HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	**1603 of 2023**
Date of filing:	**27.07.2023**
First date of hearing:	**05.09.2023**
Date of pronouncement:	**03.12.2024**

1. Rachna Grover w/o Sh. Sanjay Grover,

2. Sanjay Grover s/o Sh. J. C. Grover

Both R/o I-159, Ashok Vihar, Ground Floor,

Phase-I, New Delhi- 110052. ...COMPLAINANT(S)

VERSUS

Taneja Developers Infrastructure Ltd. (TDI)

Office At: 9 Katurba Gandhi Marg,

New Delhi–110001

Also at Tuscon Heights near TDI Mall in Tuscan City,

Kundli, Sonepat, Haryana .....RESPONDENT

CORAM: **Dr. Geeta Rathee Singh** **Member**

Chander Shekhar **Member**

Present: - Mr. Ravi Singh, ld. Counsel for the complainants.
Mr. Shubhnit Hans, ld. Counsel for the respondent, through VC.

Rathee

ORDER

1. Present complaint has been filed by complainants under Section 31 of RERA 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 complainants, 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 Heights" near TDI mall in TDI City, Kundali, Sonipat.
2.	Name of the promoter	TDI Infrastructure Ltd.
3.	RERA registered/not registered	Un-Registered
4.	Licence no.	177 of 2017 dated 13.04.2007
5.	Unit No. allotted	T-5/0901, 9th floor
6.	Unit area	1390 Sq. feet

7.	Date of allotment	18.08.2011
8.	Date of Apartment Buyers Agreement	19.08.2011
9.	Due date of offer of possession	19.02.2014 (30 months from the date of execution of B.B.A as per Clause 30 of Agreement)
10.	Total sale consideration	Rs.37,82,467/- (as per statement of account)
11.	Amount paid by complainants	Rs. 35,42,425/-
12.	Offer for fit out possession	08.12.2017
13.	Possession certificate	26.03.2018
14.	Whether O.C received or not	O.C not received till date

B. FACTS OF THE COMPLAINT AS STATED BY THE COMPLAINANTS

3. That initially a [3 BHK + Study] type having an area of 1520 sq. ft. was booked by complainants at basic sale price of Rs.1975/- per sq. ft. by payment of registration amount of Rs.3,50,000/- on 28.02.2011. Pursuant thereto, respondent issued letter demanding next payment for Rs.4,19,825 on 13.04.2011, for Rs.3,00,020/- on 19.04.2011 and both payments were made on 30.04.2011. Thereafter, request for issuance of allotment was made on 03.06.2011. However, respondent on its own accord without informing the complainants changed the booking from [3 BHK + Study] to [3 BHK]

apartment (1520 sq. ft. to 1390 sq. ft.) and after coming to know of the same, complainants requested to return the excess difference amount through written letter dated 08.08.2011.

4. Allotment letter was issued for unit no. T-5/ 0901 admeasuring 1390 sq.ft. on 18.08.2011. Thereafter, flat buyer agreement was executed between the parties on 19.08.2011 and construction linked plan was opted vide said agreement. As per clause 30 of flat buyer agreement, possession thereof was to be granted within 30 months from the date of execution of the agreement. Thus, respondent agreed and undertook that the possession will be handed over by 19.02.2014 to the complainants.

5. That respondent issued letter dated 20.12.2011, for depositing EDC charges @246.50 per Sq. ft which comes to Rs. 3,42,635/- and issued its reminder vide letter dated 21.01.2012 and asked to pay the same by 07.02.2012.

6. That respondent issued a letter in January, 2012 to complainants informing them about its exclusive tie up with State Bank of Bikaner and Jaipur along with two other banks and offered services of loan through the aforementioned banks. Complainants, while acting on the letter sent and believing the promises made by the respondent to deliver the possession on time as true, got opened a bank account for availing the loan facility from State Bank of Bikaner and Jaipur and the same was confirmed by the bank

on 29.01.2012. That State Bank of Bikaner and Jaipur on 28.01.2012 sanctioned the housing loan of Rs. 24,28,000/- in favour of the complainants (Annexure-15). Respondent issued letter dated 06.02.2012 to State Bank of Bikaner and Jaipur wherein it had undertaken to supply the required documents necessary for the disbursement of loan to the complainants. Vide such undertaking dated 06.02.2012, respondent undertook to give possession of complainants' flat by 31.07.2014 (Annexure-17). The tripartite agreement was entered into between complainants, respondent and the bank and an arrangement letter - Housing Finance dated 07.02.2012 was issued regarding sanctioning of the housing loan. Thereafter, the bank issued Demand Draft no. 631147 dated 07.02.2012 of Rs. 3,42,635/- to the respondent on behalf of complainants (Annexure-18).

