

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

**Complaint no. :** 2709 of 2023  
**Complaint filed on:** 30.06.2023  
**Date of decision:** 21.02.2025

1. Smt. Sunita Sharma  
2. Sh. Abhishek Sharma  
Both R/O: E-102, Park Serene BPTP, Sector 37 D,  
Gurugram, Haryana- 122006.

**Complainants**

Versus

M/s Signatureglobal Homes Pvt. Ltd.  
Regd. Office: 1309, 13th Floor, Dr. Gopal Das Bhawan,  
28 Barakhamba Road, Connaught Place,  
New Delhi - 110001.  
Also at: Ground Floor, Tower A, Signature Tower,  
South City-1, Gurugram, Haryana- 122001.

**Respondent**

**CORAM:**

Shri Ashok Sangwan

**Member**

**APPEARANCE:**

Sh. Abhay Jain (Advocate)  
Sh. Neeraj Kumar (Advocate)

Complainants  
Respondent

**ORDER**

1. The present complaint has been filed by the complainants/allottees 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 provision 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 related details**

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

S.no.	Heads	Information
1.	<b>Project Name and Location</b>	Signature Global Park-IV, Village Hariyahara, Sector 36, Sohna, Gurugram, Haryana
2.	<b>Project area</b>	15 acres
3.	<b>Nature of the project</b>	Affordable plotted housing colony under DDJAY
4.	<b>DTCP License no. and validity</b>	117 of 2019 dated 12.09.2019 Valid up to 11.09.2024
5.	<b>HRERA Registered</b>	Registered a. 17 of 2020 dated 20.07.2020 Valid up to 31.12.2021  b. <b>29 of 2020 dated 08.10.2020</b> Valid up to 30.07.2022 Extension no. - 3 of 2023 dated 13.03.2023 Extension valid till- 29.07.2023  c. 47 of 2022 dated 06.06.2022 Valid up to 30.09.2024 Extension no. - 22 of 2024 dated 09.12.2024 Extension valid till- 29.09.2025
6.	<b>Welcome letter</b>	20.03.2021  [Page 40 of complaint]
7.	<b>General Power of Attorney (of Sh. Abhishek Sharma in favour of Ms. Sunita Sharma)</b>	19.06.2021  [Page 41-47 of complaint]

8.	<b>Unit no.</b>	Independent floor no. 1 <sup>st</sup> in Block A 4-A176C-1F at Plot no. A176C (Page 54 of complaint)
9.	<b>Unit admeasuring</b>	Carpet area- 640.03 sq. ft. Balcony area- 147.04 sq. ft. [Page 59 of complaint]
10.	<b>Builder buyer agreement</b>	05.08.2021 [Page 49 and 51 of complaint]
11.	<b>Possession clause</b>	<b>7.1 Schedule for possession of the said Residential Independent Floor-</b> “...The promoter assures to handover possession of the Residential Independent Floor along with parking (applicable only if parking fee/charge has been paid) as per agreed terms and conditions by <b>30<sup>th</sup> July 2022</b> unless there is delay due to force majeure...” [Page 68-69 of complaint]
12.	<b>Due date of possession</b>	<b>30.01.2023</b> Note: 30.07.2022 + 6 months of COVID grace period
13.	<b>Sale consideration</b>	Rs.58,36,056/- (The sale price includes basic cost of unit, IFMS, Power back up charges, car parking charges and taxes) [Page 60 of complaint]
14.	<b>Amount paid by the complainants</b>	Rs. 58,52,831/- (As per affidavit filed by the respondent on 21.02.2025)
15.	<b>Credit note of Rs.75,000/- (issued by the</b>	08.09.2021 [Page 89 of complaint]

	respondent to (HDFC Ltd.)	
16.	Home Loan agreement (between complainants and HDFC Ltd.)	20.10.2021 [As per schedule at page 98 of complaint]
17.	Completion certificate	06.05.2022 [As per DTCP, Haryana website]
18.	Occupation certificate	22.11.2022 [As stated by the respondent during proceedings dated 21.02.2025]
19.	Offer of possession	28.02.2023 [Page 106 of complaint]

### B. Facts of the complaint

3. The complainants have made following submissions in the complaint:

- i. That the complainants, Sunita Sharma and Abhishek Sharma were approached by the sale representatives of the respondent company, who made tall claims about the project '**Signature Global Park IV**' as the world class project and relying on the representations made by the respondent, the complainants ultimately applied for a residential independent floor in Block A at 1<sup>st</sup> Floor of Plot No. A176C having a carpet area of 640.03 sq. ft. and balcony area of 147.04 sq. ft. along with stilt parking in the project 'Signature Global Park IV' in Sector 36, Sohna, Gurugram, Haryana. The complainants paid a total of Rs.5,83,605/- on 20.03.2021 as booking amount to the respondent. Thereafter, the respondent issued a welcome letter dated 20.03.2021 to the complainants and made a provisional allotment of Unit No. 4-A176C-1F in the subject project.

- ii. The complainant no. 2 Mr. Abhishek Sharma resides outside India and has executed a General Power of Attorney dated 19.06.2021 in which complainant no. 2 has appointed and authorised his mother i.e. complainant no. 1 as his true and lawful Attorney.
- iii. The builder buyer's agreement was executed on 05.08.2021 inter se parties for purchase of the subject unit. The total sale consideration of the floor as mentioned in clause 1.2 of the BBA is Rs.58,36,056/- including Car Parking Charges amounting Rs.2,00,000/-, Power Back up Charges amounting Rs.60,000/-, Interest Free Security Deposit amounting Rs.54,084/- and Taxes amounting Rs.2,75,332/-.
- iv. The respondent issued a letter dated 08.09.2021 to the Housing Development Finance Corporation Limited (HDFC Limited) and mentioned that the respondent had offered a direct credit discount of Rs.75,000/- to the complainants as per the company policy. The complainants obtained a loan amounting Rs.46,68,000/- from Housing Development Finance Corporation Limited (HDFC Limited) on 20.10.2021 in respect of subject unit. The said home loan amount was timely disbursed by the bank to the respondent as and when the payment becomes due.
- v. As per clause 7.1 of the BBA, the due date of handing over the possession of the allotted residential independent floor is **30<sup>th</sup> July, 2022**. However, the respondent issued the letter of offer of possession dated 28.02.2023 to the complainants and informed that the project has been completed and the occupation certificate (OC) for the project has been received. The respondent offered the possession of the said floor after a delay of more than seven (7)



- months from the due date of possession dated 30<sup>th</sup> July, 2022 as mentioned in the agreement.
- vi. The complainants paid all payable amounts as and when demanded by the respondent. Whereas, the respondent, despite receiving more than hundred percent (100%) payable amount from the complainants, failed to honour the terms of the agreement and timely deliver possession of the floor to the complainants.
- vii. The respondent issued a Summary Document as on 06.06.2023 wherein the respondent raised illegal and unlawful demand of Rs.2,46,336/- from the complainants including unjustified interest of Rs.72,819.99/- and Rs.1,14,614.45/- charged up to 31.03.2022. The respondent is charging illegal amounts for handing over the possession.
- viii. Despite the delay in offering possession, the respondent failed to pay delay possession charges to the complainants till date. The complainants have approached the Respondent and pleaded for delivery of possession of their floor as per the Agreement on various occasions. The respondent did not reply to their letters, emails, personal visits, telephone calls, seeking information about the status of the project and delivery of possession of their floor.
- ix. The complainants have paid all payable amount as and when demanded by the respondent and paid a total of Rs.59,27,831/- till March, 2023 i.e. more than 100% of the total sale consideration. But, still the respondent has failed to make the payment of delay possession charges to the complainants till date. The complainants do not intend to withdraw from the project. As per section 18 of the Act,



2016 read with Rules 15 and 16 of the Rules, 2017, the promoter is obligated to pay interest on the delayed possession on the amount deposited by the complainants at the rate prescribed. The complainants reserve their right to seek compensation from the promoter for which the complainants may make a separate application to the Adjudicating Officer, in case it is required.

**C. Relief sought by the complainant**

4. The complainants have sought the following relief(s):

- i. Direct the respondent to pay interest at the prescribed rate on the amount deposited by the complainant towards the delay caused from the due date of possession, i.e. 30.07.2022 till the date of offer of possession (28.02.2023) plus 2 months i.e. 28.04.2023 as prescribed in the Act and the Rules, 2017.
  - ii. Direct the respondent to revoke/cancel/ withdraw the illegal and unlawful demand of Rs.2,46,336/- fraudulently charged and demanded by the respondent on 06.06.2023, as more than 100% payable amount is already paid by the complainants to the respondent till March, 2023.
  - iii. Direct the respondent to not charge anything beyond the charges stipulated in the Agreement for Sale.
  - iv. Direct the respondent to pay legal expenses of Rs.1,00,000/- (Rupees One Lakh) incurred by the Complainants.
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the act to plead guilty or not to plead guilty.

**D. Reply by the respondent**

6. The respondent has contested the complaint on the following grounds.
- i. That in pursuance to the application dated 20.03.2021 for allotment of flat in the project Signature Global Park IV by the complainants, they were allotted Flat No.4-A176C-1F having carpet area of 643.04 sq. ft. and balcony area of 147.04 sq. ft. on the 1st floor (hereinafter referred to as the "Said Flat") under the provisions of Haryana Affordable Plotted Housing Policy, 2016 (Deen Dayal Jan Awas Yojna) notified by Government of Haryana vide Notification No.PF-27A/6521 dated 01.04.2016 and any amendments thereto.
  - ii. That the DTCP had granted the approval/sanction the development of the project vide license no.117 of 2019 dated 12.09.2019 and the aforesaid project was also registered under the Act vide Registration No.29 of 2020 dated 08.10.2020 with commercial complex and the project shall be known as "Signature Global Park IV" (Project).
  - iii. That subsequent to the allotment, BBA was executed on 05.08.2021 by and between the parties wherein the delivery of possession of flat was subject to the terms and conditions as contained in the BBA. That the aforesaid allotment was subject to payment schedule which was time linked and independent of status of the constructions.
  - iv. That in terms of Clause 1.2 of BBA, the total price of the said flat based on carpet area was Rs.55,60,724/- and Taxes payable was for Rs.2,75,332/- plus the charges towards External Electrification Charge, Electricity Meter cost, Advance consumption Deposit for Electrical, Charges for operating and running cost for Utility Charges etc. was payable as applicable at the time of the offer of possession



- and the allottee was required to make payment towards the cost of the said flat in 22 months' time from the date of submission of application.
- v. That the allottees defaulted in making timely payment and despite several reminders sent by the respondent, the complainants failed to adhere to the timelines of payment and as such the interest for delayed payment has been levied. It is submitted that on account of delayed payment by the complainants, a sum of Rs.2,46,336.61 has accrued as interest and is outstanding till date.
- vi. That the respondent has offered the possession of the flat vide offer of possession letter dated 28.02.2023, however, the complainants have failed to take possession of the said flat and also failed to clear pending payment to the respondent.
- vii. That in terms of clause 7.1 of the BBA, the delivery of the possession of the said flat was agreed to be offered by 30.07.2022. However, the delivery of possession was subject to Force Majeure circumstances, Court orders, Government policy/guidelines, decisions etc. affecting the regular development of the real estate project. The agreed possession period would have been applicable provided no disturbance/hindrance had been caused either due to Force Majeure circumstances or on account of intervention by statutory Authorities etc.
- viii. That prior to the completion of the project, various force majeure circumstances (such as construction bans, Covid-19 pandemic, various lockdowns etc.) affected the regular development of the real estate project. The deadly and contagious Covid-19 pandemic had struck ✓

which have resulted in unavoidable delay in delivery of physical possession of the apartment. In fact, Covid 19 Pandemic was an admitted Force Majeure event which was beyond the power and control of the respondent.

- ix. The Ministry of Home Affairs, Government of India vide notification 40-3/2020-DM-I(A) dated 24.03.2020 under the Disaster Management Act, 2005, had imposed lockdown for whole of India for 21 days with effect from 25.03.2020. Further, the lockdown was extended vide direction dated 17.05.2020 up to 31.05.2020.
- x. That further Ministry of Finance vide Office Memorandum No.F-18/4/2020-PPD dated 13.05.2020 recognized that given the restriction placed on the goods, services and manpower on account of the lockdown situation prevailing overseas and in the country, it may not be possible for the parties to the contract to fulfil contractual obligations and permitted the parties to the contract to invoke Force Majeure Clause and thereby extended the contract by six months.
- xi. That the Hon'ble Haryana Real Estate Regulatory Authority vide order no.9/3-2020 HARERA/GGM (Admn.) dated 26.05.2020 extended the date of completion for all Real Estate Projects registered under Real Estate (Regulation and Development) Act, 2016 where completion date, revised completion date or extended completion date was to expire on or after 25<sup>th</sup> March, 2020 automatically by 6 months, due to outbreak of the COVID -19 (Corona Virus), which is calamity caused by nature and is adversely affecting regular development of real estate projects by invoking "force majeure" clause.

- xii. That even before the expiry of said extended period, it is very much in public domain and had also been widely reported that second wave of Covid-19 had also hit the country badly 'like a tsunami' and Haryana was no exception thereof.
- xiii. That thereafter, during the second wave of Covid-19 the Hon'ble Haryana Real Estate Regulatory Authority, Panchkula by way of resolution in the meeting held on 02.08.2021 ordered for extension of three months from 01.04.2021 to 30.06.2021 due to second wave of Covid-19 as a force majeure event. It is submitted that particular circumstances in a state considered as force majeure by similar authority under the same statute should also be considered as force majeure by another authority under same statute.
- xiv. That the Haryana Government had imposed various lockdown for different periods even after January 2021 terming it as "Mahamari Alert/Surkshit Haryana (Epidemic Alert/Safe Haryana) resulting in virtual stoppage of all activity within the state of Haryana.
- xv. That the respondent had also suffered devastatingly because of blanket ban on raising of construction, advisories etc. The concerned statutory authorities had earlier imposed a blanket ban on raising of construction, advisories had been issued by the statutory authorities to the developers to ensure that no retrenchment of staff/labour are done and further to ensure that the staff/labour were adequately fed and provided for. Subsequently, the said embargo had been lifted to a limited extent. However, in the interregnum, large scale migration of labour had occurred which had also been extensively reported in printed and electronic media. Availability of raw material remained a



major cause of concern. Infact, the aforesaid Force Maeure events had completely affected the ability of the respondent to continue with the construction. Despite diligent efforts, the respondent had been unable to carry on construction/ development/ implementation of its projects including the project in question during the aforesaid period which in any case should not be considered for determining the period for delivery of physical possession of the apartment to the complainants.

- xvi. That the agreement of sale notified under the Haryana Real Estate (Regulation and Development) Rules, 2017 categorically excludes any delay due to "force majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project. That in addition to the aforesaid period, the following period also deserves to be excluded for the purpose of computation of period available to the respondent to deliver physical possession of the apartment to the complainants as permitted under the Haryana Real Estate (Regulation and Development) Rules, 2017.
- xvii. That the development of project of the respondent was also adversely affected due to various orders of Hon'ble Supreme Court, National Green Tribunal, directions of Haryana State Pollution Control Board, Orders passed by Municipal Commissioner of Gurgaon, Environment Pollution (Prevention & Control) Authority for National Capital Region for varying period during the year 2017, 2018, 2019 and 2020.
- xviii. That due to the orders by Commission for air quality management (NCR and Adjoining Areas), a total of 6 days have been lost and the

Respondent is entitled for the extension of 6 days (w.e.f. 16-11-2021 - 21-11-2021) for delivery of possession of the flat to the complainants.

- xix. That in a recent publication in mint dated 07.10.2022 wherein it has been published that a one-month ban on the construction activities would delay the project by 3-4 months on account of mobilization of the labour, machinery, resumption of supplies of various materials etc. Accordingly, the Hon'ble Authority may consider grant of benefit of extension to the respondent on account of time consumed in re-mobilization of the various construction activities.
- xx. That in a recent judgment Hon'ble RERA Authority of Gautam Budh Nagar has provide benefit of 116 days to the developer on account of various orders of NGT and Hon'ble Supreme Court directing ban on construction activities in Delhi and NCR, 10 days for the period 01.11.2018 to 10.11.2018, 4 days for 26.10.2019 to 30.10.2019, 5 days for the period 04.11.2019 to 08.11.2019 and 102 days for the period 04.11.2019 to 14.02.2020. The Hon'ble Authority was also pleased to consider and provided benefit of 6 months to the developer on account of effect of Covid also which has also been upheld by the Hon'ble Appellate Real Estate Regulatory Authority, Lucknow vide order dated 02.11.2021.
- xxi. That it is also in public domain that the third wave of Covid-19 had also badly hit all the activities not only in Haryana but also in India and rest of the world. Haryana Government had imposed lockdown for varying periods owing to Covid-19 third wave resulting in virtual closure of construction activities in their entirety within the state of Haryana.

- xxii. That the aforesaid incidence was unforeseen events and beyond the control of the respondent which adversely affected the respondent's ability to perform its obligations under the Agreement.
- xxiii. That it is respectfully submitted that the respondent is entitled for extension of the following period from the date of handing over the possession of the flat to the complainant:

Events	Period affected	No. of months/days Claimed by the Respondent
1 <sup>st</sup> Phase COVID-19	25.03.2020 to 24.09.2020	6 months
2 <sup>nd</sup> Phase COVID-19	01.04.2021 to 30.06.2021	3 months
orders by Commission for air quality management (NCR and Adjoining Areas)	16-11-2021 to 21-11-2021	6 days
Additional days towards re-mobilization as per recent publication in mint dated 07.10.2022		90 days

- xxiv. That all these facts were and are in the notice and knowledge of the complainants and the complainants have pleaded deliberate ignorance about the same. The complainants have intentionally omitted any reference to the aforesaid clauses of Agreement and hence there is no delay on the respondent in handing over the possession of the flat to the complainants.
- xxv. That the respondent after receipt of occupancy certificate from the Town & Country Planning Department Haryana, issued Offer of Possession vide letter dated 28.02.2023 requesting the complainants to accept the possession and execute the necessary documents for the execution of the conveyance deed of the given flat, however, the

complainants have failed to take possession of the flat and have failed to clear the dues amounting to Rs.2,46,336.61 towards interest and another sum of Rs.49,778.45 towards Utility and Operating charges against the said flat. The copy of the offer of possession letter is already on record. In view of the above, the complaint deserves to be dismissed.

7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaints can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority**

8. 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**

9. 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**

10. 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.

11. 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 respondent.**

**F. I Objection regarding delay due to force majeure circumstances.**

12. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as Commission for air quality management (NCR and Adjoining Areas), lockdown due to outbreak of Covid-19 pandemic. Further, the authority has gone through the possession clause of the agreement and observed that the respondent-developer proposes to handover the possession of the allotted unit **30<sup>th</sup> July 2022**. It is matter of record that the Ministry of Home Affairs, Government of India vide notification 40-3/2020-DM-I(A) dated 24.03.2020 under the Disaster Management Act, 2005, had imposed lockdown for whole of India with effect from 25.03.2020. In the present case, the subject unit was allotted to the complainants in the year 2021 and welcome letter was issued to the complainants on 23.03.2021, which is subsequent to the aforesaid notification dated 25.03.2020. The



apartment buyer's agreement was executed inter se parties on 05.08.2021 and as per clause 7.1 of the said agreement, the respondent committed to handover possession of the said apartment/floor on 30.07.2022. However, in the interest of justice, the respondent is given benefit of extension of 6 months to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 30.01.2023.

**G. Findings on the relief(s) sought by the complainants.**

- G.I** Direct the respondent to pay interest at the prescribed rate on the amount deposited by the complainant towards the delay caused from the due date of possession, i.e. 30.07.2022 till the date of offer of possession (28.02.2023) plus 2 months i.e. 28.04.2023 as prescribed in the Act and the Rules, 2017.
- G.II** Direct the respondent to revoke/cancel/ withdraw the illegal and unlawful demand of Rs.2,46,336/- fraudulently charged and demanded by the respondent on 06.06.2023, as more than 100% payable amount is already paid by the complainants to the respondent till March, 2023.
- G.III** Direct the respondent to not charge anything beyond the charges stipulated in the Agreement for Sale.

13. The above-mentioned reliefs sought by the complainants are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
14. In the present complaint, the complainants intend to continue with the project and are seeking delay possession charges at prescribed rate of interest on amount already paid by them as provided under the proviso to section 18(1) of the Act which 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."*

15. Clause 7.1 of the apartment buyer's agreement (in short, the agreement) dated 05.08.2021 provides for handing over possession and the same is reproduced below:

***"1 Schedule for possession of the said Residential Independent Floor-***

*...The promoter assures to handover possession of the Residential Independent Floor along with parking (applicable only if parking fee/charge has been paid) as per agreed terms and conditions by 30<sup>th</sup> July 2022 unless there is delay due to force majeure..."*

16. **Due date of handing over possession:** As per clause 7.1 of buyer's agreement, the respondent promoter has proposed to handover the possession of the subject unit by 30.07.2022. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 30.01.2023.

17. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges as per provisions of the Act and rules framed thereunder. Proviso to section 18 of the Act provides that where an allottee(s) 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. Rule 15 is 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***

*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.*

18. The legislature in its wisdom in the subordinate legislation under the 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.
19. 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., 21.02.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.
20. 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—*  
*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 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;"*
21. Therefore, interest on the delay payments from the complainants 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.


22. 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. As delineated hereinabove, the due date of handing over of possession comes is 30.01.2025. The authority is of the considered view that there is delay on the part of the respondent to offer possession of the allotted unit to the complainants as per the terms and conditions of the apartment buyer's agreement dated 05.08.2021 executed between the parties. The possession of the subject unit was offered to the complainants vide letter dated 28.02.2023 after receipt of occupation certificate on 22.11.2022. Thus, there is delay in handing over possession.
23. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottees shall be paid, by the promoter, interest for every month of delay on the amount paid by the complainants from due date of possession i.e., 30.01.2023 till actual handing over of possession or valid offer of possession plus two months after obtaining occupation certificate from the competent Authority, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

**H. Directions of the authority.**

24. 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 is directed to pay interest to the complainants against the amount paid by them at the prescribed rate of interest i.e., 11.10% p.a. for every month of delay from the due date of possession 30.01.2023 till actual handing over of possession or valid offer of possession plus two months after obtaining occupation certificate from the competent Authority, whichever is earlier as per proviso to section 18(1) of the Act read with rule 15 of the rules.
  - ii. The arrears of such interest accrued from due date of possession of each case till the date of this order by the authority shall be paid by the promoter to the allottees within a period of 90 days from date of this order as per rule 16(2) of the rules.
  - iii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. The rate of interest chargeable from the allottee 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 allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
  - iv. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.
25. The complaint as well as applications, if any, stand disposed of.
26. Files be consigned to registry.

**Dated: 21.02.2025**

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