

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

Complaint no. : 449 of 2024
First date of hearing : 09.02.2024
Date of order : 13.02.2025

Sumitra Yadav through her legal heir Satya Narain
R/o: - 352/3 Prem Nagar 2 Mata Road Near Mamta
Hospital, Gurugram.

Complainant

Versus

M/s Ocean Seven Buildtech Private Limited
Regd. Office At: - 505-506, Spaze I Tech Park
Sohna Road, Sector-49, Gurugram- 122018.

Respondent

CORAM:

Shri Vijay Kumar Goyal

Member

APPEARANCE:

Ms. Ritu Kapoor and
Shri Jasmeet Singh
Shri Arun Yadav

Advocates for the complainant
Advocate for the respondent

ORDER

1. The present complaint has been filed by the complainant/allottee 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 under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

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A. Project and unit related details

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

S.No.	Particulars	Details
1.	Name and location of the project	"The Venetian" at sector-70, Gurgaon, Haryana
2.	Nature of the project	Affordable group housing
3.	Project area	5.10 acres
4.	DTCP license no.	103 of 2019 dated 05.09.2019 Valid up to 04.09.2024
5.	RERA Registered/ not registered	Registered vide no. 39 of 2020 dated 27.10.2020 valid up to 02.09.2024
6.	Unit no.	1304, Tower-2 (type-2) (As per page no.42 of the complaint)
7.	Unit area admeasuring	556.280 sq. ft. (Carpet area) & 90 sq. ft. (balcony area) (As per page no.42 of the complaint)
8.	Application form	21.12.2020 (as per page no.26 of complaint)
9.	Date of allotment	09.03.2021 (As per page no.42 of the complaint)
10.	Date of apartment buyer's agreement	Not executed
11.	Date of approval of building plan	07.02.2020 (As per DTCP official website)
12.	Date of environmental clearance	Not obtained (as submitted by counsel for respondent during the proceedings)
13.	Payment plan	Time linked payment plan
14.	Possession clause as per buyer's agreement	Not provided

15.	Possession Clause (as per affordable housing policy, 2013)	1(IV) of the Affordable Housing Policy, 2013 <i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i>
16.	Due date of possession	Cannot be ascertained
17.	Total sale consideration	Rs.22,70,120/- (As mentioned in application form at page no.32 of the complaint)
18.	Amount paid by the complainant	Rs.8,59,811/- (As per payment receipt and details provided at page no.44-47 of complaint)
19.	Occupation certificate	Not obtained
20.	Offer of possession	Not offered
21.	Death Certificate of Original allottee (Sumitra Yadav)	13.10.2022 (as provided by the counsel for the complainant during the proceedings dated 02.01.2025)
22.	Request for refund (due to death of original allottee)	06.01.2023 (as mentioned in email dated 06.01.2023 at page no.51 of complaint)

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -
 - I. That in the year 2020, the complainant's wife (Late Mrs. Sumitra Yadav) booked a residential unit in the upcoming project namely "The Venetian" to be constructed in Sector-70, Gurugram, Haryana vide application form dated 21.12.2020 and paid the amount of Rs.1,13,506/- as booking

amount vide cheque no. 073079 drawn on SBI Bank MG Road Gurugram. Accordingly, a residential unit/flat carrying number 1304, Tower no. 2, with carpet area measuring 556 sq. ft. approx. was allotted to the complainant's deceased wife for Rs.4000/- per square feet, and the balcony of approx. 90 sq. ft., Rs. 500/- per square feet were quoted in the application form on page no.22, which comes to a total sales consideration of Rs.22,70,120/-.

- II. That the respondents issued application form no. 6094, RERA registration no. 39 of 2020 to the complainant's deceased wife for Unit/Flat 1304 dated 09.03.2021. That the para 22, page 11 of the said application form assured that the possession of the said unit would be offered to the applicant within 4 years.
- III. That as per the payment plan, the complainant's deceased wife made the total payments of Rs.8,59,811/- till September, 2021 towards the said residential unit/flat as demanded by the respondents from time to time.
- IV. That unfortunately after the long treatment of cancer (multiple myeloma) the applicant (complainant's wife) expired on 13.10.2022, and that the complainant spent more than 60 Lakhs of rupees on the applicant's cancer treatment, hence not in position to continue this booking.
- V. That the complainant made a request to the respondents for cancellation of flat/unit 1304, Tower 2, Sector-70, Gurugram dated 06.01.2023.
- VI. That the complainant and his son Rakesh Yadav had sent several mails dated 23.02.2023, 06.03.2023, 21.03.2023, 03.05.2023 & 29.11.2023 for cancelation of the flat/unit 1304, Tower 2, Sector-70, Gurugram, after the initial mail dated 06.01.2023. After that the respondents sent an email dated 03.05.2023 mentioning that "once the license is renewed and

- accounts are un-freeze, we will refund your amount as soon as possible”, but till date there is no refund received from the respondent.
- VII. That in May 2023, the complainant had also requested for refund to the Director General cum Secretary Town and Country Planning Haryana, Plot No. 3, Sector-18, Madhya Marg, Chandigarh-160018 and senior town planning officer, District Gurugram, but there was no response from the said authorities.
- VIII. That the complainant has been constantly pursuing and following up with the respondent, however no response has been received. That despite repeated emails and letters sent by the complainant till date, the respondent has not refunded the entire amount paid by complainant's wife.
- IX. That in this way, the respondent has committed fraud upon the complainant by misappropriating the funds paid by them. The action of the respondent tantamount to unfair trade practice and deficiency in service by breaching the terms and conditions of the allotment letter. The respondent has also betrayed the trust imposed upon by the complainant.
- X. That due to the illegal and deliberate wrongful act of the respondent, the complainant suffers mental pain, agony and physical harassment.
- XI. That the respondent has committed breach of trust and have cheated the complainant. The complainant would not have made the payments of the said amount but for the reorientations and promises made by respondent and their directors and officers the complainant did the booking and thereafter made the payments.
- XII. That the respondent is liable for acts and omissions and have misappropriated the said amount paid by the complainant and therefore, are liable to be prosecuted under the provisions of law.

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- XIII. That the complainant has suffered great hardship and mental agony due to the acts of the respondent. The respondent has used the money collected from the complainant for the purposes other than the construction of the project. The complainant is seeking adequate relief for being deprived of the money by the respondent, which was paid for the residential unit.
- XIV. That the cause of action accrued in favour of the complainant who booked his unit based on the representations of the respondent. Since the refund of money has not been given to the complainant till date, the cause of action is still continuing.
- XV. It is stated that the project of the respondent fell under registration with the Haryana Real Estate Regulatory Authority hence the said complaint is amenable to the territorial jurisdiction of this Hon'ble Authority. The consideration paid by the complainant, along with the compensation and interest claimed falls within the pecuniary jurisdiction of this Hon'ble Authority.
- XVI. It is stated that the present complaint is within the prescribed period of limitation. That the complainant has not filed any other complaint before any other forum against the erring respondent and no other case is pending in any other court of law.

C. Relief sought by the complainant: -

4. The complainant has sought following relief(s):
- I. Direct the respondent to refund of Rs.8,59,811/- already paid by the complainant's deceased wife along with interest.
 - II. Direct the respondent to pay a sum of Rs.5,00,000/- to the complainant towards damages for deficiency in services, restrictive and unfair trade

practices and towards physical and mental torture, agony, discomfort, and undue hardship suffered by the complainant.

III. Direct the respondent to pay a sum of Rs.2,00,000/- towards the cost of litigation.

5. 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

6. The respondent is contesting the complaint on the following grounds:

- I. That this hon'ble authority lacks jurisdiction to adjudicate upon the present complaint. Both parties have executed an arbitration clause, clearly outlined in the agreement, empowering either party to seek resolution through arbitration. As per the said arbitration clause, any disputes arising out of the agreement shall be submitted to an arbitrator for resolution. Therefore, the present matter be referred to arbitration in accordance with the terms set forth in the agreement.
- II. That as expressly stipulated in the agreement to sale, the parties, herein, the complainant and respondent, have unequivocally agreed to resolve any disputes through arbitration. This agreement to sell is fortified by clause 16.2 wherein it is stated that all or any disputes arising out of or touching upon or relating to the terms of this agreement to sell/conveyance deed including the interpretation and validity of the terms hereof and the respective rights and obligations of the parties, which cannot be amicably settled despite best efforts, shall be settled through arbitration. The arbitration proceedings shall be governed by the Arbitration and conciliation Act, 1996 or any statutory amendments/modifications thereof for the time being in force. The

arbitration proceedings shall be held at the office of the company in Gurgaon by a sole arbitrator who shall be appointed by the company. The cost of the arbitration proceedings shall be borne by the parties equally. The language of arbitration shall be in English. In case of any proceeding, reference etc. touching upon the arbitration subject including any award, the territorial jurisdiction of the courts shall be Gurgaon, Haryana as well as of Punjab and Haryana High court at Chandigarh. That the respondent has not filed his first statement before this court in the subject matter.

- III. That the complainant is a willful defaulter and deliberately, intentionally and knowingly have not paid timely installments. The complainant is a defaulter under section 19(6) & 19(7) of the Act. It is humbly submitted that the complainant failed to clear his outstanding dues despite several reminders that were issued by the respondent.
- IV. That the complainant's motives are marred by malafide intentions. The present complaint, founded on false, fabricated, and erroneous grounds, is perceived as an attempt to blackmail the respondent. The complainant, in reality, is acting as an extortionist, seeking to extract money from the respondent through an urgent and unjustified complaint. This action is not only illegal and unlawful but also goes against the principles of natural justice.
- V. That there is every apprehension that the complainant in collusion with any staff member of the respondent company including ex-employee or those who held positions during that time may put forth the altered and fabricated document which is contradictory to the affordable housing policy & should not be considered binding on the company in any manner whatsoever.

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7. 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 complainant.

E. Jurisdiction of the authority

8. 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

9. 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

10. 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.

11. 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.
12. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357*** and reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

13. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to

entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Findings on objections raised by the respondent

F.1 Objection regarding complainant is in breach of agreement for non-invocation of arbitration.

14. The respondent has submitted that the present complaint is not maintainable for the reason that the buyer's agreement contains an arbitration clause which refers to the dispute resolution mechanism to be adopted by the parties in the event of any dispute. Firstly, The Authority observes that in the instant case, the buyer's agreement has been not executed between the parties and there is no arbitration clause agreed by allottee. Secondly, the jurisdiction of the authority cannot be fettered by the existence of an arbitration clause in the buyer's agreement as it may be noted that section 79 of the Act bars the jurisdiction of civil courts about any matter which falls within the purview of this authority, or the Real Estate Appellate Tribunal. Thus, the intention to render such disputes as non-arbitrable seems to be clear. Also, section 88 of the Act says that the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Further, the authority puts reliance on catena of judgments of the Hon'ble Supreme Court, particularly in *National Seeds Corporation Limited v. M. Madhusudhan Reddy & Anr. (2012) 2 SCC 506*, wherein it has been held that the remedies provided under the Consumer Protection Act are in addition to and not in derogation of the other laws in force, consequently the authority would not be bound to refer parties to arbitration even if the agreement between the parties had an arbitration clause. Therefore, by applying same analogy the presence of arbitration clause could not be construed to take away the jurisdiction of the authority.

15. Further, in **Aftab Singh and ors. v. Emaar MGF Land Ltd and ors., Consumer case no. 701 of 2015 decided on 13.07.2017**, the National Consumer Disputes Redressal Commission, New Delhi (NCDRC) has held that the arbitration clause in agreements between the complainants and builders could not circumscribe the jurisdiction of a consumer. Further, while considering the issue of maintainability of a complaint before a consumer forum/commission in the fact of an existing arbitration clause in the builder buyer agreement, the hon'ble Supreme Court **in case titled as M/s Emaar MGF Land Ltd. V. Aftab Singh in revision petition no. 2629-30/2018 in civil appeal no. 23512-23513 of 2017 decided on 10.12.2018** has upheld the aforesaid judgement of NCDRC and as provided in Article 141 of the Constitution of India, the law declared by the Supreme Court shall be binding on all courts within the territory of India and accordingly, the authority is bound by the aforesaid view. Therefore, in view of the above judgements and considering the provision of the Act, the authority is of the view that complainant is well within his right to seek a special remedy available in a beneficial Act such as the Consumer Protection Act and RERA Act, 2016 instead of going in for an arbitration. Hence, we have no hesitation in holding that this authority has the requisite jurisdiction to entertain the complaint and that the dispute does not require to be referred to arbitration necessarily

G. Findings on the relief sought by the complainant.

- G.I Direct the respondent to refund of Rs.8,59,811/- already paid by the complainant's deceased wife along with interest.
16. The present complaint has been filed by the legal heir of deceased allottee seeking refund of entire paid-up amount along with interest stating that via registered Will (Vasiyatnama) bearing Vasiyatnama no. 544 dated 03.10.2022 proclaimed by Sumitra Yadav (deceased allottee), registered in

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Tehsil Gurugram, Haryana, the deceased allottee had made declaration that after my death, all moveable as well as immovable properties in her name on her death shall be devolved in the name of the complainant (i.e., husband of original allottee - Satya Narain). After considering the above, the authority is of view that this authority is not competent to go into legality of a will and lacks the jurisdiction to decide inheritance/succession. Prima facie, the case is made out under provisions of the Act, 2016 in favour of the complainants-allottee and after considering 'contents' of the Will dated 03.10.2022, the Authority does not see any irregularity in the present complaint. However, it is to be made clear that this order is without prejudice to the rights of legal heirs.

17. The Original allottee (i.e., Mrs. Sumitra Yadav) was allotted a unit bearing no. 1304, in Tower-2 (type-2) having carpet area of 556.280 sq. ft. along with balcony with area of 90 sq. ft. in the project of respondent named "The Venetian" at Sector 70, Gurugram under the Affordable Housing Policy, 2013 vide allotment letter dated 09.03.2021. As per clause 1(iv) of the policy of 2013, all projects under the said policy shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. Thus, the possession of the unit was to be offered within 4 years from the approval of building plans (07.02.2020) or from the date of environment clearance (not obtained yet). Therefore, the due date of possession cannot be ascertained. As per record, the allottee has paid an amount of Rs.8,59,811/- to respondent. However, the original allottee (Sumitra Yadav) expired on 13.10.2022 and thereafter, on 06.01.2023, the husband of deceased allottee wrote a letter to the respondent-promoter, in which he has surrendered the subject unit and requested for refund the paid-up amount i.e., Rs.8,59,811/-

due to failure on the part of the respondent in obtaining environment clearance from the concerned authority and inordinate delay on part of the respondent to start construction of the project in question. The complainant herein has made the surrender request of the subject unit vide letter dated 06.01.2023.

18. As per the clause 5 (iii)(h) of the Affordable Housing Policy, 2013 as amended by the State Government on 05.07.2019, the relevant provision regarding surrender of the allotted unit by the allottee has been laid down and the same is reproduced as under:

Clause 5(iii) (h) of the Affordable Housing Policy, 2013

"A waiting list for a maximum of 25% of the total available number of flats available for allotment, may also be prepared during the draw of lots who can be offered the allotment in case some of the successful allottees are not able to remove the deficiencies in their application within the prescribed period of 15 days. [On surrender of flat by any successful allottee, the amount that can be forfeited by the colonizer in addition to Rs. 25,000/- shall not exceed the following: -

Sr. No.	Particulars	Amount to be forfeited
(aa)	In case of surrender of flat before commencement of project	Nil
(bb)	Upto 1 year from the date of commencement of the project	1% of the cost of flat
(cc)	Upto 2 year from the date of commencement of the project	3% of the cost of flat
(dd)	After 2 years from the date of commencement of the project	5% of the cost of flat

Such flats may be considered by the committee for offer to those applicants falling in the waiting list. However, non-removal of deficiencies by any successful applicant shall not be considered as surrender of flat, and no such deduction of Rs 25,000 shall be applicable on such cases. If any wait listed candidate does not want to continue in the waiting list, he may seek withdrawal and the licensee shall refund the booking amount within 30 days, without imposing any penalty. The

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waiting list shall be maintained for a period of 2 years, after which the booking amount shall be refunded back to the waitlisted applicants, without any interest. All non-successful applicants shall be refunded back the booking amount within 15 days of holding the draw of lots".

19. In the present matter, the subject unit was surrendered by the complainant vide letter dated 06.01.2023 due to failure on the part of the respondent in obtaining environment clearance and has requested the respondent to cancel the allotment and refund the entire amount paid by him along with interest.
20. Clause 5 (iii)(b) of the Affordable Housing Policy, 2013 as amended by the State Government on 22.07.2015 provides that if the licensee fails to get environmental clearance even after one year of holding draw, the licensee is liable to refund the amount deposited by the applicant along with an interest of 12%, if the allottee so desires. The relevant provision is reproduced below for ready reference:

"The flats in a specific project shall be allotted in one go within four months of the sanction of building plans. In case, the number of applications received is less than the number of sanctioned flats, the allotment can be made in two or more phases. However, the licensee will start the construction only after receipt of environmental clearance from the competent authority.

The licensee will start receiving the further installments only once the environmental clearance is received. Further, if the licensee, fail to get environmental clearance even after one year of holding of draw, the licensee is liable to refund the amount deposited by the applicant alongwith an interest of 12%, if the allottee so desires."

21. Also, the respondent has raised an objection that complainant allottee is a wilful defaulter and has failed to make payment of the instalments and has thus violated provisions of section 19(6) & (7) of the Act. In this regard, the authority observes that as per clause 5(iii)(b) of the Affordable Housing Policy, 2013, the licensee will start receiving the further installments only once the environmental clearance is received. As delineated hereinabove, the respondent has failed to obtain environmental clearance till date, thus,

are not entitled to receive any further payments. Hence, the objection raised by the respondent is devoid of merits.

22. Further, as per amendment dated 09.07.2018 in Affordable Group Housing Policy, 2013, the rate of interest in case of default shall be as per rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017. Rule 15 of the rules is 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]

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.

23. The legislature in its wisdom in the subordinate legislation under the 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.
24. Thus, the complainant-allottee is entitled to refund of the entire amount deposited along with interest at the prescribed rate as per aforesaid provisions laid down under Affordable Housing Policy, 2013.
25. Hence, the respondent/promoter is directed to refund the entire paid-up amount as per clause 5(iii)(b) of the Affordable Housing Policy, 2013 as amended by the State Government on 22.07.2015, along with prescribed rate of interest i.e., @11.10% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules,

2017 from the date of each payment till the actual realization of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

- G.II Direct the respondent to pay a sum of Rs.5,00,000/- to the complainant towards damages for deficiency in services, restrictive and unfair trade practices and towards physical and mental torture, agony, discomfort, and undue hardship suffered by the complainant.**
- G.III Direct the respondent to pay a sum of Rs.2,00,000/- towards the cost of litigation**

26. The complainant is seeking above mentioned relief w.r.t compensation and litigation expenses. The Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & 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 adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the 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

H. Directions of the authority

27. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:

- i. The respondent is directed to refund the entire paid-up amount of Rs.8,59,811/- as per clause 5(iii)(b) of the Affordable Housing Policy, 2013 as amended by the State Government on 22.07.2015, along with prescribed rate of interest i.e., @11.10% p.a. as prescribed under rule 15 of the Rules, 2017 from the date of each payment till the actual realization of the amount.

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- ii. The respondent is further directed to pay Rs.5,000/- to the complainant as cost imposed by this Authority vide order dated 28.03.2024 for delay in filing reply to the instant complaint.
 - iii. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.
28. The complaint stands disposed of.
29. File be consigned to registry.



(Vijay Kumar Goyal)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.02.2025

HARERA
GURUGRAM