 2016 will not apply on the agreements executed prior to coming into force of RERA Act,2016. Accordingly, respondent has argued that relationship of



builder and buyer in this case will be regulated by the agreement previously executed between them and the same cannot be examined under the provisions of RERA Act. In this regard, Authority observes that after coming into force the RERA Act, 2016, jurisdiction of the civil court is barred by Section 79 of the Act. Authority, however, is deciding disputes between builders and buyers strictly in accordance with terms of the provisions of flat-buyer agreements. After RERA Act of 2016 coming into force the terms of agreement are not re-written, the Act of 2016 only ensure that whatever were the obligations of the promoter as per agreement for sale, same may be fulfilled by the promoter within the stipulated time agreed upon between the parties. Issue regarding opening of agreements executed prior to coming into force of the RERA Act, 2016 was already dealt in detail by this Authority in *complaint no. 113 of 2018 titled as Madhu Sareen v/s BPTP Ltd* decided on 16.07.2018. Relevant part of the order is being reproduced below:

“The RERA Act nowhere provides, nor can it be so construed, that all previous agreements will be re-written after coming into force of RERA. Therefore, the provisions of the Act, the Rules and the Agreements have to be interpreted harmoniously. However, if the Act or the Rules provides for dealing with certain specific situation in a particular manner, then that situation will be dealt with in accordance with the Act and the Rules after the date of coming into force of the Act and the



Rules. However, before the date of coming into force of the Act and the Rules, the provisions of the agreement shall remain applicable. Numerous provisions of the Act saves the provisions of the agreements made between the buyers and seller."

23. Further, as per recent judgement of Hon'ble Supreme court in ***Newtech Promoters and Developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021*** it has already been held that the projects in which completion certificate has not been granted by the competent Authority, such projects are within the ambit of the definition of on-going projects and the provisions of the RERA Act,2016 shall be applicable to such real estate projects. Furthermore, as per section 34(e) it is the function of the Authority to ensure compliance of obligation cast upon the promoters, the allottees and the real estate agents under this Act, and the rules and regulations made thereunder. Therefore, this Authority has complete jurisdiction to entertain the captioned complaint and objection raised by the respondent regarding maintainability of the present complaint is rejected.

F.3. Objections raised by the respondent stating that complainant herein is an investor and have invested in the project of the Respondent Company for the sole reason of investing, earning profits and speculative gains.



24. In this regard Authority observes that complainant herein is the allottee/homebuyer who has made a substantial investment from his hard earned savings under the belief that the promoter/real estate developer will handover possession of the booked unit within a reasonable time but his bonafide belief stood shaken when the promoter failed to offer a valid possession of the booked unit within the time stipulated in the agreement to sell without any reasonable cause. It is after an inordinate delay in handing over of possession that complainant has approached this Authority for seeking refund of paid amount with interest in terms of provisions of RERA Act,2016 being allottee of respondent-promoter. As per definition of allottee provided in clause 2(d) of RERA Act,2016, present complainant is duly covered under it and is entitled to file present complaint for seeking the relief claimed by him. Clause 2(d) of RERA Act,2016 is reproduced for reference:-

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



25. Complainant has been allotted floor in the project of respondent by the respondent/promoter itself and said fact is duly admitted by the respondent in the allotment letter dated 03.12.2010 as well as in Independent Floor Buyer Agreement dated 30.03.2011. Also, the definition of allottee as provided under Section 2 (d) does not distinguish between an allottee who has been allotted a unit for consumption/self-utilization or investment purpose. Thus, the plea of respondent to dismiss the complaint on the ground that complainant herein is investor does not hold merit and same is rejected.

F.4. Objection raised by the respondent that complainant is indulging in forum shopping.

26. Respondent in its reply has averred that complainant herein has been indulging in forum shopping by filing the complaint before the Hon'ble State Consumer Dispute Redressal Commission at Delhi, Delhi Government and Mediation and Conciliation Centre and before Ld. RERA Authority.

Here, Authority observes that respondent in its agreement for sale had committed to hand over the possession of the unit within 30 months from the date of execution of the said agreement i.e. by 30.09.2013. However, respondent vide its letter dated 11.11.2014 made "offer of possession for fitout of unit" only. The complainant, who was conscious of the legal


Patil

parameters to hand over a valid possession refused to accept the offer of possession of fitout without issuance of an occupation/completion certificate by the competent authority. Since, at the time of offer of possession for fitout of the unit, RERA Act, 2016 was not enacted, the allottee exercising his legal rights available at that time served a legal notice dated 27.07.2015 upon the respondent promoter, wherein complainant had stated that after issuance of offer of possession for fitouts letter dated 11.11.2014 complainant had contacted officials of the respondent and requested to cancel his allotment for the reason that fitout offer of possession was without an occupation/completion certificate and refund back his entire amount with interest. As the request was not adhered to, complainant vide this legal notice again called upon the respondent to cancel the allotment of the subject matter flat immediately and refund the entire amount paid along with interest, failing which complainant shall take legal action in the appropriate court of law for recovery of the said amount. Accordingly, the complainant filed the complaint before the Hon'ble State Consumer Dispute Redressal Commission at Delhi in 2016, clearly conveying his intention to withdraw from the project. However, it is a matter of record that respondent withdrew the same in 2019. Subsequently, complainant filed a case before the Delhi Government Mediation and Conciliation Centre on 12.10.2022, which got

A handwritten signature in blue ink, appearing to read 'S. Attar', is written over a horizontal line.

disposed of on 22.03.2023 as the matter could not be settled amicably between the parties. The fact that complainant approached the Mediation and Conciliation Centre shows that he intended to resolve the dispute amicably. As the matter could not be settled amicably, he filed a complaint before this Authority on 18.06.2023. Chronology of events unfolds to transpire that complainant has been pursuing his case diligently since year 2015 and has been consistently seeking relief of refund of amount along with interest as the respondent is not in a position to hand over legally valid offer of possession in absence of an occupation certificate issued by the competent authority. Authority observes that complainant has not indulged in forum shopping, but has only availed legal remedy that were available to him in the year 2016 as the RERA Act had not come into force in entirety in the year 2016. After, RERA Act coming into force in 2017, complainant had made an effort to settle the matter amicably through alternate dispute resolution mechanism of mediation and conciliation. Thereafter, present complaint has been filed before the Authority. Hence, present complaint is maintainable before the Authority.

F.5. Objection raised by respondent that the present complaint is barred by limitation.



27. In this regard, it is observed that as per clause 30 of the Independent Floor Buyer Agreement dated 30.03.2011, respondent was to handover the possession of the unit to complainant within 30 months from the date of execution of agreement i.e. by 30.09.2013. However, fit-out possession was offered vide letter dated 11.11.2014, i.e., after a delay of more than 1 year from the deemed date of possession. Hence, respondent has failed to fulfil its obligations to hand over the possession of the booked unit in its project within time stipulated in agreement for sale. Here, Authority has made reference to the judgement of the **Hon'ble Apex Court in Civil Appeal no. 4367 of 2004 titled as M.P Steel Corporation v/s Commissioner of Central Excise** wherein it was held that 'The Indian Limitation Act' applies only to courts and not to the tribunals. Relevant para is reproduced herein:

"It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963."

28. The Real Estate (Regulation & Development) Act, 2016 is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the Limitation Act 1963, thus, would not be applicable to the proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority established under the Act is a quasi-judicial body and not Court. Therefore, objection of



respondent with respect to the fact that complaint is barred by limitation is rejected.

G. OBSERVATIONS AND DECISION OF AUTHORITY

29. Authority has gone through the rival contentions. In light of background of the matter as raptured in this order and also arguments submitted by both parties, Authority observes that there is no dispute with respect to the facts that a unit was booked by complainant in the respondent's project namely "Tuscan Floors", Near TDI Mall in Tuscan City, Kundli, Sonipat in the year 2010. Unit No. T-75/TF, admeasuring 1164sq. feet was allotted to complainant vide allotment letter dated 03.12.2010; Independent Floor Buyer Agreement dated 30.03.2011 was executed between the parties. Complainant has paid Rs. 24,32,611/- as total sale consideration.
30. On perusal of complaint, it is observed that complainant has the following grouses against the respondent promoter:
- i. That the "fit out possession-cum-demand letter" dated 11.11.2014 was illegal as the same was without completion of unit and accompanied by illegal demands of Rs.11,29,334.56/-
 - ii. That area of allotted unit of complainant was arbitrarily increased.
31. Authority observes that complainant is aggrieved by the fact that the respondent has failed to fulfill its obligation to hand over a legally valid



offer of possession within the stipulated period as provided in the independent floor buyer agreement and in absence of occupation certificate been issued by competent authority, respondent is even as on date not in a position to make legally valid offer of possession. Complainant has alleged that fit out offer of possession dated 11.11.2014 was illegal not only because it was made without obtaining occupation certificate from competent authority but also on account of the fact that same was accompanied by arbitrary and illegal demands of Rs.11,29,334.56/- due to the reason that area was increased arbitrarily which was intimated vide such demand letter only. On perusal of statement of account dated 11.11.2014 at page no. 53 of complaint file, it transpires that the area of the unit has been increased from 1146 sq. ft. to 1429 sq. ft., meaning thereby that the size of the flat was increased by 265 sq. ft. As per clause-7 of the pre-RERA independent floor buyer's agreement, the area of the flat allotted was tentative and subject to the changes as per directions of sanctioning authority. The said clause further provided that in case increase of allotted area of said flat, the buyer shall pay for initial 10% of increase in area at the rate of booking of the flat. Further on perusal of statement of account dated 28.12.2023 annexed along with reply filed by respondent, it is observed that the above mentioned payments against increased in area has not been made by complainant.



Authority observes that complainant has not paid such amount and now that he in exercise of his right under Section 18 of the Act is seeking refund of total amount paid, therefore, Authority is of the view that it is not relevant to adjudicate/ discuss issue of these charges at this stage.

32. Now adjudicating the prime issue that the respondent has failed to fulfill its obligation to hand over a legally valid offer of possession, Authority observes that complainant is alleging that since fit out offer of possession was not a valid offer of possession, he is well within their rights under Section 18 of the RERA Act, 2016 to withdraw from the project and demand refund of the amounts paid along-with interest. Thus, it is to be decided whether the offer of fit-out possession made vide letter dated 11.11.2014 was a valid offer of possession and whether complainant is entitled to relief of refund under section 18 of the RERA Act, 2016 or not.
33. Authority observes that as per clause 30 of the independent floor buyer agreement dated 30.03.2011, respondent had committed to handover the possession of unit to complainant by 30.09.2013; however, it is a matter of fact that no valid offer of possession has been made by respondent. An application was made for the grant of occupation certificate on 09.05.2014, however without issuance of the same, an offer for fit-out possession was made on 11.11.2014. It is a settled principle of law that a fit-out possession



cannot be construed as a legally valid offer of possession. As per the order of this Hon'ble Authority in *Complaint case No. 903 of 2019 titled Sandeep Goyal Vs. Omaxe Ltd.*, it was held that offer of possession without obtaining Occupation Certificate is not a valid offer of possession and the same is reiterated by this Hon'ble Authority in *Complaint Case No. 252 of 2021 titled Harjit Kaur & An Vs TDI Infra Corp (India) Limited* decided on 18.05.2023. the relevant part of the order is reproduced below:

"7. At this stage, the Authority would express its views regarding the concept of valid offer of possession. It is necessary to clarify this concept because after valid and lawful offer of possession liability of promoter for delayed offer of possession comes to an end, and liability of allottee for paying holding charges as per agreement commences. On the other hand, if the possession is not valid and lawful, liability of promoter continues till a valid offer is made and allottee remains entitled to receive interest for the delay caused in handing over valid possession. The Authority after detailed consideration of the matter has arrived at the conclusion that a valid offer of possession of an apartment must have following components:

(i) Firstly, the apartment after its completion should have received occupation certificate from the department concerned certifying that all basic infrastructural facilities have been laid and are operational. Such infrastructural facilities include water supply, sewerage system, storm water drainage, electricity supply, roads and street lighting.....

(ii) Secondly, the apartment should be in habitable condition.



(iii) Thirdly, the offer of possession should not be accompanied by unreasonable additional demands. In several cases additional demands are made and sent along with the offer of possession...."

34. For the above observation, it follows that offer of fit-out possession dated 11.11.2014 in present case is illegal and cannot be called a lawful offer of possession. Complainant had invested their hard earned money in the project with hope of timely delivery of possession. However, only offer of possession for fit out of flat was offered to complainant and that too after a delay of more than a year. Fact remains that respondent is yet to receive occupation certificate, meaning thereby that a valid possession is yet to be offered to the complainant.
35. Further it is pertinent to note that such offer of fit-out possession has not been accepted by complainant till date as no such correspondence has been placed on record that could prove that offer of possession has been accepted. The intention of the complainant to not accept the said offer of fit-out possession is clear from the fact that he sent a legal notice to the respondent on 27.07.2015 in response to said offer of possession dated 11.11.2014. Vide such notice dated 27.07.2015, he requested the respondent to withdraw the illegal demands for arbitrary increase in area and also prayed for cancellation of the allotment made in his favor along-with refund of the deposited amount along-with interest. Therefore, intention of the

A handwritten signature in black ink, appearing to read 'S. Retuee', is written over a horizontal line.

complainant to seek refund of the paid amount is clear from the very beginning, thus it is not a disputed fact that complainant seeks to withdraw from the project of the respondent.

