

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

Complaint no. : 8021 of 2022
Date of complaint : 25.01.2023
Date of order : 16.04.2025

Amninderjit Singh,
R/o: - H. No. 136, Sector-45,
Behind DPS School, Kanahi (73), Gurugram,
Haryana-122003.

Complainant

Versus

Ocen Seven Buildtech Pvt. Ltd.
Regd. Office At: - Vilage- Kherki Mukkar,
Paniyala Mor, Tehsil- Kotputli, Jaipur, Rajasthan-303108.
Also at: 505-506, 5th Floor, Tower B-4, Spaze I-Tech Park,
Sector-49, Gurugram-122018.

Respondent

CORAM:
Ashok Sangwan

Member

APPEARANCE:
Sapna Malik (Advocate)
Arun Yadav (Advocate)

Complainant
Respondent

ORDER

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

A. Project and unit related details

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

S. N.	Particulars	Details
1.	Name of the project	"Expressway Towers", Sector 109, Gurugram
2.	Nature of the project	Affordable Housing
3.	DTCP license no. and validity status	6 of 2016 dated 16.06.2016
4.	RERA Registered/ not registered	301 of 2017 dated 13.10.2017 valid upto 12.10.2021
5.	Allotment Letter	20.05.2017 (page 23 of complaint)
6.	Unit no.	2303, Tower 3 (Page 23 of complaint)
7.	Unit area admeasuring	645 sq. ft. (carpet area), 99 sq.ft balcony area (Page 23 of complaint)
8.	Date of execution of Apartment Buyer's Agreement	07.11.2017 (as per application dated 08.10.2024)
9.	Possession clause in Affordable Housing Policy	1 (iv) All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance , whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy.
10.	Date of environmental clearance	30.11.2017 (as per information obtained from the planning branch)
11.	Date of approval of building plans	26.09.2016 (as per information obtained from the planning branch)
12.	Due date of possession	30.05.2022

		(Calculated as 4 years from date of grant of environmental clearance i.e., 30.11.2017 as per policy of 2013 + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020.)
13.	Total sale consideration	Rs.26,29,500/- (excluding applicable taxes and charges) (as per application dated 08.10.2024)
14.	Amount paid by the complainant	Rs. 19,65,341/- (As per ledger dated 15.11.2022 on page 108 of complaint)
15.	Tripartite Agreement	21.11.2017 (page 61 of complaint)
16.	Occupation certificate /Completion certificate	Not obtained
17.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant vide complaint and written submissions dated 20.03.2025 has made the following submissions: -

- I. That the complainant was allotted a residential flat bearing no.2303, Tower-3, having carpet area 645 sq. ft. and balcony area 99 sq. ft.in the project of the respondent named "Expressway Towers" in Village Babupur, Sector-109, Gurugram vide allotment/demand letter dated 20.05.2017. Thereafter, a buyer's agreement dated 03.10.2017 was executed between the parties against the said residential unit/flat for a sale consideration of Rs.26,29,500/-.
- II. That further, the tripartite agreement was executed between the parties and TATA Capital Housing Finance Limited on 03.10.2017 for availing the loan from the aforesaid residential unit/flat in the aforesaid project of the respondent.
- III. That on 25.11.2017, the complainant sent an email to the respondent, requesting it to not to charge interest due to delay in payment from the



TATA Capital Housing Finance Limited, because of no activity on the construction site. Thereafter, on 30.11.2017, the respondent replied to the complainant through email stating that they will not charge the interest for the delay to make the payment of instalment till such time contraction activity picks up.

- IV. That on 24.07.2021, the complainant received the notice for non-payment of dues letter from the respondent through email. Thereafter, the complainant on 01.08.2021, made the payment of Rs.10,000/- to the respondent for the aforesaid flat.
- V. That as per 4.5 (i) of the buyer's agreement, in the event of any delay or default in making payment of the instalments by the complainant, he shall be liable to pay to the respondent interest, which shall be charged @15% per annum from the due date of payment of instalments. However, the delay for paying instalment for the aforesaid unit/flat was occurred from the side of the respondent as the respondent did not provide the RERA Certificate to the complainant/ TATA Capital Housing Finance Limited for further disbursement of loan for the aforesaid residential unit/flat even after several requests from the complainant, his brother and TATA Capital Housing Finance Limited. Thereafter, the respondent cancelled the aforesaid unit/flat No. 2303, on 14.06.2022, without informing the complainant and without following the process of clause 15.2 (i) of the buyer's agreement.
- VI. That in the mid-November 2022, the complainant was informed by the respondent towards the cancellation of his unit/flat on 14.06.2022 even after receiving the amount of Rs.19,65,341/- from him. It is further submitted that after cancellation of the allotted unit/flat dated 14.06.2022, the respondent never returned the remaining paid-up amount to the complainant immediately.



- VII. That the respondent may have already sold out the aforesaid unit/flat to some other buyers. Hence, in case, the respondent already sold out the said unit/flat, then the respondent violated the clause 13 and 17 (a) and (b) of the tripartite agreement as the respondent shall not transfer the said flat of the complainant to any purchaser without the prior written consent of TATA Capital Housing Finance Limited and the respondent agreed not to create any charge or mortgage over and in respect of the said flat/unit except in favour of TATA Capital Housing Finance Limited and not to permit any other person to occupy the said flat/unit without written permission of TATA Capital Housing Finance Limited respectively. Therefore, the respondent is liable to allot another similar unit in the same project to the complainant.
- VIII. That the complainant is ready to pay the remaining outstanding amount of Rs.7,52,909/- to the respondent for the aforesaid unit/flat only with the help of his financier i.e. TATA Capital Housing Finance Limited as per the Tripartite Agreement, because the complainant is not having the financial capacity to pay the remaining outstanding amount.
- IX. That the TATA Capital Housing Finance Limited has requested the complainant to provide the latest licence copy i.e. RERA license of the respondent to making the payment through email dated 09.08.2021. As such, the complainant sent an email dated 09.08.2021 to the respondent requesting to provide the RERA license as soon as possible for further disbursement of the loan from the TATA Capital Housing Finance Limited for the aforesaid unit/flat. But, till date, the Respondent did not provide the RERA License for further disbursement of the loan from the TATA Capital Housing Finance Limited for the aforesaid flat.
- X. That the respondent neither issued the notice/letter to the complainant for cancelling the aforesaid unit/flat nor published the list of defaulter



- allottee(s) including the complainant in the regional Hindi newspaper as per clause of 15.2 (i) of the buyer's agreement dated 03.10.2017.
- XI. That after filing the case, the respondent has filed its reply on 24.01.2024 before this Authority, which is subjected to cost of Rs.5,000/- as per order dated 18.10.2023.
- XII. That on 18.12.2024, the respondent gave certain documents towards the third-party rights has been created and after perusal of the documents of the respondent, it is ascertained that the respondent has allotted the aforesaid flat to Ms. Manjula Vihh on 27.06.2022. It is submitted that the said allotment is illegally, arbitrarily and without issuing the demand notice or cancellation notice to the complainant and without following the procedures and terms and conditions of the buyer's agreement dated 07.11.2017 and the tripartite agreement dated 03.10.2017.
- XIII. That during the course of proceedings, the respondent gave the document of the newspaper cutting as The Impressive Times dated 13.06.2020, New Delhi for the list of defaulters including the Complainant. It is submitted that it is English newspaper, and it is published at New Delhi. As such the aforesaid newspaper is not a regional Hindi New Paper, which is not circulated and published at State of Haryana.
- XIV. That after publication of the newspaper dated 13.06.2020 and after issuing the notice for non-payment of dues dated 26.07.2021, the respondent received the amount from the complainant for the aforesaid flat as Rs.3,88,000/- on 25.06.2021, Rs.10,000/- on 01.08.2021 and Rs.2,00,000/- on 09.08.2021.
- XV. That the publication of the newspaper dated 13.06.2020 is during the time of COVID lockdown and there were no possibilities of getting the

physical paper, this in itself should make the publication irrelevant and non-admissible.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - i. Direct the respondent to set aside cancellation and handover possession of the unit to the complainant.
 - ii. Direct the respondent to pay delay possession charges.
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 vide its reply dated 24.01.2024 has contested the complaint on the following grounds:
 - i. That this Authority lacks jurisdiction to adjudicate upon the present complaint as vide clause 16.2 of the builder buyer agreement, both the parties have unequivocally agreed to resolve any disputes through arbitration.
 - ii. That the complainant is a willful defaulter and deliberately, intentionally and knowingly have not paid timely installments.
 - iii. That starting from February 2023, the construction activities have been severely impacted due to the suspension of the license and the freezing of accounts by the DTCP Chandigarh and HRERA Gurugram, respectively. This suspension and freezing of accounts represent a force majeure event beyond the control of the respondent. The suspension of the license and freezing of accounts, starting from Feb 2023 till date, have created a zero-time scenario for the respondent. Further, there is no delay on the part of the respondent project as it is covered under clause number 5.5 force Majeure, which is beyond control of the respondent.

- iv. That the final EC is CTE/CTO which has been received by the respondent in February 2018. Hence the start date of project is Feb 2018 and rest details are as follows:

Covid and NGT Restrictions		
Project completion Date	Feb-22	
Covid lock down waiver	18 months	
NGT stay (3 months approx. for every year) i.e. 6*3	18 months	
Total Time extended to be extended (18+18) months	36 months	
Accounts freezed & license suspended further time to be extended till the unfreezing of the accounts i.e. Feb- Nov 2023 (10 months)	Feb 2023 till date	
	Nov-23	
Final project completion date (in case project is unfreezed) further time would be added till unfreezing the accounts	Nov-25	

As per the table given above, the final date for the completion of construction is Feb 25 in case the accounts are unfreezed by the competent authority on the date of filing this reply. From Feb 2023, the license has been suspended and accounts have been freezed by the DTCP Chandigarh and HRERA Gurugram.

- v. That owing to the complainant's consistent failure to meet their financial commitment, the unit of the complainant is cancelled as per the norms and conditions laid down in affordable group housing policy 2013 and agreement to sale.
7. 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 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.

F. Findings on the objections raised by the respondent:

F.I Objections regarding force majeure.

12. The respondent/promoter has raised the contention that the construction of the project has been delayed due to force majeure circumstances such as ban on construction due to orders passed by NGT, major spread of Covid-19 across worldwide, suspension of license by the DTCP, Chandigarh and freezing of accounts by HRERA Gurugram etc. which is beyond the control of the respondent and are covered under clause 5.5 of the agreement. The respondent has further submitted that suspension of the license and freezing of accounts, starting from Feb 2023 till date have created a zero-time scenario for the respondent. Furthermore, the final EC is CTE/CTO which has been received by the respondent in February 2018, hence the start date of project is Feb 2018. However, all the pleas advanced in this regard are devoid of merits. As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy.* The respondent has obtained environment clearance and building plan approval in respect of the said project on 30.11.2017 and 26.09.2016 respectively. Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. 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 was 30.05.2022. As far as other contentions of the respondent w.r.t delay in construction of the project is concerned, the same are disallowed as firstly the orders passed by NGT banning construction in the NCR region was for a very short period of time and thus,

cannot be said to impact the respondent-builder leading to such a delay in the completion. Secondly, the licence of the project of the respondent was suspended by DTCP, Haryana vide memo dated 23.02.2023, due to grave violations made by it in making compliance of the terms and conditions of the licence and thereafter due to several continuing violations of the provisions of the Act, 2016 by the respondent, in view to protect the interest of the allottees, the bank account of the respondent related to the project was frozen by this Authority vide order dated 24.02.2023. Thus, the promoter/respondent cannot be given any leniency on based of aforesaid reasons and it is well settled principle that a person cannot take benefit of his own wrong.

F. II Objection regarding complainant is in breach of agreement for non-invocation of arbitration.

13. The respondent has submitted that the complaint is not maintainable for the reason that the agreement contains an arbitration clause which refers to the dispute resolution mechanism to be adopted by the parties in the event of any dispute. The authority is of the opinion that the jurisdiction of the authority cannot be fettered by the existence of an arbitration clause in the buyer's agreement as it may be noted that section 79 of the Act bars the jurisdiction of civil courts about any matter which falls within the purview of this authority, or the Real Estate Appellate Tribunal. Thus, the intention to render such disputes as non-arbitrable seems to be clear. Also, section 88 of the Act says that the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Further, the authority puts reliance on catena of judgments of the Hon'ble Supreme Court, particularly in *National Seeds Corporation Limited v. M. Madhusudhan Reddy & Anr. (2012) 2 SCC 506*, wherein it has been held that the remedies provided under the Consumer Protection Act are in addition to and not in derogation of the other laws in force, consequently the

authority would not be bound to refer parties to arbitration even if the agreement between the parties had an arbitration clause. Therefore, by applying same analogy the presence of arbitration clause could not be construed to take away the jurisdiction of the authority.

14. Further, in **Aftab Singh and ors. v. Emaar MGF Land Ltd and ors., Consumer case no. 701 of 2015 decided on 13.07.2017**, the National Consumer Disputes Redressal Commission, New Delhi (NCDRC) has held that the arbitration clause in agreements between the complainants and builders could not circumscribe the jurisdiction of a consumer. Further, while considering the issue of maintainability of a complaint before a consumer forum/commission in the fact of an existing arbitration clause in the builder buyer agreement, the hon'ble Supreme Court in *case titled as M/s Emaar MGF Land Ltd. V. Aftab Singh in revision petition no. 2629-30/2018 in civil appeal no. 23512-23513 of 2017 decided on 10.12.2018* has upheld the aforesaid judgement of NCDRC and as provided in Article 141 of the Constitution of India, the law declared by the Supreme Court shall be binding on all courts within the territory of India and accordingly, the authority is bound by the aforesaid view. Therefore, in view of the above judgements and considering the provision of the Act, the authority is of the view that complainant is well within his right to seek a special remedy available in a beneficial Act such as the Consumer Protection Act and RERA Act, 2016 instead of going in for an arbitration. Hence, we have no hesitation in holding that this authority has the requisite jurisdiction to entertain the complaint and that the dispute does not require to be referred to arbitration necessarily.

G. Findings on the reliefs sought by the complainant:

- G.I Direct the respondents to set aside cancellation and handover possession of the unit to the complainant.**

15. The complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

.....

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

16. Clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licenced under it and the same is reproduced as under for ready reference:

1 (iv)

"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."

17. **Due date of handing over of possession:** As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy.* The respondent has obtained environment clearance and building plan approval in respect of the said project on 30.11.2017 and 26.09.2016 respectively. Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. 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 30.05.2022.

18. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to section 18 provides that where an allottee does not

intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. 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.

19. 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.
20. 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., 16.04.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.
21. 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;"*

22. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same as is being granted to the complainant in case of delayed possession charges.
23. The Authority observes that the respondent vide its reply dated 24.01.2024 has contended that the complainant has not paid the outstanding installments with interest. For that reason, the respondent has cancelled his unit and allotted to some other buyer. Further, vide proceedings dated 18.12.2024, the counsel for the respondent has handed over certain documents pertaining to cancellation of the unit of the allottee and creation of third-party rights to the complainant. However, a copy of the same has not been placed on record till date. Furthermore, the complainant vide his objections to the cancellation and creation of third-party rights dated 25.02.2025, has submitted that the unit in question was illegally and arbitrarily cancelled as the respondent neither issued any notice/letter to the complainant for cancelling the unit in question nor published the list of defaulters including the complainant in the regional Hindi newspaper. Also, the cutting of newspaper attached with the documents supplied to him was of English newspaper dated 13.06.2020 which was published at New Delhi. He further submitted that after the publication dated 13.06.2020 and after issuing of notice for non-payment of dues dated 26.07.2021, the respondent received the amount from the complainant for the aforesaid flat as Rs.3,88,000/- on 25.06.2021, Rs.10,000/- on 01.08.2021 and Rs.2,00,000/-

on 09.08.2021. After considering the above, the Authority is view that there is no document available on record to substantiate the claim of respondent that the unit has been validly cancelled after following the due procedure as prescribed under the policy of 2013 and the copy of ledger account dated 15.11.2022 annexed with the complaint (Annexure-11), duly supports the arguments of the complainant that the respondent has duly received amount from the complainant on several dates post publication in the newspaper. Moreover, post cancellation, the respondent has failed to refund the amount to the complainant till date. Accordingly, the said cancellation cannot be held valid in the eyes of law and is hereby set aside.

24. On consideration of the documents available on record and submissions made by both the parties, the authority is satisfied that the respondent is in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 1(iv) of the Affordable Housing Policy, 2013, the respondent/promoter shall be necessarily required to complete the construction of the project within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. Therefore, in view of the findings given above, the due date of handing over of possession was 30.05.2022. However, the respondent has failed to handover possession of the subject apartment to the complainant till the date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. Moreover, the authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

25. 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 allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 30.05.2022 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
26. Further, keeping in view of the fact that the respondent has already created third party rights on the unit in question, the respondent/promoter is directed to offer possession of a similarly located unit/flat of same size and specifications at same rate as per the agreement dated 07.11.2017 in the said project to the complainant.

H. Directions of the authority

27. Hence, the authority hereby passes this order and issue 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 cancellation is set aside. The respondent/promoter is directed to offer possession of a similarly located unit/flat of same size and specifications at same rate as per the agreement dated 07.11.2017 in the said project to the complainant.
 - ii. The respondent/promoter is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 30.05.2022 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession,



whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

- iii. The arrears of such interest accrued from 30.05.2022 till the date of order by the authority shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per rule 16(2) of the rules.
- iv. The respondent/promoter is directed to supply a copy of the updated statement of account after adjusting delay possession charges within a period of 30 days to the complainant.
- v. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges within a period of 60 days from the date of receipt of updated statement of account.
- vi. The respondent/promoter shall handover possession of the flat/unit in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.
- vii. 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.
- viii. The respondent/promoter shall not charge anything from the complainant which is not the part of the buyer's agreement or provided under the Affordable Housing Policy, 2013.





HARERA
GURUGRAM

Complaint no. 8021 of 2022

28. The complaints stand disposed of.
29. Files be consigned to registry.

(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 16.04.2025



HARERA
GURUGRAM