

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

**Complaint no.:** 810 of 2024  
**Complaint filed on:** 01.03.2024  
**Date of order:** 24.04.2025

Sonam Tashi  
**R/o-** Flat no. 37 D, Pocket C  
Sidharth Extension  
Jangpura, South Delhi -14

**Complainant**

Versus

Sunrays Heights Private Limited  
**Registered Office:** 211, 2<sup>nd</sup>  
Floor, Ansal Bhawan, 16  
Kasturba Gandhi Marg, New  
Delhi 110001.

**Respondent**

**CORAM:**

Shri Vijay Kumar Goyal

**Member**

**APPEARANCE:**

Sh. Vijay Pratap Singh (Advocate)  
Sh. Gagan Sharma (Advocate)

Complainant  
Respondent

**ORDER**

1. The present complaint has been filed by the complainant/allottee under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions to the allottee as per the agreement for sale executed inter-se them.

**A. Unit and Project related details.**

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

S.N.	Particulars	Details
1.	Name of the project	"Sixty-Three Golf Drive", Sector 63A Gurugram
2.	Nature of the project	Affordable group housing
3.	RERA registered or not registered	249 of 2017 dated 26.09.2017 valid up to 25.09.2022
4.	DTCP license	82 of 2014 dated 08.08.2014 valid up to 31.12.2023
5.	Unit no.	A47 (page 17 of complaint)
6.	Unit admeasuring	604.83 sq. ft. (carpet area) 95.10 sq. ft. (balcony area) (page 17 of complaint)
7.	Provision Allotment Letter	11.01.2016 (page 17 of complaint)
8.	Date of execution of Buyers agreement	19.04.2016 (page no. 20 of complaint)
9.	Possession clause	<p><b>4.1</b></p> <p><i>The Developer shall endeavor to handover possession of the said flat within a period of four years i.e. 48 months from the date of commencement of project, subject to force majeure &amp; timely payments by the allottee towards the sale consideration, in accordance with the terms as stipulated in the present agreement.</i></p> <p>(page 34 of complaint)</p> <p><i>*Note: As per affordable housing policy 2013 1(iv) All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licence shall not be renewed beyond the said 4 years from the date of commencement of project.</i></p>
10.	Date of building plan	10.03.2015





		(taken from another file CR/2814/2021 decided on 30.11.2023 of same project)
11.	Date of environment clearance	16.09.2016 (taken from another file CR/5238/2022 of same project)
12.	Due date of possession	16.03.2021 (Calculated from date of environment clearance i.e., 16.09.2016 being later, which comes out to be 16.09.2020 + 6 months as per <i>HARERA notification no. 9/3-2020 dated 26.05.2020 for projects having completion date on or after 25.03.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic</i> )
13.	Basic sale price	Rs.24,66,870/- (as per allotment letter page 17 of complaint)
14.	Amount paid by the complainant	Rs.22,45,862 /- (as per SOA page 30.09.2021)
15.	Final reminder	14.05.2024 (page 16 of reply)
16.	Newspaper Publication	06.04.2024 (Page 21 of reply)
17.	Occupation certificate	31.12.2024 (as available on other files of same project)
18.	Offer of possession	Not offered

**B. Facts of the complaint.**

3. The complainant has made the following submissions: -

- I. That the respondent made an advertisement in the newspaper 'Hindustan Times' with regard to the location, specification and amenities and time of completion of the project under the name "Affordable Group Housing Colony known as "63 GOLF DRIVE" floated under Haryana Government's Affordable Housing Policy, located at Sector 63A, Gurgaon, Haryana. The complainant approached to the respondent for booking of 2-BHK Flat vide application bearing no SGD(B)1883.
- II. That the draw of the said project was held, wherein the complainant was allotted a unit no. A47 at Tower A admeasuring carpet area of 604.83 sq. ft and balcony area of 95.10 sq. ft.



