

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,
GURUGRAM****Date of decision: 28.01.2025**

NAME OF THE BUILDER		M/s Emaar MGF Land Limited	
PROJECT NAME		"Gurgaon Greens", Sector- 102, Gurugram, Haryana	
S. No.	Case No.	Case title	Appearance
1.	CR/5329/2022	Mrs. Naveeta Sehgal V/S M/s Emaar MGF Land Limited	Adv. Jagdeep Kumar (Complainant) Adv. Ishaan Dang (Respondent)
2.	CR/5447/2022	Mrs. Sharanjit Kaur and Mr. Jagandeep Singh V/S M/s Emaar MGF Land Limited	Adv. Jagdeep Kumar (Complainant) Adv. Ishaan Dang (Respondent)

CORAM:

Shri Arun Kumar
Shri Vijay Kumar Goyal
Shri Ashok Sangwan

Chairman
Member
Member

ORDER

1. This order shall dispose of both the complaints titled above filed before this authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Gurgaon Greens", Situated in Sector- 102, Gurugram, Haryana, being developed by the respondent/promoter i.e., M/s Emaar MGF Land Limited. The terms and conditions of the allotment letter, buyer's agreements, fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question thus seeking award for delayed possession charges and others.
3. The details of the complaints, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project Name and Location	"Gurgaon Greens", Sector- 102, Gurugram, Haryana.
Project area	13.531 acres
Nature of the project	Group housing colony
DTCP license no. and other details	75 of 2012 dated 31.07.2012 Valid/renewed up to 30.07.220.
Name of licensee	Kamdhenu Projects Pvt. Ltd. and another C/o Emaar MGF Land Ltd.
HRERA registered/ not registered	Registered vide no. 36(a) of 2017 dated 05.12.2017 for 95829.92 sq. mtrs.
HRERA registration valid up to	31.12.2018
HRERA extension of registration vide	01 of 2019 dated 02.08.2019
Extension valid up to	31.12.2019
Possession clause as per buyer's agreement	<p>14. POSSESSION</p> <p>(a) Time of handing over the Possession</p> <p><i>Subject to terms of this clause and subject to the Subject to terms of this clause and barring force majeure conditions, subject to the Allottee having complied with all the terms and conditions of this Agreement, and not being in default under any of the provisions of this Agreement and compliance with all provisions, formalities, documentation etc., as</i></p>

	<p><i>prescribed by the Company, the Company proposes to hand over the possession of the Unit within 36 (Thirty Six) months from the date of start of construction, subject to timely compliance of the provisions of the Agreement by the Allottee. The Allottee agrees and understands that the Company shall be entitled to a grace period of 5 (five) months, for applying and obtaining the completion certificate/occupation certificate in respect of the Unit and/or the Project.</i></p> <p><i>(Emphasis supplied)</i> <i>[Annexure P2, page 51 of complaint]</i></p>
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Complaint No.	CR/5329/2022	CR/5447/2022
Unit no. and size	GGN-26-0301, 3 rd floor, tower no. 26. Area ad-measuring 1650 sq. ft. (super area). [Annexure P2, page 38 of complaint]	GGN-23-0201, 2 nd floor, tower no. 23. Area ad-measuring 1650 sq. ft. (super area). [Annexure P2, page 37 of complaint]
Allotment Letter and BBA	AL:- 25.01.2013 [Annexure P1, page 22 of complaint] BBA:- 08.04.2013 [Annexure P2, page 35 of complaint]	AL:- 25.01.2013 Annexure P1, page 21 of complaint BBA:- 22.05.2013 [Annexure P2, page 34 of complaint]
Date of start of construction	25.06.2013 (As per statement of account dated 19.07.2022 at page 88 of complain)	20.06.2013 (As per statement of account dated 21.07.2022 at page 94 of complaint)
Due date of possession	25.11.2016 [Note:- 5 months grace period being allowed]	20.11.2016 [Note: 5 months grace period being allowed]
Total sale consideration	Rs.1,04,60,360/- (As per statement of account dated 19.07.2022 at page 88 of complain)	Rs.1,01,98,469/- (As per statement of account dated 21.07.2022 at page 93 of complaint)
Total amount paid by the complainant	Rs.1,04,84,738/- (As per statement of account dated 19.07.2022 at page 89 of complain)	Rs.1,03,87,914/- (As per statement of account dated 21.07.2022 at page 94 of complaint)
Date of offer of possession and unit handover letter	OOP:- 19.07.2019 [Annexure R9, page 138 of reply] UHL:- 11.11.2019	OOP:- 19.07.2019 [Annexure R8, page 135 of reply] UHL:- 11.01.2020

		[Annexure R10, page 145 of reply]	[Annexure R9, page 140 of reply]
Conveyance executed on	Deed	13.01.2020 [Annexure R11, page 150 of reply]	29.01.2020 [Annexure R10, page 143 of reply]
Delay compensation already paid by the respondent in terms of the buyer's agreement		Rs.4,25,564/- (As per statement of account dated 19.07.2022 at page 89 of complaint)	Rs.4,07,663/- (as per statement of account dated 21.07.2022 at page 94 of complaint)

Relief sought by the complainant:-

- Direct the respondent to pay interest at the rate of 18% on account of delay in offering possession on the amount paid by the complainant as sale consideration of the said flat from the date of payment till the date of delivery of possession.
- Direct the respondent to return Rs.1,12,576/- unreasonably charged by the respondent by increasing sale price after execution of buyer's agreement between the respondent and the complainants.
- Direct the respondent to return the amount of Rs.4,95,000/- for reduce the size of Central Greens from 8 acres to 1.22 acres.
- Direct the respondent to return ₹ 3,30,000/- in pretext of flat not facing joggers park and for reducing the size of jogger's park for creating open parking.
- Direct the respondent to return entire amount paid as GST tax by the complainant w.e.f. 01.07.2017 till 24.07.2019.
- Direct the complainant's bank to remove the lien marked over FD of Rs.2,23,669/- in favour of the respondent on the pretext of future payment of HVAT for the period of 01.04.2014 to 30.06.2017 and also direct the respondent to assist the process of removing lien from the complainant's bank by providing NOC for the same.
- Direct the respondent to pay an amount of Rs.55,000/- to the complainants as cost of the present litigation.