7. That respondent issued letters of demand of installments from time to time from the complainant for starting the construction of the floors and starting roof casting, PLC, brick works, internal plumbing, flooring and tiles, external finishing, apartments and for Electric and Fire Fighting Charges (Annexure-19 Colly.). From bare perusal of these demand letters, it is evident that respondent had reneged on its assurances and failed to keep its promise of delivering the possession on time as the payment plan opted by

the complainants was CLP (Construction Linked Plan) and in view thereof, the payments were only to be demanded and made as per the progress of the construction. The dates on which the letters issued by the respondent clearly establish the fact of delay in construction and ancillary works which are to be done by the respondent to deliver possession in time and there is inordinate delay in completing the construction of the Towers where units were allotted to them. The Occupancy Certificate is not available even as on date, which clearly amounts to deficiency of service and breach of contract. The complainants cannot be made to wait indefinitely for possession of the apartment allotted to them and it clearly falls under the definition of corrupt practice as held in ***Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna (Civil Appeal No. 5785 Of 2019)*** decided on 11.01.2021 by the Hon'ble Apex Court.

8. That the respondent issued demand letter dated 24.05.2016 regarding charges to the tune of Rs. 1,82,613/- against the head "Covered Car Parking Charges" from the complainant and asked to remit the same on or before 08.06.2016 and issued reminders claiming amount of Rs. 1,84,122/-. It is pertinent to mention here that as per payment plan and flat buyer agreement executed between complainants and respondent there was nothing mentioned therein with regard to any car park charges to be paid by the

allottees. On 25.06.2016, complainants replied to the respondent regarding their illegal demand of charges to the tune of Rs. 1,82,613/- against the head "Covered Car Parking Charges" from them and objected to their actions and asked them not to harass them and cancel the demand letter in question (Annexure-21).

9. That on 22.03.2017, the respondent had issued letter regarding recovery of Value Added Tax (VAT) under Haryana Value Added Tax Act, 2003, and asked to deposit a sum of Rs. 17,299/- for the same (Annexure-22). That the respondent had again issued demand invoice dated 04.09.2017, of Rs. 1,96,000/- against the head "Covered Car Parking Charges" from the complainants and issued reminder letter on 20.09.2017 (Annexure- 23). It is quite clear that the respondent was unduly harassing the complainants herein and was demanding payments that were never part of the payment plan opted for at the time of booking the flat in question and as such no payment was due on the part of complainants on this aspect against the respondent.

10. That on 08.12.2017, the respondent had issued fit-out/soft possession of the unit booked by the complainants and asked to take possession and clear the dues by. 07.01.2018. 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-24). It is pertinent to mention here 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.

11. That complainants made payment of Rs. 50,000/- vide Cheque no. 074910 dated 07.01.2018 and the respondent issued the receipt to the complainants confirming the credit of amount. (Annexure-25).

12. That the respondent had issued the NOC dated 19.03.2018 for handover of possession of the unit booked by the complainants and acknowledged that all dues except stamp duty had been duly received by the respondent (Annexure-26). That the respondent issued possession certificate dated 26.03.2018 to the complainants along with taking a request form for applying for a new electricity connection from the complainants (Annexure-27)

13. That the NOC dated 19.03.2018 for handover of possession of the unit booked by the complainants and possession certificate dated 26.03.2018 are just an eye wash and complete fraud played by the respondent to evade its liability as per the flat buyer agreement. It is respectfully submitted here

that occupancy certificate has not been granted to the respondent till date by the competent authorities because of the poor material/infrastructure used by the respondent in the construction and non-observance of rules and other reasons well known to the respondent.

14. That as per clause no. 19 of the flat buyer agreement, the apartment price includes the cost of the internal services such as laying of roads, water lines, sewer lines, and storm water drains, development of horticulture within peripheral limits of the colony and in contrary to the same, none of the services so mentioned have been provided or not in the good condition but still the complainants have been burdened with the cost of the same.

15. That as per clause no. 23 of the flat buyer agreement, it is the respondent who is under an obligation to get the sale deed executed of the allotted apartment and in the present case, the respondent has taken complete payment from the complainants as evident from the possession certificate dated 26.03.2018 and did not turn up for the sale deed till date whereas as per clause no. 24 of the flat buyer agreement, the same has to be done within 30 days from the date of the notice of possession.

16. That as per clause no. 26 of the flat buyer agreement, the ownership of the allotted apartment of the complainant is in the name of the respondent only as until the sale deed of the apartment is executed, all the right, title, and

interest in the said apartment lies with the respondent and thus it is very much discernible from this that no actual possession has been handed over to the complainant and till date the allotted apartment is being kept under lock and key by the respondent only.

17. That it is again apposite to mention here that "occupancy certificate" has not been granted to the respondent by the competent authorities till date, and as per clause no. 29 of the flat buyer's agreement, apartment which has been allotted to the complainant is still subject to alteration, modification in description, specification, and architectural design, change in apartment plan, increase or decrease in the covered/open area of the apartment etc. and this clearly establishes the fact that handing over of possession is only in documents and is a sham.

