

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

**Date of decision: 17.12.2024**

NAME OF THE BUILDER		Ocean Seven Buildtech Pvt. Ltd.	
PROJECT NAME		Golf Heights, Sector- 69, Gurugram, Haryana	
S. No.	Case No.	Case title	Appearance
1.	CR/4217/2021	Richa Arora Vs. M/s Ocean Seven Buildtech Private Limited	Adv. Anil Gupta (Complainant)  Adv. Arun Kumar (Respondent)
2.	CR/4218/2021	Neeraj Kumar Vs. M/s Ocean Seven Buildtech Private Limited	Adv. Anil Gupta (Complainant)  Adv. Arun Kumar (Respondent)
3.	CR/4219/2021	Mohamman Yamin Khan Vs. M/s Ocean Seven Buildtech Private Limited	Adv. Anil Gupta (Complainant)  Adv. Arun Kumar (Respondent)
4.	CR/4221/2021	Ashu Bansal Vs. M/s Ocean Seven Buildtech Private Limited	Adv. Anil Gupta (Complainant)  Adv. Arun Kumar (Respondent)
5.	CR/4222/2021	Deepanshu Jindal Vs. M/s Ocean Seven Buildtech Private Limited	Adv. Anil Gupta (Complainant)  Adv. Arun Kumar (Respondent)
6.	CR/4223/2021	Renu Sharma Vs. M/s Ocean Seven Buildtech Private Limited	Adv. Anil Gupta (Complainant)  Adv. Arun Kumar (Respondent)
7.	CR/4504/2021	Virender Kumar Vs. M/s Ocean Seven Buildtech Private Limited	Adv. Anil Gupta (Complainant)  Adv. Arun Kumar (Respondent)

**CORAM:**

Shri Arun Kumar

Shri Vijay Kumar Goyal

Shri Ashok Sangwan

**Chairman**

**Member**

**Member**

**ORDER**

1. This order shall dispose of 7 complaints titled above filed before this authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Golf Heights", Sector- 69, Gurugram, Haryana being developed by the respondent/promoter i.e., M/s Ocean Seven Buildtech Private Limited. The terms and conditions of the allotment letter, buyer's agreements, fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question thus seeking possession along with and others reliefs.
3. The details of the complaints, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

<b>Project Name and Location</b>	"Golf Heights", Sector- 69, Gurugram, Haryana.
<b>Project area</b>	5.4125 acres



<b>Nature of the project</b>	Affordable group housing colony
<b>DTCP license no. and other details</b>	28 of 2018 dated 02.05.2018 Valid up to- 01.05.2023 Licensee- Suresh Kumar S/o Ram Kavar 1/3 Share, Sarti M/o Naresh Kumar, Janak Kumar son, Jyoti daughter and Anita W/o Naresh Kumar 1/3 Share, Dayawanti W/o Hargobind 1/3 Share
<b>Building plan approval dated</b>	20.07.2018 (As per information obtained by planning branch)
<b>Environment clearance dated</b>	10.10.2019 (As per information obtained by planning branch)
<b>RERA Registered/ not registered</b>	Registered vide no. 17 of 2018 dated 12.10.2018 Valid up to 20.10.2023 (Including 6 months Covid extension)
<b>Occupation certificate</b>	Not yet obtained
<b>Possession clause as per clause 5.2 of buyer's agreement</b>	<i>The Company shall sincerely endeavour to complete the construction and offer the possession of the said unit within five years from the date of the receiving of license ("Commitment Period"), but subject to force majeure clause of this Agreement and timely payment of installments by the Allottee(s), However In case the Company completes the construction prior to the period of 5 years the Allottee shall not raise any objection in taking the possession after payment of remaining sale price and other charges stipulated in the Agreement to Sell. The Company, on obtaining certificate for occupation and use by the Competent Authorities shall hand over the said unit to the Allottee for his/her/their occupation and use, subject to the Allottee having complied with all the terms and conditions of the said Policy and Agreement to Sell and payments made as per Payment Plan. It is further agreed by the Allottee that the Developer shall not be liable for delay in completion of construction, in case of force majeure condition and/or the delay is caused due to non-completion of construction of said Complex /building/unit. In the event if a number Allottee(s) are not paying due installments on time or a number of Allottee(s) has withdrawn their application after</i>