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

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

- The facts of all the complaints filed by the complainant(s)/allottee(s) are similar. Out of the above-mentioned case, the particulars of lead case **CR/5329/2022**

titled as *Mrs. Naveeta Sehgal V/s M/s Emaar MGF Land Limited* are being taken into consideration for determining the rights of the allottee(s).

A. Project and unit related details

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

CR/5329/2022 titled as Mrs. Naveeta Sehgal V/s M/s Emaar MGF Land limited.

S. No.	Particulars	Details
1.	Name of the project	Gurgaon Greens, Sector 102, Gurugram, Haryana
2.	Project area	13.531 acres
3.	Nature of the project	Group housing colony
4.	DTCP license no.	75 of 2012 dated 31.07.2012
	Valid till	30.07.2020
	Name of licensee	Kamdhenu Projects Pvt. Ltd. and another C/o Emaar MGF Land Ltd.
5.	HRERA registered/ not registered	Registered vide no. 36(a) of 2017 dated 05.12.2017 for 95829.92 sq. mtrs.
	HRERA registration valid up to	31.12.2018
	HRERA extension of registration vide	01 of 2019 dated 02.08.2019.
	Extension valid up to	31.12.2019
6.	Unit no.	GGN-26-0301, 3 rd floor, tower no. 26. [annexure P2, page 38 of complaint]
7.	Unit measuring	1650 sq. ft. (Super area)
8.	Provisional allotment letter dated	25.01.2013 [annexure P1, page 22 of complaint]
9.	Date of execution of buyer's agreement	08.04.2013 [annexure P2, page 35 of complaint]
10.	Possession clause	14. POSSESSION (a) Time of handing over the Possession <i>Subject to terms of this clause and barring force majeure conditions, subject to the Allottee having complied with all the terms</i>

		<p><i>and conditions of this Agreement, and not being in default under any of the provisions of this Agreement and compliance with all provisions, formalities, documentation etc., as prescribed by the Company, the Company proposes to hand over the possession of the Unit within 36 (Thirty Six) months from the date of start of construction, subject to timely compliance of the provisions of the Agreement by the Allottee. The Allottee agrees and understands that the Company shall be entitled to a grace period of 5 (five) months, for applying and obtaining the completion certificate/occupation certificate in respect of the Unit and/or the Project.</i> (Emphasis supplied) [annexure P2, page 51 of complaint]</p>
11.	Date of start of construction as per statement of account dated 19.07.2022 at page 88 of complaint	25.06.2013
12.	Due date of possession	25.11.2016 (Note:- 5 months grace period being allowed)
13.	Total consideration as per statement of account dated 19.07.2022 at page 88 of complain	Rs.1,04,60,360/-
14.	Total amount paid by the complainant as per statement of account dated 19.07.2022 at page 89 of complaint	Rs.1,04,84,738/-
15.	Occupation certificate	16.07.2019 [annexure R7, page 134 of reply]
16.	Offer of possession	19.07.2019 [annexure R9, page 138 of reply]
17.	Unit handover letter dated	11.11.2019 [annexure R10, page 145 of reply]

18.	Conveyance deed executed on	13.01.2020 [annexure R11, page 150 of reply]
19.	Delay compensation already paid by the respondent in terms of the buyer's agreement as per statement of account dated 19.07.2022 at page 89 of complaint	Rs.4,25,564/-

B. Facts of the complaint

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

- I. That the respondent had advertised itself as a very ethical business group that lives onto its commitments in delivering its housing projects as per promised quality standards and agreed timelines. That the respondent while launching and advertising any new housing project always commits and promises to the targeted consumer that their dream home will be completed and delivered to them within the time agreed initially in the agreement while selling the dwelling unit to them. They also assured to the consumers like complainant that they have secured all the necessary sanctions and approvals from the appropriate authorities for the construction and completion of the real estate project sold by them to the consumers in general.
- II. That the respondent was very well aware of the fact that in today's scenario looking at the status of the construction of housing projects in India, especially in NCR, the key factor to sell any dwelling unit is the delivery of completed house within the agreed and promised timelines and that is the prime factor which a consumer would consider while purchasing his/her dream home. Respondent, therefore used this tool, which is directly connected to emotions of gullible consumers, in its marketing plan and

always represented and warranted to the consumers that their dream home will be delivered within the agreed timelines and consumer will not go through the hardship of paying rent along-with the installments of home loan like in the case of other builders in market.

