



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

<b>Complaint no.:</b>	<b>1730 of 2022</b>
<b>Date of filing:</b>	<b>04.08.2022</b>
<b>First date of hearing:</b>	<b>29.09.2022</b>
<b>Date of decision:</b>	<b>03.03.2025</b>

**Chandra Sunder**

R/o RZ 54 B, B Block, Dadri Extension (E)

New Delhi- 110045

.....COMPLAINANT

Versus

**1. SRS Real Estate Ltd.**

Regd. Office: SRS Multiplex,  
Mezannine Floor City Centre,  
Sector-12, Faridabad, Haryana 121007.

**2. SRS Real Infrastructure Ltd.**

Regd. Office: SRS Multiplex,  
Top Floor City Centre,  
Sector-12, Faridabad, Haryana 121007.

**3. Senior Town Planner,**

HUDA Office Complex, Sector-12,  
Faridabad, Haryana- 1221007.

.....RESPONDENTS

**CORAM: Nadim Akhtar**

**Member**

**Chander Shekhar**

**Member**

**Present:** - Ms. Aditi Misra, Counsel for the complainant through VC.  
None for the respondents.

**ORDER (NADIM AKHTAR - MEMBER)**

1. Present complaint has been filed by the complainant on 04.08.2022 under Sections 31, 35, 36 and 37 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as RERA, Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the RERA, Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

**A. UNIT AND PROJECT RELATED DETAILS**

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

S.No.	Particulars	Details
1.	Name of the project	SRS Palm Homes, Sector-7, Palwal, Haryana



2.	Name of the promoter	SRS Real Estate Limited
3.	Flat No. allotted	606, 6 <sup>th</sup> floor, Tower A4, Type B
4.	Date of allotment	25.04.2015
6.	Date of execution Builder Buyer Agreement	Not executed
8.	Due date of offer of possession	25.04.2018
9.	Possession clause in BBA	Not available
10.	Total sale consideration	₹16,58,507/- (as per allotment letter)
11.	Amount paid by the complainant	₹6,21,940/-
12.	Offer of possession	Not given till date.

### B. FACTS OF THE COMPLAINT

3. Case of the complainant is that complainant had applied for a flat in an affordable group housing project namely; "SRS Palm Homes" being developed by respondent no.1 SRS Real Estate Ltd. at Sector-7, Palwal, Haryana by paying a sum of ₹20,000/- as booking amount. An acknowledgment receipt dated 06.12.2014 was issued by the respondent no.1, which is attached as Annexure C1.
4. Complainant further made payment of ₹2,07,313/- by cheque bearing no. 122793 dated 14.01.2015 of Bank of India, Delhi. Copy of cheque is attached Annexure C2.
5. Respondent no.1 sent an invitation for draw of lots of the project on 09.04.2015 to the complainant and said invitation for draw of lots is





annexed as Annexure C3. In pursuance to draw of lots, respondent no.1 allotted flat no. A4/B/606, Tower A4, Type B, Floor 6<sup>th</sup> in "SRS Palm Homes" and issued allotment letter dated 25.04.2015 to the complainant. It was also informed that total cost of the flat is ₹16,58,507/- including E.D.C/I.D.C. Allotment letter dated 25.04.2015 is annexed as Annexure C4.

6. Thereafter, complainant made payments of ₹80,000/- and ₹3,14,627/- on 08.05.2015 and 23.05.2015 respectively and respondent issued receipts dated 13.05.2015 and 25.05.2015 to the complainant. Copies of receipts are annexed as Annexure C5 and C6. Complainant paid total amount of ₹6,21,940/- to the respondent no.1 and same is acknowledged by the respondent no.1 via demand letter dated 19.05.2016 and a copy of the same is attached as Annexure C7.
7. That Respondent no.1 did not execute the Builder Buyer Agreement (BBA) even after receiving more than 10% of the total sale consideration and even after the expiry of 1 year of issuance of the allotment letter.
8. Possession of the unit was to be given within 36 months of the allotment letter, however, respondent no.1 failed to fulfil its commitment. Complainant due to her inability to pay more consideration on account of her financial condition and owing to the fact that she is a single mother and had to meet the expenditure which



was supposed to be incurred in her daughter marriage, sent letter dated 13.06.2016 explaining her situation and requesting the respondent no.1 to return her payment amounting to ₹6,21,940/- which was made till date. Copy of request letter is annexed as Annexure C8.

9. That repeated requests have already been made to the respondent no.1 to inform and update the complainant as to when the possession of the unit would be handed over. However, respondent no.1 failed to provide any meaningful respond to the queries of the complainant.
10. That in the present case, it is the failure on the part of the respondent no.1 to fulfil its obligations in handing over the possession within the stipulated period. Accordingly, non compliance of the mandate contained in section 11(4)(a), 11(4)(f) read with section 18(1) of the RERA Act of 2016 on the part of the respondent is established. Therefore, complainant being aggrieved by the conduct of the respondent no.1 has filed the present complaint before the Authority.

#### **C. RELIEFS SOUGHT**

11. Complainant has sought following reliefs :

- (i) To direct the respondent no.1 and 2 to refund amount of ₹6,21,940/-.
- (ii) To direct the respondent no.1 and 2 to pay interest on the deposited amounts by the complainant from the date of receipt of each payment till its actual realisation.



**D. REPLY ON BEHALF OF RESPONDENT NO. 1 AND 2**

12. Notice was served to the respondent no.1 and 2 on 05.08.2022, however, same was received back with report "incomplete address". Vide order dated 28.02.2023, complainant was directed to collect dasti notice from the Authority and served it to upon respondent no.1 and 2. Further, by the directions of the Authority notice was issued to the Jail Superintendent, Neemka Jail, Faridabad which got successfully delivered on 26.04.2023 as recorded in the order dated 18.05.2023. Despite availing many opportunities, respondent no.1 and 2 failed to file replies. Therefore, Authority deems it fit to struck off the defence of the respondent no.1 & 2 and decide the present complaint ex-parte.

**E. REPLY ON BEHALF OF RESPONDENT NO.3**

13. That complainant has purchased unit no. A4/B/606 in SRS Palm Homes from the respondent company SRS Real Estate Ltd. on terms and conditions mutually agreed by them and as mentioned in builder buyer agreement executed between the parties. The answering respondent is not a party to said agreement. The payment of unit has also been made directly by the complainant to the respondent company. The grievance of the complainant is also against the respondent company. Hence answering respondent has unnecessarily been impleaded as party to the complaint. In above circumstances





present complaint is liable to be dismissed qua the answering respondent.

14. The respondent company had submitted application for grant of license under the provisions of the Haryana Development and Regulation of Urban Area Act, 1975 to develop an affordable housing group colony in the office of the answering respondent. Accordingly License no. 70 of 2014 dated 25.07.2014 was granted to the SRS Real Estate Ltd. to develop the affordable housing colony on the land measuring 10 acres in sector- 7, Palwal which was cancelled on 21.08.2018 due to non compliance of terms and conditions of the license.

**F. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS**

15. Ld. counsel for complainant reiterated the facts of the complaint and stated that complainant request for refund of ₹6,21,940/- alongwith interest paid to the respondent no.1. During the course of hearing, counsel for complainant apprised the Authority regarding the clarification sought by the Authority vide its order dated 02.12.2024. Counsel for complainant stated that in compliance of the order dated 02.12.2024, complainant had filed application dated 25.02.2025 in the registry and further stated that the complainant, Mrs. Chandra Sunder, is a senior citizen and the single mother of Mrs. Nitya Iyer. That as



per the allotment letter, the allotted flat number is A4/B/606 and PH/PWL/07/0791 is the registration number/reference number and the same is mentioned on the invitation for the draw of lots and allotment letter on pages 30 and 31 of the complaint.

16. That Ms Nitya Iyer's name and the incorrect application number mentioned on the demand letter dated 19.05.2016 were due to a clerical mistake by Respondent No. 1, which was communicated to the respondent multiple times through the customer relationship manager. However, it has not been addressed. Further, the flat number is correctly mentioned on the allotment letter and demand letter dated 19/05/2016 as A4/B/606, and the address on the demand letter is also that of the complainant i.e RZ-54, B-Block, Dadri Ext., East Delhi-110045.

17. Regarding the payments she explained that the complainant requested her bank to provide proof of the payment of ₹2,07,313/-. The bank has provided the verified pages of the passbook for the joint account of the complainant and her daughter, Ms Nitya Iyer. The same is annexed as annexure C1. The amount of Rs.2,07,313/- paid vide cheque no. 122793, was withdrawn on 27.01.2016.(annexure C1). As the respondent has not issued any receipt of the cheque, the date of withdrawal of the amount of ₹2,07,313/- may be considered the payment date for calculating the interest amount.





Ld counsel for complainant also requested that case may be decided ex-parte based on the records available as complainant is seeking refund of the amount (paid) to the respondent no.1 alongwith interest. Authority inquired from the complainant what relief she is claiming from the respondent no.2 and 3. Regarding that, counsel for complainant stated that her main relief of refund is only constrained to respondent no.1 and no relief is sought from respondent no.2 and 3. She had impleaded respondent no.3 as party only for inquiring the status of the project. Considering said statement of the counsel, this order is passed by issuing directions to respondent no.1, SRS Real Estate Ltd only.

#### **G. ISSUE FOR ADJUDICATION**

18. Whether the complainant is entitled to refund of the amount deposited by her along with interest in terms of Section 18 of RERA, Act of 2016?

#### **H. OBSERVATIONS AND DECISION OF THE AUTHORITY**

19. The Authority has gone through the rival contentions. In light of the background of the matter as captured in this order, that complainant applied for flat vide application no.1490 by paying an amount of ₹20,000/- on 06.12.2014 in project namely; SRS Palm Homes (Group Housing Colony) being developed by M/s SRS Real Estate Ltd., Sector-7, Palwal, Haryana. Respondent no.1 issued invitation for



draw of lots in said project vide letter dated 09.04.2015. Pursuant to the said booking of flat, respondent no.1 allotted Flat no. A4/B/606 vide allotment letter dated 25.04.2015 and total cost of flat was ₹1658507/- including EDC/IDC. Copy of allotment letter is annexed as Annexure C-4 at page no.31. Thereafter, complainant made payments of ₹2,07,313/- on 14.04.2015 through cheque dated 14.04.2015 and ₹80,000/- on 13.05.2015 and ₹3,14,627/- were made on 25.05.2014, towards the cost of flat. Total amount paid by the complainant towards the flat is ₹6,21,940/- against the total sale consideration of ₹16,58,507/- and same is proved from the demand letter dated 19.05.2016 attached with complaint file at page no.36.

20. Complainant requested several times to the respondent no.1 for execution of builder buyer agreement, however, no builder buyer agreement is executed till date. Fact remains that respondent allotted the unit in favour of complainant and said allotment was governed by "Affordable Housing Policy- 2013" of Govt. of Haryana. As per clause 5 (iii) (b) of said policy, possession is to be offered within 4 years from date of sanction of building plans or receipt of environmental clearance whichever is later. However, from the reply of respondent no.3 it is clear that respondent no.1 submitted application for grant of license under provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 to develop



the Affordable Group Housing colony and license no. 70 of 2014 dated 25.07.2014 was granted to SRS Real Estate Ltd. to develop Affordable Group Housing colony on land measuring 10 acres in sector-7, Palwal which was cancelled upon non compliance of terms and conditions of license. Accordingly license no. 70 of 2014 was cancelled vide order dated 21.08.2018. Therefore, in absence of date of approval of building plans and environmental clearance it is appropriate to refer to **Appeal no 273 of 2019 titled as TDI Infrastructure Ltd Vs Manju Arya**, Hon'ble Tribunal has referred to the observation of Hon'ble Apex Court in **2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr.** in which it has been observed that period of 3 years is reasonable time of completion of construction work and delivery of possession. In present complaint, the flat was booked on 06.12.2014 and allotment letter dated 25.04.2015 was issued in favour of complainant. Accordingly, taking a period of 3 years from the date of allotment, i.e, 25.04.2015 as a reasonable time to complete development works in the project and handover possession to the allottee, the deemed date of possession comes to 25.04.2018. As per aforesaid observations, possession was supposed to be delivered upto 25.04.2018.





21. On 30.11.2023, Mr. Shyam Arora apprised the Authority that CIRP proceedings are pending before the Hon'ble NCLT. On 04.03.2024, Mr. Sham Arora, IRP during the course of hearing stated that as per NCLT order dated 22.12.2022, Corporate Insolvency Resolution Process (CRIP) is against the respondent company and the scope of IRP is limited to project 'SRS Royal Hills, Phase-2, located at village Baselwa, sector-87, Faridabad. It is in the knowledge of the Authority that in other pending complaint cases against the same respondent no.1, specifically, in complaint no.1575/2023, Mr. Shyam Arora has submitted an application dated 15.12.2023, mentioning the order dated 30.05.2024 passed by Hon'ble NCLT (Chandigarh) titled as "*LIC Housing Finance Limited versus SRS Real Estate Limited*" whereby it is clarified that insolvency proceedings are only limited to the project namely; SRS Royal Hills Phase-II, Sector-87, Faridabad.

22. Facts remains that respondent no.1 was duly served vide notice dated 26.04.2023 but no reply has been filed till date. Further, no one appeared today as well as in all previous hearings to rebut the claim of complainants. As on today, complainants are interested in seeking refund alongwith interest and Authority observes that the respondent no.1 has severely misused its dominant position. Allotment of the flat was confirmed by respondent no.1 vide allotment letter dated



25.04.2014, due date of possession as explained above was 25.04.2018. Now, even after lapse of 7 years respondent no.1 has not issued valid offer of possession till date. Respondent no.1 has not even specified the valid reason/ground for not offering the possession of the booked flat. On the other hand respondent no.3 has confirmed that license issued to the respondent no.1 was cancelled on 21.08.2018 meaning thereby that respondent no.1 is barred from developing the said project.

**23.**Period of 4 years is a reasonable time to complete development works in the project and handover the possession to the allottees. The project of the respondent no.1 is of an affordable group housing colony and allottees of such project are supposed to be mainly middle class or lower middle class persons. After paying her hard earned money, legitimate expectations of the complainant would be that possession of the flat will be delivered within a reasonable period of time. However, respondent no.1 has failed to fulfill its obligations as promised to the complainant. Thus, complainant is at liberty to exercise her right to withdraw from the project on account of default on the part of respondent to offer legally valid possession and seek refund of the paid amount along with interest as per section 18 of RERA Act.



24. Further, Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others*" in Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgement is reproduced below:

"25. *The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.*"

The decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of





delayed delivery of possession. The complainant wishes to withdraw from the project of the respondent, therefore, Authority finds it to be fit case for allowing refund in favour of complainant.

25. The definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

*(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;*

26. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is 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".*

27. Consequently, as per website of the State Bank of India, i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date, i.e., 03.03.2025 is 9.10%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 11.10%.

28. From above discussion, it is amply proved on record that the respondent no.1 has not fulfilled its obligations cast upon him under RERA Act, 2016 and the complainant is entitled for refund of deposited amount along with interest. Thus, respondent no.1 will be liable to pay the interest from the dates the amounts were paid till the actual realization of the amount to the complainant. Authority directs respondent to refund the amount of ₹6,21,940/- along with interest to the complainant at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017, i.e., at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 11.10% (9.10% + 2.00%) from the date amounts



were paid till the actual realization of the amount. Authority has got calculated the total amount along with interest calculated at the rate of 11.10% till the date of this order and total amount works out to ₹12,83,104/- as per detail given in the table below:

Sr.no	Principal amount in ₹	Date of payments	Interest accrued till 03.03.2025 in ₹
1.	20,000/-	06.12.2014	₹22753/-
2.	2,07,313/-	27.01.2016	₹209564/-
3.	80,000/-	13.05.2015	₹87170/-
4.	3,14,627/-	25.05.2015	₹341677/-
	Total=₹6,21,940/-		₹6,61,164/-
Total amount to be refunded by respondent to complainant = ₹6,21,940/- + ₹6,61,164/- = ₹12,83,104/-			

#### I. DIRECTIONS OF THE AUTHORITY

29. The Authority hereby passes this order and issue following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:


- (i) Respondent is directed to refund the entire paid amount of ₹6,21,940/- with interest of ₹6,61,164/- to the complainant. It is further clarified that respondent no.1 will remain liable to pay interest to the complainant till the date of actual realization of the amount.





- (ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which, legal consequences would follow.

**Disposed off.** File be consigned to record room after uploading of the order on the website of the Authority.

  
CHANDER SHEKHAR  
[MEMBER]

  
NADIM AKHTAR  
[MEMBER]