- III. Further, the apartment buyer's agreement was executed between the complainant and the respondent on dated 19.04.2016. The total consideration of the flat was Rs.24,66,870/- (exclusive of tax and other charges). The complainant has paid Rs.22,45,860/- (inclusive of tax and other charges) against demand of Rs.22,45,860/- from the builder till the date of filing of the present case as and when the demand was raised by the respondent in time bound manner.
- IV. That the respondent is hereby threatening and pressurizing the complainant that he has to make the payment as per the affordable housing policy without even raising the demand letters by the respondent side as per the agreed terms of BBA, without considering the amendment with regard to the time linked plan substituted to construction linked plan amended in the said policy from month November 2021 onward, in other word the respondent is trying to pressurise the complainant align the complainant in cancellation pool not even caring the hard fact that as per the BBA terms the project is already delayed by more than 3 year from the date of promise.
- V. That as per the slow pace of construction status and absence of basic amenities, respondents are delayed heavily in giving possession. The respondent is always making wrong interpretation of the Haryana affordable housing policy and threatening the complainant to cancel the unit, treating the customer as a default customer without raising the last demand order, under the plea that the complainant is supposed to make payment without raising any demand letter to the buyer.
- VI. That keeping in view the snail-paced work at the construction site and half-hearted promises of the Respondent, the inconsistent and lethargic manner, in which the respondent conducted its business and their lack of commitment to completing the project on time, has caused the Complainant great financial and emotional loss.



VII. That due to the malafide intentions of the respondent and non-delivery of the unit the complainant in time has accrued huge losses on account of the career plans of their family member and themselves and the future of the complainant and their family are rendered dark as the planning with which the complainant invested her hard-earned monies have resulted in subzero results and borne thorns instead of bearing fruits.

**C. Relief sought by the complainant**

4. The complainant has sought following relief:

- i. Direct the respondent to pay interest @ 8.65% per annum as per prevailing MCLR plus 2%, on paid amount of Rs.22,45,862/- for delay period starting from 15.03.2021 till actual handover of physical possession by the respondent to complainant.
- ii. Direct the respondent to allow the complainant or his authorized person to visit the site to inspect his allotted unit and project in totality on his behalf. As such, the respondent is not allowing any of the buyers to enter the premises of the said project to inspect the latest development made in the said project.
- iii. Direct the respondent to raise the last demand in order to make the payment.
- iv. Direct the respondent to get the copy of the application for Occupancy Certificate, as such the respondent claims that they have applied for the OC.

**D. Reply by the respondent.**

5. The respondent has contested the complaint on the following grounds.

- I. That the complaint filed by the complainant is abuse and misuse of process of law and the reliefs claimed as sought for, are liable to be dismissed. That the complainant has miserably and wilfully failed to make payments in time or in accordance with the terms of the builder buyer's agreement. The complainant has frustrated the terms and conditions of the builder buyer's agreement, which were the essence of the arrangement between the parties and therefore, the complainant now cannot invoke a particular clause, and therefore, the complaint is not maintainable and should be rejected at the threshold. The timely payment was the essence to ensure timely completion of construction and handover of the apartments as per the terms of the





policy. The 'Pith & Substance' of the Affordable Housing Policy is clearly captured in its essence, wherein the 'Intended Beneficiaries' were given Thirty-Six (36) months to pay the entire cost of the apartment (25% upfront and rest 75% in 6 equal monthly instalments), against which the Developer (respondent) was provided with the timeline of Forty-Eight (48) months to complete the project subject to timely payment.

- II. That it has been categorically agreed between the parties that subject to the complainant having complied with all the terms and conditions of the buyer's agreement and not being in default under any of the provisions of the said agreement and having complied with all provisions, formalities, documentation etc., the developer contemplates to complete construction of the project within a period of 48 (Forty Eight) months from the date of commencement of project subject to force majeure and timely payment by the allottee toward the sale consideration.
- III. That the present complaint is liable to be dismissed on the sole ground that the complainant has concealed the true and necessary facts from the Authority. The complainant is chronic defaulter in timely payment of the instalments as per the payment plan annexed with the builder buyer agreement.
- IV. That respondent has sent many payments reminder letter on dated - 14.03.2024 and email, on 12.04.2024 finally respondent published in NEWS paper AAJ SAMAJ on 06.04.2024 for cancellation of many units of payment defaulters in fact respondent finally again published to clear dues till 20.04.2024 but all in vain at last respondent final sent a letter to complainant on 22.04.2024 to collect his payment but thereafter the complainant never approached the respondent to restore the allotment and made payment.
- V. That despite many undulations such as Covid (loss of 6 months), GRAP Restrictions and most importantly non-compliance on the part of the



'Intended Beneficiaries'/allottees/ complainant(s); i.e. non-payment, the respondent has still fulfilled our obligations in terms of completing the construction, and has already applied for the OC in the month of December 2023; even whilst facing the disruption in supply chain, migration of labourers due to Covid, and without seeking any escalation linked to escalated cost of construction due to inflation. Further, it had been also agreed and accepted that in case the delay is due to the reasons beyond the control of the Company then the company shall be automatically entitled to the extension of time for delivery of possession.