- III. That in the month of January 2012, the respondent through its business development associate approached the complainant with an offer to invest and buy a flat in the proposed project of respondent, which the respondent was going to launch the project namely "Gurgaon Greens" in the Sector-102, Gurugram. On 13.02.2012 complainant had a meeting with respondent at the respondents branch office "Emaar Business Park, MG Road, Sikanderpur Chowk, Sector 28, Gurugram 122002" where the respondent explain the project details of "Gurgaon Greens" and highlight the amenities of the project like Joggers Park, Joggers Track, Rose garden, 2 swimming pool, amphitheater and many more and told that tower 23, 24, 25, and 26 is only available for advance booking and each tower will have G+13th floors and on every 13th floor of these towers there will be a penthouse which possessing floor no 12th and 13th floor, on relaying on these details complainant enquire the availability of flat on 3rd floor in Tower 26 which was a unit consisting area 1650 sq. ft., respondent represented to the complainant that the respondent is a very ethical business house in the field of construction of residential and commercial project and in case the complainant would invest in the project of respondent then they would deliver the possession of proposed flat on the assured delivery date as per the best quality assured by the respondent. The complainant while relying upon those assurances and believing them to be true, complainant booked a residential flat bearing no. 0301 on 3rd floor in Tower - 26 in the proposed project of the respondent measuring approximately super area of 1650 Sq.



ft. in the township to be developed by respondent. Accordingly, the complainant have paid Rs.7,50,000/- through cheque bearing no. 644977 dated 13.02.2012 & cheque no. 010724 dated 13.02.2012, as booking amount on 13.02.2012. Thereafter on 22.04.2013, builder buyer agreement was executed on similar illegal, arbitrary, unilateral and discriminatory terms narrated by respondent in provisional allotment letter.

- IV. That as per the clause 14 of the said flat buyer's agreement dated 08.04.2013, the respondent had agreed and promises to complete the construction of the said flat and deliver its possession within a period of 36 months with a five (5) months grace period thereon from the date of start of construction. However, the respondent has breached the terms of said flat buyer agreement and failed to fulfill its obligations and has not delivered possession of said flat within the agreed time frame of the builder buyer agreement.
- V. That as per annexure-III (schedule of payments) of buyer's agreement the sales consideration for said flat was Rs.96,70,883/- (which includes the charges towards basic sale price of Rs.77,59,983/-, Government charges (EDC & IDC), Rs.5,70,900/-, club membership charges of Rs.50,000/-, IFMS of Rs.82,500/-, car parking of Rs.3,00,000/-, PLC for 3rd floor of Rs.82,500/- PLC for joggers park Rs.3,30,000/- and PLC for Central Green Rs.4,95,000/-) exclusive of Service Tax and GST, but later at the time of possession respondent add Rs.30,076/-in sale consideration and increase sale consideration to Rs.97,00,959/- without any reason for the same and respondent also charge IFMS Rs.82,500/- separately, whereas IFMS Charges already included in sale consideration and that way respondent charge IFMS twice from residents. Respondent increased the sale consideration by Rs.1,12,576/- (Rs.30,076/- + Rs.82,500/-) without any

reason, which is an illegal, arbitrary, unilateral and unfair trade practice. Complainant opposed the increase in sales consideration at time of possession but respondent did not pay any attention to complainant.

- VI. That the complainant has paid the entire sale consideration along with applicable taxes to the respondent for the said flat. As per the statement dated 19.06.2022, issued by the respondent, upon the request of the complainant, the complainant have already paid Rs.1,00,55,596/- towards total sale consideration and applicable taxes as on today to the respondent as demanded time to time and now nothing is pending to be paid on the part of complainant. Although the respondent charges Rs.1,12,576/- extra from complainant.
- VII. That on the date agreed for the delivery of possession of said unit as per date of booking and later on according to the flat buyers agreement is 25.06.2016, the complainant had approached the respondent and its officers for inquiring the status of delivery of possession but none had bothered to provide any satisfactory answer to the complainant about the completion and delivery said flat.
- VIII. That the offer of possession offered by respondent through "Intimation of Possession" was not a valid offer of possession because respondent offered the possession on dated 19.07.2019 with stringent condition to pay certain amounts which are never be a part of agreement and respondent did not even receive the completion certificate of various other towers of the project and as on 19.07.2019 project was delayed approx 3 years and 3 months. At the time of offer of possession builder did not adjusted the penalty for delay possession as per the Act of 2016. In case of delay payment, builder charged the penalty @ 24% per annum and in delay in possession builder gives Rs.7.5/- sq. ft. only, this is illegal, arbitrary,



unilateral and discriminatory. Respondent also demanded an Indemnity-cum-undertaking along with final payment, which is illegal and unilateral demand. Respondent did not even allow complainants to visit the property at "Gurgaon Greens" before clearing the final demand raised by respondent along with the offer of possession. Respondent demanded two year advance Maintenance charges from complainants which was never agreed under the buyer's agreement and respondent also demanded a lean marked FD of Rs.2,23,669/- in pretext of future liability against HVAT (for the period of 01.04.2014 to 30.06.2017) which is also a unfair trade practice. Complainant informed the respondent about his unfair calculation of delay possession penalty and also enquires the construction status of rest of project through telephonically but nothing changed and respondent does not want to answer any enquiry before getting complete payment against his final demand. Respondent left no other option to complainant, but to pay the payment Two year maintenance charges Rs.1,44,540/- and submit a fixed deposit of Rs.2,23,669/- with a lien marked in favour of Emaar MGF Land limited and Rs.2,69,040/- towards e-Stamp duty and Rs.45,000/- towards registration charges of above said unit no. 0301, Tower 26, Gurgaon Greens in addition to final demand raised by respondent along with the offer of possession. Respondent give physical handover of aforesaid property on date 04.10.2019.