	<i>allotment of unit or a number of units has been cancelled due to non-payment of due installments or otherwise.....</i> <i>[Page 37 of complaint]</i>
<b>Possession clause as per Affordable Housing Policy, 2013</b>	<b>1(IV) of the Affordable Housing Policy, 2013</b> <i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i>

S. No.	Complaint no., Case title, Date of filing of complaint and reply status	Unit no. and size	Allotment Letter and BBA	Due date of possession	Total sale consideration and Total amount paid by the complainant in Rs.
1.	CR/4217/2021  Richa Arora Vs. M/s Ocean Seven Buildtech Private Limited  DOF: 19.10.2021 RR: Not filed	1704, 17 <sup>th</sup> floor, tower 4 565 sq. ft. (carpet area)  [Page 30 of complaint]	<b>AL:-</b> 14.03.2019  [Page 20 of complaint]  <b>BBA</b> 05.07.2019 [Page 16 of complaint]	<b>10.04.2024</b>  (calculated from the date of environment clearance dated 10.10.2019 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)	<b>TC:</b> <b>23,09,500/-</b> [as per clause 4.1 of the BBA at page 31 of the complaint] <b>AP:</b> <b>12,47,131/-</b> [As per demand letter dated 24.08.2020 at page no. 22 of complaint]
2.	CR/4218/2021  Neerak Kumar Vs. M/s Ocean Seven Buildtech Private Limited  DOF: 19.10.2021 RR: Not filed	1307, 13 <sup>th</sup> floor, tower 3 574 sq. ft. (carpet area)  [Page 30 of complaint]	<b>AL:-</b> 14.03.2019  [Page 21 of complaint]  <b>BBA</b> 11.07.2019 [Page 25 of complaint]	<b>10.04.2024</b>  (calculated from the date of environment clearance dated 10.10.2019 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)	<b>TC:</b> <b>23,45,000/-</b> [as per clause 4.1 of the BBA at page 31 of the complaint] <b>AP:</b> <b>9,49,725/-</b> [As per receipt information at page no. 57 to

					59 of complaint]
3.	CR/4219/2021  Mohamman Yamin Khan Vs. M/s Ocean Seven Buildtech Private Limited <b>DOF:</b> 19.10.2021 <b>RR:</b> Not filed	1402, 14 <sup>th</sup> floor, tower 2 574 sq. ft. (carpet area)  [Page 20 of complaint]	<b>AL:-</b> 14.03.2019  [Page 20 of complaint]  <b>BBA</b> Not Executed	10.04.2024 (calculated from the date of environment clearance dated 10.10.2019 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)	<b>TC:</b> 23,09,500/- [As alleged by the complainant at page 16 of the complaint] <b>AP:</b> 3,67,250/- [As per receipt and demand at page no. 26 and 27 of complaint]
4.	CR/4221/2021  Ashu Bansal Vs. M/s Ocean Seven Buildtech Private Limited <b>DOF:</b> 19.10.2021 <b>RR:</b> Not filed	1604, 16 <sup>th</sup> floor, tower 3 565 sq. ft. (carpet area)  [Page 28 of complaint]	<b>AL:-</b> 14.03.2019  [Page 21 of complaint]  <b>BBA</b> 05.07.2019  [Page 23 of complaint]	10.04.2024 (calculated from the date of environment clearance dated 10.10.2019 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)	<b>TC:</b> 23,09,500/- [as per clause 4.1 of the BBA at page 29 of the complaint] <b>AP:</b> 9,35,349/- [As per demand letter dated 11.08.2020 at page no. 61 of complaint]
5.	CR/4222/2021  Deepanshu Jindal Vs. M/s Ocean Seven Buildtech Private Limited <b>DOF:</b> 19.10.2021 <b>RR:</b> Not filed	1706, 17 <sup>th</sup> floor, tower 5 574 sq. ft. (carpet area)  [Page 31 of complaint]	<b>AL:-</b> 14.03.2019  [Page 21 of complaint]  <b>BBA</b> 09.04.2019  [Page 24 of complaint]	10.04.2024 (calculated from the date of environment clearance dated 10.10.2019 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)	<b>TC:</b> 23,45,000/- [As alleged by the complainant at page 17 of the complaint] <b>AP:</b> 9,49,725/- [As per demand letter dated 16.08.2021 at page no. 61 of complaint]
6.	CR/4223/2021  Renu Sharma Vs.	1103, 11 <sup>th</sup> floor, tower 4	<b>AL:-</b> 14.03.2019	10.04.2024 (calculated from the date of environment	<b>TC:</b> 23,45,000/-