- VI. That as per law of Affordable housing policy whom can apply this scheme only who have no house in their name and his spouse but, in this case, applicant is trying to put the curtain on this fact. Because complainant has grabbed a shelter of a needy person due to field the Affordable housing scheme because complainant has his own house and enjoying his life in a highly expensive society of U.P.
- VII. That it is crystal and clear case of payment defaulter and complainant want to ruin and wipe out the images of respondent in society, and want to put the curtain her illegal act and conduct.

6. All other averments made in the complaint were denied in toto.
7. 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.
8. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions oral as well as written (filed by the complainant) made by the parties.

**E. Jurisdiction of the authority.**



9. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

**E. I Territorial jurisdiction**

10. 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**

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

**Section 11(4)(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.*

12. 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 obligations by the promoter leaving aside the compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

**F. Findings on the objection raised by the respondent.**

**F.I Objection regarding force majeure conditions.**

13. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as construction ban, orders passed by various Authorities including orders passed by National Green



Tribunal (hereinafter, referred as NGT), lockdown due to outbreak of Covid-19 pandemic.

14. The Authority, after careful consideration, finds that in the present case, the project falls under the Affordable Housing Policy, 2013, which contains specific stipulations regarding the completion of the project. As per Clause 1(iv) of the said Policy:

*"All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the 'date of commencement of project' for the purpose of this policy. The licenses shall not be renewed beyond the said 4-year period from the date of commencement of project."*

15. The respondent/promoter, having applied for the license under the Affordable Housing Policy, was fully aware of these terms and is bound by them. The Authority notes that the construction ban cited by the respondent, was of a short duration and is a recurring annual event, usually implemented by the National Green Tribunal (NGT) in November. These are known occurring events, and the respondent being a promoter, should have accounted for it during project planning. Hence, all the pleas advanced in this regard are devoid of merits..
16. In accordance with the said policy the respondent was obligated to handover the possession of the allotted unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. In the present case, the date of approval of the building plan is 10.03.2015 and environment clearance is 16.09.2016. The due date is calculated from the date of environment clearance being later, so, the due date of subject unit comes out to be 16.09.2020. Further **as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due date on or after 25.03.2020.** The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 16.09.2020 i.e., after 25.03.2020. Therefore, an extension of 6





months is to be given over and above the due date for handing over possession *in view of notification no. 9/3-2020 dated 26.05.2020*, on account of force majeure conditions due to the outbreak of Covid-19 pandemic. So, in such case the due date for handing over of possession comes out to 16.03.2021.

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

**G.I Direct the respondent to pay interest @ 8.65% per annum as per prevailing MCLR plus 2%, on paid amount of Rs.22,45,862/- for delay period starting from 15.03.2021 till actual handover of physical possession by the respondent to complainant.**

**G.II Direct the respondent to allow the complainant or his authorized person to visit the site to inspect his allotted unit and project in totality on his behalf. As such, the respondent is not allowing any of the buyers to enter the premises of the said project to inspect the latest development made in the said project.**

17. The complainant was allotted unit no. A-47, Tower-A admeasuring carpet area of 604.83 sq. ft. and a balcony area of 95.10 sq. ft., in the respondent's project at basic sale price of Rs.24,66,870/- under the Affordable Group Housing Policy 2013. A buyer's agreement was executed between the parties on 19.04.2016. The possession of the unit was to be offered within 4 years from approval of building plans (10.03.2015) or from the date of environment clearance (16.09.2016), whichever is later, which comes out to be 16.09.2020 calculated from the date of environment clearance being later. Further, as per *HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 06.09.2020 i.e., after 25.03.2020.* Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. Therefore, the due date of handing over possession comes out to be 16.03.2021. The complainant paid a sum of Rs.22,45,862/- towards the subject unit.



