



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

Complaint no:	878 of 2024
Date of filing:	26.07.2024
First date of hearing:	02.09.2024
Date of decision:	03.03.2025

Mr. Vijay Bhaskar S/o Shri Vedraj Vedalankar  
Resident of A-2/164,  
2<sup>nd</sup> Floor, Paschim Vihar,  
New Delhi-110063

....COMPLAINANT

VERSUS

M/s ORS Infrastructure Pvt. Ltd

**Registered Office:**

Sco-4, Sector 16,  
Faridabad-121002

...RESPONDENT

**CORAM:**

**Nadim Akhtar**

**Member**

**Chander Shekhar**

**Member**

**Present:** Mr. Jasbir Singh Bajaj , ld. counsel for the complainant.

None for the respondent.

### **ORDER(NADIM AKHTAR - MEMBER)**

1. Present complaint has been filed by the complainant on 06.07.2023 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 fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

### **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:

S.No.	Particulars	Details
1.	Name of the project	Royal Residency Location: Faridabad, Haryana.
2.	Name of promoter	ORS Infrastructure Pvt. Ltd.
3.	Date of booking	24.01.2008(Application Form)
4.	Unit area	1500 sq. ft. as per Flat Buyer Agreement
5.	Date of allotment	Allotment on 03.10.2008
6.	Date of Flat buyer agreement	Plot Buyer Agreement on 03.10.2008
7.	Basic Sale Price	₹25,50,000/-
8.	Amount paid by the complainants	₹ 23,73,750/- as per receipts.
9.	Due date of possession	within 36 months As per clause 28 of Flat Buyer

		Agreement
10.	Offer of possession	Not made

3. Brief facts as averred by complainant are that he had booked a flat in January, 2008 in the project 'Royal Residency Faridabad' located at Sector -89, Faridabad, being developed and constructed by respondent. Complainant had paid first installment amounting to ₹3,82,500/- vide cheque no. 952405 on 20.01.2008. Vide allotment letter dated 03.10.2008, flat No. 702, Block – A1 with 1500 sq. ft. super area on 7th floor was allotted to the complainant. Flat Buyer Agreement(FBA) was also executed on 03.10.2008. In terms of Clause 28 of the FBA, possession was to be delivered within 36 months i.e. by 03.10.2011. Complainant has already paid ₹23,73,750/- against basic sale price of ₹25,50,000/- and total sale consideration of Rs. 30,90,000/-.
4. Complainant filed an application on 27.09.2024 for re submission of complaint in which he has changed the relief from possession of unit to refund of paid amount. Now complainant is seeking refund of all amounts paid to the builder with applicable interest and adequate compensation for the financial and mental hardships undergone in all these year since inception.
5. Grouse of the complainant is that despite lapse of about sixteen years from the date of booking, respondent has failed to deliver possession of flat to the complainant



and the purpose of booking the flat has been totally frustrated. Now, complainant no longer needs the booked apartment. Ld. counsel for complainant has placed on record receipts of the paid amount of ₹23,73,750/- and is seeking refund of this paid amount along with interest.

6. Notice was successfully delivered to respondent on 07.08.2024 and case was fixed for hearing on 02.09.2024 but none appeared on that day on behalf respondent. On 2<sup>nd</sup> hearing, Authority granted last opportunity to respondent to file his reply and case was fixed for 17.02.2025. In pursuance, a request was received from the complainant for adjournment and early hearing due to unavoidable personal circumstances. Authority allowed his request and case was adjourned to 03.03.2025. On 03.03.2025, again neither anyone has appeared on behalf of respondent nor any reply has been filed.
7. Authority observes that this is 3<sup>rd</sup> hearing of the case, but none has present on behalf of respondent. Therefore, no further opportunity needs be granted to respondent for filing reply and Authority decided to proceed ex-parte. Case is being heard and disposed off on merits on the basis of facts available on record.
8. On the basis of submissions of complainant and perusal of record, Authority observes that despite lapse of about sixteen years from the date of booking, in January, 2008, no offer has been made by respondent for handing over the possession.



9. In such circumstances, Authority finds it to be a fit case for allowing refund of the amount paid by complainant and directs respondent to refund amount paid by the complainant along with interest at the rate stipulated under Rule 15 of the HRERA Rules, 2017 from the date of making payments up to the date of passing of this order.
10. As per Section 18 of Act, interest shall be awarded at such rate as may be prescribed. Rule 15 of HRERA 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] (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”.*

11. The legislature in its wisdom in the subordinate legislation under the provisions 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.
12. 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., 03.03.2025 is



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

(vii) The definition of term 'interest' is defined under Section 2(z) 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;

13. Accordingly, respondent will be liable to pay the complainant interest from the date amounts were paid till the actual realization of the amount. Hence, the Authority directs respondent to refund the paid amount of ₹23,73,750/- along with interest at



the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017, i.e, at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 11.10%( 9.10% + 2.00%) from the date amounts were paid till the actual realization of the amount. Authority has got calculated the total amount along with interest calculated at the rate of 11.10% till the date of this order and said amount works out to ₹64,92,059/- as per detail given in the table below:

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Sr.no.	Principal Amount	Date of payment	Interest Accrued till 03.03.2025
1.	3,82,500/-	24.01.2008	7,26,896/-
2.	3,82,500/-	03.10.2008	6,97,466/-
3.	3,18,750/-	19.02.2009	5,67,748/-
4.	5,10,000/-	12.10.2009	8,71,949/-
5.	3,33,750/-	31.05.2010	5,47,168/-
6.	1,91,250/-	07.09.2010	3,07,788/-
7.	1,27,500/-	28.01.2011	1,99,647/-
8.	1,27,500/-	28.01.2011	1,99,647/-
TOTAL	₹23,73,750/-		₹41,18,309/-
Total amount to be refunded to the complainant = ₹23,73,750/- + ₹41,18,309/- = ₹64,92,059/-			

14. Further, the complainants are seeking compensation. 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.*” (supra,), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the 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. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

#### **DIRECTIONS OF THE AUTHORITY**

15. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:


(i) Respondent is directed to refund the entire amount of ₹23,73,750/- with interest as calculated in table in para -13. It is further clarified that respondent will remain liable to pay the interest to the complainants till the actual realization of the above said amounts.


(ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate



(Regulation & Development) Rules, 2017 failing which legal consequences would follow.

Hence, the complaint is accordingly **disposed of** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.

  
.....  
**CHANDER SHEKHAR**  
**[MEMBER]**

  
.....  
**NADIM AKHTAR**  
**[MEMBER]**