18. That complainants are facing great hardship since they had obtained loans from banks for purchasing this apartment, and are paying high rates of interest and it was realized that there has been inordinate delay in construction activity till the offer of possession and till date also, some fitting and fixtures are also pending. Moreover, construction quality used by the respondent is totally substandard and no civic amenities are being provided to complainants.

19. That the respondent has deliberately and willfully committed fraud with the complainants who have invested their hard earned savings of their life to live in their dream home and further got burdened down financially with the house loan, installments of which are still going and the complainants have been made to suffer immensely by the respondent for more than 12 years and the mental agony is still continuing despite making complete payment of the allotted apartment to the tune of Rs. 35,21,425/-. Copy of the account statement of house loan is attached herewith as Annexure 28.

20. That another glaring act and issue in this present matter is that the flat buyer agreement contains wholly one-sided clauses like Clause no. 5, with regard to charging of interest @ 21% and 24% per annum from the complainants/purchaser on delay of payment and whereas as per clause no. 7 and 8, in case of refund to the purchaser in any of situation mentioned therein, the rate of interest is simple interest and payable by the respondent @9% p.a. Similarly, as per clause 13 if there is any delay beyond 3 months, respondent company can forfeit the earnest money and can cancel the agreement giving no right to the purchaser/ complainants. Adding the arbitrariness in the agreement, respondent included clause no. 30 in the agreement wherein delay in OC, approvals, permissions and even respondent can suspend the scheme leaving no right for the purchaser for

claiming anything due to these acts from the respondent and delay in handling over possession beyond 30 months.

21. That the respondent has further failed to comply with the terms and conditions as enshrined in the registration certificate under RERA issued on dated 24.11.2017, wherein, the respondent has to take all the approvals from various competent authorities on time as per clause 'V' of the RERA registration certificate, which has not been done so far. Further also, the respondent has not returned the amount of the complainants as it has failed to give possession on time as committed in the flat buyer agreement and the same is in contravention of clause 'X' of the RERA registration certificate also.

22. That due to the non-adherence of the flat buyer agreement with regard to handing of possession and further non-obtaining of the occupancy certificate and further illegal act and conduct of the respondent, the contract itself stands terminated and repudiated and respondent has made itself liable to refund the complete payment with interest and left with no alternate, the complainants are filing the present complaint before this Hon'ble Authority.

C. RELIEFS SOUGHT

23. In view of the facts mentioned above, the complainants pray for the following directions to respondent/ developer/ builder:-

i. Declare that the respondent has violated the various terms and conditions of the flat buyer agreement and by delaying the possession of the allotted unit to the complainants by more than 9 years.

ii. The amount of Rs. 35,24,425/- paid to the respondent be refunded to the complainants with interest @ 18% P.A. compounded quarterly from the date of actual payment till the date of actual refund of money; and/or

iii. Direct penalty on the respondent for not complying the terms and conditions of the RERA registration certificate in accordance with section 61 of the RERA Act, 2016.

iv. Any other further appropriate relief that this Hon'ble Authority may deem fit in the facts and circumstances of the present case to meet the ends of justice.

D. REPLY ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed reply on 06.12.2023 pleading therein:

24. That complainants had voluntarily invested in the project of the respondent namely "Tuscon Floors" in TDI City, Kundli, Sonepat, Haryana. The said project of respondent is covered under license No. 177 of 2007 dated 13.04.2017 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.

25. That RERA 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 RERA Act, 2016is retroactive in character. Thus, if the Act is given a retrospective

application, the same would be unjust and would gravely prejudice the respondent company.

26. That the complainants have already given away their rights to make the respondent company liable for any claims as the complainants have signed the NOC dated 19.03.2018 and have given an undertaking after his full satisfaction with regard to unit in question. Further, the possession certificate has also been issued on 26.03.2018 and the complainants have been residing in the said flat ever since. It is evident from the perusal of the said NOC and possession certificate that the complainants after duly inspecting their unit cleared all the dues, signed the NOC and accepted the physical possession of the unit way back in 2018. Therefore, now after a delay of about 5 years from the date of accepting the possession, complainants cannot approach the Authority and seek relief as claimed for.

27. That complainants herein are investor and have 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*.

28. That no cause of action has occurred in favour of complainants and the present complaint is barred by limitation as the complainants have been sleeping over its rights for more than 5 years from the date of possession.

Thus, the captioned complaint is miserably hit by the *principle of delay and laches*. As per section 137 of limitation act, 1963, where there is no limitation period prescribed, a period of 3 years would be considered. Thus, no cause of action has arisen in favour of complainant to file the captioned complaint.