	M/s Ocean Seven Buildtech Private Limited <b>DOF:</b> 19.10.2021 <b>RR:</b> Not filed	574 sq. ft. (carpet area) [Page 37 of complaint]	[Page 20 of complaint] <b>BBA</b> 05.04.2019 [Page 31 of complaint]	clearance dated 10.10.2019 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)	[As per clause 4.1 of the BBA at page 38 of the complaint] <b>AP:</b> <b>9,49,725/-</b> [As alleged by the complainant at page no. 16 of complaint]
7.	CR/4504/2021  Virender Kumar Vs. M/s Ocean Seven Buildtech Private Limited <b>DOF:</b> 26.11.2021 <b>RR:</b> Not filed	907, 9 <sup>th</sup> floor, tower 3  574 sq. ft. (carpet area) [Page 28 of complaint]	<b>AL:-</b> 14.03.2019 [Page 17 of complaint] <b>BBA</b> 02.08.2019 [Page 23 of complaint]	10.04.2024 (calculated from the date of environment clearance dated 10.10.2019 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)	<b>TC:</b> <b>23,45,000/-</b> [as per clause 4.1 of the BBA at page 29 of the complaint] <b>AP:</b> <b>12,25,263/-</b> [As per demand letter at page no. 60 of complaint]

**Relief sought by the complainant: -**

1. Direct the respondent to handover the physical possession of the allotted unit of the complainant.
2. Direct the respondent to submit the complete status of the project along with its development plan and delivery schedule and not to cancel the above allotment of the complainant.
3. Direct the respondent to not to raise demand of any amount before completion of construction work equal to the ratio of payments received by them.
4. Direct the respondent to not to charge of GST 8% against this affordable home project. In affordable housing projects builder charge only 1% from the home buyers.
5. Direct the respondent to get removed defaulter remark in the banks' record and also not to raise any demand till the bank approves and releases the loan against the property in question.
6. Direct the respondent to not to work against the trade practices and ensure delivery of possession of the flat at the earliest as delay in delivery is a harassment to the petitioner at the end of the respondents.

**Note:** In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviation	Full form
DOF	Date of filing of complaint
RR	Reply received by the respondent
TC	Total consideration
AP	Amount paid by the allottee/s
BBA	Builder Buyer's Agreement
AL	Allotment Letter



4. The facts of all the complaints filed by the complainant(s)/allottee(s) are similar. Out of the above-mentioned case, the particulars of lead case **CR/4217/2021** titled as **Richa Arora Vs. M/s Ocean Seven Buildtech Pvt. Ltd.** are being taken into consideration for determining the rights of the allottee(s).

**A. Project and unit related details**

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

**CR/4217/2021 titled as Richa Arora Vs. M/s Ocean Seven Buildtech Pvt. Ltd.**

Sr. No.	Particulars	Details
1.	Name of the project	Golf Heights, Sector 69, Gurugram, Haryana.
2.	Project area	5.4125 Acres
3.	Nature of the project	Affordable housing project
4.	DTCP license no.	28 of 2018 dated 02.05.2018
	License valid till	01.05.2023
	Licensed area	5.4125 Acres
5.	HRERA registered/ not registered	<b>Registered vide no. 17 of 2018 dated 12.10.2018</b>
	HRERA registration valid up to	20.10.2023 (Including 6 months COVID extension)
6.	Building plan approval dated	20.07.2018
7.	Environment clearance dated	10.10.2019
8.	Date of booking	N.A.
9.	Allotment letter issued in favour of complainant on	14.03.2019 (Page no. 20 of complaint)
10.	Unit no.	1704, 17 <sup>th</sup> floor, Tower 4 (Page no. 30 of complaint)
11.	Unit admeasuring	565 sq. ft. of carpet area along with 99 sq. ft. of balcony area

		[Page no. 30 of the complaint]
12.	Builder buyer agreement	05.07.2019 [As alleged by the complainant at page no. 16 of complaint]
13.	Possession clause as per clause 5.2 of the agreement	<i>The Company shall sincerely endeavour to complete the construction and offer the possession of the said unit <b>within five years from the date of the receiving of license ("Commitment Period")</b>, but subject to force majeure clause of this Agreement and timely payment of installments by the Allottee(s). However, In case the Company completes the construction prior to the period of 5 years the Allottee shall not raise any objection in taking the possession after payment of remaining sale price and other charges stipulated in the Agreement to Sell. The Company, on obtaining certificate for occupation and use by the Competent Authorities shall hand over the said unit to the Allottee for his/her/their occupation and use, subject to the Allottee having complied with all the terms and conditions of the said Policy and Agreement to Sell and payments made as per Payment Plan. It is further agreed by the Allottee that the Developer shall not be liable for delay in completion of construction, in case of force majeure condition and/or the delay is caused due to non-completion of construction of said Complex /building/unit. In the event if a number Allottee(s) are not paying due installments on time or a number of Allottee(s) has withdrawn their application after allotment of unit or a number of units has been cancelled due to nonpayment of due installments or otherwise...</i>





		[Page no. 37 of complaint]
4.	Possession clause as per policy	<b>1(IV) of the Affordable Housing Policy, 2013</b> <i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i>
15.	Due date of possession	10.04.2024 (calculated from the date of environment clearance dated 10.10.2019 being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)
16.	Total consideration	Rs.23,09,500/- [As per clause 4.1 of BBA at page 31 of complaint]
17.	Amount paid by the complainant	Rs.12,47,131/- (As alleged by the complainant at page no. 17 of the complaint) Rs.9,39,041/- (As per receipt information at page no. 60 to 63 of complaint) To be ascertained
18.	Occupation certificate	Not obtained
19.	Offer of possession	Not offered

**B. Facts of the complaint**

6. The complainant has made the following submissions in the complaint: -

- I. That the complainant is a law binding citizen of India, approached by the respondent not only through print media, electronic media but also by way of site at the important places and even approached personally through its representatives and represented that there are a scheme for the allotment of the residential flat under Affordable Housing Policy of Government of Haryana on Year 2013 with assurance that house shall be delivered on time with penalty clause for the delay.
- II. That the complainant based on above representation applied in the said property for allotment of the residential flat in the name of the complainant under Affordable Housing Policy of Government of Haryana vide its application no. 19118 on 21.10.2018 along with an amount of Rs.1,15,475/- vide cheque no. 000044 dated 21.10.2018 drawn on, New Delhi.
- III. That the residential property has been allotted on 14.03.2019, to the complainant and in this regard respondent has issued a buyer's agreement dated 05.07.2019. Contents of the same is self-explanatory. Accordingly a unit bearing no. 1704, in 17th floor, in tower no. 4 of 565 sq. ft. has been allotted to the complainant vide registration/customer code no: GH/T4-2BC2/716 for the consideration of Rs.4000/- sq. ft. for carpet area and Rs.500/- sq. ft. for balconies of flat limited up to 99 sq. ft. In lieu of the complainant paid total amount of Rs.12,47,131/- which has been even acknowledged by the respondents.
- IV. That as per para 5.2 of the agreement, possession of flat shall be handed over to the complainant within five years from as per receiving of license which they have got in the year 2018 (commitment period). However, so far even construction has not been commenced at the site and the complainant is feeling cheated now.

