

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

Order pronounced on: 28.03.2025

Name of the Builder		Vatika Limited	
Project Name		Vatika Towers, Sector 54, Gurugram, Haryana	
S.no.	Complaint No.	Complaint title	Attendance
1.	CR/2369/2022	N Sundar V/s M/s Vatika Ltd.	Aman Bajaj, Adv. (Complainant) Venket Rao, Adv. (Respondent)
2.	CR/2413/2022	N Sundar V/s M/s Vatika Ltd.	Aman Bajaj, Adv. (Complainant) Venket Rao, Adv. (Respondent)

CORAM:

Vijay Kumar Goyal

Member

ORDER

1. This order shall dispose of both the complaints titled as above filed before this authority in form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se 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, **"Vatika Towers"** being developed by the same respondent/promoter i.e., **M/s Vatika Limited**. The terms and conditions

of the agreement to sell/MOU against the allotment of units in the upcoming project of the respondent/builder and fulcrum of the issues involved in all the cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of refund the entire amount along with interest and pending assured return.

3. The details of the complaints, unit no., date of agreement, possession clause, due date of possession, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

S.no.	Particulars	Details	
1.	Project name and location	Vatika Towers, Sector 54, Gurugram, Haryana	
2.	Nature of the project	Commercial Complex	

S.No.	Particulars	Details w.r.t. CR/2369/2022	Details w.r.t. CR/2413/2022
3.	Unit no.	Priority no. P-479 [Page 29 of complaint]	Priority no. P-478 [Page 29 of complaint]
4.	Unit area measuring	750 sq. ft. (super area) [Page 29 of complaint]	500 sq. ft. (super area) [Page 29 of complaint]
5.	Date of allotment letter	18.03.2016 [Page 29 of complaint]	18.03.2016 [Page 29 of complaint]
6.	Date of flat buyer's agreement	Not executed	Not executed
7.	Possession clause	N/A	N/A
8.	Due date of possession	Cannot be ascertained	Cannot be ascertained
9.	Total sale consideration	Rs. 84,00,000/- [As alleged by the respondent at page 3 of reply]	Rs. 56,00,000/- [As alleged by the respondent at page 3 of reply]
10.	Amount paid by the complainant	Rs. 87,65,400/- [As per receipt at page 21 and 22 of complaint]	Rs. 58,43,600/- [As per receipt at page 21 of complaint]

11.	Occupation certificate /Completion certificate	Not obtained	Not obtained
12.	Offer of possession (fit-out/ permissive possession)	Not offered	Not offered
13.	Assured return clause by virtue of letter dated 18.03.2016 [Page 29 of complaint in both the complaints]	<p>1. That the payment of your assured return of Rs 133.33/- per sq. ft. per month on super area of said unit will commence only on receipt of % of Basic Sale Price by us from you, in terms of the payment plan/schedule of payments as agreed/opted by you and will be paid till the completion of the construction of the building. Post completion of construction of the building, you will be paid committed return of Rs.120/- per sq. ft per month on super area for upto three years from the date of completion of construction of the building or the said unit is put on lease, whichever is earlier You will be entitled to receive lease rent in respect of said unit from the Rent Commencement Date in accordance with lease document as may be executed with prospective tenant. If there is any rent-free period on account of fit-out or otherwise then you will not be entitled for rent during Rent free period.</p>	
14.	Assured return paid by the respondent	Rs.31,99,920/- till October 2018 [As admitted by the respondent, page 29 of reply]	Rs.21,33,280/- till October 2018 [As admitted by the respondent, page 26 of reply]
15.	Relief sought by the complainant [As per amendment application dated 19.01.2024]	<p>1. Refund the entire amount paid by the complainant along with interest as per the provisions of the Act.</p> <p>2. Litigation cost.</p>	<p>1. Refund the entire amount paid by the complainant along with interest as per the provisions of the Act.</p> <p>2. Litigation cost.</p>

4. The aforesaid complaints were filed by the complainants against the promoter on account of contraventions alleged to have been committed by the promoter in relation to Section 11(4)(a) of the Act, 2016.

