



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1163 of 2021
Date of filing:	08.11.2021
Date of first hearing:	14.12.2021
Date of decision:	20.02.2024

**Parveen Kumar and Arun Kumar**  
House no. 247, Mangolpur Kalan  
North West Delhi-110085

.... COMPLAINANT(S)

VERSUS

**M/s Parsvnath Developers Limited through its Managing Director.**  
Office at Parsvnath Metro Tower, Near Shahdara Metro Station,  
Shahdara, Dehli-110032;  
Corporate Office at 6th Floor, Arunachal Building, 19,  
Barakhamba Road, New Delhi-110001.

....RESPONDENT

**CORAM:** **Dr. Geeta Rathee Singh**  
**Chander Shekhar**

**Member**  
**Member**

**Present:** Mr. Ramesh Malik, Ld. Counsel for Complainant through VC.  
Mr. Brijesh, proxy counsel for Ld. Counsel for Respondent  
Ms. Rupali Verma.

### ORDER

1. Present complaint was filed on 03.11.2022 by the complainants under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'Act of 2016') read with Rule 28 of the

*Geeta Rathee*

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.

#### A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the unit booked by original allottee and subsequently endorsed in the name of complainants, the details of the sale consideration, the amount paid by the complainants and the details of the project are enumerated in the following table:

Sr. No.	Particulars	Details
1.	Name of the project	Parsvnath City, Sonipat
2.	RERA Registered/ not registered	Not registered
4.	Plot no.	B-3205, Block-B,
5.	Area	333.12 sq. yards.
6.	Date of Plot Buyer Agreement (PBA)	05.01.2010
7.	Basic sale consideration	Rs.22,65,270.

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8.	Amount paid by the complainants	Rs. 29,20,430/- ( as per customer ledger)
9.	Offer of possession	Not made

## B. FACTS OF THE CASE AS STATED IN THE COMPLAINT

3. Brief facts of the complaint are that original allottees i.e. Mr. Satish Jain and Mr. Ramesh Jain had booked a plot bearing no. B-3205, admeasuring 336.12 sq. yard. in the respondent's project "Parsvnath City", Sonipat, Haryana.
4. That plot buyer agreement was executed between the original allottees and respondent on 05.01.2010. Subsequently, vide endorsement dated 12.06.2012 plot was transferred in the favor of Mr. Jagdish kumar. On 15.07.2021, complainants purchased said plot from the previous purchaser Mr. Jagdish Kumar. The basic sales price of the plot was Rs. 22,65,270/- against which complainants have paid Rs. 29,25,429.50/- ( Rs. 29,20,430/- as per customer ledger) from years 2005 to 2012.
5. That the respondent company has acted contrary to clause 8(a) of plot buyer agreement dated 05.01.2010 in accordance with which the promoter shall not withhold the plot beyond reasonable period and





possession shall be granted after payment of administrative charges. It is contended that above mentioned facts clearly show that there is unreasonable delay in offering possession of the plot in question to the complainants by the respondent-company.

6. That the respondent company has acted contrary to clause 11(a) of plot buyer agreement in accordance with which it was agreed between the parties that the respondent company would execute conveyance/transfer deed of plot and register the same in favor of the buyer/complainants within a reasonable time after the plot has been finally demarcated at the site. It is submitted that despite lapse of so many years from the date of booking of plot, the plot has not been demarcated by the respondent-company till date.
7. That the respondent company has illegally charged external development charges from the complainants 9 years back and despite lapse of more than 8 years respondent company is neither in position or have any intention to offer possession of the plot to complainants nor is the respondent returning the already paid external development charges against the said plot.
8. That the respondent company has acted contrary to clause 5(b) of plot buyer agreement in accordance with which in case the promoter/

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company is not in a position to allot/deliver the property, then, the same may offer another plot to the buyers/complainants at its sole discretion, and if the same is not acceptable to the buyers/complainants, then the promoter be liable to refund the actual account deposited with simple interest @ 10% per annum. However, it is asserted at this juncture that the complainants/allottees are interested only in possession of the bought plot from respondent company.