29. 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 complainants cannot be allowed to raise wrong, false and frivolous claims especially when complainants have already accepted the possession and are residing in the said unit.

30. That further, the complainants on various occasions have defaulted in making timely payment as per payment scheduled agreed between the respondent company and complainants, therefore, respondent company had also issued various reminder letters in past to complainants 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 complainants various occasions.

31. Further, it is submitted that complainants had already taken over the possession and signed the no objection certificate therefore there exist no

cause of action in favour of complainants to file this complaint hence this complaint is liable to be dismissed *in toto*. it is also submitted that complainant by way of this complaint is just trying to arm-twist the facts to mislead this Ld. Authority.

32. Further, it is also submitted that facts and circumstances of each and every matter are different hence each complaint shall be adjudicated keeping in view the facts and circumstances and documents on record, decision of a previously decided matter cannot be applied to any other complaint without going into merits of the case. It is submitted that respondent company had all the rights to charge for covered car parking charges from the complainants as per RERA Act, 2016. It is also submitted that complainants in order to avail the facility of car parking in a covered area had to pay charges for the same.

33. That it is submitted that Value Added Tax is a statutory tax payable to the Government by the respondent company hence mandatory in nature and charged as per law legislated by the Government. It is submitted that complainants are well educated person and had duly signed each and every page of the agreement voluntarily and out of his own free will after going through each and every term and condition of the agreement and now must abide by its terms. All the demands have been made in accordance with the

terms and conditions of the agreement executed between the parties. Therefore, complainants cannot run away from fulfilling their obligations and are liable to pay the same.

34. That the project of respondent is fully developed and many allottees are already residing in the said project since 2014. Complainants have taken over the possession of the said unit after full satisfaction in 2018. Complainants were handed over the possession in 2018, now the complainants cannot be allowed to raise claims pertaining to the development of the project at such a belated stage when they did not have any objection at the time of taking over the possession of the unit and no protest was made back then. Therefore, all the allegations levelled by the complainant are denied in toto.

35. That the respondent has not made any violation of the Act or the Rules made thereunder. The reliefs claimed by complainants are denied and not maintainable, are hence liable to be dismissed.

E. REJOINDER ON BEHALF OF COMPLAINANTS TO THE REPLY FILED BY RESPONDENT.

Learned counsel for the respondent filed rejoinder to the reply filed by respondent on 18.01.2024 and submitted therein:

36. That respondent had invited applications and investment from the complainant and public for booking flats by misrepresenting in the notice advertisement and further gave incorrect position that it has all the necessary approvals/pre-clearances with respect to the project and constructions which had been obtained from the office of the Director, Town and Country Planning, Haryana, and other civil authorities and the apartment buyers were induced to book apartments on false representations made by the respondent that construction of the project would be completed within 30 months from the date of execution of flat buyer agreement.

37. That it is submitted that the RERA Act, 2016 has come into existence on 25.03.2016 and the work of the project in question of the respondent had been ongoing and under construction till date as respondent has admittedly failed to procure "occupation certificate" till date. Further, as the fit out possession was offered to the complainant on 08.12.2017 and further the fact that the project/flat was incomplete, can be discernible from the letter dated 24.05.2016 (Annexure-20) of the respondent, wherein it is admitted by the respondent that "the unit is near to the completion", thus it is clearly established that the at the time of coming of RERA Act, 2016 into existence on 25.03.2016, the work of the project in question of the respondent had been ongoing and under construction. It is further submitted that the

Hon'ble Supreme Court of India in the matter titled as ***"Newtech Promoters and Developers Put. Ltd. Vs. State of UP and others", in Civil Appeal Nos. 6745-6749 of 2021***, has held that the RERA Act, 2016 is applicable to all the ongoing projects after it coming into existence. Therefore, the ground taken by the respondent is devoid of merits and is liable to rejected out rightly. Further, this Hon'ble Authority vide its order dated 31.01.2023 in case titled ***Dharminder Singh Vs. TDI Infrastructure Ltd. Complaint No. 513 of 2022*** has held that as per Section 11 (4) (a) of the RERA Act, 2016, the promoter shall be liable to the allottees as per agreement for sale and as per section 34(f) of the Act and it is the function of the Authority to ensure compliance of the obligations casts upon promoters, allottees etc. It is further submitted that the respondent itself has admitted in its paragraph 16 (of parawise reply) of its reply that the respondent can charge for covered car parking charges from the complainant as per the RERA Act, 2016. Therefore, the respondent herein cannot blow hot 'n' cold at same time. The respondent while taking such a stand is trying to mislead this Hon'ble Authority as the prevailing law on the subject has been settled by the Hon'ble Apex Court as well as this Hon'ble Authority.

38. That the respondent's interpretation of the judgment of the Hon'ble Supreme Court in the matter titled as ***"Newtech Promoters and Developers Put. Ltd.***

vs. State of UP and others", in Civil Appeal Nos. 6745-6749 of 2021 is misplaced and wrong. As stated above, the RERA Act, 2016 is completely applicable to the present lis, as the work of the project in question of the respondent had been ongoing and under construction till 2017-2018.

39. The actual physical possession of the unit was never taken by the complainants and rather the respondent has played fraud with the complainants by issuing offer of fit out/soft possession without having ***"Occupation Certificate"*** till date and the same is admitted by the respondent throughout their reply. The paper trail of No Objection Certificate and Possession Certificate was being done in closed doors of the office of respondent without visiting and inspecting the unit booked and after visiting the unit booked the complainants were shocked to see the condition of the unit booked and when objected to, the respondent threatened the complainants of cancellation of the unit and confiscating the complete amount paid by them.

40. Further it is an admitted fact that the unit was not complete at the time of signing of NOC and possession certificate as till date it has not received "occupation certificate" and without the same it cannot be said to be valid legal possession of the unit has been handed over to the complainants as held by this Hon'ble Authority in ***Complaint No. 903 of 2019 titled***

Sandeep Goyal Vs. Omaxe Ltd and the cause of action is continuing till date as the complaints have not enjoyed and utilized the benefit of possession of the unit as it is in documents only. In fact, there is no electricity connection in the flat booked and respondent has failed to execute the sale deed to transfer ownership of the subject property to the petitioners and thus it cannot be argued by the respondent that the possession and ownership was ever transferred to the petitioners.

41. Furthermore, the issue of applicability of limitation and doctrine of delay and laches are not applicable to quasi-judicial proceedings as held by Hon'ble Supreme Court in case titled ***Town Municipal Council Athani Vs. Presiding Officer, 1969(1) SCC 873,*** wherein it is held that Article 137 of the Schedule of the Limitation Act will not apply to bodies other than the courts. Thus, without any doubt, respondent has failed to provide complainants with valid and legal possession.

F. APPLICATION FILED BY COMPLAINANTS ON 19.11.2024

42. An application dated 19.11.2024 was filed by ld. counsel for complainants in furtherance of their submission that actual physical possession of the said unit allotted in their favor does not lie with them. Through such application it is prayed that reply filed by respondent counsel in complaint no. 2266 of 2023 pending between the parties before adjudicating officer may be placed

on record. It is submitted that as per para 5 of said reply, respondent has admitted that physical possession is still with respondent only and has not been handed over or taken over by the complainants till date, which is completely contrary to the reply submitted by respondent in present complaint. Thus, it is submitted by complainants that they are not in actual physical possession of the said unit and possession has been received only on paper.

G. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANTS AND RESPONDENT

43. During oral arguments learned counsel for the complainants and respondent have reiterated arguments as mentioned in their written submissions. Besides, in response to the application filed by complainants on 19.11.2024, whereby complainants have placed on record reply filed by respondent builder in complaint no. 2266 of 2023, pending before Adjudicating Court, wherein respondent have admitted the fact that the complainants are not coming forward to take possession of the unit. Learned counsel for the respondent orally averred that he received oral instructions from his client i.e. respondent company to submit that respondent shall be amending its reply in case no -2266 of 2023 and shall be adopting the stance that has been taken in the present complaint that complainants are in possession of

the allotted unit. He requested that any submissions made by respondent vide reply in complaint no. 2266 of 2023 may not be considered while adjudicating the caption complaint

H. OBSERVATIONS AND DECISION OF AUTHORITY

44. 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 complainants in the respondent's project namely Tuscan City (Heights), Kundli, Sonepat in the year 2011. Unit No. 0901, in Tower 5, measuring 1390 sq. feet was allotted to complainants vide allotment letter dated 18.08.2011; flat buyer agreement dated 19.08.2011 was executed between the parties. Complainants have paid Rs. 35,21,425/- as total sale consideration.

45. On perusal of complaint, it is observed that main grouse of complainants against the respondent promoter is that after a delay of approximately 4 years from the deemed date of handing over of possession, respondent promoter had offered "fit out possession cum demand letter" dated 08.12.2017 and that too without obtaining occupation certificate from the competent Authority. Therefore, such an offer is illegal and is liable to be struck off.

46.In response to complaint, respondent promoter had filed its reply dated 06.12.2023 wherein it had raised preliminary objections regarding maintainability of complaint. Observations of the Authority on these preliminary objections are herein below:

i. ***Respondent has raised an objection that provisions of RERA Act, 2016are not applicable to the present case as the agreement to sell was executed and construction was commenced prior to coming into force of RERA Act, 2016.***

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 the RERA Act, 2016 coming into force the terms of agreement are not re-written, RERA Act, 2016only 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 RERA Act, 2016was 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.*

Further, reference can be made to the case titled ***M/s Newtech Promoters & Developers Pvt. Ltd. vs. State of UP & Ors. Etc. 2022(1) R.C.R. (Civil) 357,*** wherein the Hon'ble Apex Court has held as under:-

> *"41. The clear and unambiguous language of the statute is retroactive in operation and by applying purposive interpretation rule of statutory construction, only one result is possible, i.e., the legislature consciously enacted a retroactive statute to ensure sale of plot, apartment or building, real estate project is done in an efficient and transparent manner so that the interest of consumers in the real estate sector is protected by all means and Sections 13, 18(1) and 19(4) are all beneficial provisions for al safeguarding the pecuniary interest of consumers/allottees. In the given circumstances, if the Act is held prospective then the adjudicatory mechanism under Section 31 would not be available to any of the allottee for an ongoing project. Thus, it negates the contention of the promoters regarding the contractual terms having an overriding effect over the retrospective applicability of the Act, even on facts of this case."*

As per the aforesaid ratio of law, the provisions of the Act are retroactive in nature and are applicable to an act or transaction in the process of completion. Thus, the rule of retroactivity will make the provisions of the Act and the rules applicable to the acts or transactions, which were in the process of the completion though the agreement might have taken place before the Act and the Rules became applicable. Hence, it cannot be stated that the provisions of the Act and Rules made thereunder will only be prospective in nature and will not be applicable to the agreement for sale executed between the parties prior to the commencement of the Act.

ii. ***Respondent has further raised an objection that complainants are in peaceful possession of their unit since issuance of possession certificate on 26.03.2018 and have approached this Authority after a delay of 5 years, hence, complaint is barred by limitation.***

In this regard, it is observed that as per clause 30 of flat buyer agreement, respondent was to handover the possession of the unit to complainants within 30 months from the date of execution of agreement. Flat buyer agreement was executed inter-se complainants and respondent on 19.08.2011, as per which possession was to be handed over to complainants by 19.02.2014. However, fit-out possession was offered vide possession letter dated 26.03.2018, i.e., after a delay of more than 3.5 years from

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. Respondent has also not executed conveyance deed in favour of complainants till date, thus, the cause of action is re-occurring. 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."*

RERA Act, 2016is 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.

iii. Furthermore, respondent has raised an objection 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.

In this regard, Authority observes that "any aggrieved person" can file a complaint against a promoter if the promoter contravenes the provisions of the RERA Act, 2016 or the rules and regulations. In the present case, complainants are aggrieved persons who have filed a complaint under section 31 of the RERA Act, 2016 against the promoters for violation/contravention of the provisions of the RERA Act, 2016 and the Rules and Regulations made thereunder. Here it is important to emphasize upon the definition of the term allottee under the RERA Act 2016, reproduced below:-

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

In view of the above mentioned definition of allottee as well as upon careful perusal of allotment letter dated 18.08.2011 and flat buyer agreement dated 19.08.2011, it is clear that complainants are allottees as Unit No. 0901, in Tower 5, measuring 1390 sq. feet in the respondent's project namely Tuscan

City (Heights), Kundli, Sonepat in the year 2011 was allotted to them by the respondent promoters. The concept/ definition of investor is not provided or referred to in RERA Act, 2016. As per the definitions provided under section 2 of the RERA Act, 2016, there will be "promoter" and "allottee" and there cannot be a party having status of an investor. Further, the definition of "allottee" as provided under RERA Act, 2016 does not distinguish between an allottee who has been allotted a plot, apartment or building in a real estate project for self-consumption or for investment purpose.

The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled as ***M/s Srushti Sangam Developers Ltd. vs Sarvapriya Leasing (P) Ltd. and Anr.*** had also held that the concept of investors is not defined or referred to in the Act. Thus, the contention of the promoter that allottees being investor are not entitled to protection of this Act also stands rejected.

Even if complainants have purchased the unit for the purpose of real estate investment and for financial gains, still the right to lease out the property could have been delegated only once a person has become an owner of the property for which it is a pre-requisite that allottee gets a perfect title in the property, however it is a matter of fact that the title was never perfected as

no conveyance deed has been executed. Thus, there is no doubt regarding the fact that complainants are only allottees not investors.

iv. ***Another objection raised by respondent is that the present project is not an ongoing project as it had applied for grant of OC in year 2014, therefore RERA Act, 2016 is not applicable on the captioned complaint.***

Thus, the issue as to where project shall be considered as "on-going project" has been dealt with and settled by the Hon'ble Supreme court in ***Newtech Promoters and developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021*** herein reproduced:

> *" 37. Looking to the scheme of Act 2016 and Section 3 in particular of which a detailed discussion has been made, all "ongoing projects" that commence prior to the Act and in respect to which completion certificate has not been issued are covered under the Act. It manifests that the legislative intent is to make the Act applicable not only to the projects which were yet to commence after the Act became operational but also to bring under its fold the ongoing projects and to protect from its inception the inter se rights of the stake holders, including allottees/home buyers, promoters and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer and supervise the unregulated real estate sector within the fold of the real estate authority."*

Thus, Hon'ble Apex has 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. Therefore, the present complaint is maintainable and suitable to be decided by the Authority.

47. Authority observes that complainants are aggrieved due to the fact that the respondent has failed to fulfill its obligation to hand over a legally valid offer of possession within the stipulated period of time as provided in the flat 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. Complainants have alleged that fit out offer of possession dated 08.12.2017 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. 1,75,000/- and Rs.17,299/- under the head of "covered car parking" and "VAT" respectively. On perusal of statement of account dated 26.06.2016 at page no. 118 of complaint file, it transpires that the above mentioned 2 payments against "covered car parking" and "VAT" were made by complainants. With regard to these aforementioned charges/amounts collected from allottees, Authority observes that complainants have already paid such amount with installments in year 2017

and now that they in exercise of their right under Section 18 of the Act are 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.

48. Further, complainants have also objected to the terms of flat buyer agreement to be arbitrary and one-sided. Authority observes that since flat buyer agreement constitutes the sole basis of subsisting relationship between the parties, both the parties are lawfully bound to obey the terms and conditions enunciated therein. Complainants after thorough reading and understanding of the terms and conditions as mentioned in the flat buyer agreement signed the said agreement that too without any protest and demur. It is pertinent to mention that here the agreement was executed prior to the coming into force of the Real Estate (Regulation and Development) Act, 2016. Therefore, agreement executed prior to the coming into force of the Act or prior to the registration of project with RERA cannot be reopened.

49. 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 complainants are alleging that since fit out offer of possession was not a valid offer of possession, they are 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 08.12.2017 was voluntarily accepted by complainants and whether complainants are entitled to relief of refund under section 18 of the RERA Act, 2016 or not.

50. Authority observes that as per clause 30 of the flat buyer agreement dated 19.08.2011, respondent had committed to handover the possession of unit to complainants by 19.02.2014; however, it is a matter of fact that the fit-out offer of possession was made vide letter dated 08.12.2017, i.e. after a delay of almost 4 years. It is also a matter of record that complainants had invested a huge amount of Rs. 34,75,126/- with the respondent by the year 2015. 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...."

51. Nevertheless, this Authority in its various judgements pertaining to the same real estate project as involved in this captioned complaint "Tuscan heights" has held that in cases where allottee has voluntarily accepted the fit-out offer of possession and have also taken/ accepted actual physical possession of the unit, and enjoying the same, they are entitled to delayed possession interest for the period of delay caused in handing over of the possession. However, the captioned complaint is peculiar in nature and the fact of this case are slightly different/ distinctive. It is observed that there is no dispute between

the parties with respect to the fact that offer for fit-out possession was made on 08.12.2017 without receiving occupation certificate and consequently complainants signed the NOC and respondent issued possession certificate thereupon. The peculiar facts that come into play are that respondent is averring that after issuance of possession certificate, complainants are residing in the unit, whereas this fact has been vehemently denied and rebutted by complainants in their written submissions dated 22.07.2024, wherein complainants have stated that the actual physical possession of the unit was never taken by complainants as there was no occupation certificate issued by competent Authority.

52. Complainants in their written submissions have further clarified the fact that there is no electricity connection in the flat booked. This fact regarding non-availability/ absence of electricity connection has not been denied/ rebutted by the respondent, thus, corroborating the stance of complainants that they never accepted the actual physical possession of the unit.

53. Further, complainants have alleged that they were compelled and coerced to accept the fit out offer of possession. To ascertain this fact, Authority perused fit-out offer of possession cum demand letter and observes that it is mentioned in the letter that "*you are requested to clear all your payments and take possession by 07.01.2018 to avoid further accrual of interest.*"

Authority observes that such language of a demand/ fit-out offer of possession creates anxiousness in the mind of allottee and it is natural that in order to safeguard itself from penal consequences, complainants/ allottee would accept such letter and make payments as demanded. However it is the trail of events thereafter that reflects whether allottee had the intention to accept the possession or whether the act of signing document/ NOC was merely to avoid penal consequences. For example: if after signing of NOC and issuance of possession certificate, an allottee obtains electricity/water connection and starts using the unit for residing or for letting it out, it would mean that the allottee had the intention to accept the possession of the unit. However, in the present case, the fact that complainants never got issued electricity/ water connection shows their intention that they did not have the intention to accept the possession and the signing of NOC was for the purpose of avoiding imposition of interest/ penal consequences.

54. Furthermore, in its application dated 19.11.2024, complainants have placed reliance on Para no.5 of reply filed by respondent in complaint no.2266 of 2023 pending adjudication before court of Adjudicating Officer at RERA, wherein respondent has stated as under:

> *"...It is further submitted that the construction of the unit is complete in all aspects and possession of the unit has already been*

offered to the complainants vide letter dated 08.12.2017 but it is complainants who are not coming forward to take physical possession of the unit."

On perusal of aforementioned para no.5 from reply in complaint no. 2266 of 2023, it is observed that it is an admission on part of respondent that complainants are not in actual physical possession of the unit issued in their favour. Authority in given circumstances cannot ignore what has been given in writing vide reply on 13.07.2024 in complaint no. 2266 of 2023. It is observed that respondent had adequate opportunity to change or amend its stance before A.O. Nevertheless, it is only after complainant filed the application dated 19.11.2024 to strengthen their stand that they have not been given the actual physical possession of the unit issued in their favour that respondent came forward to make such oral submissions that they wish to amend their stance in complaint no. 2266 of 2023. Ld. counsel for respondent orally stated that respondent company in due course of time shall be amending its stance in case no. 2266 of 2023 and shall be adopting the stance taken in present complaint that complainants have been issued possession certificate and are thus, in possession of the unit. It is a settled principle of law that written submissions/ admissions weigh more than mere oral submissions and that too to make amendment further.

55. 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 complainants in captioned complaint.

56. 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 10 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. Complainants in this case had paid the sale consideration to the tune of ₹ 34,75,126/- by the year 2015 itself in hopes of receiving a unit. However, the complainants were not only bereft of their hard-earned money but were also not able to enjoy possession since the actual physical delivery 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 complainants, complainants are 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 complainants also does not want to continue with the project and seeks refund of the amount paid.

57. It is to mention here the judgement dated 02.04.2019 passed by Hon'ble Supreme Court in Civil Appel no. 12238 of 2018 titled as ***Pioneer Urban Land & Infrastructure Ltd vs 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."

58. Furthermore, 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."*

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 complainants wish to withdraw from the project of the respondent; therefore, Authority finds it to be fit case for allowing refund in favour of complainants. 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)ofsection19]*
> *(1) For the purpose of proviso to section 12; section 18, and sub.sections (4) and (7) of section 19, the "interest at therate 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".*

59. 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. 03.12.2024 is 9.10%. Accordingly, the prescribed rate of interest will be MCLR+2% i.e. 11.10%.

60. Accordingly, respondents will be liable to pay the complainants, interest from the date amounts were paid by them till the actual realization of the amount. Hence, Authority directs respondents to refund to the complainants the paid amount of ₹ 35,42,425/- 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. Authority has got calculated the total amount along with interest at the rate of 11.10% till the

Rattee

date of this order and said amount works out to ₹79,77,516/- as per detail given in the table below:

Sr. No.	Principal Amount	Date of payment	Interest Accrued till 03.12.2024 (in Rs.)	TOTAL (in Rs.)
1.	3,50,000/-	28.02.2011	5,35,172/-	8,85,172/-
2.	27,056/-	30.04.2011	40,868/-	67,924/-
3.	3,92,769/-	30.04.2011	5,93,282/-	9,86,051/-
4.	3,00,200/-	30.04.2011	4,53,456/-	7,53,656/-
5.	7,731/-	06.07.2011	11,520/-	19,251/-
6.	3,42,635/-	07.02.2012	4,88,066/-	8,30,701/-
7.	48,863/-	06.07.2013	61,950/-	1,10,813/-
8.	2,19,594/-	15.03.2014	2,61,580/-	4,81,174/-
9.	1,41,504/-	15.05.2014	1,65,934/-	3,07,438/-
10.	1,41,504/-	17.06.2014	1,64,514/-	3,06,018/-
11.	1,41,504/-	09.09.2014	1,60,899/-	3,02,403/-
12.	1,41,504/-	09.10.2014	1,59,608/-	3,01,112/-
13.	1,41,504/-	27.10.2014	1,58,834/-	3,00,338/-
14.	1,41,974/-	17.11.2014	1,58,455/-	3,00,429/-
15.	1,41,504/-	12.12.2014	1,56,854/-	2,98,358/-
16.	1,41,504/-	31.12.2014	1,56,037/-	2,97,541/-

17.	3,51,642/-	21.01.2015	3,85,510/-	7,37,152/-
18.	1,42,067/-	22.09.2015	1,45,208/-	2,87,275/-
19.	1,42,067/-	29.10.2015	1,43,610/-	2,85,677/-
20.	17,299/-	08.12.2017	13,431/-	30,730/-
21.	50,000/-	11.01.2018	38,303/-	88,303/-
Total	**35,24,425/-**		**44,53,091/-**	**79,77,516/-**

I. DIRECTIONS OF THE AUTHORITY

61. 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. 79,77,516/-** to the complainant as specified in the table provided in para 60 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.

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

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CHANDER SHEKHAR
[MEMBER]

.....

DR. GEETA RATHEE SINGH
[MEMBER]