36. In view of the above observations, Authority is not hesitant to conclude that the fit-out offer of possession was merely a paper possession and cannot be held to be a legally valid offer of possession. When an allottee invests in a real estate project, he intends to enjoy the fruits of his investment and mere handing over of offer of fit-out possession does not entrust upon him the right to enjoy the peaceful possession of such unit. Thus, no valid offer of possession was ever made by respondent to the complainant in captioned complaint.
37. Further, it is an admitted fact that development of real estate projects gets delayed sometimes due to reasons beyond the control of the builder, however a delay of nearly 13 years is a huge time which takes a toll on the allottees who have invested their hard earned money in the project and are then stuck without the money or possession in hand. Complainant in this case had paid the sale consideration to the tune of ₹ 24,32,611/- by the year 2013 itself in hopes of receiving a unit. However, the complainant was not only bereft of his hard-earned money but was also not able to enjoy possession since the valid offer of possession had been extraordinarily



delayed by the respondent. It is observed that the respondent has severely defaulted in delivering possession as per the agreed terms and conditions. Further, since till date, respondent has not been able to offer a valid offer of possession to the complainant, complainant is left with one option i.e. to approach this Authority and avail one remedy out of the two remedies available under section 18 of the RERA Act, 2016, i.e. either to continue with the project and claim possession along-with interest or withdraw from the project and demand refund of the amount paid by them along-with interest. In the present complaint, promoter has failed to deliver the possession of the flat within the prescribed time period, and complainant also does not want to continue with the project and seeks refund of the amount paid.

38. It is to mention here the judgement dated 02.04.2019 passed by Hon'ble Supreme Court in Civil Appeal no. 12238 of 2018 titled as *Pioneer Urban Land & Infrastructure Ltd v. Govindan Raghavan*, whereby it is held that the flat purchaser could not be compelled to take possession of the flat, even though it was offered almost 2 years after the grace period under the agreement expired. Relevant part of said judgement is reproduced below for reference:-

"9. We see no illegality in the Impugned Order dated 23.10.2018 passed by the National Commission. The Appellant

A handwritten signature in blue ink, appearing to read 'J. Lathee', is written over the page number.

– Builder failed to fulfill his contractual obligation of obtaining the Occupancy Certificate and offering possession of the flat to the Respondent – Purchaser within the time stipulated in the Agreement, or within a reasonable time thereafter. The Respondent – Flat Purchaser could not be compelled to take possession of the flat, even though it was offered almost 2 years after the grace period under the Agreement expired. During this period, the Respondent – Flat Purchaser had to service a loan that he had obtained for purchasing the flat, by paying Interest @ 10% to the Bank. In the meanwhile, the Respondent – Flat Purchaser also located an alternate property in Gurugram. In these circumstances, the Respondent – Flat Purchaser was entitled to be granted the relief prayed for i.e. refund of the entire amount deposited by him with Interest.”

39. Furthermore, since respondent has not offered a valid offer of possession until now after a delay of almost 13 years, complainant who has already waited for more than 13 years does not wish to wait for a further uncertain amount of time or a valid possession. Complainant is at liberty to exercise his right to withdraw from the project on account of default on the part of respondent to deliver possession and seek refund of the paid amount. Hon'ble Supreme Court in the matter of "**Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others**" in Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgement is reproduced below:



“25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.”

40. The aforesaid decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession. The complainant wish to withdraw from the project of the respondent, therefore, Authority finds it to be fit case for allowing refund in favour of complainant. As per Section 18 of Act, interest shall be awarded at such rate as may be prescribed. Rule 15 of HIRERA Rules, 2017 provides for prescribed rate of interest which is as under: 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;

Rule 15 of HRERA Rules, 2017 which is reproduced below for ready reference:

“Rule 15: 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 (NCLR) 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”.

41. Consequently, as per website of State Bank of India i.e. <https://sbi.co.in>, the marginal cost of lending rate (in short MCLR) as on date i.e. 17.12.2024 is 9.10%. Accordingly, the prescribed rate of interest will be MCLR+2% i.e. 11.10%.



42. Accordingly, respondents will be liable to pay the complainant, interest from the date amounts were paid by him till the actual realization of the amount. Hence, Authority directs respondents to refund to the complainant the paid amount of ₹ 24,32,611/- along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR) + 2 % which as on date works out to 11.10% (9.10% + 2.00%) from the date amounts were paid till the “actual realization of the amount”.
43. As per statement of accounts annexed at Annexure C-30 of complaint, complainant had paid an amount of Rs.24,32,611/- as total sale consideration. Therefore, Rs.24,32,611/-, is taken into account for calculation of interest as prescribed under Rule 15 of Haryana Real Estate (Regulation & Development) Rules, 2017 i.e. @ SBI highest marginal cost of lending rate (MCLR) + 2% i.e., 11.10% (9.10% + 2.00%), as on date which is to be calculated from the deemed date of possession till the date of this order (i.e. from 30.09.2013 to 17.12.2024).
44. Authority has got calculated the total amount along with interest at the rate of 11.10% till the date of this order and said amount works out to Rs.60,66,701/- per detail given in the table below:



Sr. No.	Principal Amount	Date of payment	Interest Accrued till 17.12.2024 (in Rs.)	TOTAL (in Rs.)
1.	3,00,000	2010-03-30	4,90,559	7,90,559
2.	1,45,000	2010-08-31	2,30,313	3,75,313
3.	1,00,000	2010-08-31	1,58,836	2,58,836
4.	1,00,000	2010-08-31	1,58,836	2,58,836
5.	8,304	2010-08-31	13,190	21,494
6.	51,600	2011-03-12	78,931	1,30,531
7.	1,20,000	2011-03-30	1,82,904	3,02,904
8.	1,12,200	2011-03-30	1,71,015	2,83,215
9.	9,966	2011-03-30	15,190	25,156
10.	1,61,926	2011-05-20	2,44,296	4,06,222
11.	1,25,000	2011-05-20	1,88,586	3,13,586
12.	1,00,000	2011-07-09	1,49,348	2,49,348
13.	7,308	2011-07-09	10,914	18,222
14.	1,32,200	2011-07-09	1,97,438	3,29,638
15.	1,39,508	2011-09-21	2,05,213	3,44,721
16.	92,693	2011-09-21	1,36,349	2,29,042
17.	7,307	2011-09-21	10,748	18,055



18.	4,79,016	2012-01-12	6,88,161	11,67,177
19.	2,40,583	2013-08-13	3,03,263	5,43,846
Total	24,32,611		36,34,090	60,66,701

DIRECTIONS OF THE AUTHORITY

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

i) Respondent is directed to refund the entire amounts along with interest of @ 11.10 % i.e. **Rs.60,66,701/-** to the complainant as specified in the table provided in para 41 of this order.

(ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.

[Handwritten Signature]

46. Captioned complaint is, accordingly, **disposed of**. File be consigned to the record room after uploading orders on the website of the Authority.



CHANDER SHEKHAR
[MEMBER]



DR. GEETA RATHEE SINGH
[MEMBER]



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1364 of 2023
Date of filing:	18.07.2023
First date of hearing:	23.08.2023
Date of pronouncement:	17.12.2024

Vijay Kumar Dubey, S/o Sh. Vyas Jee Dubey
R/o C-302, 2nd floor, Millennium Apartment,
Sector-18, Rohini, Delhi- 110089.

...COMPLAINANT

VERSUS

TDI Infrastructure Ltd.

Through Director/ Authorised Representative

10 Shaheed Bhagat Singh Marg, Near Gole Market, New Delhi-110001

Also at Vandana building, Upper Ground floor, 11 Tolstoy Marg,

Connaught Place, New Delhi- 110001

...RESPONDENT

CORAM: **Dr. Geeta Rathee Singh**
Chander Shekhar

Member
Member

Present: - Adv. Satish Mishra, Id. Counsel for complainant.

Adv. Rahul Dewan, Proxy Counsel for Adv. Shubhnit Hans, Id.
Counsel for respondent.

Dr. Geeta Rathee

ORDER

1. Present complaint has been filed by complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottees as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

Sr. No.	Particulars	Details
1.	Name of the project	"Tuscan Floors", Near TDI Mall in Tuscan City, Kundli, Sonipat
2.	Name of the promoter	TDI Infrastructure Ltd.
3.	RERA registered/not registered	Un-Registered
4.	DTCP Licence no.	177 of 2017 dated 13.04.2007
5.	Unit No. allotted	T-75/TF
6.	Unit area	1164 sq. ft.,



		(later increased to 1429 sq. ft.)
7.	Date of allotment	03.12.2010
8.	Date of Independent Floor Buyer Agreement	30.03.2011
9.	Due date of offer of possession	30.09.2013 (30 months from the date of execution of B.B.A as per Clause 30 of Agreement)
10.	Basic Sale Price	Rs.21,50,000/- (as per BBA)
11.	Amount paid by complainant	Rs. 24,32,611/-
12.	Offer for fit out possession	11.11.2014
13.	Whether O.C received or not	O.C not received till date

B. FACTS OF THE COMPLAINT AS STATED BY THE COMPLAINANT

3. Facts of the complaint are that complainant had booked a unit in the respondent project namely, "Tuscan Floor" near TDI Mall in Tuscan City, Kundli, District Sonipat, by making payment of Rs.3,00,000/- in year 2010, following which allotment letter dated 03.12.2010 was issued for unit no.T-75/TF admeasuring 1164 sq.ft. Copy of allotment letter is annexed as annexure A-1 colly. Thereafter, Independent Floor Buyer Agreement was executed between the parties on 30.03.2011 and construction linked plan was opted vide said agreement. As per clause 30 of the Independent Floor Buyer Agreement, possession thereof was to be granted within 30 months



from the date of execution of the agreement. Copy of the Independent floor buyer agreement is annexed herewith as annexure A-1 colly.

4. Complainant had made payment of Rs.24,32,611/- upto 13.08.2013 against total sale consideration of Rs.26,08,926/-. The complainant to fulfill his obligation had to take a loan from the bank amounting to Rs.10,00,000/- @ 10.75% P.A. The said loan account was closed almost after a decade on 10.06.2022 by the bank after granting no objection certificate to the complainant.
5. That on 11.11.2014, the respondent in haste issued a fit-out offer of possession of the unit for said unit booked by the complainant and asked to take possession. Further, vide said offer, respondent raised a demand of Rs.9,11,734.56/- (which is now Rs.22,33,428.65/- as on 16.06.2022) and demanded that dues be cleared by 11.12.2014. It is submitted by complainant that respondent arbitrarily increased the total cost of the flat from Rs.26,08,926/- to Rs.35,38,871/- in the statement of account appended along-with the possession offer. In said offer, the area of the unit has been increased from 1164sq. ft. to 1429 sq.ft. Thus, there was increase in area of 265 sq.ft. and that too without consulting the complainant. It is submitted here that respondent, in order to avoid any process of law and to cover up for its own wrongs by committing breach of conditions as stipulated in the



agreement, hurriedly issued the said fit-out/soft possession letter without obtaining the Occupancy Certificate just to fulfil the lacunas which reflects that the same was just a mere formality to escape from their illegal acts (Annexure A-3).

6. That the complainant sent a legal notice on 27.07.2015 to respondent to withdraw the illegal demands made in said possession offer for arbitrary increase in area (almost 23% increase in area) without any intimation or consultation with complainant which is in strict violation of section 14 of RERA Act, 2016. Further vide said legal notice, complainant requested the respondent to cancel the allotment and refund back his entire amount along-with interest. However, respondent did not revert back to such legal notice and continued to make illegal demands towards the unit in lieu of possession offer. Further, complainant submitted that as per settled law, an offer of fit-out/soft possession is not to be construed as a legal or valid offer of possession.
7. That the complainant submitted that he even visited the site and found out that the basic amenities were completely missing from the said spot. After this, he enquired about the completion certificate from respondent, however this request was also denied by them. Thus, the complainant submitted that there is no reason for him to accept such illegal offer of possession.



8. That further as per complainant, he fought for his genuine grievances and continued seeking answers to their valid queries from respondent builder but all in vain. Thus, with no option left, complainant approached consumer court at State Commission Delhi vide Case no. CC/43/2016. Seeing no progress in the case, he waited for 3 years and later withdrew the case for initiating proceedings before another forum. That, thereafter, when nation was struck with pandemic- covid 19 in March 2020, he suffered a lot on many accounts and did not file any case then. However, later he approached Delhi Govt.'s Mediation and Conciliation Center on 12.10.2022. Nevertheless, respondent failed to settle the dispute and remained adamant on holding on to the amounts of complainant. Meanwhile, complainant approached the Authority vide letter dated 01.12.2023 and in answer to it he was advised to file a complaint on the online portal of the Authority in prescribed format along-with requisite fees and copies for redressal of his grievances.
9. That complainant submits that there is an extraordinary delay of almost 8 years since 2015, however same is not on the part of complainant, rather respondent. Complainant had issued legal notice for cancellation of unit and refund of amount was sent to respondent, and since then complainant has been pursuing his remedies before the other forum. He further submitted that

A handwritten signature in black ink, appearing to read 'S. S. Sathya', is written over a horizontal line.

even Section 71 (1) of the RERA Act of 2016 provided for transferring complaint from consumer fora to RERA Authority. Thus, on being convinced on the efficacy of RERA, complainant submits that he withdrew the case from Consumer Forum and filed it before the RERA Panchkula Authority.

10. That complainant submits that the *Hon'ble Supreme Court of India vide its order dated 10th January 2022 disposed off the Miscellaneous Application No. 21 of 2022* by passing directions as mentioned below: -

"The order dated 23rd March 2020 is restored and in continuation of orders dated 8th March 2021, 27th April 2021 and 23rd September 2021, it was directed that in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15-03-2020 till 28-02-2022 shall stand excluded and the balance period of limitation remaining as on 03-10-2021 if any, shall become available with effect from 01-03-2022 and in cases where period of limitation- expired between 15-03-2020 till 28-02-2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01-03-2022, also if the actual balance period is greater than 90 days then longer period shall apply. Further, the period from 15-03-2020 till 28-02-2022 shall stand excluded for computing limitation period prescribed under various laws for institution of proceedings, termination of proceedings, condonation of delay".



Thus, complainant submits that he is well within the limitation period to file present complaint since the possession was offered on 11.11.2014, legal notice sent on 27.7.2015, consumer case filed in 2016 and withdrawn on 18.01.2019. Due to Covid-19 limitation period from 15-03-2020 till 28-02-2022 excluded by Supreme Court, then Delhi Govt. Complaint filed before Mediation & Conciliation Centre on 12.10.2022, got disposed on 22.03.2023 and thereafter vide letter dated 01.12.2022 received from Authority, he was advised to file the complaint in proper format before RERA Authority. Thus, the present complaint filed on 18.06.2023 online is well within the limitation period.

C. RELIEFS SOUGHT

11. In view of the facts mentioned above, the complainant pray for the following directions to respondent/ developer/ builder:-
 - i. The complainant prays for refund of entire amount with interest, invested in project so far till the date of its actual realization or money is transferred in Complainant's bank account.
 - ii. The complainant further pray indulgence of this Hon'ble forum/Authority in settlement of accounts with respondent, if any pending, in every possible manner since almost 95% amount is already paid.



- iii. Also further the Authority must see no illegal charges get levied on complainant during the pendency of case on any account, be it of delay interest charges as reflected in current statement of account dated 16.06.2022 as compared to 11.11.2014 during possession offer.
- iv. Also the Hon'ble Court must consider the fact that the loan of Rs. 10,00,000/- was repaid by complainant alone from sanction date of 10.01.2012 to 10.06.2022.
- v. Also since the RERA Act doesn't prescribe any limitation period for filing of complaint, the same may kindly be applied here on the principles of natural justice, if any in this case. Otherwise also cause of action is recurring one here. Thus, case is very well covered within limitation.
- vi. Any other relief which this Authority may deem fit in the present circumstances may also be awarded to the complainant.

D. REPLY ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed reply on 05.04.2024 pleading therein:

12. That complainant had voluntarily invested in the project of the respondent namely "Tuscan Floors", Near TDI Mall in Tuscan City, Kundli, Sonipat. The said project of respondent is covered under license No. 177 of 2007



dated 13.04.2007 annexed as Annexure R-1 and the respondent company had already applied to the Director General of Town and Country Planning, Haryana, for grant of Occupation Certificate for said project vide letter dated 09.05.2014 annexed as Annexure R-2 with reply.

13. That the Real Estate (Regulation & Development) Act, 2016 was not in existence at the time of commencement of construction of the said project. Also, an occupation certificate was applied by the respondent company way back in 2014, therefore, the present complaint is not maintainable and falls outside the purview of the Real Estate (Regulation & Development) Act, 2016. The RERA Act came into effect in 2016 and cannot be held to be retrospective in nature. In a recent judgment, the Hon'ble Supreme Court in the matter titled as "*Newtech Promoters and Developers Pvt. Ltd. vs. State of UP and others*", in Civil Appeal Nos. 6745-6749 of 2021 has held that application of the Real Estate (Regulation & Development) Act, 2016 is retroactive in character. Thus, if the Act is given a retrospective application, the same would be unjust and would gravely prejudice the respondent company. Further, the agreement was executed on 30.03.2011, which is much prior to the date when RERA Act came into existence. Accordingly, the agreement executed between the parties is binding on them and RERA Act and rules have no force to the already agreed terms and conditions of the



flat buyer agreement executed between the parties. Therefore, respondent submits that the complainant is bound by the terms and conditions of the agreement and as such cannot withdraw his consent.

14. Further, respondent states that complainant has already been offered possession on 11.11.2014, therefore, the present complaint must be dismissed. Further he submits that complainant herein is an investor and has accordingly invested in the project of the respondent company for the sole reason of investing and earning profits and speculative gains, therefore the captioned complaint deserves to be dismissed *in toto*.
15. That no cause of action has occurred in favour of complainant and the present complaint is barred by limitation as the complainant has been sleeping over its rights for almost 10 years from the date of possession. Thus, the captioned complaint is miserably hit by the *principle of delay and laches*. Thus, no cause of action has arisen in favour of complainant to file the captioned complaint.
16. That the handing over of the possession has always been tentative and subject to force majeure conditions as duly mentioned under clause 30 of the agreement and the complainant have been aware about the same at all times. Thus, the complainant cannot be allowed to raise wrong, false and frivolous



claims especially when complainant has already accepted the possession and are residing in the said unit.

17. That further, the complainant has on various occasions had defaulted in making time payment as per payment scheduled agreed between the respondent company and complainant, therefore, respondent company had also issued various reminder letters in past to complainant to clear their outstanding dues. Hence delay in handing over possession cannot be solely attributed to the respondent company but only due non-payment by the complainant on various occasions.
18. That the complainant is just indulging in forum shopping in order to get the favorable order despite the fact that he has not paid the outstanding dues for the unit in question and is just trying to take the benefit of his own wrong and negligence.
19. That the respondent has not made any violation of the Act or the Rules made thereunder. The reliefs claimed by complainant are denied and claims made therein are not maintainable and are hence, liable to be dismissed.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

20. During oral arguments learned counsel for the complainant and respondent have reiterated arguments as mentioned in their written submissions.



F. FINDINGS ON THE OBJECTIONS RAISED BY THE RESPONDENT

F.1. Objection regarding veracity of the complaint.

21. Respondent has raised a preliminary objection that the captioned complaint does not bear the signature of the complainant, and even the affidavit so attached with the complaint has been attested without any signature of the complainant. In this regard, it is observed that page-17 of the complaint provides for a verification paragraph wherein the complainant Mr. Vijay Kumar Dubey, s/o Shri Vyas Jee Dubey had affirmed and verified that the contents of the above complaint are true and correct. The verification is under the signature of the complainant. On perusal of file, it is observed that an affidavit has been attached at page no.18 of the complaint and the same bears the signatures of the deponent i.e. Vijay Kumar Dubey. Hence, there appears no valid reason to doubt the veracity of the complaint or the contents therein.

F.2. Objection regarding execution of BBA prior to the coming into force of RERA Act,2016

22. One of the averments of respondent is that provisions of the RERA Act of 2016 will not apply on the agreements executed prior to coming into force of RERA Act,2016. Accordingly, respondent has argued that relationship of



builder and buyer in this case will be regulated by the agreement previously executed between them and the same cannot be examined under the provisions of RERA Act. In this regard, Authority observes that after coming into force the RERA Act, 2016, jurisdiction of the civil court is barred by Section 79 of the Act. Authority, however, is deciding disputes between builders and buyers strictly in accordance with terms of the provisions of flat-buyer agreements. After RERA Act of 2016 coming into force the terms of agreement are not re-written, the Act of 2016 only ensure that whatever were the obligations of the promoter as per agreement for sale, same may be fulfilled by the promoter within the stipulated time agreed upon between the parties. Issue regarding opening of agreements executed prior to coming into force of the RERA Act, 2016 was already dealt in detail by this Authority in *complaint no. 113 of 2018 titled as Madhu Sareen v/s BPTP Ltd* decided on 16.07.2018. Relevant part of the order is being reproduced below:

“The RERA Act nowhere provides, nor can it be so construed, that all previous agreements will be re-written after coming into force of RERA. Therefore, the provisions of the Act, the Rules and the Agreements have to be interpreted harmoniously. However, if the Act or the Rules provides for dealing with certain specific situation in a particular manner, then that situation will be dealt with in accordance with the Act and the Rules after the date of coming into force of the Act and the



Rules. However, before the date of coming into force of the Act and the Rules, the provisions of the agreement shall remain applicable. Numerous provisions of the Act saves the provisions of the agreements made between the buyers and seller."

23. Further, as per recent judgement of Hon'ble Supreme court in *Newtech Promoters and Developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021* it has already been held that the projects in which completion certificate has not been granted by the competent Authority, such projects are within the ambit of the definition of on-going projects and the provisions of the RERA Act,2016 shall be applicable to such real estate projects. Furthermore, as per section 34(e) it is the function of the Authority to ensure compliance of obligation cast upon the promoters, the allottees and the real estate agents under this Act, and the rules and regulations made thereunder. Therefore, this Authority has complete jurisdiction to entertain the captioned complaint and objection raised by the respondent regarding maintainability of the present complaint is rejected.

F.3. Objections raised by the respondent stating that complainant herein is an investor and have invested in the project of the Respondent Company for the sole reason of investing, earning profits and speculative gains.



24. In this regard Authority observes that complainant herein is the allottee/homebuyer who has made a substantial investment from his hard earned savings under the belief that the promoter/real estate developer will handover possession of the booked unit within a reasonable time but his bonafide belief stood shaken when the promoter failed to offer a valid possession of the booked unit within the time stipulated in the agreement to sell without any reasonable cause. It is after an inordinate delay in handing over of possession that complainant has approached this Authority for seeking refund of paid amount with interest in terms of provisions of RERA Act,2016 being allottee of respondent-promoter. As per definition of allottee provided in clause 2(d) of RERA Act,2016, present complainant is duly covered under it and is entitled to file present complaint for seeking the relief claimed by him. Clause 2(d) of RERA Act,2016 is reproduced for reference:-

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



25. Complainant has been allotted floor in the project of respondent by the respondent/promoter itself and said fact is duly admitted by the respondent in the allotment letter dated 03.12.2010 as well as in Independent Floor Buyer Agreement dated 30.03.2011. Also, the definition of allottee as provided under Section 2 (d) does not distinguish between an allottee who has been allotted a unit for consumption/self-utilization or investment purpose. Thus, the plea of respondent to dismiss the complaint on the ground that complainant herein is investor does not hold merit and same is rejected.

F.4. Objection raised by the respondent that complainant is indulging in forum shopping.

26. Respondent in its reply has averred that complainant herein has been indulging in forum shopping by filing the complaint before the Hon'ble State Consumer Dispute Redressal Commission at Delhi, Delhi Government and Mediation and Conciliation Centre and before Ld. RERA Authority.

Here, Authority observes that respondent in its agreement for sale had committed to hand over the possession of the unit within 30 months from the date of execution of the said agreement i.e. by 30.09.2013. However, respondent vide its letter dated 11.11.2014 made "offer of possession for fitout of unit" only. The complainant, who was conscious of the legal



parameters to hand over a valid possession refused to accept the offer of possession of fitout without issuance of an occupation/completion certificate by the competent authority. Since, at the time of offer of possession for fitout of the unit, RERA Act, 2016 was not enacted, the allottee exercising his legal rights available at that time served a legal notice dated 27.07.2015 upon the respondent promoter, wherein complainant had stated that after issuance of offer of possession for fitouts letter dated 11.11.2014 complainant had contacted officials of the respondent and requested to cancel his allotment for the reason that fitout offer of possession was without an occupation/completion certificate and refund back his entire amount with interest. As the request was not adhered to, complainant vide this legal notice again called upon the respondent to cancel the allotment of the subject matter flat immediately and refund the entire amount paid along with interest, failing which complainant shall take legal action in the appropriate court of law for recovery of the said amount. Accordingly, the complainant filed the complaint before the Hon'ble State Consumer Dispute Redressal Commission at Delhi in 2016, clearly conveying his intention to withdraw from the project. However, it is a matter of record that respondent withdrew the same in 2019. Subsequently, complainant filed a case before the Delhi Government Mediation and Conciliation Centre on 12.10.2022, which got



disposed of on 22.03.2023 as the matter could not be settled amicably between the parties. The fact that complainant approached the Mediation and Conciliation Centre shows that he intended to resolve the dispute amicably. As the matter could not be settled amicably, he filed a complaint before this Authority on 18.06.2023. Chronology of events unfolds to transpire that complainant has been pursuing his case diligently since year 2015 and has been consistently seeking relief of refund of amount along with interest as the respondent is not in a position to hand over legally valid offer of possession in absence of an occupation certificate issued by the competent authority. Authority observes that complainant has not indulged in forum shopping, but has only availed legal remedy that were available to him in the year 2016 as the RERA Act had not come into force in entirety in the year 2016. After, RERA Act coming into force in 2017, complainant had made an effort to settle the matter amicably through alternate dispute resolution mechanism of mediation and conciliation. Thereafter, present complaint has been filed before the Authority. Hence, present complaint is maintainable before the Authority.

F.5. Objection raised by respondent that the present complaint is barred by limitation.



27. In this regard, it is observed that as per clause 30 of the Independent Floor Buyer Agreement dated 30.03.2011, respondent was to handover the possession of the unit to complainant within 30 months from the date of execution of agreement i.e. by 30.09.2013. However, fit-out possession was offered vide letter dated 11.11.2014, i.e., after a delay of more than 1 year from the deemed date of possession. Hence, respondent has failed to fulfil its obligations to hand over the possession of the booked unit in its project within time stipulated in agreement for sale. Here, Authority has made reference to the judgement of the **Hon'ble Apex Court in Civil Appeal no. 4367 of 2004 titled as M.P Steel Corporation v/s Commissioner of Central Excise** wherein it was held that 'The Indian Limitation Act' applies only to courts and not to the tribunals. Relevant para is reproduced herein:

"It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963."

28. The Real Estate (Regulation & Development) Act, 2016 is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the Limitation Act 1963, thus, would not be applicable to the proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority established under the Act is a quasi-judicial body and not Court. Therefore, objection of



respondent with respect to the fact that complaint is barred by limitation is rejected.