9. That the terms and conditions/clause of plot buyer agreement dated, 05.01.2010 have been maliciously drafted only to the advantage of the respondent company as there is no definite timeline of handing over of possession prescribed in the plot buyer agreement. This clearly shows that respondent company has no intention to deliver actual physical possession of the plot to the complainants.
10. That the complainants have all times made payment against the demands of the respondent company as per the payments schedule, but despite receipts of the payments, the development work on the project site has not even started till date.
11. That after physically inspecting the site of the project it is transpired that there is no scope of handing over possession of residential plot in question as the development at project area is very limited. Respondent



has also not taken requisite approvals from the concerned authorities which strengthens the belief of the complainant that respondent has committed fraud on public, at large.

12. That the complainants have averred that the facts of the present complaint are similar to *Complaint No. 723 of 2019 titled as "Nishant Bansal v/s Parsvnath Developers Ltd."* and *complaint no. 1307 of 2019 titled as "Mrs. Suman and Anr. v/s Parsvnath Developers Ltd."* wherein Authority had directed the respondents were directed to handover possession along with upfront delay interest and monthly interest.
13. That the complainant is entitled for receiving interest @ SBI MLCR+2% on the amount paid to the respondent as per Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017.

#### **C. RELIEF SOUGHT**

14. The complainants in their complaint have sought following reliefs:
- i) To direct the respondent company to offer actual physical possession of the booked plot in question i.e., Plot B-3305, Block-B, Parsvnath City, Sonipat, Haryana;





- ii) To direct the respondent company to obtain license from Town & Country Planning, Haryana of the project Parsvnath City, Sonipat, Haryana;
- iii) To direct the respondent company to get conveyance deed executed within a time bound manner qua plot no. 3281, Block-B, Parsvnath City, Sonipat, Haryana;
- iv) To direct the respondent to pay interest on delayed possession for more than 8 years as per Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 to the complainants;
- v) To direct the respondent to pay Rs. 10,00,000/- as part of damages to the complainants on account of mental agony, torture and harassment;
- vi) To direct the respondent to refund of all legal cost of Rs. 1,00,000/- incurred by the complainants;
- vii) Any other relief-remedy which is deemed fit by this Hon'ble Authority in the present facts and legal proposition of the case.

**D. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

Learned counsel for the respondent filed detailed reply on 30.05.2023 wherein it is pleaded as under:-

15. That the complainants made this investment purely for a commercial purpose therefore, the equitable grounds pleaded in the complaint are not

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maintainable in law. The complainants cannot be allowed to profiteer at the cost of the Project.

16. That the present complaint is not maintainable before this Hon'ble Authority, as the project in which the complainant is seeking possession is not registered with this Hon'ble Authority and therefore, this Hon'ble Authority does not have jurisdiction to entertain the present complaint.
17. That without prejudice, the present complaint is barred by limitation and this Hon'ble Court does not have jurisdiction to entertain a time barred claim. Moreover, in absence of any pleadings regarding condonation of delay, this Hon'ble Court could not have entertained the complaint in the present form. In recent judgment by the Hon'ble Supreme Court in the case of Surjeet Singh Sahni vs. State of U.P and others, 2022 SC online SC 249, the Hon'ble Apex Court has been pleased to observe that mere representations does not extend the period of limitation and the aggrieved person has to approach the court expeditiously and within reasonable time. In the present case the complainant is guilty of delay and latches, therefore, his claim should be dismissed.
18. That the provisions of Real Estate (Regulation and Development) Act, 2016 cannot be applied retrospectively. That plot buyer agreement executed between original allottees and respondent on 05.01.2010, plot

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no. B-3205 measuring area 402 sq. yards was allotted to them. Therefore vide endorsement dated 12.06.2012 plot was transferred in the favor of Mr. Jagdish kumar. On 15.07.2021, complainants purchased said plot from the previous purchaser (Mr. Jagdish Kumar).

19. That it is a matter of record that on 10.07.2010, respondent company applied letter of intent (LOI) for the land admeasuring 51 acres. However, the same was rejected by the competent authority (TCP) vide letter dated 19.02.2013.

20. That pursuant to that on 19.09.2019, one of the associate companies of the respondent company applied for license for the land measuring 25.344 acres falling under in the revenue Village Rajpura, Sector 10 & 11, Sonipat, Haryana to develop a residential plotted colony.

21. That the inability of the respondent company to develop the project is primarily due to encroachments by the local farmers on part of project land for which they have already been paid the sale consideration. It is submitted that despite all sincere efforts to get the project land vacated, the local farmers have failed to agree and rather they are coercing the respondent company to agree to their unreasonable demands.

22. That further, with effect from 11.01.2022. Government of Haryana has taken a policy decision that where the outstanding dues against the

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statutory dues in the nature of EDC etc. are more than 20 crore, fresh license would not be issued to the landowner/ developer/its associate companies etc. till the clearance of all the outstanding EDC. Hence despite taking all sincere steps, the respondent company is not able to get the LOI of the said project land.

23. That it is further submitted that an application has been submitted for grant of registration for 25 acres through Generous Builders Private Limited, which was rejected by this Hon'ble Authority.

24. That it is submitted that despite all the efforts made by the respondent company towards the completion of the said project as well as for getting the LOI, the project could not be regularized and this has ultimately caused the abandoning of the project.

25. That the relief of possession in these circumstances is not applicable in the present case as the respondent company is not developing the project and under no provision of law the respondent- company can be asked to develop and deliver the project which has otherwise become impossible and hence, unviable.

26. That be as it may, the right of the complainant would accrue from the date of the endorsement and not from the date the original applicant



booked the present unit. This is a settled principle of law and also, is being followed by Hon'ble Tribunal and other courts.

27. That for the reasons beyond the control of the respondent company, it could not develop the land in question and it is ready and willing to refund the amount received from the complainants in terms of clause 5 (b) of agreement. Without prejudice, it is further stated that the project cannot be delivered due to the unforeseen circumstances and therefore in terms of Section 18(1), the relief of refund is only plausible solution.

**E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT**

28. During oral arguments learned counsel for the complainant and respondent have reiterated arguments as mentioned in their written submissions.

**F. ISSUES FOR ADJUDICATION**

29. Whether the complainant is entitled to relief of possession of plot booked by him along with interest for delay in handing over the possession in terms of Section 18 of Act of 2016?

**G. FINDINGS ON THE OBJECTIONS RAISED BY THE RESPONDENT**





**G. a) Objection raised by respondent stating that complainant herein had made investment in respondent project purely for commercial purpose,**

Respondent has averred that complainant is an investor and not a consumer and the RERA Act of 2016 is enacted to protect the interest of consumers of the real estate sector, thereby complainants is not entitled to file the complaint under section 31 of the Act and the complaint is liable to be dismissed. In this regard, Authority observes that the respondent is correct in stating that the Act is enacted to protect the interest of consumer of the real estate sector. It is settled principle of interpretation that the preamble is an introduction of a statute and states main aims and objects of enacting a statute but at the same time, the preamble cannot be used to defeat the enacting provisions of the Act. Furthermore, 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 flat's agreement, it is revealed that the complainants are buyers and paid total price of Rs.29,20,430/- as per customer ledger dated 23.07.2021 to the promoter towards purchase of an unit in the project of the promoter, 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:*

In view of above-mentioned definition of "allottee" as well as all the terms and conditions of the unit application for allotment, it is crystal clear that the complainant is allottee as the subject unit was allotted to him by the promoter. The concept of investor is not defined or referred in the Act. As per the definition provided under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. *0006000000010557 titled as M/s Srushti Sangam Developers Pvt Ltd, Vs. Sarvapriya Leasing (P) Ltd. And Anr.* has also held that the concept of investor is not defined or referred in the Act. Thus, the contention of promoter that the allottee being investor is not entitled to protection of this Act also stands rejected.



**G. b) Objection that RERA Act, 2016 cannot be applied retrospectively**

Respondent has also averred that RERA Act, 2016 cannot be applied retrospectively. It is a matter of record that builder buyer agreement was executed on 05.01.2010 i.e. prior to RERA Act, 2016 coming into force. In this regard Authority observes that after coming into force RERA Act, 2016 jurisdiction of the civil court is barred by section 79 of the Act. Authority, however is deciding disputes between builders and buyers strictly in accordance with terms of the provisions of builder buyer agreements. After RERA Act of 2016 coming into force the terms of agreement are not re-written, the Act of 2016 only ensure that whatever were the obligations of the promoter as per agreement for sale, same may be fulfilled by the promoter within the stipulated time agreed upon between the parties. Issue regarding opening of agreements executed prior to coming into force of the RERA Act, 2016 was already dealt in detail by this Authority in complaint no. 113 of 2018 titled as **Madhu Sareen v/s BPTP Ltd decided on 16.07.2018**. Relevant part of the order is being reproduced below: -

*"The RERA Act nowhere provides, nor can it be so construed, that all previous agreements will be re-written after coming into force of RERA. Therefore, the provisions of the Act, the Rules and the Agreements have to be interpreted harmoniously. However, if the Act or the Rules provides for dealing with certain*





*specific situation in a particular manner, then that situation will be dealt with in accordance with the Act and the Rules after the date of coming into force of the Act and the Rules. However, before the date of coming into force of the Act and the Rules, the provisions of the agreement shall remain applicable. Numerous provisions of the Act saves the provisions of the agreements made between the buyers and seller"*

Further, reference can be made to the case titled **M/s Newtech Promoters & Developers Pvt. Ltd. vs. State of UP & Ors. Etc.** 2022(1) R.C.R. (Civil)

357, wherein the Hon'ble Apex Court has held as under:-

*41. The clear and unambiguous language of the statute is retroactive in operation and by applying purposive interpretation rule of statutory construction, only one result is possible, i.e., the legislature consciously enacted a retroactive statute to ensure sale of plot, apartment or building, real estate project is done in an efficient and transparent manner so that the interest of consumers in the real estate sector is protected by all means and Sections 13, 18(1) and 19(4) are all beneficial provisions for safeguarding the pecuniary interest of consumers/allottees. In the given circumstances, if the Act is held prospective then the adjudicatory mechanism under Section 31 would not be available to any of the allottee for an ongoing project. Thus, it negates the contention of the promoters regarding the contractual terms having an overriding effect over the retrospective applicability of the Act, even on facts of this case.*

As per the aforesaid ratio of law, the provisions of the Act are retroactive in nature and are applicable to an act or transaction in the process of completion. Thus, the rule of retroactivity will make the provisions of the Act and the rules applicable to the acts or transactions, which were in the



process of the completion though the agreement might have taken place before the Act and the Rules became applicable. Hence, it cannot be stated that the provisions of the Act and Rules made thereunder will only be prospective in nature and will not be applicable to the agreement for sale executed between the parties prior to the commencement of the Act.

**G. c) Objection raised by respondent that the present complaint is barred by limitation**

Respondent has also raised objection regarding maintainability of the complaint on ground of that complaint is barred by limitation. In this regard the Hon'ble Apex Court in Civil Appeal no. 4367 of 2004 *titled as M.P Steel Corporation v/s Commissioner of Central Excise* has held that the Indian Limitation Act applies only to courts and not to the tribunals. Relevant para is reproduced herein:

*19. It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963."*

Authority observes that the Real Estate Regulation and Development Act, 2016 is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the Indian Limitation Act 1963, thus, would not be applicable to the proceedings under the Real Estate Regulation and Development Act,





2016 as the Authority established under the Act is a quasi-judicial body and not Court. Therefore, in view of above objection of respondent with respect to the fact that complaint is barred by limitation is rejected.

**G. d) Objection raised by respondents that project is not registered therefore provision of RERA Act not apply on respondent**

Authority observes that the respondent has taken a stand that present complaint is not maintainable for the reason that it pertains to an unregistered project of the respondent, and the reliefs sought does not fall within the jurisdiction of this Hon'ble Authority. In this regard it is observed that there is nothing on record to prove that respondent has obtained the completion certificate on the date of the commencement of the RERA Act, 2016, therefore on the commencement of RERA Act, 2016 project in question was within the ambit of the definition of ongoing project. Further, as per proviso to Section 3(1) of the RERA Act, 2016 only those project shall be excluded from ongoing project for which completion certificate was received prior to commencement of RERA Act, 2016. In present complaint respondent had not received completion certificate before commencement of RERA Act, 2016. Therefore, project is in ambit of ongoing project and registrable. Furthermore, issue that whether this Authority has jurisdiction entertain the present complaint as the project is





not registered has been dealt and decided by the Authority in **complaint no. 191 of 2020 titled as Mrs. Rajni and Mr. Ranbir Singh vs Parsvnath Developers Ltd.** Relevant part of said order is being reproduced below:

*"14. RERA is a regulatory and protective legislation. It is meant to regulate the sector in overall interest of the sector, and economy of the country, and is also meant to protect rights of individual allottee vis-a-vis all powerful promoters. The promoters and allottees are usually placed at a highly uneven bargaining position. If the argument of learned counsel for respondents is to be accepted, defaulter promoters will simply get away from discharging their obligations towards allottees by not getting their incomplete project registered. Protection of defaulter promoters is not the intent of RERA Act. It is meant to hold them accountable.".*

Also, Section 11(4) and Section 18 of the RERA Act, 2016 that provides for obligation of the promoter does not distinguish between registered and unregistered project nor does it provides that the remedy u/ Section 18 will be available/applicable only to the allottees of a registered project. Therefore, provision of RERA act, 2016 will apply to respondents. Furthermore, as per Section 34(e) it is the function of the Authority to ensure compliance of obligation cast upon the promoters, the allottees and the real estate agents under this Act, and the rules and regulations made thereunder. Therefore this Authority has complete jurisdiction to entertain the captioned complaint entertain and objection raised by the respondent regarding maintainability of the present complaint is rejected.



## H. OBSERVATIONS OF THE AUTHORITY

Authority has heard arguments of both parties and has perused the documents available on record. After going through the submissions made by both the parties, Authority observes as under:

30. That in the present case, plot buyer agreement was executed between the original allottee and respondent on 05.01.2010. Now with regards to due date of possession, Authority observes that in absence specific timeline for handing over of possession in plot buyer agreement exact date for offering the possession of said plot to complainant cannot be ascertained, therefore reference is made to observation of Hon'ble Apex Court is *2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr.* Wherein it has been observed that period of 3 years is reasonable time. In the matter in hand plot buyer agreement was executed on 05.01.2010, taking a period of 3 years from the date of agreement as a reasonable time to complete development works in the project and handover possession to the allottees, the deemed date of possession comes to 04.01.2013. Accordingly, possession of the unit should have been handed over to the original allottees by 04.01.2013. Here, complainant



is subsequent allottee. Section 2(a) of RERA act, 2016 does not distinguish between an allottee and subsequent allottee. The term subsequent allottee has been used synonymously with the term allottee in the RERA Act, 2016. Authority observes that when an project has been delayed inordinately then it is but natural that the anxious allottees wish to wriggle out from such project, however does that mean that the subsequent allottee will be barred from claiming delayed possession interest. The answer is in negative. In the present case though the builder buyer's agreement was executed with the original allottee Mr. Satish Jain and Mr. Ramesh Jain prior to the RERA Act, 2016 coming into force. who subsequently transferred it to Mr. Jagdish Kumar on 12.06.2012, however transfer was made in favour of the complainant allottees when RERA Act, 2016 became applicable. The subsequent allottees at the time buying a plot/unit takes on the rights as well as obligation of the transferor allottees vis-a- vis the same terms and conditions of the agreement for sale entered into by the original allottee. Although at the time of transfer/ endorsement in their name in the agreement for sale, the due date of possession had already lapsed but complainant who is the subsequent allottee as well as the promoter had the knowledge of the statutory right of delay





possession charges being accrued in his favour after coming into force of the Act. Thus, the concept of quasi-retroactivity will make the provisions of the Act and the rules applicable to the subsequent allottee. Moreover, the Authority cannot ignore the settled principle of law that the waiver of statutory rights is subject to the public policy and interest vested in the right sought to be waived as reiterated by Hon'ble Supreme Court of India in **Waman Shrinivas Kini Vs. Ratilal Bhagwandas and Co.** (AIR 1959 SC 689). In the present situation, there is nothing which can prove that such right was waived off by the subsequent allottees for either of the two reasons quoted above. In simple words, neither they have got any private benefit by waiving of their right nor does it involve any element of public interest. Therefore, the Authority is of the view that in cases where the subsequent allottee had stepped into the shoes of original allottee after coming into force of the Act and before the registration of the project in question, the delayed possession charges shall w.e.f due date of handing over possession as per the builder buyer's agreement.

31. Authority further observes the factual matrix of present case is similar to bunch of cases with lead case no. 865 of 2020 titled as Deepak Gupta versus Parsvnath Developers Ltd. as in both complaints an agreement



for sale was executed between the parties crystallizing the terms of agreement and in both complaints respondent did not handover the possession till the filing of the complaint. The booking of plots made by complainants in both the complaints was made in "B Block" of same project i.e., Parsvnath City, Sonapat. Vide application dated 21.02.2023, complainants requested to disposed captioned complaint in terms of the orders passed by the Authority in *Complaint no. 865 of 2020 titled as Deepak Gupta versus Parsvnath Developers Ltd.*

32. In complaint case no. 865 of 2020, it was revealed that respondent neither had license to develop the project nor even LOI was obtained by him for the same. In that eventuality, since complainants were not interested to withdraw from the project and wanted to continue with the project, respondent was directed to pay the complainant upfront interest on the amount paid by him from deemed date of possession till date of the order and also future interest for every month of delay occurring thereafter till the handing over of possession of the plot. Further respondent was prohibited from alienating the land of the project in question for any purposes except for completion of the project.
33. In the present complaint too complainants wishes to continue in the project and they had prayed for directions to the respondent to hand

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over the possession of the plot no. B-3205, admeasuring 336.12 sq. yards. in Parsvnath City along with interest as per Rule 15 Haryana Real Estate (Development and Regulation) Rules, 2016 on the amount paid from the date of payment till the date of handing over of possession of plot. It is observed that though the learned counsel for respondent has orally argued that the respondent has not received the letter of intent (LOI) for the project and is not in a position to develop the same and offer possession of the booked plot to the complainants, however no document issued by competent authority has been placed on record or relied upon by the respondent to prove that it has surrendered/abandoned the project. Reference is also made to para 3 of the letter dated 19.02.2013 written by DTCP, Haryana to the respondent (Annexure R-4 of the reply). Relevant part of said letter is being reproduced.

*"Since, you did not attend the personal hearings on two occasions, therefore, it can be concluded that you are making lame excuse as the application for renewal of original license is yet to be filed and license for an additional area can be considered only if the main license is valid. It is, therefore regretted that the grant of license for an additional area measuring 51.50 acres is hereby refused due to the reason mentioned above"*

Perusal of this para shows that respondent had no intention of honouring his obligations and complainants cannot be made to suffer

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because of the repeated and deliberate defaults on the part of the respondent.

34. In complaint, complainants submitted that Rs. 29,25,429.50/- stands paid against total basic sale price of Rs. 22,65,270/-. however, as per customer ledger dated 23.07.2021 Rs. 29,20,430/- have been paid by complainants. Till date respondent has admittedly failed to offer of possession of the plot to the complainants. Therefore, the complainants U/s 18(1) of the RERA Act is entitled to the relief of interest on account of delayed possession. Accordingly, complainants in the present case is also entitled to upfront interest on the amount paid by him from deemed date of possession till today along with future interest for every month of delay occurring thereafter till the handing over of possession at the rate prescribed in Rule 15 of the HRERA Rules, 2017, SBI MCLR+2% which as on date works out to be 10.85%

35. The details of amounts paid by the complainants and delay interest calculated on amount are shown in the following table: -

Sr. No.	Principal Amount (in Rs.)	Deemed possession/ payment (whichever is later)	date of date of	Interest acquired till 20.02.2024
1.	Rs. 29,20,430/-	04.01.2013		Rs. 34,98,555/-
Monthly interest commencing from 20.02.2024 = Rs. 26,044/-				



36. The complainants are seeking compensation on account of mental agony, torture and harassment and legal cost incurred by the complainants. 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. Vs State of U.P. & Ors.*", has held that an allottee is entitled to claim compensation 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.

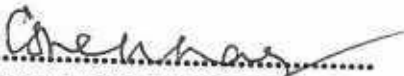
37. Ld. Counsel for the complainants has not pressed upon relief no. (ii).

#### **I. DIRECTIONS OF THE AUTHORITY**

38. 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 make a valid offer of possession of the plot to complainants within 30 days of receiving part completion certificate. Respondent is further directed to get the conveyance deed registered as per provision of Section 17 (1) of RERA Act, 2017.
- (ii) Respondent is directed to pay the complainants upfront interest of Rs. 34,98,555/- within 90 days as per Rule 16 of Haryana Real Estate (Regulatory Development) Rule, 2017 failing which legal consequences would follow. Respondent's liability for paying monthly interest of Rs. 26,044/- as shown in above table will commence w.e.f. 20.02.2024 and it shall be paid on monthly basis till valid offer of possession is made to complainants..
39. Disposed of. File be consigned to record room after uploading order on the website of the Authority.

  
CHANDER SHEKHAR  
[MEMBER]

  
Dr. GEETA RATHEE SINGH  
[MEMBER]