5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoters/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoter, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/2369/2022 titled as N Sundar V/s Vatika Ltd.** are being taken into consideration for determining the reliefs of the allottee(s) qua refund of the entire paid-up amount along with interest and others.

A. Project and unit related details

7. 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/2369/2022 titled as N Sundar V/s Vatika Ltd.

S.No.	Particulars	Details
1.	Project name and location	Vatika Towers, Sector 54, Gurugram, Haryana
2.	Nature of the project	Commercial Complex
3.	Unit no.	Priority no. P-479 [Page 29 of complaint]
4.	Unit area admeasuring	750 sq. ft. (super area) [Page 29 of complaint]
5.	Date of allotment letter	18.03.2016 [Page 29 of complaint]
6.	Date of flat buyer's agreement	Not executed
7.	Possession clause	N/A
8.	Due date of possession	Cannot be ascertained

9.	Total sale consideration	Rs. 84,00,000/- [As alleged by the respondent at page 3 of reply]
10.	Amount paid by the complainant	Rs. 87,65,400/- [As per receipt at page 21 and 22 of complaint]
11.	Occupation certificate	Not obtained
12.	Offer of possession	Not offered
13.	Assured return clause by virtue of letter dated 18.03.2016	1. That the payment of your assured return of Rs 133.33/- per sq. ft. per month on super area of said unit will commence only on receipt of % of Basic Sale Price by us from you, in terms of the payment plan/schedule of payments as agreed/opted by you and will be paid till the completion of the construction of the building. Post completion of construction of the building, you will be paid committed return of Rs.120/- per sq. ft per month on super area for upto three years from the date of completion of construction of the building or the said unit is put on lease, whichever is earlier [Page 29 of complaint]
14.	Assured return paid	Rs.31,99,920/- till October 2018 [As admitted by the respondent, page 29 of reply]

B. Facts of the complaint

8. The complainant has made the following submissions (As per amended complaint dated 19.01.2024):
 - a. That the respondent as part of their business venture decided to develop a commercial complex by name of Vatika Towers (hereinafter referred as "Project"). The respondent had published various web and news advertisements as well as visual advertisements to attract the public at large to purchase Commercial Space in the Project. Based on



the fraudulent representation by the respondent that the unit will be delivered on time, the complainant purchased a unit in the said project by submitting an Application Form and paying booking amount of Rs. 4,00,000 vide RTGS in respect of the said commercial unit. The Complainant paid the total consideration amounting to Rs. 8366400/- against the property vide RTGS.

- b. That the complainant was allotted a commercial unit in "Tower C" measuring around **750** sq. ft. in Feb 2016 with Priority no. P-479. It was assured by the respondent that they will get the possession of the property within the reasonable time period. The Buyer's Agreement, which was supposed to get executed soon after the provisional registration is still pending till date and the same has not been entered into or proposed to be entered by the side of the respondent. It has been more than 6 years from the booking of the property by the complainant and till date no Buyer's Agreement has been signed.
- c. That the complainant has paid total consideration amounting to Rs.87,65,400/- which was duly acknowledged by the respondent. This is a serious deficiency in services by the respondent. The only legal proof that the complainant possesses against the commercial unit booked by him in "VATIKA TOWER C" is a provisional allotment letter in respect of priority number P-479 which was issued to him on 18.03.2016. By virtue of said letter dated 18.03.2016, the respondent promised that the complainant would get **Rs.133.33/-** per sq. ft per month from the date of payment of total consideration by the complainant till the completion of the construction of the project and **Rs. 120/-** per sq. ft per month up to three years from the date of completion of construction of the project or the said unit is put on lease, whichever is earlier. It is pertinent to mention here that the respondent

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has paid assured return till October 2018 and thereafter stopped making payment without assigning any reasons whatever.