- IX. That after taking possession of flat on 04.10.2019, the complainant also identify that some major structural changes were done by respondent in project "Gurgaon Greens" in comparison to features of project narrated to complainant on 13.02.2012, area of central park was told 8 acre but in reality it is very small as compare to 8 acre and respondent also build car parking underneath 'central park'. Respondent placed stone curbs in place

of Jogging track to save the cost. The complete view of Joggers Park is restricted by the stair case of Tower-26 and respondent also reduce the size of joggers park by creating an extra open parking space in the project, respondent did not return the PLC charges for proportion reduced by the respondent from joggers park. Respondent charge exceptionally high PLC from complainant without even transferring the ownership rights of amenities to complainant on the common area of project. Respondent compelled almost every flat owner (total 672) through unilateral buyer's agreement to pay PLC of Rs.4,95,000/- for Central Park whereas respondent sell car parking of Rs.3,00,000/- each underneath central park, this way respondent sell same area twice to residents and collect exceptionally high and unilateral and unjustified PLC from complainant. Respondent only spread grass on roof of covered parking area and sell it as "Central Green" at exceptionally high rate of Rs.4,95,000/- each.

- X. That the GST Tax which has come into force on 01.07.2017, it is a fresh tax. The possession of the apartment was supposed to be delivered to complainant on 14.06.2016, therefore, the tax which has come into existence after the due date of possession of flat, this extra cost should not be levied on complainant, since the same would not have fallen on the complainant if respondent had offer the possession of flat within the time stipulated in the builder buyer agreement. On 04.10.2019, complainant inform respondent telephonically that respondent is creating anomaly by not compensating the complainant for delay possession charges at the rate of interest specified in the Act of 2016.
- XI. That the cause of action accrued in favour of the complainant and against the respondent on 13.02.2012, when the complainant had booked the said flat and it further arose when respondent failed /neglected to deliver the

said flat on proposed delivery date. The cause of action is continuing and is still subsisting on day-to-day basis.

C. Relief sought by the complainant: -

7. The complainant has sought following relief(s):

- I. Direct the respondent to pay interest at the rate of 18% on account of delay in offering possession on the amount paid by the complainant as sale consideration of the said flat from the date of payment till the date of delivery of possession.
- II. Direct the respondent to return Rs.1,12,576/- unreasonably charged by the respondent by increasing sale price after execution of buyer's agreement between the respondent and the complainant.
- III. Direct the respondent to return the amount of Rs.4,95,000/- for reduce the size of Central Greens from 8 acres to 1.22 acres.
- IV. Direct the respondent to return ₹ 3,30,000/- in pretext of flat not facing joggers park and for reducing the size of jogger's park for creating open parking.
- V. Direct the respondent to return entire amount paid as GST tax by the complainant w.e.f. 01.07.2017 till 24.07.2019.
- VI. Direct the complainant's bank to remove the lien marked over FD of Rs.2,23,669/- in favour of the respondent on the pretext of future payment of HVAT for the period of 01.04.2014 to 30.06.2017 and also direct the respondent to assist the process of removing lien from the complainant's bank by providing NOC for the same.
- VII. Direct the respondent to pay an amount of Rs.55,000/- to the complainants as cost of the present litigation.

8. On the date of hearing, the authority explained to the respondent /promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent

9. The respondent has contested the complaint on the following grounds:-
- I. That the present complaint is not maintainable in law or on facts. The complainant has filed the present complaint seeking refund of several amounts and interest for alleged delay in delivering possession of the apartment booked by the complainant. The complainant has got no locus standi or cause of action to file the present complaint. The present complaint is based on an erroneous interpretation of the provisions of the Act as well as an incorrect understanding of the terms and conditions of the buyer's agreement dated 08.04.2013. The respondent craves leave of this Authority to refer to and rely upon the terms and conditions set out in the buyer's agreement in detail at the time of the hearing of the present complaint, so as to bring out the mutual obligations and the responsibilities of the respondent as well as the complainant.
 - II. That the complainant is estopped by his own acts, conduct, acquiescence, laches, omissions etc. from filing the present complaint. The complainant has already obtained possession of the unit in question and has, further, executed a conveyance deed regarding the unit in question. The transaction between the complainant and the respondent stands completed/concluded. The reliefs sought in the false and frivolous complaint are barred by estoppel.
 - III. That the instant complaint is barred by limitation. The complainant has alleged that the respondent was obligated to offer possession of the unit in question by June, 2016 and by way of the instant complaint have sought

interest for indemnifying them for the alleged delay in delivery of the unit in question. That cause of action, if any, for seeking interest accrued in favor of the complainant in 2016 and consequently the instant complaint is barred by limitation.

- IV. That the complainant had purchased the unit in question as a speculative investment with an intent to gain monetary benefits by reselling/leasing out the same. Therefore, there is no equity in favor of the complainant.
- V. That thereafter the complainant vides an application form applied to the respondent for provisional allotment of a unit in the project. The complainant, in pursuance of the aforesaid application form, was allotted an independent unit bearing no GGN-26-0301, located on the 3rd floor, in the project vide provisional allotment letter dated 25.01.2013. The complainant consciously and wilfully opted for a construction linked plan for remittance of the sale consideration for the unit in question and further represented to the respondent that she shall remit every installment on time as per the payment schedule. The respondent had no reason to suspect the bonafide of the complainant and proceeded to allot the unit in question in her favor. The complainant further undertook to be bound by the terms and conditions of the application form/allotment letter. Thereafter, buyer's agreement dated 08.04.2013 was executed between the both the parties. That the complainant was irregular in payment of instalments. The respondent was constrained to issue reminders and letters to the complainant requesting her to make payment of the amounts due and payable by her. Payment request letters, reminders etc. had been got sent to the complainant by the respondent clearly mentioning the amount that was outstanding and the due date for remittance of the respective amounts as per the schedule of payments, requesting her to timely discharge her

outstanding financial liability but to no avail. Calculation sheet correctly maintained by the respondent in due course of its business depicting delay in remittance of various payments by the complainant.

- VI. That the rights and obligations of complainant as well as respondent are completely and entirely determined by the covenants incorporated in the buyer's agreement which continues to be binding upon the parties thereto with full force and effect. Clause 14 of the buyer's agreement provides that subject to the allottees having complied with all the terms and conditions of the agreement, and not being in default of the same, possession of the unit would be handed over within 36 months plus grace period of 5 months, from the date of start of construction. In the buyer's agreement that time period for delivery of possession shall stand extended on the occurrence of delay for reasons beyond the control of the respondent. Furthermore, it is categorically expressed in clause 14(b)(v) that in the event of any default or delay in payment of instalments as per the schedule of payments incorporated in the buyer's agreement, the time for delivery of possession shall also stand extended.
- VII. That as per clause 16 of the buyer's agreement further provides that compensation for any delay in delivery of possession shall only be given to such allottees who are not in default of their obligations envisaged under the agreement and who have not defaulted in payment of instalments as per the payment plan incorporated in the agreement. Complainant, having defaulted in payment of instalments, is thus not entitled to any compensation or any amount towards interest under the buyer's agreement. The complainant by way of instant complaint is demanding interest for alleged delay in delivery of possession. The interest is

compensatory in nature and cannot be granted in derogation and ignorance of the provisions of the buyer's agreement.

- VIII. Despite there being a number of defaulters in the project, the respondent itself infused funds into the project and has diligently developed the project in question. The respondent has applied for occupation certificate on 11.02.2019. Occupation certificate was thereafter issued in favour of the respondent vide memo bearing no. ZP-835/AD(RA)/2018/16816 dated 16.07.2019. Once an application for grant of occupation certificate is submitted for approval in the office of the concerned statutory authority, the respondent ceases to have any control over the same. The grant of sanction of the occupation certificate is the prerogative of the concerned statutory authority over which the respondent cannot exercise any influence. As far as the respondent is concerned, it has diligently and sincerely pursued the matter with the concerned statutory authority for obtaining of the occupation certificate. No fault or lapse can be attributed to the respondent in the facts and circumstances of the case. Therefore, the time period utilised by the statutory authority to grant occupation certificate to the respondent is necessarily required to be excluded from computation of the time period utilised for implementation and development of the project.
- IX. Without admitting or acknowledging the truth or legality of the allegations advanced by the complainant and without prejudice to the contentions of the respondent, the provisions of the Act are not retrospective in nature. The provisions of the Act cannot undo or modify the terms of an agreement duly executed prior to coming into effect of the Act. It is further submitted that merely because the Act applies to ongoing projects which are registered with the authority, the Act cannot be said to be operating retrospectively.

The provisions of the Act relied upon by the complainant for seeking interest cannot be called in to aid in derogation and ignorance of the provisions of the buyer's agreement. The interest is compensatory in nature and cannot be granted in derogation and ignorance of the provisions of the buyer's agreement.

- X. That the complainant was offered possession of the unit in question through letter of offer of possession dated 19.07.2019. The complainant was called upon to remit balance payment including delayed payment charges and to complete the necessary formalities/documentation necessary for handover of the unit in question to the complainant. An offer for possession marks termination of the period of delay, if any. The complainant is not entitled to contend that the alleged period of delay continued even after receipt of offer for possession. The complainant has consciously and maliciously refrained from obtaining possession of the unit in question. Consequently, the complainant is liable for the consequences including holding charges, as enumerated in the buyer's agreement, for not obtaining possession.
- XI. That after a delay of 4 months, the complainant approached the respondent requesting it to deliver the possession of the unit in question. A unit handover letter dated 11.11.2019 was executed by the complainant, specifically and expressly agreeing that the liabilities and obligations of the respondent as enumerated in the allotment letter or the buyer's agreement stand satisfied. The complainant has preferred the instant complaint on absolutely false and extraneous grounds in order to needlessly victimise and harass the respondent.
- XII. That after execution of the unit handover letter dated 11.11.2019 and obtaining of possession of the unit in question, the complainant is left with no right, entitlement or claim against the respondent. It needs to be

highlighted that the complainant has further executed a conveyance deed dated 13.01.2020 in respect of the unit in question. The complaint has been filed after 2 years of execution of the conveyance deed. The present complaint has been filed as an afterthought to extract monies from the respondent. Thus the present complaint is time barred and deserves to be dismissed at this very threshold with exemplary costs. Therefore, the transaction between the complainant and the respondent has been concluded in January 2020 and the complainant is not left with any claim against the respondent. The transaction between the complainant and the respondent stands concluded and no right or liability can be asserted by the respondent or the complainant against the other. The instant complaint is a gross misuse of process of law.

- XIII. That the complainant has also executed an indemnity cum undertaking dated 30.09.2019, whereby the complainant had declared and acknowledged that they have no ownership right, title or interest in any other part of the project except in the unit area of the unit in question. Moreover, the complainant has admitted her obligation to discharge their HVAT liability thereunder. The complainant has filed the instant false and frivolous complaint in order to mount undue pressure upon respondent in order to make it succumb to his unjust and illegitimate demands.
- XIV. That the respondent has paid an amount of Rs.78,259/- as benefit on account of anti-profiting and Rs.3,577/- on account of early payment rebate (EPR). Furthermore, an amount of Rs.4,25,564/- + Rs.32,141/- has been credited by the respondent to the account of the complainant as a gesture of goodwill. The aforesaid amount has been accepted by the complainant in full and final satisfaction of his alleged grievances. The instant complaint is nothing but a gross misuse of process of law.

- XV. That several allottees, including the complainant, have defaulted in timely remittance of payment of installments which was an essential, crucial and an indispensable requirement for conceptualisation and development of the project in question. It is submitted that the construction of the tower in which the unit in question is situated is complete and the respondent has already offered possession of the unit in question to the complainant. Therefore, there is no default or lapse on the part of the respondent and there is no equity in favour of the complainant. From the entire sequence of events, that no illegality can be attributed to the respondent. Thus, it is most respectfully submitted that the present complaint deserves to be dismissed at the very threshold.
- XVI. That it is stated that the inception of GST w.e.f. 01.07.2017 is not a new law but transformation/reorganization and conglomeration of two already existing taxes i.e. VAT and Service Tax. The allottees are burdened with new tax liabilities in the form of GST but the allottees are only paying up the taxes under the new regime. The allottees are also being forwarded the benefits of anti-profiteering and input tax credit in the GST regime. Moreover, as per the builder buyer's agreement, taxes shall be payable as per the government rules as applicable from time to time. Taxes are levied as per government norms and rules and are leviable in respect of real estate projects as per the government policies from time to time. Therefore, there is no substance in the plea of the complainants in regard to the illegality of the levying of the said taxes in case the project is being delayed, as delay in completion of the project has no nexus with avoiding payment in form of Government Taxes, which otherwise also were to be borne by the allottees in terms of the respective buyer's agreement.

XVII. That it is evident from the entire sequence of events, that no illegality or lapse can be attributed to the respondent. Thus the allegations levelled by the complainants qua the respondent are totally baseless and do not merit any consideration by this Authority. The present complaint is nothing but an abuse of the process of law. Thus, it is most respectfully submitted that the present complaint deserves to be dismissed at the very threshold.

XVIII. All other averments made in the complaints were denied in toto.

10. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

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

E.I Territorial jurisdiction

12. As per notification no. *1/92/2017-1TCP dated 14.12.2017* issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

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

Section 11

.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

14. So, in view of the provisions of the Act of 2016 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 complainants at a later stage.

F. Objections raised by the respondent.

F.I Objection regarding maintainability of complaint on account of complainant being investor.

15. The respondent took a stand that the complainant is investor and not consumer and therefore, she is not entitled to the protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. However, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the allotment letter, it is revealed that the complainant is buyer's, and has paid a total price of Rs.1,04,84,738/- to the promoter towards purchase of a unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"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;"

16. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the buyer's agreement executed between promoter and complainant, it is crystal clear that the complainant are allottee(s) as the subject unit was allotted to them by the promoter. The concept of investor is not defined or referred to in the Act. As per the definition given under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". Thus, the contention of the promoter that the allottee being investor are not entitled to protection of this Act also stands rejected.

F.II Weather the complainants can claim delayed possession charges after execution of conveyance deed.

17. It has been contended by the respondent that on execution of conveyance deed, the relationship between both the parties' stands concluded and no right or liabilities can be asserted by the respondent or the complainant against the other. Therefore, the complainants are estopped from claiming any interest in the facts and circumstances of the case.
18. The authority has already taken a view in in *CR/4031/2019 and others tiled as Varun Gupta V/s Emaar MGF Land Limited and others* and observed that the execution of a conveyance deed does not conclude the relationship or marks an end to the liabilities and obligations of the promoter towards the subject unit and upon taking possession, and/or executing conveyance deed, the complainant never gave up his statutory right to seek delayed possession charges as per the provisions of the said Act.
19. After consideration of all the facts and circumstances, the authority holds that even after execution of the conveyance deed, the complainant/allottee cannot be precluded from his right to seek delay possession charges from the respondent/promoter.

F.III Whether the complaint is barred by limitation or not?

20. So far as the issue of limitation is concerned the Authority is cognizant of the view that the law of limitation does not strictly apply to the Real Estate Regulation and Development Act of 2016 .However, the Authority under section 38 of the Act of 2016, is to be guided by the principle of natural justice. It is a universally accepted maxim and the law assists those who are vigilant, not those who sleep over their rights .Therefore, to avoid opportunistic and frivolous litigation a reasonable period of time needs to be arrived at for a litigant to agitate his right. This Authority is of the view that three years is a reasonable time period for a litigant to initiate litigation to press his rights under normal circumstances. However this shall not apply to the provisions of section 14 where specific period has already been defined.
21. It is also observed that the Hon'ble Supreme Court in its order dated 10.01.2022 in MA NO. 21 of 2022 of Suo Moto Writ Petition Civil No. 3 of 2020 have held that the period from 15.03.2020 to 28.02.2022 shall stand excluded for purpose of limitation as maybe prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.
22. In **CR/5329/2022** the cause of action arose on 19.07.2019 when the offer of possession was made by the respondent to the complainant. The complainant has filed the present complaint on 09.08.2022 which is 3 years and 21 days from the date of cause of action. In the present matter the three year period of delay in filing of the case also after taking into account the exclusion period from 15.03.2020 to 28.02.2022 would fall on 10.02.2024. In view of the above, the Authority is of the view that the present complaint has been filed within a reasonable period of delay and is not barred by limitation.
23. In **CR/5447/2022** the cause of action arose on 19.07.2019 when the offer of possession was made by the respondent to the complainants. The complainants

have filed the present complaint on 09.08.2022 which is 3 years and 21 days from the date of cause of action. In the present matter the three year period of delay in filing of the case also after taking into account the exclusion period from 15.03.2020 to 28.02.2022 would fall on 10.02.2024. In view of the above, the Authority is of the view that the present complaint has been filed within a reasonable period of delay and is not barred by limitation.

G. Findings on the relief sought by the complainants.

G.I Direct the respondent to pay interest at the rate of 18% on account of delay in offering possession on the amount paid by the complainant as sale consideration of the said flat from the date of payment till the date of delivery of possession.

24. The complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under:

Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

***.....
Provided 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 the possession, at such rate as may be prescribed."***

25. As per clause 14 of the apartment buyer's agreement provides the time period of handing over possession and the same is reproduced below:

Clause 14

(i) Time of handing over of possession

Subject to terms of this clause and barring force majeure conditions, subject to the Allottee having complied with all the terms and conditions of this Agreement, and not being in default under any of the provisions of this Agreement and compliance with all provisions, formalities, documentation etc., as prescribed by the Company, the Company proposes to hand over the possession of the Unit within 36 (Thirty Six) months from the date of start of construction, subject to timely compliance of the provisions of the Agreement by the Allottee. The Allottee agrees and understands that the Company shall be entitled to a grace period of 5 (five) months, for applying and obtaining the completion certificate/occupation certificate in respect of the Unit and/or the Project."

26. **Admissibility of grace period:** The respondent/promoter has proposed to hand over the possession of the unit within a period of 36 months from the date of start of construction and it is further provided in agreement that promoter shall be entitled to a grace period of five months for applying and obtaining occupation certificate in respect of said unit/project. The construction commenced on 25.06.2013 as per statement of account dated 19.07.2022. The period of 36 months expired on 25.06.2016 and a grace period of 5 months for applying and obtaining the occupation certificate in respect of the complex. The said grace period is allowed in terms of order dated 08.05.2023 passed by the Hon'ble Appellate Tribunal in *Appeal No. 433 of 2022 tilted as Emaar MGF Lamd Limited Vs Babia Tiwari and Yogesh Tiwari* wherein it has been held that if the allottee wishes to continue with the project, he accepts the terms of the agreement regarding grace period of three months for applying and obtaining the occupation certificate.
27. Therefore, in view of the above judgement and considering the provisions of the Act, the authority is of the view that, the promoter is entitled to avail the grace period so provided in the agreement for applying and obtaining the occupation certificate. Thus, the due date of handing over of possession comes out to be 25.11.2016.
28. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges at the prescribed rate of interest on the amount already paid by her. 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.

29. The legislature in its wisdom in the subordinate legislation under the provision of 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.
30. 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., 28.01.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.
31. The definition of term 'interest' as defined under section 2(z) 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.
32. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same as is being granted to the complainant in case of delayed possession charges.
33. 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 agreement. By virtue of clause 14(a) of the agreement, the possession of the subject apartment was to be delivered within 36 months from the date of start of construction and it is further

provided in agreement that promoter shall be entitled to a grace period of five months for applying and obtaining completion certificate /occupation certificate in respect of said unit/project. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over possession comes out to 25.11.2016. In the present case, the complainant was offered possession by the respondent on 19.07.2019 after obtaining occupation certificate dated 16.07.2019 from the competent Authority. The Authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the allotted unit to the complainant as per the terms and conditions of the buyer's agreement executed between the parties.

34. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on 16.07.2019. However, the respondent offered the possession of the unit in question to the complainant only on 19.07.2019, so it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, he should be given 2 months' time from the date of offer of possession. These 2 months' of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically he has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e. 25.11.2016 till the expiry of 2 months from the date of offer of possession (19.07.2019) which comes out to be 19.09.2019.

35. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession charges at prescribed rate of the interest @ 11.10% p.a. w.e.f. 25.11.2016 till 19.09.2019 as per provisions of section 18(1) of the Act read with rule 15 of the rules. The respondent shall also adjust the amount already paid to the complainant towards the delay in handing over of possession.
- G.II Direct the respondent to return Rs.1,12,576/- unreasonably charged by the respondent by increasing sale price after execution of buyer's agreement between the respondent and the complainant.
 - G.III Direct the respondent to return the amount of Rs.4,95,000/- for reduce the size of Central Greens from 8 acres to 1.22 acres.
 - G.IV Direct the respondent to return ₹ 3,30,000/- in pretext of flat not facing joggers park and for reducing the size of jogger's park for creating open parking.
 - G.V Direct the respondent to return entire amount paid as GST tax by the complainant w.e.f. 01.07.2017 till 24.07.2019.
 - G.VI Direct the complainant's bank to remove the lien marked over FD of Rs.2,23,669/- in favour of the respondent on the pretext of future payment of HVAT for the period of 01.04.2014 to 30.06.2017 and also direct the respondent to assist the process of removing lien from the complainant's bank by providing NOC for the same.
 - G.VII Direct the respondent to pay an amount of Rs.55,000/- to the complainants as cost of the present litigation.
36. The above-mentioned reliefs sought by the complainant, are being taken together as the findings in one relief will definitely affect the result of the other reliefs. Thus, the same being interconnected.
37. The counsel for the complainant submitted that the respondent did not provide the joggers track even after taking huge PLC charges in the name of joggers' track. The complete view of jogger's park is restricted by the staircase of tower 26 and the respondent has also reduced the size of jogger's park by creating an extra open parking space in the project.

38. On the other hand, the respondent submitted that the project has been constructed strictly in accordance with the sanctioned plans. Furthermore, structural changes, if any, in the project have been carried out strictly in accordance with the provision of law. The quantum of PLC is a matter of record. Further, preferential location of the unit is not exclusive to the ocular aspect thereof. As per clause 1.2(e)(i) of the buyer's agreement, the following provisions have been made regarding PLC:

"1.2(e) Preferential Location Charges

(i) *The proportionate amount of the preferential location charges ("PLC") for certain units in the Project which inter alia would be charged for Central Greens for Rs.4,95,000/-, Joggers Park Facing for Rs.3,30,000/-, Third Floor for Rs.82,500/- and if the Allottee opts for any such Unit, the PLC for the same shall be included in the Total Consideration payable by the Allottee as set out in clause 1.2(a)(i) above for the said Unit.*

The Allottee understands that if due to change in layout plan, the location of any Unit, whether preferentially located or otherwise is changed to any other preferential location, where the PLC are higher than the rate as mentioned hereinabove, then in such a case the Allottee shall be liable to pay the PLC as per the revised PLC decided by the Company within thirty (30) days of any such communication received by the Allottee in this regard. However, if due to the change in the layout plan the Unit ceases to be preferentially located, then in such an event the Company shall be liable to refund only the amount of PLC paid by the Allottee without any interest and/or compensation and/or damages and/or costs of any nature whatsoever and such refund shall be adjusted in the following installment for the Unit."

39. Moreover, the counsel for the respondent vide proceeding dated 28.01.2025, brought to the notice of the Authority with regard to PLC charges, LC Mr. Sumit Nain and Neeraj were appointed to visit the site and submit a fact -finding report on the issue of complainant's unit being preferentially located.

The report of the LC was received on 11.01.2024 and the relevant portion is reproduced for ready reference:-

- A. *The Central Green view in the project is not visible from the complainant unit as the same is obstructed by the community building and washrooms constructed on the podium for swimming pool. Therefore, the complainant unit is not preferentially located for central green facing for which PLC has been charged by the promoter.*
- B. *The Jogger Park is partially visible form the complainant unit. Therefore, the complainant unit is preferentially located for jogger park facing for which PLC has been charged by the promoter.*

The counsel for the respondent further stated that the conveyance deed in the both the complaints has already been executed.

40. On perusal of document and submissions made by both the parties the Authority observes that the definition of the term 'deed' needs to be understood in order to understand the extent of the relationship between an allottee and promoter. A deed is a written document or an instrument that is sealed, signed and delivered by all the parties to the contract (buyer and seller). It is a contractual document that includes legally valid terms and is enforceable in a court of law. It is mandatory that a deed should be in writing and both the parties involved must sign the document. Thus, a conveyance deed is essentially one wherein the seller transfers all rights to legally own, keep and enjoy a particular asset, immovable or movable. In this case, the assets under consideration are immovable property. On signing a conveyance deed, the original owner transfers all legal rights over the property in question to the buyer, against a valid consideration (usually monetary). Therefore, a 'conveyance deed' or 'sale deed' implies that the seller signs a document stating that all authority and ownership of the property in question has been transferred to the buyer.
41. From the above, it is clear that on execution of a sale/conveyance deed, only the title and interest in the said immovable property (herein the allotted unit) is transferred. The relationship between both the parties' stands concluded and no right or liability can be asserted by the respondent or the complainant against other.
42. In the above mentioned relief sought by the complainant, the Authority observes that the financial liabilities between the allottee and the promoter come to an end after the execution of the conveyance deed except for the

statutory rights under the Act of 2016. The complainant could have asked for the claim before the conveyance deed got executed between the parties.

43. Moreover, the counsel for the respondent during proceeding dated 28.01.2025, brought to the notice of the Authority that the conveyance deed in the present matter, already executed on 13.01.2020. As per clause 13 of the conveyance deed dated 13.01.2020, is also relevant and reproduced hereunder for ready reference:-


13. That the actual, physical, vacant possession of the said Apartment has been handed over to the Vendee and the Vendee hereby confirms taking over possession of the said Apartment/parking space(s) from the Vendors after satisfying himself/herself that the construction as also the various installations like electrification work, sanitary fittings, water and sewerage connection etc. have been made and provided in accordance with the drawings, designs and specifications as agreed and are in good order and condition and that the Vendee is fully satisfied in this regard and has no complaint or claim in respect of the area of the said Apartment, any item of work, material, quality of work, installation, compensation for delay, if any, with respect to the said Apartment, etc., therein.

44. Therefore, after execution of the conveyance deed the complainant-allottee cannot seek any refund of charges other than statutory benefits if any pending. Once the conveyance deed is executed and accounts have been settled, no claims remains. The Authority has already taken a view in case bearing no. **6507 of 2022 title as Mrs. Sunanda Shivpuri V/s M/s Emaar MGF Land Limited decided on 10.12.2024**, has also dismissed the relief sought with regard to refund of any charges other than statutory benefits if any pending. That the financial liabilities between the allottee and the promoter come to an end after the execution of the conveyance deed except for the statutory rights under the Act of 2016. So, no directions in this regard can be effectuated at this stage.

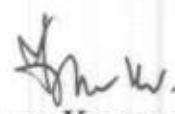
H. Directions of the Authority

45. 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/promoter is directed to pay interest at the prescribed rate i.e., 11.10% per annum for every month of delay on the amount paid by the complainant(s) from the due date of possession till the date of offer of possession plus two months or the date of handing over whichever is earlier as per proviso to section 18(1) of the Act read with rule 15 of the rules. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order as per rule 16(2) of the rules.
 - ii. Also, the amount of compensation already paid by the respondent towards compensation for delay in handing over possession shall be adjusted towards the delay possession charges to be paid by the respondent in terms of proviso to section 18(1) of the Act.
 - iii. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement.
46. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order wherein details of due date of possession, offer of possession, total sale consideration, amount paid by the complainant and execution of conveyance deed is mentioned in each of the complaints.
47. Complaint as well as applications, if any, stand disposed off accordingly.
48. Files be consigned to registry.


(Ashok Sangwan)
Member


(Vijay Kumar Goyal)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 28.01.2025