

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

Complaint no.:
Order pronounced on:

170 of 2024
07.05.2025

Nisha Gupta
R/o: - A/2/315, Block-A, Rohini,
Sector-8, Delhi.

Complainant

Versus

1. M/s Ansal Housing & Construction Ltd.
Regd. office: 110, Indra Prakash Building,
21, Barakhamba Road, new Delhi-11001.

**Respondent
no.1**

2. M/s. Identity Buildtech pvt Ltd.
Regd office: B/1/1345, Vasant kunj, New Delhi-110070.

**Respondent
no.2**

CORAM:
Shri Ashok Sangwan

Member

APPEARANCE:
Sachin Yadav (Advocate)
Amandeep Kadyan (Advocate)

**Complainant
Respondents**

ORDER

1. This complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section

11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project details

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

S.No.	Particulars	Details
1.	Name of project	Ansals Highland Park
2.	Nature of project	Group Housing
3.	Location of project	Sector-103, Gurugram, Haryana.
4.	Hrera Registered	Registered Vide registration no. 16 of 2019 Dated-01.04.2019
5.	DTCP License	License no. 32 of 2012
6.	Unit no.	PERTH-0703, Type-3BHK-3T (As on page no. 26 of complaint)
7.	Unit Area	1762 sq.ft. [Sale Area] (As on page no. 26 of complaint)
8.	Apartment Agreement [with original allottee]	Buyer's 15.05.2013 (As on page no. 23 of complaint)
9.	Possession clause	Clause 31. <i>The Developer shall offer possession</i>

		<p><i>of the Unit any time, within a period of 48 months from the date of execution of Agreement or within 48 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later subject to timely payment of all the dues by buyer and subject to force-majeure circumstances as described in clause 32. Further, there shall be a grace period of 6 months allowed to the Developer over and above the period of 48 months as above in offering the possession of the Unit.</i></p> <p><i>[Emphasis supplied]</i></p>
10.	Due date of possession	15.11.2017 [Calculated 48 months from date of execution of agreement + 6 months grace period]
11.	Total sale consideration	Rs.68,46,711/- (As on page no. 26 of complaint)
12.	Amount paid	Rs.51,04,413/- (As per customer ledger dated 29.09.2021 on page no. 45 of complaint)
13.	Occupation certificate	Not obtained
14.	Offer of possession	Not offered

B. Fact of the complaint

3. The complainant has made the following submissions: -

- I. That the respondent no.1 Ansal Housing & Construction Limited and collaborator presently own and possess large land holding situated in Sector-103, Gurugram. The respondent planned to develop a residential apartment in a group housing complex named as "Ansals Highland Park".
- II. That hinging upon the reputation of the respondent as one of the best real estate companies and believing the representations/assurances and warranties to be true, the complainant agreed to purchase a residential apartment in the project. The previous owner Mr. K.R. Ghai booked the subject apartment on 16.05.2012 by paying the booking amount of Rs.3,24,793/- which was duly endorsed in favor of the complainant and the complainant had paid total of Rs.51,04,413/- to respondent no.2 i.e., M/s Identity Builtech Pvt. Limited which is wholly owned subsidiary of the respondent till date. This is an admitted fact as in the letter dated 27.06.2020 issued by the respondent to the complainant. This said letter was pertaining to the extension of time and third party funding of the project.
- III. That the Apartment Buyer's Agreement was executed with the original allottee on 15.05.2013 and the same was endorsed in favor of the complainant. As per Clause 31 of the Apartment Buyer's Agreement, the respondent agreed to handover possession of the unit no. 'PERTH -0703' on or before 15.11.2017 including the grace period of 6 months.

- IV. That the complainant somewhere in March 2014 tried to contact the respondent and enquire about the status of completion of the project in dispute but he was not able to receive any information from them.
- V. That the complainant came to know that the construction work of the project has been stopped, he was shocked and decided to visit the office of the respondent.
- VI. That the officials of the respondent assured the complainant that the delivery of the possession shall be as per the terms and conditions of the Builder Buyer's Agreement and that the complainant need not to worry at all.
- VII. That the complainant again tried to contact the respondent in every way of communication but all in vain. No heed was paid to the concerns of the complainant. The complainant kept chasing the respondent till March 2016 but no satisfactory response was ever given by the respondent.
- VIII. That as per Clause 31 of the Apartment Buyers Agreement dated 15.05.2013, the respondent contemplates to complete construction of the said building/said Apartment within a period of 3 years from the date of the execution of the said Apartment Buyers Agreement. Further, 6 months of grace period was agreed for the purpose of fit outs and a further period of 6 months on account of grace over. Hence, the due date of handing over of the possession of the said apartment was on or before 15.11.2017.
- IX. That it was in the year 2018 that the complainant visited the project site to check the status of her tower, she was left in utter shock when she saw that the construction of the said tower has not been

completed till that day. When the complainant approached the respondent, she was not allowed to meet any of the officials of the respondent and was sent back.

- X. That, 15.11.2017 was the due date of possession as per the possession clause of the Apartment Buyers Agreement but shockingly the construction work of the tower in which the unit of the complainant is located has not been completed yet. It has been more than 10 years from date of signing of the Apartment Buyers Agreement and the construction of the project has not been completed till date despite payment of substantial amount by complainant.
- XI. That the respondent has failed to register the said project in dispute under RERA and committed grave miscarriage of law on its own part. Without prejudice, it can be stated that there has been no intentional delay in payment from the end of the complainant and the complainant has made numerous representations to the respondent and has been constantly following up through personal messages, letters and calls but the respondents have not given any satisfactory response and no clarity regarding the date of delivery of the unit as per the Apartment Buyers Agreement.
- XII. That the complainant as a vigilant allottee kept on following the updates on the residential project in the present case. That, in the year 2019, the complainant visited the project site, and to the utter shock and surprise of the complainant the project was still under construction and the tower in which the unit was not completed and delay was caused by the respondent.

XIII. That the complainant is going through major financial crunch and has invested all her hard-earned money in the project but the concerned unit has not been constructed and delivered to the complainant till date despite passing of more than 6.5 years from the due date of possession.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - i. Direct the respondent to refund the payment made in lieu of unit alongwith interest.
 - ii. Direct the respondent to pay Rs.20,00,000/- for causing mental agony and harassment to the complainant for misrepresentation and adopting unfair trade practice.
5. On 13.03.2024, the memorandum of appearance was filed on behalf of respondent no.1 and the counsel requested for an adjournment to file reply. None appeared on behalf of the respondent no.2. The matter was fixed for hearing before the Authority on 08.05.2024 with directions to both the respondents to file reply in the registry within a period of three weeks. On 08.05.2024, the counsel for the respondent appeared and submitted that the copy of the reply has been submitted to the complainant through Email and the same shall be submitted in the registry today itself. On 22.01.2025, the matter was adjourned on the request of the counsel for the complainant and was fixed for hearing on 26.03.2025. vide proceedings dated 26.03.2025, the proxy counsel for respondent no.1 appeared and requested for a shot adjournment as the

main arguing counsel was not available. None appeared on behalf of the respondent no.2 and respondent no. 2 was proceeded exparte. But, after going through the reply submitted by the counsel for respondent, the Authority observed that the reply was jointly filed by respondent no.1 and respondent no.2 and also the same is mentioned clearly in the vakalatnama annexed with the reply that the counsel is engaged for both respondent no.1 and respondent no.2. Thus, the Authority is of the view that the order dated 26.03.2025, proceeding exparte against the respondent no.2 was inadvertently recorded and the same is being recalled.

D. Reply filed by the respondents

6. The respondents have submitted the following by way of written reply:

- I. That the respondents are developers and have built multiple residential and commercial buildings within Delhi/NCR. That the complainants approached the respondents for booking a unit bearing no. PERTH-703 in the project namely "Ansals Highlands Park", situated at Sector 103, Gurugram. Upon the satisfaction of the complainant regarding inspection of the site, title, location plans, etc. a Builder Buyer Agreement dated 15.05.2013 was signed between the parties.
- II. That the present dispute cannot be governed by the Act, 2016 because of the fact that the Builder Buyer Agreement was signed between the complainant and the respondent in the year 2013. The regulations at the concerned time period would regulate the project and not a subsequent legislation. It is further submitted that Parliament would not make the

operation of a statute retrospective in effect.

- III. That the complainant specifically admits to not paying necessary dues or the full payment as agreed upon under the Builder Buyer Agreement. It is submitted that the complainant cannot be allowed to take advantage of his own wrong.
- IV. That the complainant has admittedly filed the complaint in the year 2023 and the cause of action accrue 15.05.2017 as per the complainant itself. Therefore, it is submitted that the complaint cannot be filed before the Authority as the same is barred by limitation.
- V. That even if the complaint is admitted to be true and correct, the agreement which was signed in the year 2013 without coercion or any duress cannot be called in question today. It is submitted that the builder buyer of the said agreement provides for Rs. 5/ sq foot per month on super area for any delay in offering possession of the unit as mentioned in Clause 31 of the agreement. Therefore, the complainant will be entitled to invoke the said clause and is barred from approaching the Authority in order to alter the penalty clause by virtue of this complaint more than 10 years after it was agreed upon by both parties.
- VI. That the respondents had in due course of time obtained all necessary approvals from the concerned authorities. It is submitted that the permit for environmental clearances for proposed group housing project for Sector 103, Gurugram, Haryana on 20.02.2015. Similarly, the approval for digging the foundation and basement was obtained and sanctions from the department of mines and geology were obtained in 2012. Thus, the respondents have in a timely and prompt manner ensured that the

requisite compliances be obtained and thus, cannot be faulted on giving delayed possession to the complainant.

- VII. That the respondents have adequately explained the delay. That the delay has been occasioned on account of things beyond the control of the respondent. It is further submitted that the builder buyer agreement provides for such eventualities and the cause for delay is completely covered in the said clause. The respondent ought to have complied with the orders of the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 20032 of 2008, dated 16.07.2012, 31.07.2012, 21.08.2012. The said orders banned the extraction of water which is the backbone of the construction process. Similarly, the complaint itself reveals that the correspondence from the respondents specifies force majeure and the orders of the Hon'ble NGT prohibiting construction in and around Delhi and the COVID -19 pandemic among others as the causes which contributed to the stalling of the project at crucial junctures for considerable spells.
- VIII. That the complainant and the respondents admittedly entered into an agreement which provides for the event of delayed possession. It is submitted that clause 32 of the agreement is clear that no compensation can be sought by the complainant/prospective buyer in the event in delay in possession.
6. Copies of all the relevant documents have been filed and placed on the record. The authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents as well as written submissions made by the complainants.

E. Jurisdiction of the authority

7. 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

8. 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

9. 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) 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.

10. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Findings on the objections raised by the respondents:

F.1. Objection regarding Force majeure circumstances:

11. The respondents have raised the contention that the construction of the tower in which the unit of the complainant is situated, has been delayed due to force majeure circumstances such as Covid-19 which lead to a nationwide lockdown, orders of Hon'ble High Court of Haryana and Punjab banning the construction work and extraction of water etc, demonetisation, Orders of Hon'ble High Court of Delhi regarding stoppage of construction work in or around Delhi.
12. As far as delay in construction due to outbreak of Covid-19 is concerned, Hon'ble Delhi High Court in case titled as ***M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I) (Comm.) no. 88/ 2020 and I.As 3696-3697/2020*** dated 29.05.2020 has observed that-

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself."

13. The Apartment Buyer's Agreement has been executed between the erstwhile allottee and the respondents on 15.05.2013 in respect of unit bearing no. PERTH-0703, Type-3BHK-3T, admeasuring an area of 1762 sq.ft. As per clause 31 of the said agreement dated 15.05.2013, the respondent undertook to offer possession of the unit to the allottee within a period of 48 months from the date of execution of the agreement or within 48 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later. Further, a grace period of 6 months was also agreed between the parties over and above the period of 48 months. The due date is being calculated from the date of execution of the agreement. Thus, 48 months from the date of execution of the agreement comes out to be 15.05.2017 and further a grace period of 6 months, is granted in favour of the respondents. Thus, the due date of possession comes out to be 15.11.2017. The respondent is claiming benefit of lockdown which came into effect on 23.03.2020 which is much after the due date of possession. Therefore, the Authority is of the view that the outbreak of the pandemic does not fall under the force majeure circumstances in the present matter and hence the benefit of Covid-19 cannot be granted to the respondent. Further, the other force majeure conditions mentioned by the respondents for example orders of Hon'ble High Court of Haryana and Punjab and Hon'ble High Court of Punjab, Hon'ble NGT banning the construction

activities, extraction of water etc were for a short period of time and also matters happening on regular basis and the respondents are very much aware of the happening of these circumstances. Also, a grace period of 6 months has already been granted in favour of the respondents. Though there have been various orders issued to curb the environment pollution, but these were for a short period of time. So, the circumstances/conditions after that period can't be taken into consideration for delay in completion of the project. Thus, the Authority is of the view that no relief w.r.t this can be granted to the respondent.

F.II Objection regarding the complaint being barred by limitation.

14. The respondents have raised an objection that the complaint has been filed in the year 2023 and the cause of action arose in 15.05.2017 as per the complaint itself and the same is barred by limitation.
15. The Authority observes that the original allottees booked a unit in the project "Ansals Highland Park" situated at Sector-103, Gurugram being developed by the respondents. An Apartment Buyer's Agreement has been executed between the original allottee and the respondents on 15.05.2013 and the same was subsequently endorsed in favour of the complainant. As per clause 31 of the Agreement dated 15.05.2013, the due date of offer of possession of the unit to the complainant was 15.11.2017. The respondents have failed to obtain the Occupation Certificate from the concerned authorities till date, despite a lapse of more than seven years. The sale consideration of the unit is

Rs.68,46,711/- out of which the complainant has till date paid an amount of Rs.51,04,413.88/-. The unit is still incomplete even after a delay of more than 7 years from the due date of possession. The cause of action of the complainant is continuing and the complaint is not barred by limitation.

F.III. Objection regarding jurisdiction of authority w.r.t. buyer's agreement executed prior to coming into force of the Act.

16. One of the contentions of the respondents is that the Authority is deprived of the jurisdiction to go into the interpretation of, or rights of the parties inter-se in accordance with the buyer's agreement executed between the parties. The respondents further submitted that the provisions of the Act are not retrospective in nature and the provisions of the Act cannot undo or modify the terms of buyer's agreement duly executed prior to coming into effect of the Act.
17. The Authority is of the view that the Act nowhere provides, nor can be so construed, that all previous agreements will be re-written after coming into force of the Act. Therefore, the provisions of the Act, rules and agreement have to be read and interpreted harmoniously. However, if the Act has provided for dealing with certain specific provisions/situations in a specific/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. Numerous provisions of the Act save the provisions of the agreements made

between the buyers and sellers. The said contention has been upheld in the landmark judgment of Hon'ble Bombay High Court in **Neelkamal Realtors Suburban Pvt. Ltd. Vs. UOI and others. (W.P 2737 of 2017)** which provides as under:

"119. Under the provisions of Section 18, the delay in handing over the possession would be counted from the date mentioned in the agreement for sale entered into by the promoter and the allottee prior to its registration under RERA. Under the provisions of RERA, the promoter is given a facility to revise the date of completion of project and declare the same under Section 4. The RERA does not contemplate rewriting of contract between the flat purchaser and the promoter....."

122. We have already discussed that above stated provisions of the RERA are not retrospective in nature. They may to some extent be having a retroactive or quasi retroactive effect but then on that ground the validity of the provisions of RERA cannot be challenged. The Parliament is competent enough to legislate law having retrospective or retroactive effect. A law can be even framed to affect subsisting / existing contractual rights between the parties in the larger public interest. We do not have any doubt in our mind that the RERA has been framed in the larger public interest after a thorough study and discussion made at the highest level by the Standing Committee and Select Committee, which submitted its detailed reports."

18. Also, in appeal no. 173 of 2019 titled as **Magic Eye Developer Pvt. Ltd. Vs. Ishwer Singh Dahiya** dated 17.12.2019, the Haryana Real Estate Appellate Tribunal has observed-

"34. Thus, keeping in view our aforesaid discussion, we are of the considered opinion that the provisions of the Act are quasi retroactive to some extent in operation and will be applicable to the agreements for sale entered into even prior to coming into operation of the Act where the transaction are still in the process of completion. Hence in case of delay in the offer/delivery of possession as per the terms and conditions of the agreement for sale the allottee shall be entitled to the interest/delayed possession charges on the reasonable rate of interest as provided in Rule 15 of the rules and one sided, unfair and unreasonable rate of

compensation mentioned in the agreement for sale is liable to be ignored."

G. Findings on the relief sought by the complainant:

G.I. Direct the respondent to refund the payment made in lieu of flat till date alongwith interest till the date of realization of the amount.

19. In the present case, the complainant intend to withdraw from the project and is seeking return of the amount paid by her 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:"

20. **Date of possession:** In the present case, the original allottee Mr. K.R. Ghai booked an apartment in the project "Ansals Highland Park" situated in Sector-103, Gurugram, and pursuant to that the Apartment Buyer's Agreement was executed between the original allottee and the respondents on 15.05.2013. Subsequently, the unit was endorsed in favour of the complainant. The sale consideration of the unit was Rs.68,46,711/- as agreed between the parties and the complainant has paid an amount of Rs.51,04,413/-. As per Clause 31 of the Agreement, the unit was to be delivered to the complainant within 48 months from

the date of execution of the agreement or 48 months from the date of obtaining all the required sanctions and approvals, whichever is later, with an additional 6-month grace period. Therefore, the due date for the handover of possession was 15.11.2017. The respondents have failed to obtain Occupation Certificate from the competent authorities till date.

- 21. Admissibility of refund along with prescribed rate of interest:** The complainant is seeking refund of the amount paid by them at the prescribed rate of interest. However, the allottees intends to withdraw from the project and are 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.

- 22.** 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.
- 23.** 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., 07.05.2025 is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.

24. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

25. In the present complaint, the original allottee booked a unit in the project "Ansals Highland Park" and a unit bearing no. PERTH-0703 was allotted to the erstwhile allottee. Subsequently, an Apartment Buyer's Agreement was executed between the erstwhile allottee and the respondent on 15.05.2013. The unit was endorsed in favour of the complainant and the complainant paid an amount of Rs.51,04,413/- against the total sale consideration of Rs.68,46,711/-. According to Clause 31 of the Agreement dated 15.05.2013, the possession of the unit was to be handed over to the complainant within a period of 48 months from the date of execution of the Agreement or 48 months from date of obtaining the necessary approvals for commencement of

the project, whichever is later with an extended period of six months. The due date is taken in account from the date of execution of the agreement i.e., 15.03.2013. Thus, the due date comes out to be 15.11.2017.

26. There is a delay in handing over the possession as due date of possession was 15.11.2017 whereas, the respondents have failed to obtain the occupation certificate from the concerned authorities till date.
27. Thus, keeping in view the aforesaid factual and legal provisions, the failure of the respondents is established under the Act, 2016 as the respondents failed to obtain the occupation certificate from the concerned authorities and also offer possession of the unit to the complainant within the agreed time period. The respondents have been holding the amount paid by the complainant from 2013. Even after a delay of more than 7 years, the unit has not been delivered by the respondents to the complainant till date. The respondents cannot retain the amount paid by the complainant against the allotted unit and are directed to refund the same in view of the Apartment Buyer's Agreement along with interest at the rate of 11.10% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, from the date of each payment till the actual realization of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

G.II Direct the respondent to pay Rs.20,00,000/- for causing mental agony and harassment to the complainant for misrepresentation

and adopting unfair trade practice.

28. The complainant is seeking the above mentioned reliefs w.r.t compensation. The Hon'ble Supreme Court of India in Civil Appeals no. 674445-679 of 2021 titled as **M/s Newtech Promoters and Developers Ltd. V/s State of UP (Supra)** has held that an allottee is entitled to claim compensation and litigation charges under Section 12, 14, 18 and Section 19 which is to be decided by the Adjudicating Officer as per Section 71 and the quantum of compensation and litigation charges shall be adjudicated by the adjudicating officer having due regards to the factors mentioned in Section 72. Therefore, the complainant may approach the adjudicating officer for seeking the relief of compensation

H. Directions of the authority

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

- i. The respondents are directed to refund the full paid-up amount of Rs.51,04,413 /- alongwith interest at the prescribed rate i.e., 11.10% on the amount paid by the complainant, from the date of each payment till the actual realization of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.



HARERA
GURUGRAM

Complaint No. 170 of 2024

- ii. A period of 90 days is given to the respondents to comply with the directions given in the order and failing which legal consequences would follow.

30. Complaint stands disposed of.

31. File be consigned to registry

Dated: 07.05.2025

(Ashok Sangwan)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram



HARERA
GURUGRAM