- d. That the complainant wrote to the respondent on various occasions requesting them to comply with terms and conditions of the said allotment, but the respondent miserably failed to fulfil its obligations. The respondent again tried to manipulate the complainant by sending an email dated 09.11.2018 stating that the assured return scheme is being suspended pursuant to recent amendment in SEBI and RERA Act. It is pertinent to mention that the said reliance of the respondent on the amendments to the SEBI Act is bad in law and they are just trying to run away from their obligations to pay the assured return as promised by them.
- e. That it has been almost 6 years from the date of booking of the property by the complainant and till date the construction of the property is not completed by the respondent.
- f. That the respondent addressed an email dated 21.06.2019 to the complainant and it is evident from this email that till 2019, there was no construction of "**TOWER C**" in which the complainant has been allotted the commercial unit. The respondent vide the said email also promised the complainant that they will reconcile the accounts of the complainant till July, 2019 and will make the pending payment towards assured return in 3 instalments within 90 days.
- g. That the complainant acting upon the promises and assurances made by the respondent in respect to payment of pending amount towards assured return, waited for some time. But when no sum was received by the complainant, the complainant sent an email dated 22.08.2019 to the respondent stating that no payment as promised by the respondent has been received.

- h. That as per section 19(2) of the Act, the allottees is entitled to "*know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale*". But no intimation about the progress was given to the complainant by the respondent. The money which the complainant had invested for the property in the project is now being enjoyed by the respondent. Further, the respondent had failed to register its project with the authority, which is direct contravention to the provisions of the Act.
- i. That the delay of project not only traumatized the complainant mentally but also caused financial hardships and losses over the course of time for which the respondent shall be liable to initiate refund of instalments paid along with interest for the delay in delivering the possession of the allotted unit and compensation for mental agony suffered by the complainant.

C. Relief sought by the complainant:

9. The complainant has sought following relief(s):
- i. Direct the respondent to refund the entire amount paid by the complainant along with interest as per the provisions of the Act.
 - ii. Litigation cost.
10. 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

11. By virtue of amended reply dated 26.07.2024, the respondent has contested the complaint on the following grounds:
- i. That the Complainant has erred gravely in filing the present Complaint and misconstrued the Provisions of the RERA Act. It is

imperative to bring the attention of the Hon'ble Authority that the Real Estate Regulatory Act, (RERA), 2016 was passed with the sole intention of regularisation of real estate Projects, Promoters and the dispute resolution between Builders and Buyers. That the same can be perused from the Objective of the said Act as published in the Official Gazette which states "*to protect the interest of **consumers** in the real estate sector*". By no stretch of imagination, it can be concluded that the complainant herein is not a "**Consumer**". It is a matter of fact, that the complainant is simply an investor who had approached the respondent for investment opportunities and for a steady rental income.

- ii. That in the year 2016, the complainant learned about the commercial project launched by the respondent titled as "**VATIKA TOWERS**" (herein referred to as '**Project**') situated at Sector 54, Gurugram and visited the office of the respondent to know the details of the said project. After having dire interest in the commercial project constructed by the respondent, the complainant vide Application Form had booked a unit in the aforesaid project for a total sale consideration of Rs. 84,00,000/- (Rupees Fifty Six Lakhs Only). It is evident that the complainant was aware of each and every terms of the Application Form and agreed to sign upon the same without any protest or demur. On 17.02.2016, an Application cum Allotment Letter was issued to the complainant for the Priority no. P-479, admeasuring to 750 Sq. ft. for a total sale consideration of Rs. 84,00,000/- in the aforesaid project. That the complainants were not allotted any unit vide Allotment Letter but only Priority No. P-479.



- iii. That the relief of assured return is beyond the jurisdiction of the Authority and the issue of assured return regarding jurisdiction is also pending before various courts. This Ld. Authority not being a civil court could not assert to itself the jurisdiction to grant specific performance of the "*Assured Returns*" which is a relief under the Specific Performance Act, 1963.
- iv. That the respondent cannot pay "Assured Returns" to the complainant by any stretch of imagination in the view of anomaly/confusion prevailing over the interpretation of definition of "Deposits" under the Banning of Unregulated Deposits Schemes Act, 2019 [BUDS ACT] and various promotional offers of the company offering discounts while promoting the sale of its properties. It is pertinent to note that none of the promotional offers qualify under Deposits or any other scheme as contemplated under any law, however, with introduction of BUDS Act and the anomaly in the definition thereof, the respondent company may be exposed to severe penalties and hence, the respondent had no other alternative but to stop payment of any return etc.
- v. That any orders or continuation of payment of any assured return or any directions thereof may be completely contrary to the subsequent act (BUDS Act) passed post the RERA Act, which is not violating the obligations or provisions of the RERA Act. Therefore, enforcing an obligation on a promoter against a Central Act which is specifically banned, may be contrary to the central legislation which has come up to stop the menace of unregulated deposit.