18. The complainant filed an application seeking direction to quash the letter dated 14.03.2024 issued by the respondent as "final reminder". A final reminder letter dated 14.03.2024 was being sent to the complainant wherein it was specified that in case the complainant/allottee fails to make a payment of Rs.6,06,227/- within a period of 15 days of the said reminder, it shall result in automatic cancellation of the allotment without any further notice of communication by the respondent. Thereafter, the respondent made a publication in the newspaper "AAJ SAMAJ" on 06.04.2024 as required under Affordable Group Housing Policy, 2013.
19. The foremost question which arises before the authority for the purpose of adjudication is that "whether the said cancellation is a valid or not in the eyes of law?"
20. The Authority notes that the complainant has paid approx. 91% of the sale consideration, and the respondent was required to hand over the project by 16.09.2020 under the Affordable Housing Policy, 2013, excluding the COVID-19 grace period. Even with a six-month grace period in lieu of Covid-19 pandemic to 16.03.2021, the respondent failed to complete the project. More than three years later, the respondent obtained the occupation certificate from the competent authority on 31.12.2024. The interest accrued during the delay period significantly reduces the amount payable by the complainant. Upon adjustment of this interest, the respondent would, in fact be liable to pay the complainant. Despite this, the respondent chose to cancel the unit on grounds of non-payment, while neglecting its own obligations. Such actions by the respondent displays bad faith, as it failed to adjust the delay period interest.
21. Additionally, as per Clause 9.2 of the Agreement for Sale, annexed as Annexure A to the Rules, 2017, the allottee has the right to stop making further payments if the promoter defaults on its obligations. The relevant portion is reproduced below:



**9.2 In case of Default by Promoter under the conditions listed above, Allottee is entitled to the following:**

- (ii) Stop making further payments to Promoter as demanded by the Promoter. If the Allottee stops making payments, the Promoter shall correct the situation by completing the construction/development milestones and only thereafter the Allottee be required to make the next payment without any interest for the period of such delay; or.....

**(Emphasis**

**Supplied)**

22. In the present case, the promoter was obligated to complete the construction within four years from the date of either the environment clearance or the building plan approval, whichever was later, i.e., by 16.09.2020. However, the promoter failed to complete the project within this timeline. Even after granting a six-month extension due to the Covid-19 pandemic, extending the deadline to 16.03.2021, the promoter did not complete the construction. Thus, in accordance with Clause 9.2, the allottee was fully justified in stopping further payments.

23. Considering the above findings, the cancellation of the allotment is deemed invalid and is hereby quashed as issued in bad faith. Thus, the respondent is directed to reinstate the unit allotted to the complainant.

24. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to Section 18(1) of the Act. Section 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, —*

.....

*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."*

25. Clause 4 of the buyer's agreement provides for time period for handing over of possession and is reproduced below:

**"4-Possession**





***4.1 The Developer shall endeavour to handover possession of the said flat within a period of four years i.e. 48 months from the date of commencement of project, subject to force majeure & timely payments by the allottee towards the sale consideration, in accordance with the terms as stipulated in the present agreement."***

26. The authority has gone through the possession clause of the agreement. At the outset, it is relevant to comment on the pre-set possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement and the complainant not being in default under any provision of this agreement and in compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions is not only vague and uncertain but so heavily loaded in favour 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.
27. The buyer's agreement is a pivotal legal document which should ensure that the rights and liabilities of both builder/promoter and buyer/allottee are protected candidly. The apartment buyer's agreement lays down the terms that govern the sale of different kinds of properties like residentials, commercials etc. between the buyer and builder. It is in the interest of both the parties to have a well-drafted apartment buyer's agreement which would thereby protect the rights of both the builders and buyers in the unfortunate event of a dispute that may arise. It should be drafted in the simple and unambiguous language which may be understood by a common man with an ordinary educational background. It should contain a provision with regard to stipulated time of delivery of possession of the apartment, plot or building, as the case may be and the rights of the buyer/allottees in case of delay in possession of the unit.