- V. That the respondents arbitrarily and unlawfully have been sending demand notices, despite the fact that the banks have declared them defaulters and due to which banks are not approving loans against the properties of above project of the respondents. The respondents have only raised construction less than 20 % of only two towers out of six towers and their act and conduct towards the banks is not satisfactory due to which bank loans are not been approved qua the properties in the said project of the respondents, which is a fault on the part of the respondents. Due to non-approval of loans qua the properties in said project of the respondents, the complainant is not able to make the further payments, despite that the respondents in place of doing the needful, are bent upon to demand further instalments and raising penalties arbitrarily, which is not permeable.
- VI. That the respondents have not raised the construction according to the payments received by them and are bent upon to take entire payment in advance without raising construction which is against the natural justice and their commitments made to the complainant /applicant. Due to less constructions made by the respondents, the banks have considered the respondents defaulters. The respondents are having right to claim remaining payments after raising constructions according to the payments received by them.
- VII. That the complainant submits here that in next 5 years there are no chances of development of the Property because respondents have not started the construction of flat tower in question of this project and respondents are misusing the hard earned money of the complainant without any justification. It is important to submit here that the

respondent has failed to provide any status of the project and there are no chances to start the said project in near future.

- VIII. That the buyer's agreement is in the Pre-printed stationary of the respondent company and some of the terms are not only in their favour rather against the public policy and illegal in law. Hence, those terms are not agreeable.
- IX. That the complainant is apprehensive that the directors of the respondent company have shifted the amounts from the company and trying to grab the same by illegal means. It is important to submit here that directors of the respondent has so far not shown any intention for the development and delivery of the project.
- X. That the cause of action for filing the present complaint incurred due to the conduct of the respondents who have failed to even commence the property, and are trying to cheat the complainant. Respondents have still not disclosed any construction schedule as well as delivery schedule of the said property. Hence, Case of Action is still continue.

**C. Relief sought by the complainant: -**

7. The complainant has sought following relief(s):
- I. Direct the respondent to handover the physical possession of the allotted unit of the complainant.
  - II. Direct the respondent to submit the complete status of the project along with its development plan and delivery schedule and not to cancel the above allotment of the complainant.
  - III. Direct the respondent to not to raise demand of any amount before completion of construction work equal to the ratio of payments received by them.

- IV. Direct the respondent to not to charge of GST 8% against this affordable home project. In affordable housing projects builder charge only 1% from the home buyers.
- V. Direct the respondent to get removed defaulter remark in the banks' record and also not to raise any demand till the bank approves and releases the loan against the property in question.
- VI. Direct the respondent to not to work against the trade practices and ensure delivery of possession of the flat at the earliest as delay in delivery is a harassment to the petitioner at the end of the respondents.
8. The present complaint was filed on 19.10.2021. On 28.07.2023, the respondent was given one last opportunity to file the reply within 3 weeks, but the respondent failed to comply with the orders of the authority. Hence, despite a lapse of two year from the date of filing and more than seven months from the date of publication of notice on the newspapers, the respondent has failed to file reply within the stipulated timeframe. In view of the conduct of the respondent, on 08.12.2023, the authority is left with no option but to striking off the defence of the respondent.
9. 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.
- D. Written submissions by the respondent:-**
10. The respondent has filed the written submissions on 16.10.2024, which are taken on record. The respondent contested the complaint on the following grounds in the written submissions are mentioned below.

- I. That the status report of the project along with development plan has been duly submitted to this Authority and Directorate of Town and country planning (DTCP) as requested by the complainant.
- II. That the respondent has not exerted any pressure upon the complainant for the remittance of payment following the suspension of the license and the freezing of the account. Regarding future payments, the complainant remains liable to fulfill the payment obligations as per the mutually agreed builder buyer's agreement and the Affordable Housing Policy, 2013.
- III. That the respondent has levied the (GST) in accordance with the applicable norms and notifications issued by the GST Department.
- IV. That the respondent has not defaulted on any bank loan or financial obligations to any institutions till date. So there is no question of removal of defaulter remarks as falsely alleged by the complainant and for this defamatory remark, the complainant may be subject to a criminal defamation case in the appropriate court.
- V. The company is well committed to the timely delivery of possession of the flat subject to the reciprocal of the timely payment by the complainant as per agreement.
- VI. That the complainant had not paid timely installment and therefore allotment deemed to be cancelled as per the Affordable Group Housing Policy, 2013.

**E. Jurisdiction of the authority**

11. 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**

12. As per notification no. **1/92/2017-1TCP dated 14.12.2017** issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. 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**

13. 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) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

**Section 34-Functions of the Authority:**

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

14. 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.

**F. Findings on the relief sought by the complainant.**

**F.I Direct the respondent to handover the physical possession of the allotted unit of the complainant.**

15. The complainants intend to continue with the project and are seeking the direction of possession in terms of the buyer's agreement. As per clause 5.2

talks about the possession of the unit to the complainants, the relevant portion is reproduce as under:-

**"5.2 Possession Time**

*The Company shall sincerely endeavour to complete the construction and offer the possession of the said unit within five years from the date of the receiving of license ("Commitment Period"), but subject to force majeure clause of this Agreement and timely payment of installments by the Allottee(s), However In case the Company completes the construction prior to the period of 5 years the Allottee shall not raise any objection in taking the possession after payment of remaining sale price and other charges stipulated in the Agreement to Sell. The Company, on obtaining certificate for occupation and use by the Competent Authorities shall hand over the said unit to the Allottee for his/her/their occupation and use, subject to the Allottee having complied with all the terms and conditions of the said Policy and Agreement to Sell and payments made as per Payment Plan. It is further agreed by the Allottee that the Developer shall not be liable for delay in completion of construction, in case of force majeure condition and/or the delay is caused due to non-completion of construction of said Complex /building/unit. In the event if a number Allottee(s) are not paying due installments on time or a number of Allottee(s) has withdrawn their application after allotment of unit or a number of units has been cancelled due to non-payment of due installments or otherwise.....*

*[Page 37 of complaint]."*

16. Further, as per clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licenced under it and the same is reproduced as under for ready reference:

*1 (iv)*

*"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."*

17. Vide order dated 17.05.2022, the Authority appointed Local commission to ascertain the status of the project and for submitting details of sanctioned building plans and environment clearance. The requisite report was submitted on 12.09.2022, wherein it is concluded as under:-

*"The complete project "Golf Heights" being developed by M/s Ocean Seven Buildtech Pvt. Ltd. has been physically inspected and it is*



*concluded that the promoter is carrying out very slow construction at the project site and till date the work progress is negligible as only 10-12 percent of the total work has been completed by the promoter. Further the **building plan of the project were sanctioned vide memo no. ZP-1236/AD(RA)/2018/21455 dated 20.07.2018 and environment clearance vide memo no. SEIAA/HR/2019/381 dated 10.10.2019. The copy of sanctioned building plan and environment clearance has been attached with report**"*

18. **Due date of handing over of possession:** The Authority observes that since the respondent/promoter has launched the project under the Affordable group housing policy, 2013 which was introduced by the state Government on 19.08.2013. Clause 1(IV) of the Affordable Group Housing Policy, 2013 clearly mention that all such projects shall be required to be necessarily completed within **4 years from the approval of building plans or grant of environmental clearance**, whichever is later. The respondent /promoter is obligated to act under the provisions of the said policy, 2013 only. Therefore, the said possession clause 5.2 of the buyer's agreement is hereby set-aside by the Authority and the due date of possession shall be calculated as per clause 1(IV) of the Affordable Group Housing Policy, 2013. The respondent has obtained environment clearance and building plan approval in respect of the said project on 10.10.2019 and 20.07.2018 respectively. Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 10.04.2024.
19. In light of the afore said circumstances, the authority opines that the respondent is legally bound to meet the pre-requisites for obtaining occupation certificate from the competent authority. It is unsatisfied that even after the lapse the due date of possession the respondent has failed to

complete the construction and apply for OC to the competent authority. The promoter is duty bound to obtain OC and hand over the physical possession only after obtaining occupation certificate from the competent Authority in terms of section 17(1) and 19(10) of the Act of 2016.

**F.II Direct the respondent to submit the complete status of the project along with its development plan and delivery schedule and not to cancel the above allotment of the complainant.**

**F.III Direct the respondent to not to raise demand of any amount before completion of construction work equal to the ratio of payments received by them.**

20. As per section 19(1)&(2), the allottee(s) has right to obtain information regarding sanctioned plans, specifications approved by the competent Authority and stage wise time schedule of completion of the project. The reverent portion of the same is reproduce as under:

***19. Rights and duties of allottees.***

*19. (1) The allottee shall be entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter.*

*(2) The allottee shall be entitled to know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale.*

21. Therefore in view of the above said provisions of the Act of 2016, the respondent is directed to disclose the status of the completion of the project, date of physical possession of unit and development plan of the project to the complainant/allottee within a period of 30 days from the date of this order.

**F.IV. Direct the respondent to not to charge of GST 8% against this affordable home project. In affordable housing projects builder charge only 1% from the home buyers.**

22. The Authority is of the view that the rate of GST for affordable group housing projects were revised from 8% to 1% by the GST Council in its 34<sup>th</sup>



GST Council meeting held on 19.03.2019 for the projects commenced on or after 01.04.2019. It is observed that the instant project "Golf Heights", was commenced on 10.10.2019 i.e., from date of environment clearance. Since the said project fall in the said revised policy accordingly, the respondent is right to collect the GST amount from the complainants only @ 1% in view of above policy stipulated.

**F.V. Direct the respondent to get removed defaulter remark in the banks' record and also not to raise any demand till the bank approves and releases the loan against the property in question.**

23. The complainant is seeking the said relief with respect to get removed defaulter remark in the banks' record and also not to raise any demand till the bank approves and releases the loan against the property. However, the complainant has neither pleaded the said claim in their complaint nor has filed any document to substantiate their claim. Accordingly, no direction can be granted w.r.t. to the same.

**F.VI Direct the respondent to not to work against the trade practices and ensure delivery of possession of the flat at the earliest as delay in delivery is a harassment to the petitioner at the end of the respondents.**


24. The complainant is also seeking relief w.r.t. compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP & Ors.* (supra) has held that an allottee is entitled to claim compensation & litigation charges 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 & litigation expense 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 & legal expenses.

**G. Directions of the authority**

25. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:

- i. The respondent/promoter shall handover the physical possession of the flat/unit and execute conveyance deed in favour of the complainant(s) in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.
- ii. The respondent is directed to disclose the status of the completion of project, date of physical possession of unit and development plan of the project to the complainant/allottee within a period of 30 days from the date of this order.
- iii. The respondent/promoter shall not charge anything from the complainant(s) which is not the part of the Affordable Housing Policy, 2013.
- iv. The complainant(s) are directed to pay outstanding dues, as per builder buyer's agreement and the Affordable Housing Policy, 2013.
- v. The rate of interest chargeable from the allottee(s) by the promoter, in case of default shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee(s), in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

26. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order wherein details of paid up amount is mentioned in each of the complaints.
27. Complaint as well as applications, if any, stands disposed off accordingly.
28. Files be consigned to registry.

  
**(Ashok Sangwan)**  
Member

  
**(Vijay Kumar Goyal)**  
Member

  
**(Arun Kumar)**  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 17.12.2024

  
**HARERA**  
**GURUGRAM**