

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

<b>Complaint filed on:</b>	<b>25.05.2022</b>
<b>Order reserved on:</b>	<b>09.01.2025</b>
<b>Order pronounced on:</b>	<b>30.01.2024</b>

NAME OF THE BUILDER		M/s ADTV Communication Private Limited	
PROJECT NAME		"AEZ Inspirations"	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/2363/2022	Deepankar Das V/S M/s ADTV Communication Private Limited	Shri Niraj Tiwari Advocate  None
2.	CR/2270/2022	Deepak Mannan V/S M/s ADTV Communication Private Limited	Shri Niraj Tiwari Advocate  None
3.	CR/4276/2022	Rajat Bhatnagar V/S M/s ADTV Communication Private Limited	Shri Neeraj Kumar Bhagat Advocate  None

**CORAM:**

**Shri Vijay Kumar Goyal**

**Member**

**ORDER**

1. This order shall dispose of all three complaints titled as above filed before the 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 allottee as per the agreement for sale executed inter se between 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, “AEZ Inspirations” (Group Housing Project) being developed by the same respondent/promoter i.e., M/s ADTV Communication Private Limited. The terms and conditions of the buyer’s agreement against the allotment of units in the project of the respondent/builder and fulcrum of the issues involved in all three cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, the complainants herein wish to withdraw from the project and are seeking award of refund with interest.
3. The details of the complaints, reply to status, 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:

Sr. No	Complaint No., Case Title, and Date of filing of complaint	Reply status	Unit No.	Date of execution of agreement to sell and Offer of possession	Due date of possession	Total Consideration/Total Amount paid by the complainants in Rs.
<b>Project Name and Location</b>		<b>AEZ Inspirations at Sector - 57, Gurugram.</b>				
<b>Occupation Certificate: - Not Obtained</b>						
<b>Possession Clause: -</b>						
<i>10. Schedule for possession of the said premises The possession of the said premises is likely to be delivered by the Company to the Allottee within 24 months of the execution of this agreement, subject to force majeure circumstances, &amp; on receipt of all payments punctually as per agreed terms and on receipt of complete payment of the basic sale price and other charges due and payable up to the date of possession according to the Payment plan applicable to the Allottee. If, however, the completion of construction is delayed due to force majeure eventualities, as described herein, the Company shall be entitled to avail a reasonable extension of time for handing over possession of the said premises to the Allottee. At given time, before possession, if the Allottee cancels his allotment, in that event the company shall refund the entire amount paid by the Allottee, after deducting 10% of amount as administrative charges, within 60 days of receipt of cancellation letter from the Allottee.</i>						
1.	CR/2363/2022  Deepankar Das V/S	Reply has not been filed by the respondent The matter was	1203 on 12 <sup>th</sup> floor, Tower D-6,  Area admeasuring	03.12.2019  (As per page no. 25 of the complaint)	03.06.2022  [ Calculated from date of execution of	TSC: - Rs. 1,35,01,355/- (As per page no. 42 of the complaint)  AP: -



	M/s ADTV Communication Private Limited  Date of Filing of complaint 25.05.2022	proceeded ex-parte vide order dated 19.10.2023	2491 sq. ft.  [As per page no. 25 of the complaint]	<b>Offer of possession:</b>  Not Offered	BBA + 6 months as per HARERA notification no. 9/3- 2020 dated 26.05.2020 for projects having competition date on or after 25.03.2020]	<b>Rs. 1,23,47,475/-</b>  (As per details of payment made to respondent filed by complainant dated 19.10.2023)
2.	<b>CR/2270/ 2022</b>  Deepal Mannan V/S M/s ADTV Communication Private Limited  Date of Filing of complaint 25.05.2022	Reply has not been filed by the respondent The matter was proceeded ex-parte vide order dated 19.10.2023	904 on 9 <sup>th</sup> floor, Tower D-6  Area admeasuring 2491 sq. ft.  (As per page no. 26 of the complaint)	<b>16.10.2019</b>  (As per page no. 26 of the complaint) <b>Offer of possession:</b>  Not Offered	<b>16.04.2022</b>  (Calculated from date of execution of BBA + 6 months as per HARERA notification no. 9/3- 2020 dated 26.05.2020 for projects having competition date on or after 25.03.2020)	TSC: - <b>Rs.1,14,48,148/-</b>  (As per page no. 26 of the complaint)  AP: - <b>Rs.1,00,57,490/-</b>  (As per details of payment made to respondent filed by complainant dated 19.10.2023)

**Possession Clause for CR/4276/2022:-**

10. The possession of the said premises is **likely to be delivered by the Company to the Allottee within 4 months of the execution of this agreement**, subject to force majeure circumstances, & on receipt of all payments punctually as per agreed terms and on receipt of complete payment of the basic sale price and other charges due and payable up to the date of possession according to the Payment Plan applicable to the Allottee. however, the completion of construction is delayed due to force majeure eventualities, as described herein, the Company shall be entitled to avail a reasonable extension of time for handing over possession of the said premises to the Allottee. At given time, before possession, if the Allottee cancels his allotment, in that event the company shall refund the entire amount paid by the Allottee, after deducting 10% of amount as administrative charges within 60 days of receipt of cancellation letter from the Allottee.