G. OBSERVATIONS AND DECISION OF AUTHORITY

29. Authority has gone through the rival contentions. In light of background of the matter as raptured in this order and also arguments submitted by both parties, Authority observes that there is no dispute with respect to the facts that a unit was booked by complainant in the respondent's project namely "Tuscan Floors", Near TDI Mall in Tuscan City, Kundli, Sonipat in the year 2010. Unit No. T-75/TF, admeasuring 1164sq. feet was allotted to complainant vide allotment letter dated 03.12.2010; Independent Floor Buyer Agreement dated 30.03.2011 was executed between the parties. Complainant has paid Rs. 24,32,611/- as total sale consideration.
30. On perusal of complaint, it is observed that complainant has the following grouses against the respondent promoter:
- i. That the "fit out possession-cum-demand letter" dated 11.11.2014 was illegal as the same was without completion of unit and accompanied by illegal demands of Rs.11,29,334.56/-
 - ii. That area of allotted unit of complainant was arbitrarily increased.
31. Authority observes that complainant is aggrieved by the fact that the respondent has failed to fulfill its obligation to hand over a legally valid



offer of possession within the stipulated period as provided in the independent floor buyer agreement and in absence of occupation certificate been issued by competent authority, respondent is even as on date not in a position to make legally valid offer of possession. Complainant has alleged that fit out offer of possession dated 11.11.2014 was illegal not only because it was made without obtaining occupation certificate from competent authority but also on account of the fact that same was accompanied by arbitrary and illegal demands of Rs.11,29,334.56/- due to the reason that area was increased arbitrarily which was intimated vide such demand letter only. On perusal of statement of account dated 11.11.2014 at page no. 53 of complaint file, it transpires that the area of the unit has been increased from 1146 sq. ft. to 1429 sq. ft., meaning thereby that the size of the flat was increased by 265 sq. ft. As per clause-7 of the pre-RERA independent floor buyer's agreement, the area of the flat allotted was tentative and subject to the changes as per directions of sanctioning authority. The said clause further provided that in case increase of allotted area of said flat, the buyer shall pay for initial 10% of increase in area at the rate of booking of the flat. Further on perusal of statement of account dated 28.12.2023 annexed along-with reply filed by respondent, it is observed that the above mentioned payments against increased in area has not been made by complainant.



Authority observes that complainant has not paid such amount and now that he in exercise of his right under Section 18 of the Act is seeking refund of total amount paid, therefore, Authority is of the view that it is not relevant to adjudicate/ discuss issue of these charges at this stage.

32. Now adjudicating the prime issue that the respondent has failed to fulfill its obligation to hand over a legally valid offer of possession, Authority observes that complainant is alleging that since fit out offer of possession was not a valid offer of possession, he is well within their rights under Section 18 of the RERA Act, 2016 to withdraw from the project and demand refund of the amounts paid along-with interest. Thus, it is to be decided whether the offer of fit-out possession made vide letter dated 11.11.2014 was a valid offer of possession and whether complainant is entitled to relief of refund under section 18 of the RERA Act, 2016 or not.
33. Authority observes that as per clause 30 of the independent floor buyer agreement dated 30.03.2011, respondent had committed to handover the possession of unit to complainant by 30.09.2013; however, it is a matter of fact that no valid offer of possession has been made by respondent. An application was made for the grant of occupation certificate on 09.05.2014, however without issuance of the same, an offer for fit-out possession was made on 11.11.2014. It is a settled principle of law that a fit-out possession



cannot be construed as a legally valid offer of possession. As per the order of this Hon'ble Authority in *Complaint case No. 903 of 2019 titled Sandeep Goyal Vs. Omaxe Ltd.*, it was held that offer of possession without obtaining Occupation Certificate is not a valid offer of possession and the same is reiterated by this Hon'ble Authority in *Complaint Case No. 252 of 2021 titled Harjit Kaur & An Vs TDI Infra Corp (India) Limited* decided on 18.05.2023. the relevant part of the order is reproduced below:

"7. At this stage, the Authority would express its views regarding the concept of valid offer of possession. It is necessary to clarify this concept because after valid and lawful offer of possession liability of promoter for delayed offer of possession comes to an end, and liability of allottee for paying holding charges as per agreement commences. On the other hand, if the possession is not valid and lawful, liability of promoter continues till a valid offer is made and allottee remains entitled to receive interest for the delay caused in handing over valid possession. The Authority after detailed consideration of the matter has arrived at the conclusion that a valid offer of possession of an apartment must have following components:

(i) Firstly, the apartment after its completion should have received occupation certificate from the department concerned certifying that all basic infrastructural facilities have been laid and are operational. Such infrastructural facilities include water supply, sewerage system, storm water drainage, electricity supply, roads and street lighting.....

(ii) Secondly, the apartment should be in habitable condition.



(iii) Thirdly, the offer of possession should not be accompanied by unreasonable additional demands. In several cases additional demands are made and sent along with the offer of possession....”

34. For the above observation, it follows that offer of fit-out possession dated 11.11.2014 in present case is illegal and cannot be called a lawful offer of possession. Complainant had invested their hard earned money in the project with hope of timely delivery of possession. However, only offer of possession for fit out of flat was offered to complainant and that too after a delay of more than a year. Fact remains that respondent is yet to receive occupation certificate, meaning thereby that a valid possession is yet to be offered to the complainant.
35. Further it is pertinent to note that such offer of fit-out possession has not been accepted by complainant till date as no such correspondence has been placed on record that could prove that offer of possession has been accepted. The intention of the complainant to not accept the said offer of fit-out possession is clear from the fact that he sent a legal notice to the respondent on 27.07.2015 in response to said offer of possession dated 11.11.2014. Vide such notice dated 27.07.2015, he requested the respondent to withdraw the illegal demands for arbitrary increase in area and also prayed for cancellation of the allotment made in his favor along-with refund of the deposited amount along-with interest. Therefore, intention of the



complainant to seek refund of the paid amount is clear from the very beginning, thus it is not a disputed fact that complainant seeks to withdraw from the project of the respondent.

36. In view of the above observations, Authority is not hesitant to conclude that the fit-out offer of possession was merely a paper possession and cannot be held to be a legally valid offer of possession. When an allottee invests in a real estate project, he intends to enjoy the fruits of his investment and mere handing over of offer of fit-out possession does not entrust upon him the right to enjoy the peaceful possession of such unit. Thus, no valid offer of possession was ever made by respondent to the complainant in captioned complaint.
37. Further, it is an admitted fact that development of real estate projects gets delayed sometimes due to reasons beyond the control of the builder, however a delay of nearly 13 years is a huge time which takes a toll on the allottees who have invested their hard earned money in the project and are then stuck without the money or possession in hand. Complainant in this case had paid the sale consideration to the tune of ₹ 24,32,611/- by the year 2013 itself in hopes of receiving a unit. However, the complainant was not only bereft of his hard-earned money but was also not able to enjoy possession since the valid offer of possession had been extraordinarily



delayed by the respondent. It is observed that the respondent has severely defaulted in delivering possession as per the agreed terms and conditions. Further, since till date, respondent has not been able to offer a valid offer of possession to the complainant, complainant is left with one option i.e. to approach this Authority and avail one remedy out of the two remedies available under section 18 of the RERA Act, 2016, i.e. either to continue with the project and claim possession along-with interest or withdraw from the project and demand refund of the amount paid by them along-with interest. In the present complaint, promoter has failed to deliver the possession of the flat within the prescribed time period, and complainant also does not want to continue with the project and seeks refund of the amount paid.

38. It is to mention here the judgement dated 02.04.2019 passed by Hon'ble Supreme Court in Civil Appeal no. 12238 of 2018 titled as *Pioneer Urban Land & Infrastructure Ltd v. Govindan Raghavan*, whereby it is held that the flat purchaser could not be compelled to take possession of the flat, even though it was offered almost 2 years after the grace period under the agreement expired. Relevant part of said judgement is reproduced below for reference:-

"9. We see no illegality in the Impugned Order dated 23.10.2018 passed by the National Commission. The Appellant



– Builder failed to fulfill his contractual obligation of obtaining the Occupancy Certificate and offering possession of the flat to the Respondent – Purchaser within the time stipulated in the Agreement, or within a reasonable time thereafter. The Respondent – Flat Purchaser could not be compelled to take possession of the flat, even though it was offered almost 2 years after the grace period under the Agreement expired. During this period, the Respondent – Flat Purchaser had to service a loan that he had obtained for purchasing the flat, by paying Interest @10% to the Bank. In the meanwhile, the Respondent – Flat Purchaser also located an alternate property in Gurugram. In these circumstances, the Respondent – Flat Purchaser was entitled to be granted the relief prayed for i.e. refund of the entire amount deposited by him with Interest.”

39. Furthermore, since respondent has not offered a valid offer of possession until now after a delay of almost 13 years, complainant who has already waited for more than 13 years does not wish to wait for a further uncertain amount of time or a valid possession. Complainant is at liberty to exercise his right to withdraw from the project on account of default on the part of respondent to deliver possession and seek refund of the paid amount. Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others* " in Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgement is reproduced below:



“25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.”

40. The aforesaid decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession. The complainant wish to withdraw from the project of the respondent, therefore, Authority finds it to be fit case for allowing refund in favour of complainant. As per Section 18 of Act, interest shall be awarded at such rate as may be prescribed. Rule 15 of HIRERA Rules, 2017 provides for prescribed rate of interest which is as under: 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;

Rule 15 of IRERA Rules, 2017 which is reproduced below for ready reference:

“Rule 15: 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 (NCLR) 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”.

41. Consequently, as per website of State Bank of India i.e. <https://sbi.co.in>, the marginal cost of lending rate (in short MCLR) as on date i.e. 17.12.2024 is 9.10%. Accordingly, the prescribed rate of interest will be MCLR+2% i.e. 11.10%.



42. Accordingly, respondents will be liable to pay the complainant, interest from the date amounts were paid by him till the actual realization of the amount. Hence, Authority directs respondents to refund to the complainant the paid amount of ₹ 24,32,611/- along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR) + 2 % which as on date works out to 11.10% (9.10% + 2.00%) from the date amounts were paid till the “actual realization of the amount”.
43. As per statement of accounts annexed at Annexure C-30 of complaint, complainant had paid an amount of Rs.24,32,611/- as total sale consideration. Therefore, Rs.24,32,611/-, is taken into account for calculation of interest as prescribed under Rule 15 of Haryana Real Estate (Regulation & Development) Rules, 2017 i.e. @ SBI highest marginal cost of lending rate (MCLR) + 2% i.e., 11.10% (9.10% + 2.00%), as on date which is to be calculated from the deemed date of possession till the date of this order (i.e. from 30.09.2013 to 17.12.2024).
44. Authority has got calculated the total amount along with interest at the rate of 11.10% till the date of this order and said amount works out to ₹/- as per detail given in the table below:

*Individually amount
₹ 60,66701
as per has not
been mention
same stand add
correct order be reap
Father*

Ratna

Conerhar

Sr. No.	Principal Amount	Date of payment	Interest Accrued till 17.12.2024 (in Rs.)	TOTAL (in Rs.)
1.	3,00,000	2010-03-30	4,90,559	7,90,559
2.	1,45,000	2010-08-31	2,30,313	3,75,313
3.	1,00,000	2010-08-31	1,58,836	2,58,836
4.	1,00,000	2010-08-31	1,58,836	2,58,836
5.	8,304	2010-08-31	13,190	21,494
6.	51,600	2011-03-12	78,931	1,30,531
7.	1,20,000	2011-03-30	1,82,904	3,02,904
8.	1,12,200	2011-03-30	1,71,015	2,83,215
9.	9,966	2011-03-30	15,190	25,156
10.	1,61,926	2011-05-20	2,44,296	4,06,222
11.	1,25,000	2011-05-20	1,88,586	3,13,586
12.	1,00,000	2011-07-09	1,49,348	2,49,348
13.	7,308	2011-07-09	10,914	18,222
14.	1,32,200	2011-07-09	1,97,438	3,29,638
15.	1,39,508	2011-09-21	2,05,213	3,44,721
16.	92,693	2011-09-21	1,36,349	2,29,042
17.	7,307	2011-09-21	10,748	18,055
18.	4,79,016	2012-01-12	6,88,161	11,67,177

Rathee

19.	2,40,583	2013-08-13	3,03,263	5,43,846
Total	24,32,611		36,34,090	60,66,701

DIRECTIONS OF THE AUTHORITY

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

i) Respondent is directed to refund the entire amounts along with interest of

@ 11.10 % i.e. **Rs.60,66,701/-** to the complainant as specified in the

table provided in para 61 of this order. *It has been brought to the attention of the Authority by office that at line three of this para "para 61" has been mentioned instead of para "41". It is an inadvertent mistake.*

(ii) A period of 90 days is given to the respondent to comply with the

directions given in this order as provided in Rule 16 of Haryana Real

Estate (Regulation & Development) Rules, 2017 failing which legal

consequences would follow.

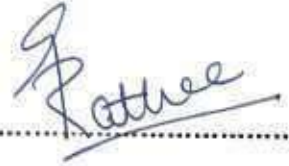
Same word corrected. Office is directed to upload the corrected order. The corrected order shall be read as part of this order.
g. Jaisree

g. Jaisree

46. Captioned complaint is, accordingly, **disposed of**. File be consigned to the record room after uploading orders on the website of the Authority.



CHANDER SHEKHAR
[MEMBER]



DR. GEETA RATHEE SINGH
[MEMBER]