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- vi. That as per the agreement so signed and acknowledged by the complainant, the possession of the said unit was subject to the midway hindrances which were beyond the control of the respondent. And, in case the construction of the said commercial unit was delayed due to such 'Force Majeure' conditions, the respondent was entitled for extension of time period in handing over the possession.
- vii. That since starting the respondent herein was committed to complete the project and has invested each and every amount so received from the complainants towards the construction of the same. However, the construction was slightly delayed due to the reasons beyond the control of the respondent such as impact of GST, 2017, demonetisation, various orders of NGT imposing ban on the construction activity in NCR region, orders of Supreme Court and various other Courts/Tribunals/Authorities to curb pollution in Delhi/NCR Region, COVID-19 pandemic, etc.
- viii. That right from the date of booking of the commercial unit, the respondent herein had been paying the committed return of Rs.99,997.5/- every month to the complainant without any delay. It is to note that as on October, 2018, the complainant herein has already received an amount of Rs. 31,99,920/- as assured return as agreed by the respondent under the aforesaid agreement.
- ix. That it is evident that the entire case of the complainant is nothing but a web of lies, false and frivolous allegations made against the respondent. That the complainant had not approached the Ld. Authority with clean hands hence the present complaint deserves to be dismissed with heavy costs. That it is

brought to the knowledge of the Hon'ble Authority that the complainant is guilty of placing untrue facts and are attempting to hide the true colour of intention of the complainant.

12. 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

13. The respondent has raised preliminary objection regarding jurisdiction of authority to entertain the present complaint. 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

14. 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

15. 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.

16. 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.

F. Findings on the objections raised by the respondent:

F. I. Objection regarding the complainants being investor.

17. The respondent has taken a stand that the complainant is investor and not allottee/consumer. Therefore, they are not entitled to the protection of the Act and are not entitled to file the complaint under section 31 of the Act. The Authority observes that any aggrieved person can file a complaint against the promoter if the promoter contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the documents, it is revealed that the complainant is a buyer, and has paid total price of Rs. 87,65,400/- to the promoter towards purchase of a unit/space in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"

18. In view of above-mentioned definition of "allottee" as well as all the terms and conditions of the agreement, it is crystal clear that the complainants are allottees as the subject unit was allotted to them by the promoter. Further,

the concept of investor is not defined or referred in the Act. Moreover, 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) Lts. And anr.*** has also held that the concept of investor is not defined or referred in the Act. In view of the above, the contention of promoter that the allottees being investor are not entitled to protection of this Act stands rejected.

G. Findings on the relief sought by the complainant:

G.I Direct the respondent to refund the entire amount paid by the complainant along with interest as per the provisions of the Act.

19. In the present complaint, the complainant intends to withdraw from the project and is seeking return of the amount paid by him in respect of subject unit along with interest at the prescribed rate as provided under section 18(1) of the Act. Sec. 18(1) of the Act is reproduced below for ready reference.

"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 to 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:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

(Emphasis supplied)

20. On the basis of the documents placed on the record and submissions made by the parties, the authority observes that the complainant booked a

commercial unit in the project namely, "Vatika Tower", Sector 54, Gurugram, Haryana by submitting application form to the respondent company. Thereafter, the complainant paid a sum of Rs. 4,00,000/- and Rs.83,65,400/- on 12.01.2016 and 11.02.2016 respectively. Pursuance to the receipt of the aforesaid amount, the respondent issued a letter dated 18.03.2016 with the subject "Allocation of Priority Number" stating that the complainant has been allocated Priority Number P-479 for the said allotment of a unit admeasuring 750 sq. ft. The said letter dated 18.03.2016 also contained "The Broad Terms of Assured and Committed Return" and the relevant para of the letter is reproduced as under for ready reference:

