

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

**Complaint no. :** 447 of 2024  
**Order pronounced on :** 05.03.2025

Dipti Bhargava Rae  
**Address:** 604, Sagar Apartment, Sector-56,  
Gurgaon.

**Complainant**

**Versus**

M/s. New Look Builders and Developers Pvt. Ltd.  
[Earlier known as: Ansal Phalak Infrastructure Pvt.  
Ltd]  
**Address:** - First Floor, The Great Eastern Centre 70,  
Nehru Place, Behind IFCI Tower, New Delhi-110019.

**Respondent**

**CORAM:**  
Shri Ashok Sangwan

**Member**

**APPEARANCE:**  
Sushil Yadav (Advocate)  
Deeptanshu Jain (Advocate)

**Complainant**  
**Respondent**

**ORDER**

1. The present complaint has been filed by the complainant/allottee in Form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate

(Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se them.

**A. Project and unit 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 tabular form:

Sr. No.	Particulars	Details
1.	Name of the project	"Avante-Versalia", sector-67 A, Gurugram, Haryana.
2.	Nature of project	Independent floor
3.	Hrera registered	Registered 365 of 2017 Dated-28.08.2017
4.	Unit no.	3079, Floor-2 <sup>nd</sup> (As on page no. 15 of complaint)
5.	Unit area	1685 sq.ft. (As on page no. 15 of complaint)
6.	Flat Buyer's Agreement	18.09.2014

		(As on page no. 14 of complaint)
7.	Possession clause	<p><b>Clause 5 POSSESSION OF FLOOR</b></p> <p><i>1.1 The Company shall endeavor to complete the development of Residential Colony and the Floor as far as possible within 36 months with an extended period of (6) six months from the date of execution of this Floor buyer agreement.</i></p> <p>[Emphasis supplied]</p> <p>(As on page no. 25 of complaint)</p>
9.	Due date of possession	<p><b>18.03.2018</b></p> <p>[Calculated 36 months plus 6 months from date of execution of floor buyers agreement]</p>
10.	Total sale consideration	<p>Rs.1,41,11,000/-</p> <p>(As on page no. 19 of complaint)</p>
11.	Total amount paid by the complainant	Rs.46,54,469/-
13.	Occupation certificate	Not obtained
14.	Offer of possession	Not offered

### B. Facts of the complaint

3. The complainant has made the following submissions in their complaint:

- I. That the respondents advertised in various newspapers about their forthcoming project named "Versalia" situated in Sector 67-A, Gurgaon, promising various advantages, like world class amenities and timely completion/execution of the project etc. Relying on the promise and undertakings given by the respondents, the complainant booked an independent floor admeasuring 1685 sq.ft. in the project for a total sale consideration of Rs.1,46,16,500/-
- II. That the complainant has made payment amounting to Rs.46,54,469/- till date. That a Flat Buyers Agreement was executed between the complainant and the respondents on 18.09.2014 in respect of an independent floor bearing no. 3079 , SF having super area of 1685 sq. ft.
- III. That as per clause 5.1 of the Agreement, the respondent agreed to deliver the possession of the independent floor within 36 months from date of sanctioning of building plan i.e 17.09.2017 with an extended period of 180 days.
- IV. That the complainant used to telephonically ask the respondent about the progress of the project and the respondent always gave false impression that the work is going in full mode and accordingly asked for the payments which the complainant gave on time and on visiting the site, the complainant was shocked and surprised to see that no construction work was going on and no one was present at the site to address the queries of the complainant.
- V. That despite receiving approximately more than 40% payments on time and repeated requests and reminders over phone calls and



personal visits of the complainant, the respondent failed to deliver the possession of the allotted independent floor to the complainant within stipulated period.

- VI. That the construction of the block in which the unit was booked was not completed within the time period undertaken by the respondent for the reasons best known to it, which clearly shows that the ulterior motive of the respondents was to extract money from the innocent people fraudulently.
- VII. That due to this omission on the part of the respondents, the complainant has been suffering from disruption on his living arrangement, mental torture, and agony and also continues to incur severe financial losses. That as per clause 5.4 of the agreement, it was agreed by the respondent that in case of any delay, the respondent shall pay to the complainant a compensation @ Rs.10/- per sq.ft. per month of the super area of the independent floor. It is however, pertinent to mention here that a clause of compensation at such a nominal rate of Rs.10/- per sq.ft per month for the period of delay is unjust and the respondent has exploited the complainant by not providing the possession of the independent floor even after a delay from the agreed possession plan.
- VIII. That on the ground of parity and equity, the respondent also be subjected to pay the same rate of interest hence the respondent is liable to pay interest on the amount paid by the complainant from

the promised date of possession till the unit is actually delivered to the complainant.

- IX. That the complainant has requested the respondent several times on telephonic calls and also by personally visiting the offices of the respondent to deliver possession of the independent floor in question along with prescribed interest on the amount deposited by the complainants but respondents has flatly refused to do so. Thus, the respondent in a pre-planned manner defrauded the complainant with his hard earned huge amount of money and wrongfully gains himself and caused wrongful loss to the complainant.

**C. Reliefs sought by the complainant**

4. The complainant is seeking the following relief:
1. Direct the respondent to pay interest for every month of delay of possession at the prevailing rate of interest.
  5. On the last date of hearing, the Authority explained to the respondent/promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.
  6. The complainant filed an application for amendment in the memo of the parties and the CRA form of the complaint on 02.01.2025. By way of the said application, the complainant has changed the name of the respondent from M/s. Ansal phalak Infrastructure Private Limited to M/s. New Look Builders and Developers Private Limited.

**D. Reply filed by the respondent.**

7. The respondent has contended the complaint on the following grounds:

- I. That the respondent i.e. M/s. New Look Builders And Developers Pvt. Ltd. denies each and every assertion, averment, statement, allegation made in the complaint filed by the complainant as false, frivolous, misrepresented, mischievous and vexatious, except for those which are matter of record or are specifically admitted.
- II. That the respondent is engaged in the business of construction and development of real estate projects That the name of the respondent i.e., Ansal Phalak Infrastructure Pvt. Ltd. has been changed to "New Look Builders and Developers Pvt. Ltd." on 23.10.2020. Therefore, it is submitted that the respondent is now known as "New Look Builders and Developers Pvt. Ltd."
- III. That the complainants approached the respondent seeking high yielding opportunity for investment purposes. Accordingly, the unit was allotted to the complainant in terms of Floor Buyer Agreement dated 18.09.2014. As a matter of fact, the unit was allotted to the complainants for a basic sale consideration of Rs.1,41,11,000/- i.e. excluding the external development charges, preferential location charges, maintenance charges, taxes, etc.
- IV. That in terms of Clause no. 5.1 of the agreement, the respondent undertook to complete the construction of the unit and deliver its possession to the complainant within a period of forty two months (36 months+6 months) from the date of execution of the agreement i.e. 18.03.2018.

- V. That the complainant has arrayed "Ansal Phalak Infrastructure Pvt. Ltd." as respondent in the present complaint. However, the name of "Ansal Phalak Infrastructure Pvt. Ltd." was changed to "New Look Builders and Developers Pvt. Ltd." on 23.10.2020. Therefore, prayer sought by the complainants cannot be allowed. Hence, the present complaint is not maintainable for misjoinder of parties and same is liable to be dismissed with exemplary cost upon the complainants.
- VI. That the respondent company was incorporated under the provisions of Companies Act, 1956 in year 2010 by two promoter entities namely Ansal Properties and Infrastructure Ltd. ("promoter no. 1/ APIL") and Caliber Properties Pvt. Ltd. (hereinafter collectively referred to as "Promoters") with the sole purpose for development, construction and execution of a township on a minimum of 141 acres of developable and licensable land being a part of the property located at Sector 67 and Sector 67 A, Gurugram.
- VII. Subsequent to the incorporation, the promoters took investment from several investors for the purpose of development, construction and execution of a township on a minimum of 141 acres of developable and licensable land being a part of the property located at Sector 67 and Sector 67-A, Gurugram. As a matter of fact, the promoters on behalf of the respondent had undertaken to repay the said investments as per the terms set out in respective Investment Agreements executed with the investors. However, the promoters failed to fulfil their obligations in terms of the said Investment Agreements.



- VIII. As a matter of fact, the promoters being in control of the respondent company had mis-appropriated the assets of the respondent company for their personal gain at the cost of investors, including but not limited to allottee(s) who had invested in the projects of the respondent from 2011 to 2019 to construct their respective units/flats/apartment/plots after taking approvals from the respective government and statutory authorities.
- IX. In order to claim their lawful right under the Investment Agreements, the investors initiated Arbitration Proceedings against the promoters and the respondent company. The arbitration proceedings were conducted before Retd. Justice K.S. Gupta, Sole Arbitrator.
- X. During the pendency of said arbitration proceedings, the parties to the arbitration proceedings i.e. the promoters of respondent company, investors and respondent company reached a settlement and recorded the terms of settlement in Master Settlement Agreement dated 24.12.2019.
- XI. At the foremost, it was agreed that the management of the respondent company would be changed and as such the promoters would not be in any manner managing the respondent company and as such the investors would be managing the respondent company. Further it was agreed between the parties that pursuant to the fulfilment of the conditions of the settlement agreement, the investors would become major shareholder of the respondent company.
- XII. Since, under the management of promoter no. 1, the respondent company had defaulted in its responsibilities towards the allottee's,

and also under of the settlement agreement, the promoter no. 1 undertook to complete the constructions of the respective projects and settle any claim of the allottees or pay the decretal amount towards the award passed by any court/ tribunal.

- XIII. Pertinently in terms of Clause 1.2 and 4.5 of the settlement agreement, the promoter no. 1 had undertaken to settle all pending litigation matters in relation to the customers of the project lands, wherein the company or the first promoter are parties, pending at NCLT, NCDRC or any other court/forum. The aforesaid facts were duly acknowledged and recorded by the Authority in the registration order dated 30.05.2022 and arbitration award dated 19.05.2023 passed by Retd. Justice K.S. Gupta, Sole Arbitrator.
- XIV. In light of the aforesaid facts and submissions made, it is submitted that M/s. Ansal Properties and Infrastructure Ltd. is a necessary party for adjudication of the complaint as the same is liable for delay in constructing the project and payment of compensation to the complainant for delay in handing over the unit. Furthermore, the respondent is not a necessary party to the complaint as the respondent neither allotted the said unit to the complainant (allotment was done under management of APIL) nor the same is now liable to construct the said unit or pay any compensation to the complainant. Moreover, the prayer sought by the complainant is not maintainable as the complainants have not impleaded M/s. Ansal Properties and Infrastructure Ltd. a party to the complaint, who is a necessary party to the complaint in the capacity of License Holder and

Registration Certificate dated 30.05.2022 of the project. Hence, the complaint is liable to be dismissed for mis-joinder and non-joinder of necessary parties.

XV. Without prejudice to above, it is submitted that the respondent is not in the position to handover the possession of the unit as the construction of the unit has not been completed by M/s. Ansal Properties and Infrastructure Pvt. Ltd, till date.

8. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and written submissions made by the parties and who reiterated their earlier version as set up in the pleadings.

**F. Jurisdiction of the authority:**

9. The authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**F.I Territorial jurisdiction**

10. 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.

## **F.II Subject-matter jurisdiction**

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

***Section 11(4)(a)***

***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;*

12. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

## **G. Findings on the objections raised by the respondent:**

### **G.I Objections regarding misjoinder and non-joinder of parties.**

13. The respondent has raised the contention that the complainant has arrayed "Ansal Phalak Infrastructure Pvt Ltd." as respondent in the present complaint. However, the name of the respondent i.e., Ansal Phalak Infrastructure Pvt. Ltd." has been changed to "New Look Builders and Developers Pvt. Ltd." on 23.10.2020. Therefore, the prayer sought by the complainant cannot be allowed. The Authority observes that the complainant had filed an application for amendment in the memo of the

parties and the CRA form of the complaint on 02.01.2025. By way of the said application, the complainant has changed the name of the respondent from M/s. Ansal Phalak Infrastructure Private Limited to M/s. New Look Builders and Developers Private Limited. Thus, the objection of the respondent regarding misjoinder of party stands dismissed.

14. Further, the respondent raised an objection of non-joinder of necessary party i.e., "M/s. Ansal Properties and Infrastructure Ltd" (APIL) as the same is liable for delay in constructing the project and payment of compensation to the complainant for delay in handing over the unit and the respondent is not a necessary party to the complaint as the respondent neither allotted the unit to the complainant (the allotment was done under the management of APIL) nor the respondent is liable to construct the unit or pay any compensation to the complainant. The Authority observes that the Floor Buyer Agreement dated 18.09.2014 has been executed between the complainant and M/s Ansal Phalak Infrastructure Pvt. Limited. It is the submission of the respondent itself that the name of the respondent i.e., Ansal Phalak Infrastructure Pvt. Ltd." has been changed to "New Look Builders and Developers Pvt. Ltd." on 23.10.2020. The privity of contract is between the complainant and the respondent and there is no privity of contract between the complainant and M/s. Ansal Properties and Infrastructure Ltd. Thus, the objection of the respondent stands dismissed.

#### **H. Findings of the authority on relief sought by complainant.**

**H.I Direct the respondent to pay the delayed possession charges along with interest.**

15. In the present complaint, the complainant booked an independent floor in the project "Avante/Woodwinds, **Versalia**" being developed by the respondent i.e., M/s New Look Builders Pvt Ltd. A Floor Buyer's Agreement was executed between the parties on 18.09.2014 in respect of unit bearing no. 3079-SF admeasuring 1685 sq.ft. of sale area. The sale consideration of the unit was Rs.1,41,11,000/-. As per Clause 5 of the Floor Buyer's Agreement dated 18.09.2014, the respondent undertook to offer possession of the unit to the complainant within 36 months with an extended period of 6 (six) months from the date of execution of this Floor buyer agreement subject to the receipt of requisite building/revised building plans/other approvals & permissions from the concerned authorities, as well as Force Majeure Conditions. The respondent failed to put on record the documents wherein from the Authority can determine the dates as to when the necessary sanctions were granted in favour of the respondents for necessary construction. The Authority have calculated 36 months from the date of execution of the agreement. The agreement was executed between the complainant and the respondent on 18.09.2014, 36 months from 18.09.2014 expired on 18.09.2017. Further an unqualified grace period is agreed between the parties to be granted to the respondent over and above the period of 36 months in offering possession of the unit. Thus, the due date for handing over of possession of the unit to the complainant comes out to be 18.03.2018. The respondent has failed to obtain the Occupation Certificate from the competent authorities till date.

16. The complainant is seeking delayed possession charges along with interest on the amount paid. Clause 5 of the flat buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below: -

*"Subject to Clause 5.2 infra and further subject to all the buyers of the Floors in the Residential Colony making timely payment, the Company shall endeavour to complete the development of Residential Colony and the Floor as far as possible within 36 months with an extended period of (6) six months from the date of execution of this Floor Buyer agreement subject to the receipt of requisite building/revised building plans/ other approvals & permissions from the concerned authorities, as well as Force majeure Conditions as defined in the agreement and subject to fulfilment of the Terms and Conditions of the Allotment, Certificate & Agreement including but not limited to timely payments by the Buyer(S), in terms hereof. The Company shall be entitled to extension of time for completion of construction of the Unit equivalent to the period of delay caused on account of the reasons stated above. No claim by way of damages/compensation shall lie against the Company in case of delay in handing over possession of the Unit on account of the aforesaid reasons. However, if the Buyer(S) opts to pay in advance of schedule, a suitable discount may be allowed but the completion schedule shall remain unaffected. The Buyer(s) agrees. The Buyer(s) agrees and understands that the construction will commence only after all necessary approvals are received from the concerned authorities and competent authorities including but not limited to Environment & Forest."*

17. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

**Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]**  
(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate

*prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.*

*Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.*

18. The legislature in its wisdom in the subordinate legislation under rule 15 of the rules has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
19. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., **05.03.2025** is 9.10%. Accordingly, the prescribed rate of interest will be MCLR +2% i.e., 11.10%.
20. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default. The relevant section is reproduced below:

*"(za) "interest" means the rates of interest payable by the promoter or the allottees, as the case may be.*

*Explanation. —For the purpose of this clause—*

*(i) the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default;*

*(ii) the interest payable by the promoter to the allottees 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 allottees to the promoter*



*shall be from the date the allottees defaults in payment to the promoter till the date it is paid;"*

21. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10% by the respondent which is the same as is being granted to the complainant in case of delayed possession charges.
22. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the Authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act, by not handing over possession by the due date as per the builder buyer agreement. That the Floor Buyer's Agreement was executed between the parties on 18.09.2014, the due date of possession was 18.03.2018. It is the failure of the respondent /promoter to fulfil its obligations and responsibilities as per the builder buyer's agreement to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such the allottee shall be paid, by the promoter, interest at the rate of 11.10% for every month of delay from due date of possession i.e., 18.03.2018 till offer of possession plus 2 months or actual handover whichever is earlier after obtaining the occupation certificate from the competent authority, as per section 18(1) of the Act 2016 read with Rule 15 of the Rules.
23. Thus in view of the above, the Authority directs the respondent to offer valid offer of possession to the complainant within 2 months after obtaining the occupation certificate from the competent authorities. Also,

the respondent is liable to pay interest at the prescribed rate of 11.10% for every month of delay from the due date of possession i.e., 18.03.2018 till the offer of possession plus 2 months or actual handover whichever is earlier, after obtaining the occupation certificate from the competent authority.

**I. Directions of the authority**

24. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

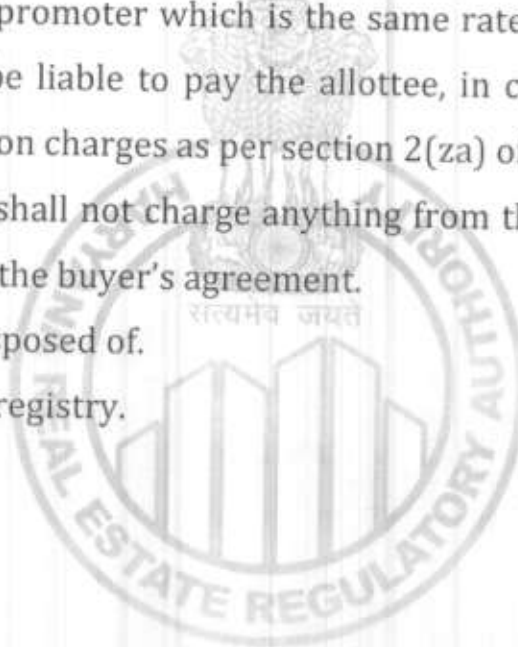
- i. The respondent is directed to handover possession of the unit to the complainant within 2 months, after obtaining the occupation certificate from the competent authorities, as per the builder buyer's agreement dated 18.03.2018.
- ii. The respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 18.03.2018 till the date of offer of possession plus two months after obtaining the occupation certificate or actual handing over possession whichever is earlier, as per section 18(1) of the Act 2016 read with Rule 15 of the Rules.
- iii. The arrears of such interest accrued from 18.03.2018 till the date of order by the Authority shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every

month of delay shall be paid by the promoter to the allottees before 10th of the subsequent month as per rule 16(2) of the rules.

- iv. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- v. The rate of interest chargeable from the allottee 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, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- vi. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.

25. Complaint stands disposed of.

26. File be consigned to registry.



**(Ashok Sangwan )**  
Member

Haryana Real Estate Regulatory Authority, Gurugram  
Dated: 05.03.2025

**HARERA**  
GURUGRAM

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