**28. Admissibility of delay possession charges at prescribed rate of interest:**

The complainant is seeking delay possession charges at the prescribed rate. However, proviso to Section 18 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 possession, at such rate as may be prescribed and it has been prescribed under Rule 15 of the Rules, *ibid*. 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."*

29. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid*, 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.

30. 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., 24.04.2025 is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.

31. The definition of term 'interest' as defined under Section 2(z) 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;"*

32. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10 % by the respondent/promoter which is the same as is being granted to them in case of delayed possession charges.

33. On consideration of the documents available on record and submissions made regarding contravention of 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 4 of the buyer's agreement, the possession of the subject apartment was to be delivered within 4 years from the date of commencement of project (as per clause 1(iv) of Affordable Housing Policy, 2013, all such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy). In the present case, the date of approval of building plans is 10.03.2015, and the date of environment clearance is not given, so the date is taken from another file of the same project i.e., 16.09.2016. The date of environment clearance being later, the due date of handing over of possession is reckoned from the date of environment clearance. Therefore, the due date of handing over of possession comes out to be 16.09.2020. Further as elaborated above an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. As such the due date for handing over of possession comes out to be 16.03.2021. Further, a relief of 6



months will be given to the allottee that no interest shall be charged from the complainant-allottee for delay if any between 6 months Covid period from 01.03.2020 to 01.09.2020.

34. It is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement to hand over the possession within the stipulated period. 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 to delay possession charges at rate of the prescribed interest @ 11.10% p.a. w.e.f. 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.
35. Further, as per Section 17(1) of the Act of 2016, the respondent is obligated to handover physical possession of the subject unit to the complainant. Therefore, the respondent shall handover the possession of the allotted unit as per specification of the buyer's agreement executed between the parties.

**G.III Direct the respondent to raise the last demand in order to make the payment.**

36. The respondent/promoter shall not charge anything from the complainant which is not the part of the builder buyer agreement and under the Affordable Housing Policy, 2013.
37. Perusal of case file reveals that the demand raised by the respondent via letter dated 14.03.2024 was towards payment of interest on delay payments. Therefore, the rate of interest chargeable from the allottee by the promoter, in case of default, if any shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per Section 2(z) of the Act.



38. Also, the respondent is directed to raise last demand only in accordance with the builder buyer agreement.

**G.IV Direct the respondent to get the copy of the application for Occupancy Certificate, as such the respondent claims that they have applied for the OC.**

39. As per the records submitted by the promoter in other matters, the Authority finds that the respondent has obtained the occupation certificate for the said project on 31.12.2024. Hence, no fruitful outcome would result from directing the respondent to supply a copy of the application for the occupation certificate submitted by the promoter in the concerned Authority to the complainant. Therefore, no direction to this effect is required.

40. As per section 11(4)(b) of Act of 2016, the respondent/builder is under an obligation to supply a copy of the occupation certificate/completion certificate or both to the complainants/allottees. The relevant part of section 11 of the Act of 2016 is reproduced as hereunder: -

*"11(4) (b) The promoter shall be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be."*

41. Even otherwise, it being a public document, the allottees can have access to the it from the website of DTCP, Haryana.

**H. Directions of the authority:**

42. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligation cast upon the

A✓



promoter as per the function entrusted to the authority under Section 34(f) of the act of 2016:

- I. The cancellation is hereby set aside being bad in the eyes of law. The respondent is directed to reinstate the subject unit. Further, the respondent is directed to pay interest on the amount paid by the complainant i.e. Rs.22,45,862/- at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession whichever is earlier.
- II. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10<sup>th</sup> of the subsequent month as per Rule 16(2) of the Rules, *ibid*.
- III. The respondent is directed to issue a revised account statement after adjustment of delay possession charges and thereafter the complainants are directed to pay outstanding dues if any.
- IV. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per Section 2(z) of the Act. Further no interest shall be charged from complainant-allottee for delay if any between 6 months Covid period from 01.03.2020 to 01.09.2020.
- V. The respondent is directed to handover the physical possession of the allotted unit to the complainant complete in all aspects of buyer's agreement.



VI. The respondent shall not charge anything from the complainant which is not part of the agreement.

43. Complaint stands disposed of.

44. File be consigned to registry.

Dated: 24.04.2025



**HARERA**  
**GURUGRAM**

  
(Vijay Kumar Goyal)

Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram