



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	3261 of 2022
Date of filing:	22.12.2022
First date of hearing:	12.04.2023
Date of decision:	04.03.2025

Ompal

Village Anchera Kalan ,Jind

PIN -126112, Haryana

.....COMPLAINANT

Versus

TDI Infracorp(India) Ltd.

Registered Office :-

Upper Ground Floor, Vandana Building 11,

Tolstoy Marg, Connaught Place

New Delhi – 110001

.....RESPONDENT

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

**Member
Member**

Date of Hearing: 04.03.2025

Hearing: 6th

**Present: - Adv. Ashish Kumar Sharma, L.d. counsel for the Complainant
Adv. Shivdeep, L.d. counsel for the Respondent.**

Geeta Rathee

ORDER

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

A. UNIT AND PROJECT RELATED DETAILS

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

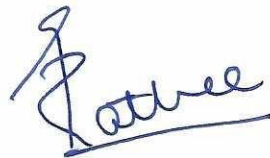
Sr. No	Particulars	Details
1.	Name of the project	TDI City, Panipat
2.	Name of the promoter	TDI Infracorp (India) Ltd.
3.	RERA registered or not	Registered vide registration certificate no.40 of 2017
4.	Plot No.	C-NII
5.	Plot area	1196 sq.yds.
6.	Date of allotment	16.06.2021

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7.	Date of Plot Buyer Agreement	30.10.2021
8.	Deemed date of possession	30.04.2022(as per para 2of agreement) Para2 <i>"That the parties have agreed that the Vendee shall make 100% payment on or before 30th April 2022 which shall be treated as the date of the Sale Deed Vendor provide all Faciality or Road, Severage water, Light etc, On date of Offer For Possession 30th April 2022".</i>
9.	Basic sale price of unit	Rs. 69,36,800/-
10.	Amount paid by the complainant	Rs. 34,00,000/-
11.	Offer of possession	Not given

B. FACTS OF THE COMPLAINT

3. Facts of the complaint are that complainant had booked a plot measuring area 1196 sq.yds. in the respondent's project namely TDI City, Panipat situated at Sector-36,38and39, Panipat by making payment of Rs. 20,00,000/- on 11.06.2021. Thereafter, on 16.06.2021 respondent company issued an allotment letter to the complainant in respect of said project. Complainant made another payment of Rs.14,00,000/- to the respondent company on 07.07.2021.



4. That on making the first payment, the authorized signatory of the respondent company had verbally assured the complainant that an agreement to sell shall be executed on his making the second payment and that the construction of road to the said plot shall also start after the same. However, after having paid an amount of Rs. 34,00,000/- out of total amount of Rs.69,36,800/- respondent company had failed to execute any agreement to sell. Therefore, complainant wrote a letter dated 28.07.2021 to the director of respondent company for execution for agreement to sell but no avail.
5. That on failure of respondent company to reply to letter dated 28.07.2021, on 13.09.2021, complainant wrote a letter to the Hon`ble Chief Minister of Haryana on CM Window citing the delays, lapses and apparent fraud on part of respondent company. The said complaint was forwarded to DTPO officer, and on being summoned by the officer, representative of respondent company acknowledged the fault on behalf of the respondent company.
6. That agreement to sell was executed between the parties on 30.10.2021 and as per para no.2 of the said agreement, the plot had to be registered in the name of complainant on or before 30.04.2022. However, it is submitted by complainant that on 30.04.2022 no one from respondent company visited the sub-registrar office for said purpose.


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7. That on account of 30.04.2022, being a government holiday, the date of registration verbally agreed to be 02.05.2022, but none of the employees of the respondent company made it to the sub registrar office, Panipat. Therefore, complainant wrote a representation to the tehsildar, Panipat requesting him to mark his presence in the office.
8. That due to malpractices of the respondent company, complainant again forward a complaint dated 02.05.2022 to the CM Window for execution of sale deed and on same date complainant also wrote a complaint to SHO, police station, sector 13/17, Panipat requesting to initiate a legal action against the respondent company.
9. That on the said complaint, the Manager of the respondent company was summoned to the police station, and on being asked about the contents of the complaint, one Mr. Naveen Gupta, the authorized signatory of the respondent company, gave a written reply to the complaint vide letter dated 28.05.2022. Mr. Naveen Gupta explicitly disclosed about some pending formalities with government authorities and submitted that it would take the respondent company another 10 months to complete the request formalities and deliver the possession of the complainant's plot to complainant. In the said reply complainant was offered to withdraw from the project however, complainant refused to withdraw from the project.
10. That it is submitted by complainant that repeated requests were made to respondent to inform and update the complainant as to when possession of



the unit would be handed over. However, respondent failed to provide any meaningful response to the queries of the complainant.

11. That the complainant sent a legal notice for dated 10-09-2022 to the respondent, for handing over possession which was posted on dated 13-09-2022. However same was not replied by respondent.

C. RELIEF SOUGHT

12. Complainant in its complaint sought following reliefs :

- i. Respondent company may kindly be directed to get the said plot registered in the name of the complainant and deliver the physical possession of the said plot to the complainant.
- ii. It is further prayed that the respondent company may kindly be directed to pay interest at the rate of 18% per annum on the deposited amount of the complainant from the date of commitment of delivery of the plot till the date of delivery of physical possession of the plot.
- iii. Direct the respondent company to pay a sum of Rs.5,00,000/- to the complainant towards damages for the mental torture, agony, discomfort and under hardships to him as a result of the above acts/commissions on the part of the respondent company.
- iv. Direct the respondent company to pay a sum of Rs.1,50,000/- as litigation charges to the complainant by way of acceptance of this complaint with costs.


J. K. Jaiswal

- v. Pass any other or further relief in favour of the insured and against the respondents, including costs, which this Hon'ble Forum may deem fit, just and proper in the facts and circumstances of the case.

D. REPLY ON BEHALF OF RESPONDENT

13. Notice was served to the respondent on 23.12.2022 which got successfully delivered on 26.12.2022. Despite giving numerous opportunities dated 12.04.2023, 18.07.2023, 31.10.2023, 05.03.2024 and 01.10.2024, respondent, who from the very 1st date of hearing is been represented by a counsel failed to file his reply. Authority is of the view that proceedings before this Authority are summary proceedings and sufficient opportunities have already been granted to the respondent to file reply, any further delay shall defeat the ends of justice for an allottee. Thus matter is proceeded on the basis of oral arguments tendered by the I.d. counsel for the parties and documents placed on record.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

14. During oral arguments I.d. counsel for complainant reiterated the arguments as stated in his written submission. Neither, any reply/written submission have been filed by respondent nor any arguments made by I.d. counsel appearing on behalf of respondent on of hearings. Thus, no arguments/written submission have been made by I.d. counsel for respondent.



F. ISSUE FOR ADJUDICATION

15. Whether the complainant is entitled for physical possession of plot along with an interest @18% p.a. on account of delay of physical possession of the plot in question.

G. OBSERVATIONS AND DECISION OF THE AUTHORITY

The Authority has gone through the facts of complaint as submitted by the complainant. In the light of the background of the matter as captured in this order and also arguments by complainant, Authority observes that:

16. Complainant had booked a plot measuring area 1196 sq. yds. in the respondent project namely TDI City, Panipat situated at Sector-36,38 and 39, Panipat by making payment of Rs. 20,00,000/- on 11.06.2021. Complainant was allotted plot no. C-NII vide allotment letter dated 16.06.2021. Complainant had paid Rs.34,00,000/- against the total sale price of Rs. 69,36,800/- , within one month of the date of booking and without executing any agreement for sale.
17. It is matter of record that an agreement to sell was executed between the parties on 30.10.2021. As per para 2 of agreement to sell respondent promised to deliver possession by 30.04.2022. However, it is not denied that till date no offer of possession has been made to complainant meaning thereby that respondent has failed to fulfil its obligation as provided in the agreement for sale and it is clear violation of section 11(4)(a) of the RERA Act,2016. Furthermore, respondent has failed to



provide for a specific timeline to handover the possession of the plot. In such circumstances, as per section 18(1) of RERA Act, allottee may either choose to withdraw from the project and demand refund of the amount paid or may continue with the project and seek interest on account of delay in handing over possession. In the present case complainant wish to continue with the project, therefore is entitled to interest on account of delay in handing over possession. Authority hereby concludes that the complainants is entitled for the delay interest from the deemed date i.e. 30.04.2022 till the date on which a legally valid offer of possession is made to complainant after obtaining part completion certificate. 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 RERA Rules, 2017 provides for prescribed rate of interest which is as under:



"Rule 15: Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

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

Consequently, as per website of the state Bank of India i.e. <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date, i.e., 04.03.2025 is 9.10%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 11.10%.

18. Authority has calculated the interest on the total paid amount from the deemed date of possession i.e. 30.04.2022 till the date of this order i.e. , 04.03.2025 at the rate of 11.% till, and said amount works out to Rs. 10,75,332/- as per detail given in the table below:

Sr.no	Principal amount	Deemed date of possession or date of payment whichever is later	Interest accrued till 04.03.2025
1.	20,00,000	30.04.2022	Rs.632548/-
	14,00,000	30.04.2022	Rs.44784/-
	Total Principle amount 34,00,000/-		Total Rs.10,75,332/-
2.	Monthly interest		Rs.31019

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19. Accordingly, the respondent is liable to pay the upfront delay interest of Rs.10,75,332/- to the complainant towards delay already caused in handing over the possession. Further, on the entire amount of Rs. 34,00,000/- monthly interest of Rs. 31019/- shall be payable up to the date of actual handing over of the possession after obtaining part completion certificate. The Authority orders that the complainant will remain liable to pay balance consideration amount to the respondent when an offer of possession is made to him.
20. Complainant is seeking compensation of Rs. 5,00,000/- for mental harassment, torture, agony, pain suffering and humiliation and a sum of Rs. 1,50,000/- as litigation expenses. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "**M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & Ors.**" 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 learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned 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.


J. Patra

Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

H. DIRECTIONS OF THE AUTHORITY

21. 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 shall offer possession of the plot to complainant within 30 days from the date of obtaining part completion certificate.
- (ii) Respondent is directed to pay upfront delay interest of Rs.10,75,332/- to the complainant towards delay already caused in handing over the possession within 90 days from the date of this order. Further, on the entire amount of Rs.34,00,000/- monthly interest of Rs.31,019/- shall be payable by the respondent to the complainant up to the date of actual handing over of the possession after obtaining part completion certificate.
- (iii) Complainant will remain liable to pay balance consideration amount to the respondent at the time of possession offered to them.
- (iv) Respondent shall get the conveyance deed executed within 2 months from the date of offer of possession.



22. Captioned complaint is accordingly **Disposed of**. File be consigned to record room after uploading of the order on the website of the Authority.



CHANDER SHEKHAR
[MEMBER]



DR. GEETA RATHEE SINGH
[MEMBER]