*"1.That the payment of your assured return of **Rs 133.33/- per sq. ft. per month** on super area of said unit will commence only on receipt of % of Basic Sale Price by us from you, in terms of the payment plan/schedule of payments as agreed/opted by you and **will be paid till the completion of the construction of the building.** Post completion of construction of the building, you will be paid committed return of **Rs.120/- per sq. ft per month on super area for upto three years from the date of completion of construction of the building or the said unit is put on lease, whichever is earlier...."***
(Emphasis supplied)

21. In view of the aforesaid terms, the respondent was obligated to pay **Rs 133.33/- per sq. ft. per month** on super area of said unit w.e.f. 11.02.2016 (i.e., when the entire amount was paid by the complainant) till the completion of the construction of the building. It is matter of record that the respondent has paid Assured Return up to October 2018 as admitted by the respondent and has stopped paying the same thereafter. Thus, the respondent has failed to abide by the terms and conditions of the letter dated 18.03.2016. Moreover, despite receiving such a substantial amount from the complainant, the respondent has failed to execute builder buyer's agreement with the complainant herein till date. The respondent has not challenged the sanctity of the letter dated 18.03.2016 rather admitted its liability to pay assured return by virtue of the said letter. Moreover, the liability of the respondent to pay assured return is corroborated with the

conduct of the respondent that it has paid assured return to the complainant till October 2018. Further, vide order dated 24.01.2025, the respondent was directed to file status of the of the project as to whether OC in respect of the unit of the complainant has been received or not. However, till date no documents have been filed by the respondent. In absence of the same, it is presumed that the respondent has failed to obtain occupation certificate from the competent authority till date and possession of the subject unit has not been offered to the complainant till date. The construction of the project is not complete till date. The authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the unit which is allotted to them and for which they have paid a considerable amount of money towards the sale consideration. In view of the above-mentioned facts, the allottees intended to withdraw from the project and are well within their right to do the same in view of section 18(1) of the Act, 2016.

22. Moreover, 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."

23. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, 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 till date. Accordingly, the promoter is liable to the allottees, as the allottees wish to withdraw from the project, without prejudice to any other remedy available, to return the amount received by it in respect of the unit with interest at such rate as may be prescribed.
24. **Admissibility of refund along with prescribed rate of interest:** The complainant intends to withdraw from the project and is seeking refund of the amount paid by them in respect of the subject unit with interest at prescribed rate as provided under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

25. 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., 28.03.2025

is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.

27. During proceeding dated 24.01.2025, the counsel for the complainant requested for allowing refund of full amount deposited along with interest after adjustment of the assured return amount paid till 2018 as thereafter no AR is paid and hence, the allottee does not wish to continue with the project. The respondent has submitted that there has been no default on their part as it has duly paid assured returns to the complainants till the enactment of the BUDS Act after which it became illegal due to the legal position over unregulated deposits post the enactment of the BUDS Act. The authority observes that if the allottee does not wish to continue with the project, he is not entitled to the benefits of assured return as the purpose of assured return is to compensate the allottees for the amount paid by him in upfront and which is continued to be used by the promoter for the period specified in the agreement/MOU and the payment of assured return as well as the prescribed interest on the amount paid up would result in double benefit to the complainant and would not balance the equities between the parties.
28. In view of the above, the respondent/promoter is directed to refund the amount received by it from the complainant along with interest at the rate of 11.10% as prescribed under rule 15 of the Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Rules. Out of the amount so assessed, the amount paid by the respondent on account of assured return shall be deducted from the refundable amount.


H. Directions of the authority

29. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations

cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondent/promoter is directed to refund the amount received by it from the complainant along with interest at the rate of 11.10% as prescribed under rule 15 of the Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Rules.
 - ii. Out of the amount so assessed, the amount paid by the respondent on account of assured return shall be deducted from the refundable amount.
 - iii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
30. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order wherein details of amount paid by the complainant-allottee and amount of assured return received by the complainant is mentioned in each of the complaints.
31. The complaints stand disposed of.
32. Files be consigned to registry.

Dated: 28.03.2025

V.1 
(Vijay Kumar Goyal)

Member

Haryana Real Estate Regulatory
Authority, Gurugram