<b>3.</b>	<b>CR/4276/2022</b>  Rajat Bhatnagar V/S M/s ADTV Communication Private Limited  Date of Filing of complaint 10.06.2022	Reply has not been filed by the respondent The matter was proceeded ex-parte vide order dated 19.10.2023	002 on ground floor, Tower B-5  Area admeasuring 3000 sq. ft.  (As per page no. 22 of the complaint)	<b>12.08.2020</b>  (As per page no. 21 of the complaint)  <b>Offer of possession:</b>  Not Offered	<b>12.12.2020</b>  (Calculated from 4 months from date of execution of BBA as per clause 10 of BBA]	TSC: - <b>Rs.1,14,90,000/-</b>  (As per page no. 39 of the complaint)  AP: - <b>Rs.1,11,06,503/-</b>  (As per details of payment made to respondent filed by complainant dated 28.01.2025 and receipts dated 07.08.2020 & 14.08.2020
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**The complainant in the above complaints have sought the following relief(s):**

1. Direct the respondent to refund the entire amount paid by the complainant along with interest @18% p.a. from the date of respective deposits till actual realisation.

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

**Abbreviation Full form**

TSC Total Sale consideration

AP Amount paid by the allottee(s)

4. The aforesaid complaints were filed against the promoter on account of violation of the buyer's agreement, against the allotment of units in the upcoming project of the respondent/builder and for not handing over the possession by the due date, seeking award of refund against the allotted unit along with interest.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/ respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder. The facts of all three complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/2363/2022 titled as Deepankar Das vs ADTV Communication Private**

*Limited* are being taken into consideration for determining the rights of the allottee(s) qua of refund against allotted unit along with interest.

**A. Project and unit related details**

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

**CR/2363/2022 titled as Deepankar Das vs ADTV Communication Private Limited**

S. N.	Particulars	Details
1.	Name of the project	"AEZ Inspirations", Sector- 57, Gurugram, Haryana
2.	Nature of project	Group Housing Project
3.	Unit no.	1203, 12 <sup>th</sup> floor, Tower D-6 [page 26 of complaint]
4.	Area admeasuring	2491 sq. ft. [Page 25 of complaint]
5.	Apartment buyer agreement executed on	03.12.2019 [Page 25 of complaint]
6.	Possession clause as per apartment buyer agreement	<b>10. Schedule for possession of the said Premises</b> <i>The possession of the said premises is likely to be delivered by the company to the Allottee within 24 months from the date of execution of this agreement, subject to force majeure circumstances, &amp; receipt of all payments punctually as per agreed terms and on receipt of complete payment of the basic sale price and other charges due and payable up to the date of possession according to the payment plan.....</i> [Page 31 of complaint]
7.	Due date of possession	03.06.2022 [Note:-calculated from the date of execution of BBA i.e., 03.12.2019 + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020]

8.	Total sale consideration	Rs.1,35,01,355/- [As per summary of dues at page 42 of complaint]
9.	Amount paid by the complainant	Rs.1,23,47,475/- (As per SOA dated 19.10.2023 filed by the complainant.)
10.	Offer of Possession	Not Offered
11.	Occupation Certificate	Not Obtained

### B. Facts of the complaint

7. The complainant has made the following submissions in the complaint:

- a. That around Oct 2019, the Real Estate Project "AEZ Inspirations" at Sector-57, Gurugram, Haryana (hereinafter referred as "Project") came to the knowledge of Mr. Dipankar Das, through the authorized marketing representatives of the respondent. The marketing representatives approached Mr. Dipankar Das, for and on behalf of the respondent, making tall claims with respect to the project and of the longstanding credentials of respondent. It was represented that the project is one of the finest and that the said unit is free from all kinds of encumbrances.
- b. That relying on such representations, assurances, brochures and meetings, Mr. Dipankar Das agreed to purchase one unit no. 1203 in Tower D-6 admeasuring super area 2491 sq. ft. for a total sale consideration of Rs. 1,27,04,100/- plus service tax and accordingly paid an amount of Rs. 1,97,875/- through NEFT bearing no. IMPS00105038740 dated 28th Nov 2019 as the booking amount. The respondent acknowledged the payments vide receipts dated 02.12.2019.
- c. The complainant received an allotment letter dated 03.12.2019, whereby the allottee was allotted apartment no. 1203, floor 12th, tower D-6, admeasuring super area of 2491 sq. ft. and the Apartment Buyer Agreement



was executed between the complainant and the respondent on 03.12.2019. As per clause 10 of the agreement, the respondent was under obligation to hand over the possession of the unit within 24 months from the date of allotment of the apartment. Therefore, the date of handing over of possession was 03.12.2021 as per clause 10 of the agreement.

- d. An MOU was also executed by the respondent with the complainant. Through which the complainant was assured that the complainant can dissociate himself from the flat buyer agreement. Also, the respondent has guaranteed to buy back this allotted flat. It was also assured by the respondent that it would pay the EMI of the bank every month till the completion of construction work and possession.
- e. That the complainants having faith and trust on the respondent, deposited Rs. 1,07,47,875/- against the total consideration as per the demands raised by the respondent and the schedule of payment.
- f. That the respondent has violated Section 13 of the RERA Act, 2016 by accepting more than 10% of total sale consideration before entering into builder buyer agreement. The respondent intentionally violated section 13 of the RERA Act to cheat and dupe the complainant.
- g. That on visiting the site of the project the complainant found that the project has not been developed as per the development plan and it is way behind than the stage of payment which has been taken by the respondent. To the utter shock the complainants visited the office of the respondent and raised their concern over the non-development of the project as per the terms of the agreement. However, all the concern of the complainants fell on deaf ears of the respondent. The respondent with *malafide* intention has raised all the demands without achieving the particular stage of construction which is violation of the terms of the agreement. However, the respondent



did not care about the same. The tactics of the respondent to dupe and retain the complainants in the project is crystal clear by their act of raising of demands without developing the particular stage of the project as per the terms of the agreement which is in violation of the terms and conditions of the agreement as well as schedule of payment. The present case is a clear exploitation of innocence and beliefs of the complainant and an act of the respondent to retain the complainants hard-earned money in illegal manner.

- h. That complainants were regularly approaching the respondents and was also paying visits to the office for asking about the status of the project, but no heed was paid to the concerns raised by the complainant. Despite of repeated request made by the complainant, the respondent failed to redress the grievances of the complainants and continue to demand monies without completing the development work of the project. Due to the dishonest and illegal act of the respondents and their failure to complete the project as per the terms of the agreement the complainants are entitled for refund of the amount paid along with interest from the respective dates of payment.
- i. That the project is not yet complete and is still in an uninhabitable state which is causing adverse effect on the legitimate rights of the complainants. That inordinate delay in handing over possession of the unit clearly amounts to deficiency of service on account of the respondent company and the complainant has rightly claimed to withdraw from the project and claim total refund of amount along with other interest and compensations as per section 18 of Real Estate (Regulation and Development) Act, 2016.
- j. That during the period of 24.02.2020 to 01.09.2021, the complainant tried his best to resolve the matter and get remittance of EMI in complainant account, but no response was received from the respondent whereas three of respondent's representatives threatened the complainant not to





approach any court of law with regard to non-remittance of EMI by the respondent in complainant's bank account and assured to resolve the EMI issue very soon, which they failed till filing of present complaint and due to negligence towards remittance off EMIs in complainant's account and financial hardship, the complainant discontinued paying EMI for the said flat to the bank.

- k. That the cause of action arose when the respondent failed to handover the possession of the unit as agreed upon. The cause of action is a continuous one and continues to subsist as the respondent has not redressed the grievances of the complainants.

**C. Relief sought by the complainant: -**

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

- a. Direct the respondent to refund the entire amount paid by the complainant along with interest @18% p.a. from the date of respective deposits till actual realisation.

**D. Reply by the respondent**

9. The present complaint has been filed on 13.01.2023 and the reply on behalf of the respondent has not been received till date. The authority issued a notice dated 13.06.2022 to the respondents by speed post and also on the given email address at [mail@orendacorp.com](mailto:mail@orendacorp.com). Despite the opportunities given to the respondent dated 15.09.2022, 10.01.2023 and 06.07.2023, the counsel for the respondent neither put in appearance nor filed a reply to the complaint within the stipulated period. Accordingly, the authority is left with no other option but to struck off the defence of the respondent and proceed ex-parte against the respondents and decide the complaint on the basis of documents and pleadings filed by the complainant.



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 has complete territorial and 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, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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

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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. Findings on the relief sought by the complainant.**

**F.I Direct the respondent to pay refund the entire amount paid by the complainant along with interest @18% p.a. from the date of respective deposits till actual realisation.**

15. The complainant was allotted a unit in the project of respondent "AEZ Aspirations", in Sector 57, Gurugram vide allotment letter dated 03.12.2019 for a total sum of Rs. 1,35,01,355/-. An agreement to sell dated 03.12.2019 was executed between the parties and the complainant started paying the amount due against the allotted unit and paid a total sum of Rs.1,23,47,475/-.
16. The due date of possession was 03.06.2022 (calculated from the date of execution of BBA i.e., 03.12.2019 + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020). The occupation certificate of the project where the unit is situated has still not been obtained by the respondent/promoter.
17. In the instant case, the complainant wishes to withdraw from the project and is seeking refund of the paid-up amount as provided under the proviso to sec 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,

- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or  
(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

**he shall be liable on demand of the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.**

(Emphasis Supplied)





18. Clause 10 of the agreement provides for handing over of possession and is reproduced below:

**10. SCHEDULE FOR POSSESSION OF THE SAID PREMISES:**

*The possession of the said premises is likely to be delivered by the Company to the Allottee **within 24 months of the execution of this agreement**, subject to force majeure circumstances, & on receipt of all payments punctually as per agreed terms and on receipt of complete payment of the basic sale price and other charges due and payable up to the date of possession according to the Payment plan applicable to the Allottee. If, however, the completion of construction is delayed due to force majeure eventualities, as described herein, the Company shall be entitled to avail a reasonable extension of time for handing over possession of the said premises to the Allottee. At given time, before possession, if the Allottee cancels his allotment, in that event the company shall refund the entire amount paid by the Allottee, after deducting 10% of amount as administrative charges, within 60 days of receipt of cancellation letter from the Allottee.*

[Emphasis supplied]

19. At the outset, it is relevant to comment on the preset possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement and application, and the complainant not being in default under any provisions of these agreements and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions are not only vague and uncertain but so heavily loaded in favor of the promoter and against the allottee that even a single default by the allottee in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottee and the commitment date for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is just to evade the liability towards timely delivery of subject unit and to deprive the allottee of his right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such mischievous clause in the agreement and the allottee is left with no option but to sign on the dotted lines.



20. The authority is of the view that the allottee cannot be expected to wait endless for taking possession of the allotted unit and for which she has paid a considerable amount towards the sale consideration and as observed by **Hon'ble Supreme Court of India in Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., civil appeal no. 5785 of 2019**, decided on 11.01.2021:

*" .... The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottee cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."*

21. Further in the judgement of the Hon'ble Supreme Court of India in the cases of **Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (Supra)** 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 observed as under:

*25. The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.*

22. **Admissibility of refund at prescribed rate of interest:** The complainant intends to withdraw from the project and seeking refund of the paid-up amount along with interest. However, proviso to section 18 of the Act 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 the possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules 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.*

23. 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.
26. 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., 30.01.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.
27. The definition of term 'interest' as defined under section 2(za) of the Act provides that 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. The relevant section is reproduced below:

*"(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;"*

24. On consideration of the documents available on record and submissions made by the parties regarding contravention as per 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 10 of the buyer's agreement executed between the parties on 03.12.2019, and the due date of as per buyer's agreement as 30.06.2022 including a grace period of 6 months. Occupation certificate has not been obtained <sup>from</sup> ~~by~~ the concerned authority till date. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject flat and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 03.12.2019 to hand over the physical possession within the stipulated period.
25. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to him and for which he has paid a considerable amount of money towards the sale consideration. It is also to mention that complainant has paid almost 80% of sale consideration.
26. The promoter is responsible for all the obligations, responsibilities and functions under the provisions of the Act, or the rules and regulations made thereunder or to the allottees as per agreement for sale under section 11(4)(a). The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottees, as they wish to withdraw from the project, without prejudice to any other remedy available, to pay the refund of the amount received by them in respect of the unit with interest at such rate as may be prescribed.
27. 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 for refund at the prescribed rate of interest i.e., @ 9.10% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) from the due date of possession till the date of offer of possession to the complainant.

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**H. Directions of the Authority**

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

- i. The respondent is directed to refund the amount received from each complainant along with interest at the rate of 11.10% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount.
- ii. 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.
- iii. The respondent is further directed to not to create any third-party rights against the subject unit before full realization of the paid-up amount along with interest thereon to the complainants and even if, any transfer is initiated with respect to subject unit, the receivables shall be first utilized for clearing dues of allottees-complainants.

29. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.

30. Complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.

31. File be consigned to registry.

**Dated: 30.01.2025**

  
**(Vijay Kumar Goyal)**  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram