

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

Date of decision: 27.02.2025

NAME OF THE BUILDER		M/s RAMPRASTHA DEVELOPERS PRIVATE LIMITED	
PROJECT NAME		"RAMPRASTHA CITY"	
S. No.	Case No.	Case title	Appearance
1.	CR/3938/2023	Ashok Kumar Goel V/S M/s Ramprastha Promoters and Developers Private Limited & M/s Ramprastha Developers Private Limited	Shri Deepanshu Jain (Advocate for complainant) Ms R. Gayatri Mansa (Advocate for M/s Ramprastha Promoters and Developers Private Limited) None (For M/s Ramprastha Developers Private Limited)
2.	CR/3998/2023	Anurag Goel and Geeta Goel V/S M/s Ramprastha Promoters and Developers Private Limited & M/s Ramprastha Developers Private Limited	Shri Deepanshu Jain (Advocate for complainant) Ms R. Gayatri Mansa (Advocate for M/s Ramprastha Promoters and Developers Private Limited) None (For M/s Ramprastha Developers Private Limited)
3.	CR/3946/2023	Ritu Garg V/S M/s Ramprastha Promoters and Developers Private Limited & M/s Ramprastha Developers Private Limited	Shri Deepanshu Jain (Advocate for complainant) Ms R. Gayatri Mansa (Advocate for M/s Ramprastha Promoters and Developers Private Limited) None (For M/s Ramprastha

			Developers Private Limited)
4.	CR/3937/2023	Madan Kishore Goyal V/S M/s Ramprastha Promoters and Developers Private Limited & M/s Ramprastha Developers Private Limited	Shri Deepanshu Jain (Advocate for complainant) Ms R. Gayatri Mansa (Advocate for M/s Ramprastha Promoters and Developers Private Limited) None (For M/s Ramprastha Developers Private Limited)
5.	CR/3989/2023	Sushil Kumar Goel V/S M/s Ramprastha Promoters and Developers Private Limited & M/s Ramprastha Developers Private Limited	Shri Deepanshu Jain (Advocate for complainant) Ms R. Gayatri Mansa (Advocate for M/s Ramprastha Promoters and Developers Private Limited) None (For M/s Ramprastha Developers Private Limited)
6.	CR/3940/2023	Amit Gupta V/S M/s Ramprastha Promoters and Developers Private Limited & M/s Ramprastha Developers Private Limited	Shri Deepanshu Jain (Advocate for complainant) Ms R. Gayatri Mansa (Advocate for M/s Ramprastha Promoters and Developers Private Limited) None (For M/s Ramprastha Developers Private Limited)

CORAM:

Shri Vijay Kumar Goyal

Member
ORDER

1. This order shall dispose of the aforesaid complaints titled above filed before this authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the 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, Ramprastha City at Sector-92,93 & 95, Gurugram being developed by the same respondent/promoter i.e., M/s Ramprastha Promoters and Developers Private Limited and ors.
3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project Name and Location	Ramprastha City Sector-92,93 & 95, Gurugram
Project area	128.594 acres
DTCP License No. and validity	44 of 2010 dated 09.06.2010 valid upto 08.06.2016
HRERA Registered	Registered 13 of 2020 dated 05.06.2020
Possession Clause	NA

Sr. No.	Complaint No., Case Title, and Date of filing of complaint	Unit no. & size	Preliminary Allotment Letter / Payment receipts	Due date of possession	Total Sale Consideration / Total Amount paid by the complainant
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1.	CR/3938/2023 Ashok Kumar Goel Vs. M/s Ramprastha Promoters and Developers Private Limited & ors. DOF: 24.08.2023 Reply: 30.11.2023	Unit no.- Not allotted Size: 300 sq. yds.	08.11.2011 (Preliminary allotment letter page 20 of complaint)	08.11.2014 (Calculated as per <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018</i> from the date of allotment letter i.e. 08.11.2011)	TSC- NA AP- Rs.18,00,000/- (page 10 of complaint)
2.	CR/3998/2023 Anurag Goel and Geeta Goel Vs. M/s Ramprastha Promoters and Developers Private Limited & ors. DOF: 24.08.2023 Reply: 30.11.2023	Unit no.- Not allotted Size: 300 sq. yds.	08.11.2011 (Preliminary allotment letter page 24 of complaint)	08.11.2014 (Calculated as per <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018</i> from the date of allotment letter i.e. 08.11.2011)	TSC- NA AP- Rs.18,00,000/- (page 11 of complaint)
3.	CR/3946/2023 Ritu Garg Vs. M/s Ramprastha Promoters and Developers Private Limited & ors. DOF:24.08.2023 Reply: 30.11.2023	Unit no.- Not allotted Size: 300 sq. yds.	18.05.2011 (Payment receipt page 09 of complaint)	18.05.2014 (Calculated as per <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018</i> from the date of payment receipts i.e. 18.05.2011)	TSC- NA AP- Rs.18,00,000/- (page 09 of complaint)
4.	CR/3937/2023 Madan Kishor Goyal Vs. M/s Ramprastha Promoters and Developers Private Limited & ors.	Unit no.- Not allotted Size: 300 sq. yds.	05.01.2007 (Payment receipt page 10 of complaint)	05.01.2010 (Calculated as per <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 -</i>	TSC- NA AP- Rs.11,00,000/- (page 10 of complaint)

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	DOF:24.08.2023 Reply: 30.11.2023			SC); MANU /SC /0253 /2018 from the date of payment receipts (i.e. 05.01.2007)	
5.	CR/3989/2023 Sushil Kumar Goel Vs. M/s Ramprastha Promoters and Developers Private Limited & ors. DOF:24.08.2023 Reply: 30.11.2023	Unit no.- Not allotted Size: 300 sq. yds.	08.11.2011 (Preliminary allotment letter page 20 of complaint)	08.11.2014 (Calculated as per Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018 from the date of preliminary allotment letter (i.e. 08.11.2011)	TSC- NA AP- Rs.18,00,000/- (page 10 of complaint)
6.	CR/3940/2023 Amit Gupta Vs. M/s Ramprastha Promoters and Developers Private Limited & ors. DOF:24.08.2023 Reply: 30.11.2023	Unit no.- Not allotted Size: 300 sq. yds.	08.11.2011 (Preliminary allotment letter page 20 of complaint)	08.11.2014 (Calculated as per Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018 from the date of preliminary allotment letter (i.e. 08.11.2011)	TSC- NA AP- Rs.11,00,000/- (page 10 of complaint) (*Note: Inadvertently mentioned amount paid as Rs.18,00,000/- vide proceedings dated 07.03.2024)

The complainants in the above complaints have sought the following reliefs:

1. Direct the respondent to refund the paid-up amount along with interest.
2. Direct the respondent to produce and place on record the buyer's agreement.
3. Direct the respondent to pay a sum of Rs.50,000/- towards litigation.

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

Abbreviation	Full form
DOF	Date of filing of complaint
TSC	Total sale consideration
AP	Amount paid by the allottee/s

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation for not executing buyer's agreement and not handing over the possession thereby seeking the refund of the paid up amount along with interest.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter /respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant-allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case **CR/3938/2023 Ashok Kumar Goel Vs. M/s Ramprastha Promoters and Developers Private Limited and M/s Ramprastha Developers Private Limited** are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

A. Project and unit related details.

7. The particulars of the project, the details of 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:

CR/3938/2023 Ashok Kumar Goel Vs. M/s Ramprastha Promoters and Developers Pvt. Ltd.

S.no.	Particulars	Details
1.	Name of the project	"Ramprastha City", Sector-92, 93 & 95, Gurugram.
2.	Project area	128.594 acres
3.	Nature of the project	Residential plotted colony
4.	DTCP license no. and validity status	44 of 2010 dated 09.06.2010 valid till 08.06.2016

5.	Name of licensee	Ramsprastha Builders Pvt. Ltd. and 25 others
6.	Unit no.	N.A.
7.	Area admeasuring	300 sq. yds. (page no. 20 of the complaint)
8.	Preliminary Allotment letter	08.11.2011 (page no. 20 of the complaint)
9.	Date of execution of agreement to sell	Not executed
10.	Possession clause	N.A
11.	Due date of possession	08.11.2014 (Calculated as per <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018</i> from the date of allotment letter i.e. 08.11.2011)
12.	Total sale consideration	N.A
13.	Amount paid by the complainant	Rs.18,00,000/- (page no. 10 of the complaint)
14.	Occupation certificate /Completion certificate	Not obtained
15.	Offer of possession	Not offered
16.	Legal Notice for refund of the amount paid	01.05.2019 (page no. 23 of the complaint)

B. Facts of the complaint.

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

- i. That the complainant booked a plot in the respondent's project Ramprastha city proposed to launch residential group housing project 'The Edge Towers' and 'The Atrium' by applying registration/provisional allotment for the residential plot. On 12.01.2007, the complainant paid an amount of Rs.18,00,000/- through cheque no. 456879456880 as a booking/registration amount and the receipt of the same was duly acknowledged by the respondent.

- ii. Thereafter, on 27.05.2009 the respondent issued a letter informing the complainant that they had received the letter of intent (LOI) from the Director, Town & Country Planning, Chandigarh (DTCP), Govt. of Haryana for setting up a residential plotted colony at Village Wazirpur and Meoka, Sector-92, 93 & 95 Tehsil and District Gurugram and the development work had already started at the site.
- iii. Further, on 07.10.2009 the respondent issued another letter reiterating the contents of the letter dated 27.05.2009 and assured the complainant that the development work on the site had already commenced.
- iv. That the DTCP, Govt. of Haryana, granted a license to the respondent for setting up the residential plotted colony, which was valid until 08.06.2014.
- v. That on 08.11.2011, the respondent issued a preliminary allotment letter to the complainant, wherein a 300 sq. yds. plot located at 'Ramprastha City' was allotted to the complainant. However, no builder buyer agreement has been executed between the parties.
- vi. On 09.01.2012, the complainant requested the respondent to allot an alternate plot located at Ramprastha City, Sector-37D Gurugram, Haryana, in lieu of the present allotted plot in Sector-92, 93 & 95, Gurugram. In response, the respondent acknowledged the request and kept it under consideration, but till date, no response has been received by the complainant. Following, the complainant made various telephonic communications with the respondent and received assurances regarding the development work on the project, but upon visiting the site the complainant found no such development or progress.
- vii. Moreover, the complainant sent a legal notice dated 01.05.2019 and 29.07.2020, praying for the refund of the amount paid to the respondent

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along with interest and/or the delivery of an alternate plot, but the respondent has not responded to the notices.

- viii. That the respondent has committed various fallacies, including the failure to execute a buyer's agreement, delay in offering possession of the plot despite the DTCP license, lack of demand letters, non-consideration of the complainant's request for an alternate plot and the non-response to the legal notices. Hence, the complainant seeks refund of the amount paid, along with interest, as well as compensation for the loss caused by the respondent's actions.

C. Relief sought by the complainant.

9. The complainant has sought the following relief(s):

- I. Direct the respondent to refund the paid-up amount along with interest.
- II. Direct the respondent to produce and place on record the buyer's agreement.
- III. Direct the respondent to pay a sum of Rs.50,000/- towards litigation.

D. Reply on behalf of M/s Ramprastha Promoters and Developers Pvt. Ltd.

10. The respondent (M/s Ramprastha Promoters and Developers Pvt. Ltd.) has contested the complaint on the following grounds:

- i. That the complainant has merely filed a money receipt which is not acceptable as a valid document and does not create any right in favor of the complainant to invoke the provision of the Act, 2016. Also, the complainant has not filed any documents to prove that the complainant is an allottee within the definition of the Act, 2016. The present complaint is not maintainable in its present form and the complaint is liable to be dismissed in limine on the above ground.
- ii. That the Authority has no jurisdiction to entertain the present complaint. The present case is nothing more than a sheer abuse of process of law on the face of it with the sole motive of extracting huge amounts of interest

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- from the respondent which itself manifests the malicious intent of the complainant.
- iii. That the complainant approached the respondent and made inquiries regarding future projects of the respondent. The complainant was categorically informed there is no plot available since the zoning plans have not been approved. The complainant voluntarily sought to advance money to the respondent in anticipation of future approval and in the hope of making speculative gains. But since the zoning plans have not been approved by the government till date, the complainants have sought to file vexatious complaint which is completely unsubstantiated and is bereft of any material documentary evidence.
- iv. That the respondent has not agreed to provide any service whatsoever to the complainant since the plans were not approved by the competent authority and the complainant has not provided any documents to prove that any such promise was ever made by the respondent. The complainant has voluntarily entrusted a sum of money to the respondent so that they will get the first priority in case the development plans eventually get approved by the competent authority. The respondent has neither promised any particular plot or location nor promised any particular price or completion date to the complainant. Hence, there is no question of any breach by the respondent and no cause of action has accrued in favour of the complainant.
- v. That the present complaint has been filed with malafide intention and is an abuse of the process of this Authority which is evident from the prayers wherein the complainant had demanded hefty interest when there was no agreement between the complainant and the respondent whatsoever for either any allotment or any development and hence there exists no agreed

terms for possession date or price or location/project etc., and there are no terms which can be said to be legally enforceable under the provisions of the Act, 2016.

- vi. That the complainant is very well aware of the fact that the money entrusted by the complainant was not towards any booking or agreement but merely to ensure that in case any development approval is granted by the concerned authorities in future the complainant will get an opportunity to participate in priority of other interest customers. The complainant is indirectly claiming specific performance for delivery of an indeterminate property on the basis of indeterminate terms which is not permissible in the eyes of law.
- vii. That the complainant has no vested right to claim refund of amount paid as it is not yet determined and hence there is no question of any delay as alleged by the complainant. The delay is absolutely non-existent and imaginary under the present facts and hence, there is no entitlement of any interest whatsoever.
- viii. That no date of possession has ever been mutually agreed between the parties. In the absence of any document in the nature of a builder buyer agreement, which contains several terms and conditions including the date of possession and the consequences of default, no date of possession can be said to have been mutually agreed between the parties. It is trite in law that a party claiming default must first prove the default beyond reasonable doubt by means of substantial evidence. The complainant herein has not adduced any reasonable proofs in the nature of documentary evidence which establishes the date of possession, terms and conditions of possession, default and the consequential effect of such default.

- ix. That the complainant cannot be construed as an "allottee" by any stretch of imagination. For existence of a status of an "allottee", the pre-existing criteria is that of a subsistence of "flat" or "apartment" or a "building" and the consideration must have been towards such determinate "flat" or "apartment" or "building". In the present case, there is no pre-existing unit as alleged by the complainant. The complainant had merely made a payment towards a future potential project of the respondent which on such date was not even in existence. The complainant herein does not meet the criterion established by the Act and therefore cannot be admitted as "an allottee".
- x. That there exist no default or contravention of the provisions of the Act, 2016 on the part of the respondent as the zoning plans issued by the Government in early 2014 required significant corrections which had a profound impact on the layout of a residential flatted colony. These corrections included inaccuracies in village boundary lines, incorrect depiction of khasra numbers and the installation of a new HT Line by DHBVN, necessitating the creation of a separate green corridor. Furthermore, the presence of an HSIIDC Nala passing through the land adjoining the HUDA Nala in the village Gaduli Kalan added to the complexities. These discrepancies led to delays in the zoning revision process, communicated to all allottees by September 2014. Consequently, these delays affected several crucial elements of the project, such as the development of EWS flats, community centers, schools, and other amenities directly impacting 144 flats. The respondent clarified to the complainant that specific flat allocation was subject to government approval of zoning plans and RERA registration. Therefore, the complaint concerns regarding

approval of zoning plans are beyond the control of the respondent and outside the purview of the Authority and should be dismissed.

- xi. That the complainant was made clear that the specific flat cannot be earmarked out of large tract of undeveloped and agricultural land owned by the respondent unless zoning plans are approved and RERA registration is obtained. The specific flat can be demarcated only when the government releases the zoning plans applicable to the area. Also, the respondent never offered to handover any specific flat within any fixed time period.
- xii. That the proceedings are merely in the nature of recovery which is not maintainable before the Authority. Even, if it is assumed such a claim in nature of money maintainable it gets barred by limitation as it was filed after the expiry of three years from the date of payment.

11. All other averments were denied in toto.

12. It is pertinent to note that the complainant initially filed the complaint against *M/s Ramprastha Promoters and Developers Pvt. Ltd.*, which duly submitted its reply and submitted abovementioned facts. However, during the proceedings dated 16.05.2024, it was noted that the payments were actually made to *M/s Ramprastha Developers Pvt. Ltd.*, not *M/s Ramprastha Promoters and Developers Pvt. Ltd.* Accordingly, the complainant was directed to provide clarifications regarding the correct respondent.

13. In compliance thereof, the complainant filed an application on 04.07.2024, requesting the Authority to substitute *M/s Ramprastha Developers Pvt. Ltd* in place of *M/s Ramprastha Promoters and Developers Pvt. Ltd.* citing an inadvertent error. Following this, the registry was directed to issue a fresh notice to *M/s Ramprastha Developers Pvt. Ltd.* to file a response to the amendment sought by the complainant.

14. Despite multiple email sent on 02.08.2024, 30.09.2024, and 20.12.2024, M/s Ramprastha Developers Pvt. Ltd. failed to appear or submit a response. Consequently, their right to defend the case was struck off during proceedings dated 27.02.2025.
15. 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.

E. Jurisdiction of the authority.

16. 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

17. 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

18. 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.

19. 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 complainant at a later stage.
20. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in **Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (Supra)** and 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** wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope



of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

21. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Findings on the relief sought by the complainant.

F.I Direct the respondent to refund the entire paid-up amount along with interest.

22. On consideration of documents available on record and submissions made, the authority observes that the complainant vide receipt dated 12.01.2007 paid Rs.18,00,000/- to the respondent i.e. M/s Ramprastha Developers Pvt. Ltd, against which the M/s Ramprastha Developers Pvt. Ltd issued a preliminary allotment letter dated 08.11.2011 in favor of complainant allotting a 300 sq. yds. plot in its project "Ramprastha City, Sector 92, 93 & 95". However, no specific unit was allotted to the complainant.

23. Before coming to the facts of the case, the prima facia question that comes before the Authority is whether preliminary allotment letter/payment receipt issued by the respondent/promoter falls within the definition of agreement or not? As, section 2(e) of the Indian contract Act, 1872 defines the term 'agreement' as under which provides that:

"Every promise and every set of promise forming the consideration for each other is an agreement."

24. Further, section 10 Indian contract Act, 1872 provides for the conditions under which the said agreement defined under section 2(e) of the Indian contract Act, 1872 would constitute a contract and the same is reiterated as under:

"All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object and are not hereby expressly declared to be void."

25. There are large number of cases coming to the notice of the authority wherein the builder had taken the whole or partial amount of money and only issued receipt against the allotment of a plot either in the existing or in its upcoming project at Gurugram. Neither any allotment letter is being issued by the respondent nor any builder buyer's agreement was executed. This position existed in Pre-RERA cases as after Act of 2016, a promoter is obligated to comply with the provisions of the Act and follow the same while receiving any money against allotment of unit and execution of builder buyer agreement.
26. The document or receipt issued in favour of a person can be considered as an agreement for sale, which may provide for grounds to approach the RERA Authority and make the developer fulfil its obligations towards the allottees to whom such receipt or allotment is being issued. Hereby it makes the promoter duty bound to explain the reasons for which such a huge amount had been retained by it for so long considering the fact that the promoter company is not a bank or non-banking financial company (NBFC).
27. The *Hon'ble High Court of Punjab & Haryana, in CWP-24591-2024, M/s Ramprastha Developers Pvt. Ltd. v. State of Haryana & Ors., decided on 30.01.2025*, observed that a buyer who has made payments towards a future project qualifies as an "allottee" under the statutory definition. The relevant portion of the order reiterated below:

27.

Though the learned counsel for the petitioners has vehemently argued before this Court, that the present respondent is not an allottee, since it becomes displayed by Annexure P-3, contents whereof also become extracted hereinabove, that he has only tendered money in respect of prospective projects, and when evidently no prospective project have ever been floated at the instance of the present petitioners, therebys at this stage, there was no activated cause of action vesting in the present petitioners. However, the said argument is also rudderless nor has any telling effect vis-à-vis the locus standi of the present respondent to institute the subject complaints. The reason being that, when within the ambit of the

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statutory meaning assigned to an 'allottee, whereby becomes covered also potential as well as prospective allottees, vis-a-vis the prospective projects, thereby not only in respect of ongoing projects, but also in respect of projects to be launched in future, rather, at the instance of the present petitioners, that thereby the present respondent but became an allottee. Conspicuously, also when in terms of Annexure P-3, he became promised to be made, the allotments vis-a-vis projects to be undertaken in future, whereby also the present respondent was a person/allottee who would subsequently acquire the subject project through sale or transfer thereof being made in his favour.

(Emphasis Supplied)

28. The Hon'ble High Court of Punjab & Haryana also emphasized that in cases where the respondent/buyer had been promised allotment in a future project. As a result, the respondent/buyer is to be considered an "allottee" who would subsequently acquire the subject unit through sale or transfer thereof being made in his favor.
29. Upon perusal of the documents and submission made the Authority observes that in all the cases as detailed in para 3 of this order the payment was made to the M/s Ramprastha Developers Pvt. Ltd as evident from the payment receipts issued by it to the complainant. By filing the instant complaint, the complainant intends to withdraw from the project and is seeking return of the amount paid by him in respect of subject unit to be allotted along with interest at the prescribed rate as provided under section 18(1)(b) of the Act. Sec. 18(1)(b) 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)

30. Admissibility of refund along with prescribed rate of interest: Section 18 of the Act read with rule 15 of the rules provide that in case the allottee intends to withdraw from the project, the respondent shall refund the amount paid by the allottee in respect of the subject unit to be allotted 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.

31. 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.

32. 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., 27.02.2025

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

33. 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;"*

34. The authority after considering the facts stated by the parties and the documents placed on record is of the view that the complainant is well within his right for seeking refund under section 18(1)(b) of the Act, 2016 from the promoter as the promoter has failed to allot a unit in project as detailed earlier despite payment of Rs.18,00,000/- made in the year 2007 and even after lapse of 17 years from the date of payment till the filing of complaint, no buyer's agreement has been executed inter- se parties

35. The Hon'ble Supreme Court in the case of **Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018** observed that *"a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the*

amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract.

36. In view of the above-mentioned reasoning, the date of preliminary allotment letter dated 08.11.2011 is to be taken as the date for calculating due date of possession. Therefore, the due date of handing over of the possession of the unit comes out to be 08.11.2014.
37. However, in CR/3946/2023 and CR/3937/2023 no allotment letter was issued by the respondent, only a payment receipt was issued wherein the respondent acknowledged the payment for tentative registration of 300 sq. yds. plot in its future project. So, the due date in the above-mentioned case is calculated from the date of payment receipts and the same is described in para (3) of the said order.
38. In view of the above findings elaborated above the promoter i.e. M/s Ramprastha Developers Pvt. Ltd. is solely responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made there under section 11(4)(a). The promoter has failed to complete or unable to allot or give possession of a unit in accordance with the terms of preliminary allotment letter/payment receipts. Accordingly, the promoter/ M/s Ramprastha Developers Pvt. Ltd is liable to the allottee, as he wishes to withdraw from the project without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.
39. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1)(b) of the Act on the part of the respondent

is established. As such, the complainant is entitled to refund of the entire amount paid by him at the prescribed rate of interest i.e., @ 11.10% p.a. (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 date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

F.II Direct the respondent to produce and place on record the buyer's agreement.

40. In view of the findings no. G.I, the above sought relief becomes redundant as the complainant is already seeking refund of the paid- up amount.

F.III Direct the respondent to pay a sum of Rs.50,000/- towards litigation.

41. The complainant is seeking above mentioned relief w.r.t. litigation cost. Hon'ble Supreme Court of India in case titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors, 2021-2022(1) RCR (C), 357* held that an allottee is entitled to claim compensation & litigation charges under sections 12, 14, 18 and 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.


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

- I. The respondent/promoter i.e. M/s Ramprastha Developers Private Limited is directed to refund the amount received by it from each of the complainant(s) along with interest at the rate of 11.10% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment made till the actual date of refund of the deposited amount.
- II. 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.
43. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
44. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
45. Files be consigned to registry.

Dated: 27.02.2025

HARERA
GURUGRAM

v.) - 
(Vijay Kumar Goyal)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram