

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

Complaint no. : 947 of 2024
Date of complaint : 03.04.2024
Date of order : 02.07.2025

1. Poonam Manchanda,
2. Ashok Manchanda,
Both R/o: - I-101, Bestech Park View Spa,
Sector 47, Gurugram-122018.

Complainants

Versus

1. M/s Ramprastha Promoters & Developers Pvt. Ltd.
2. M/s Ramprastha Developers Pvt. Ltd.
3. M/s Ramprastha Estates Pvt. Ltd.
Regd. Office At: - Plot no. 114, Sector 44, Gurugram-122002.
Also at: Shop no.10, C Block Market,
Vasant Vihar, New Delhi-110057.

Respondents

CORAM:
Ashok Sangwan

Member

APPEARANCE:
Complainant in person
R. Gayathri Manasa (Advocate)
Mohammed Imran (Advocate)
Rajat Gupta (Advocate)

Complainants
Respondent no. 1
Respondent no. 2
Respondent no.3

ORDER

1. The present complaint has been filed by the complainant/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 provisions of the Act or the



Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S. N.	Particulars	Details
1.	Name of the project	"Ramprastha City", Sectors 37D, Gurugram, Haryana
2.	Project area	105.402 acres
3.	Nature of the project	Residential plotted colony
4.	DTCP license no. and validity status	128 of 2012 dated 28.12.2012 valid upto 27.12.2025
5.	Name of licensee	B.S.Y Developers and 35 others
6.	RERA Registered/ not registered	Not Registered
8.	Plot no.	Not allotted
9.	Unit area admeasuring	500 sq. yds. (as per page 44 of complaint)
10.	Date of booking/payment	11.02.2011 (page 42 of complaint)
11.	Date of preliminary allotment	16.04.2012 (page 44 of complaint)
12.	Date of execution of plot buyer's agreement	Not executed
13.	Due date of possession	11.02.2014 [Calculated as per <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018</i>]
14.	Total sale consideration	Rs.50,00,000/- (excluding applicable govt. taxes and charges) (page 44 of complaint)
15.	Amount paid by the complainant	Rs.50,00,000/- (as per page 42 of complaint)
16.	Completion certificate	Not received
17.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainants vide complaint as well as written submissions dated 21.05.2025 have made the following submissions: -
- I. That in February, 2011, the complainants on being approached and convinced on behalf of the respondent had invested their life savings in booking a plot of 500 sq. yards in its proposed project of Ramprastha City in Sector 37D of Gurugram. The complainants were asked to deposit the all-inclusive full consideration of Rs.50 lakhs for a plot of 500 sq. yards in its proposed ongoing project of Ramprastha City in Sector 37D of Gurgaon, with the promise that they would get priority in allotment and possession of a preferential plot over others, if they deposited the entire consideration in advance and in one go. To deposit the full consideration in one go to the respondent, the complainants had to make a desperate sale of their only residential apartment No. 133 in Sector -12, Abhiyan Apartment, DWARKA, New Delhi, where they had been living for multiple years.
 - II. That the complainants later came to know that many other allottees had been charged much less prices in the range of Rs.5,000 per sq. yard to Rs.7,500 per sq. yard. The complainants were further assured that they would be able to select a plot of their choice without paying any extra amount by way of preferential location and any other charges. It was further learnt that even at the time of booking, the respondents knew well that there were certain serious problems and issues which were not going to be resolved easily and early, yet the respondents concealed the same from the complainants.
 - III. That it was after the complainants had been approached and lured on behalf of the respondent no. 2 with the afore-mentioned claims



and believing its representations as true, the complainants 11.02.2011 deposited by cheque Rs.50 lakhs as full consideration (except the statutory and govt. charges) for buying a plot of 500 sq. yards for personal residential purposes.

- IV. That there was no communication from the side of the respondent no.2 for about 6 months. On being contacted by the complainants, Shri Ashok Jain, CA of the company, and Shri Balwant Singh Yadav, the Managing Director of the respondent company, informed the complainants that due to certain issues with DTCP, things were getting delayed a bit. They however assured the complainants that very soon a firm allotment would be made to them on priority basis, as promised earlier, immediately after the pending issues are resolved with the DTCP. It was after some more personal and telephonic reminders; the respondent no.2 issued the preliminary allotment letter dated 16.04.2012 to the complainants.
- V. That the preliminary allotment letter dated 16.04.2012 clearly stated that the booking was made in the preferred/priority category of the project of Ramprastha City in Sector 37-D, Gurugram.
- VI. That the complainants wish to emphatically place on record that except the EDC, IDC, stamp duty and registration charges, they deny their liability to any other charges, particularly the ones which are not payable to the statutory authorities or otherwise.
- VII. That the respondents vide its letter dated 29.04.2014 confirmed having demanded additional amounts of Rs.5500/- psy as EDC/IDC Charges, Rs.3000/- psy as development charges, and a minimum PLC charges @Rs.6500/- psy per PLC. Thus, against the agreed price of Rs.10000/- psy, it demanded further additional amount of Rs.15,000/- psy, for a single PLC plot. It was also claimed on behalf of



the respondents that there was no plot without a PLC. It amounted to cheating and fleecing the complainants by framing new fraudulent rules after several years of the booking. The complainants strongly protested against these new charges/demands after 3 years (when the period for handing over had already become over-due) on account of excessive EDC/IDC, development charges and a minimum PLC charges as the total price/consideration of Rs.50 lakhs had already been fully paid 3-4 years back in Feb., 2011 and which was almost all-inclusive. On strong protests being raised by the complainants, the respondents offered to reduce it to a reasonable percentage of the agreed over-all basic price of Rs.10,000/- psy. Without prejudice to their basic contentions and rights that the old bookings like theirs could not be subjected to such illegal charges, the complainants however indicated, under protest and without prejudice, that they could consider paying up to 2 PLCs, if it did not exceed 10% of the over- all agreed basic price of Rs.10,000/- psy, if it facilitated an early allotment in their favour.

- VIII. That no specific allotment no., allotment letter and agreement etc. were forthcoming despite the repeated assurances from the side of the respondent, the complainants kept on pursuing the matter with the respondent and its concerned executives and persons. Ultimately, the respondent issued letter dated 14.09.2012 vide which it has intimated that the allotment process for the residential plots located in "Ramprastha City," Sector 92, 93 and 95, Gurgaon, Haryana has been initiated.
- IX. That on receipt of the said communication, the complainants wrote back that their bookings had been made for a plot in Sector 37D, and not in Sector 92, 93 and 95 of Gurgaon.



- X. That when no firm allotment or any other documentation was received for about 6 months after the preliminary allotment letter dated 16.04.2012, the complainants contacted Shri Balwant Singh Yadav, MD and Shri Ashok Jain, CA, who assured the complainants that they would be in the preferred category and that the process for approval etc. of the license & zoning plans was going on and the complainants would soon be informed about the specific allotments of plots in the preferred category, immediately after the license & zoning plans were approved. The respondent further claimed that it would soon issue firm allotment letter & agreement also to the complainants.
- XI. That as no suitable plots of 500 sq. yards were offered to the complainants, they volunteered to accept 2 adjoining plots of 250 sq. yards which could be joined together. As no proposals were forthcoming from the respondents' side, the complainants offered to consider acceptance of plots available even in the NPPL category.
- XII. That there was no reply from the respondent as to the inordinate delays in allotment and the levying of various charges raised vide letters dated 30.12.2015, 15.08.2016 and 16.09.2016, and that too at very high rates, was not at all satisfactory and the complainants, therefore, vide their further letters dated 16.04.2017 & about a dozen reminders during the year 2017 and 2018 and letter dated 03.06.2019 sought justification from the respondent company on most of the issues, but the respondent were determined not to respond to anyone.
- XIII. That on further inquiries and investigations made by the complainants, it was learnt that the respondents had always been acting illegally and cheating them by making false representations



and promises which they never intended to fulfil and it was totally unlawful and fraudulent on the part of the respondents to have collected Rs.50 lakhs as early as on 11.02.2011 as full consideration for a plot in a proposed project for which no license had been obtained by it. The complainants later came to know that license no. 128 for the development of 105.402 acres of the land of Ramprastha City project of Sector 37D, Gurugram was issued to the respondent company about 22 months later on 28.12.2012.

- XIV. That in spite of the fact that period of 12 years has expired, the possession of the plot has not yet been offered even by the respondent which shows respondent's malicious intent of making unjust financial gains at the cost of the complainants. It is submitted that the complainants must not suffer any more for reasons or due to certain acts of omission or commission on the part of or defaults attributable to the respondents as the respondent grossly failed to deliver the possession of the said plot.
- XV. That for the last over 3 years, the complainants, on inquiry, are being regularly informed on their visits to the office of the Respondent that it has already applied for RERA registration and the respondent hoped to get the registration no. within 2-3 months period. But this period of 2-3 months has not ended even after 4 years and there is no visible progress or development anywhere on ground also. There are strong reasons to believe that the respondent deliberately has been delaying the RERA registration with ulterior motives of keeping the project outside the purview of RERA so that it can continue to manipulate its accounts, land and funds and its case is not scrutinized either by the RERA or by any other authority.
- XVI. That meanwhile it has further been reliably learnt, and it is supported



by the financial statements also of the respondent company, that the respondent has regularly been disposing of or selling good parts of its land bank to various other developers and parties at an apparent price which is one third of the prevalent market price and the remaining 2/3rd of the consideration is being pocketed/siphoned away after receiving the same underhand in cash, which is being kept outside the books. The actual net worth of the respondent company is still much more than its obligations and its liabilities. The financial constraints as claimed by the respondent are more the result of under-valuation of its realstate assets and the unsold inventory, and also for reasons of under-invoicing of its revenue receipts.

- XVII. That the respondent has no intent of making a fair and firm allotment, handover possession and pay interest and compensation for the huge delays of over 10 years. The complainants are left with no alternative but to file a complaint against it before the RERA Authority.
- XVIII. That the complainants reserve the right to approach the Adjudicating Officer, HRERA, Gurugram for seeking the relief of compensation and interest arising out of the cause of action in present matter.
- XIX. That the respondents have contended that the complainants were not "allottees" under the RERA Act. However, the preliminary allotment letter dated 16.04.2012 clearly establishes that the complainants were allotted a 500 sq. yard plot in Ramprastha City, Sector 37D, Gurugram, and paid ₹50,00,000/- towards the same. Further, the respondent's defense that the complaint is time-barred is unsustainable as the complaint is based on a continuing cause of action, as possession has not been delivered till date. Furthermore, the applicability of the Act, 2016 to the present matter is unequivocal and is established by the respondent's own actions. The respondent



applied for RERA registration under Temporary Project ID RERA-GRG-PROJ-310-2019 on 19.09.2019, well after the cut-off date of 01.05.2017 as notified under the Act. This is a clear and unambiguous admission that the project was ongoing as of the enforcement date of the RERA Act and, therefore, squarely within the purview of the legislation.

- XX. That all the three respondents share a common office address, common telephone number and email Ids and have common directors and management and staff. Therefore, the request for deletion of respondent from memo of parties is wholly unjustified and devoid of merit.

C. Relief sought by the complainants:

4. The complainant has sought following relief(s):
- I. Direct the respondent to get the project registered with the Authority.
 - II. Direct the respondent to allot a plot, handover possession and execute conveyance deed of the plot and to pay delay possession charges.
 - III. Direct the respondent to pay compensation and litigation cost.
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 no.1 has contested the complaint on the following grounds:
- i. That the respondent being aggrieved of the incorrect sectoral plan of Sector 37-C and D, Gurugram for which license No.128 of 2012 dated 28.12.2012 was granted to the respondent, had approached the Department of Town and Country Planning, Haryana. Pertinently, vide



order dated 01.04.2021 in *Appeal No.1 of 2021; Ramprastha Estates Pvt. Ltd. versus Director, Town and Country Planning, Haryana, Chandigarh*, the period between the date when the license was issued by the department i.e. 28.12.2012 and the date of approval of the revised/correct sectoral plan i.e. 01.09.2017 was ordered to be treated as 'Zero Period' as far as the obligations of the respondent are concerned insofar as the dues and other concomitant approvals and charges as appurtenant to the license are concerned.

- ii. 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 have 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 so that they will get the first priority in case the development plans eventually get approved by the competent authority. That the respondents have never entered into any agreement with the complainant and neither promised any particular plot or location nor promised any particular price or completion date to the complainants. Hence, there is no question of any breach by the respondent and no cause of action has accrued in favour of the complainants under the provisions of RERA, 2016.
- iii. That the complainant had approached the respondent in the year 2011 showing an interest to participate in one of the future potential projects of the respondent. It is pertinent to mention that the above-named future potential project was indeterminate at the point of time when the money was paid by the complainant. It is submitted that the complainant had the option at all times to either claim refund of their money or let their money remain with the respondent in anticipation



of future approvals which is subject to government action. Further, the complainant had the option at all times to recall his money even if any future approval would have come through, in the event, they were not willing to participate in such projects. Since the complainant, always had such option but voluntarily opted to let his money remain with the respondent, hence they cannot be allowed to claim interest which has no legal or contractual basis.

- iv. That the complainant fully being aware of the dynamic prospects of the said futuristic project which was indeterminate at the point of time when the complainant paid the money and the fact that it is subject to various government approvals for which there is no time line assured by the government authorities, either promised or otherwise, has still decided to keep his money with the respondent which was clearly with a speculative purpose and such speculative acts are not protected by any law. Hence, no right of the complainant could be said to have been breached by the respondent, giving rise to any claim for interest as alleged by the complainant. Hence, the complainant is liable to be dismissed with costs.
- v. That from the date of payment till the date of filing of the present complaint, the complainant has never raised any demand or claim whatsoever even though the complainant had the option at all times which show that the complainant voluntarily let his money remain with the respondent for his own selfish and speculative intents. The complainant has now approached the Authority with concocted and fabricated story to conceal the true matrix of the situation accordingly to which the complainant has no vested right in any determinate project but has merely paid money to be allowed to participate in case the approvals had come through. The conduct of the complainant



clearly indicates that the complainant's objects and intents are speculative not only behind making the payment but also behind filing the present complaint. It is shocking that the complainant is even today not claiming any refund but is trying to abuse the process of this Authority to claim hefty interest which is not tenable in law in the facts and circumstances of the present case. The complainant has no vested right to claim possession of any property as it is not yet determined and hence there is no question of any delay as alleged by the complainant. It is submitted that the delay is absolutely non-existent and imaginary under the present facts and hence, there is no entitlement of any interest whatsoever.

- vi. That further no date of possession has ever been mutually agreed between the parties. In 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 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. It is submitted there is no possibility of execution of a builder buyer agreement because the property is indeterminate and also there are no specific terms that have been mutually agreed between the parties.
- vii. That in absence of any written contract or agreement between the parties establishing terms and conditions, obligations and rights, consideration, location, project etc., the specific prayer for allotment,



handover of possession, for execution of conveyance deed and delay possession charges is not maintainable before this Authority.

- viii. That the complainant herein had preferred the present complaint on the basis of some receipt issued way back in 2011 against tentative registration in the future potential project of the respondent and the said receipt was not issued against any identified or specific plot/project and hence, till such a time a particular plot in an identified project is allocated, the complainant herein cannot be termed as an allottee within the meaning of the RERA Act or any such other law.
- ix. That the complainant has approached the respondent and has communicated that he is interested in a project which is "not ready to move" and expressed his interest in a futuristic project. It is submitted that the complainant is not interested in any of the ready to move in/near completion projects of the respondent. It is submitted that a futuristic project is one for which no price can be determined and such projects are sold at the prevailing rate which is determined when the project receives its approval and further amounts such as EDC/IDC charges are also known with certainty. It is submitted that on the specific request of the complainant, the money was accepted and no commitment was made towards any particular price or property or date of handover or possession since such terms were not foreseeable or known even to the respondent. The respondent had no certain schedule for the handover or possession since there are various hurdles in a futuristic project and hence no amount was received/demanded from the complainant towards the price and the complainant was duly informed that such prevailing price shall be payable as and when approvals are in place. The complainant is an elite and educated individual who has knowingly taken the



commercial risk of advancing money even though the property was non-determinate and the price was dependent upon future developments and was not foreseeable at the time of booking transaction. The complainant cannot be allowed to shift the burden on the respondent as the real estate market is facing rough weather.

- x. That it is submitted that the complainant is not an allottee and hence the proceedings are merely in the nature of recovery which is not maintainable before this forum. The complainant is merely speculative investor attempting to disguise themselves as genuine "allottee" to mislead this Authority. That the complainant approached this Authority after 18 years of the date of receipt and as such, this would go on to show that the complaint is barred by limitation and suffers from delay and laches.
7. The respondent no.2 put in appearance through Advocate and marked attendance on 11.07.2024, 10.10.2024, 23.01.2025, 12.03.2025 and 07.05.2025 and respondent no.3 put in appearance through Advocate and marked attendance on 07.05.2025. Despite specific directions for filing of reply, both the respondents have failed to comply with the orders of the Authority. It shows that the respondent no.2 & 3 were intentionally delaying the procedure of the court by avoiding filing of written reply. However, in the interest of justice, vide proceedings dated 07.05.2025, an opportunity was granted to the respondents to file written submissions in the matter within a period of two weeks, but the same has not been filed by them till date. Therefore, in view of above, the defence of the respondent no.2 & 3 is hereby struck off.
8. 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

9. The respondent has raised a preliminary submission/objection that the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. 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

10. 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

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

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.

12. 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. Objections raised by the respondents.**F.I Objection regarding force majeure conditions.**

13. The respondent no.1 has contended that being aggrieved of the incorrect sectoral plan of Sector 37 C and D, Gurugram for which license No.128 of 2012 dated 28.12.2012 was granted to the respondent, had approached the Department of Town and Country Planning, Haryana. Pertinently, vide order dated 01.04.2021 in *Appeal No.1 of 2021; Ramprastha Estates Pvt. Ltd. versus Director, Town and Country Planning, Haryana, Chandigarh*, the period between the date when the license was issued by the department i.e. 28.12.2012 and the date of approval of the revised/correct sectoral plan i.e. 01.09.2017 was ordered to be treated as 'Zero Period' as far as the obligations of the respondent are concerned insofar as the dues and other concomitant approvals and charges as appurtenant to the license are concerned.
14. The Authority observes that the said issue has already been dealt by the Hon'ble NCDRC, New Delhi vide order dated 04.12.2023 in Consumer Case No. 1083 of 2017 titled as "*Vikas Malhotra Vs M/s Ramprastha Estates Pvt. Ltd.*" wherein it has been observed that:
- 7. From the foregoing it is an admitted fact that the complainant booked a plot in opposite party's project, "Ramprastha City" on 24.11.2011. It is also evident that the opposite party was aware as early as 07.04.2014, when it applied for change of its layout plans, that the project as promoted was likely to undergo changes in view of the necessity to modify the Sectoral Plans. It made several efforts to have revised plans approved in order to proceed but was able to get appropriate orders on 01.09.2017. Its efforts thereafter seem to have been directed at getting an order for a "Zero Period" for the license which it succeeded in obtaining on 01.04.2021. There is no evidence brought on record*



to establish the efforts the opposite party made to keep the complainant in the knowledge of the developments with regard to the Sectoral Plans or the likely scenario or developments. No evidence has been brought on the record to indicate that the complainant was either offered the option to continue with the scheme or to opt out which the opposite party should have done considering it had accepted full sale consideration in 2011. No evidence is brought on record to indicate the steps taken till 23.12.2016 to expedite the matter. No Plot Buyers Agreement was proposed in the matter even after over 5 years of the receipt of funds. The action of the opposite party to keep the complainant completely in the dark without any alternative options after receiving the entire sale consideration is clearly an unfair trade practice. Irrespective of the issues with the Sectoral Plans and the Licence, it was incumbent upon the opposite party to share details and likely timelines with the opposite party whose funds it had accepted. Without entering into an agreement that would have defined the rights and obligations of both parties which would have enabled a decision to either continue or exit the scheme, the opposite party kept the funds collected without any progress on the project. The action of the opposite party in not entering into an agreement precluded this opportunity for the complainant. This is manifestly an abuse of dominant position and an unfair trade practice.

9. *The averment of the opposite party that the delay was due to factors beyond its control cannot be sustained in view of the fact that the scheme should have been redesigned in the light of the approvals available and a revised costing and payment plan proposed to the prospective allottees, including the complainant. The opposite party has not brought any document on record to suggest that such an approach was followed. It cannot, therefore, be allowed to latch its deficiency on to the Town & Country Planning Department. The argument that the delay was covered by any force majeure condition cannot be considered also because there was no agreement in place under which such conditions could be formally decided.*

15. After considering the factual as well as legal circumstances of the present complaint, the Authority is inclined towards the above-mentioned findings of Hon'ble NCDRC, New Delhi in the said complaint. Moreover, it is necessary to mention here that the said period was ordered to be treated as zero period as far as the obligations of the respondent are concerned insofar as the dues and other concomitant approvals and charges as appurtenant to the license only. Thus, the respondents/promoter cannot be granted 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 maintainability of the complaint against respondent no.1 & 3.

16. The counsels for the respondent no.1 i.e. M/s Ramprastha Promoters & Developers Pvt. Ltd. and respondent no.3 i.e. M/s Ramprastha Estates Pvt. Ltd, vide proceedings dated 07.05.2025 have averred that the present complaint is not maintainable qua the respondents as there is no relationship between the complainants and the respondents as the receipt was issued by respondent no.2 i.e. M/s Ramprastha Developers Pvt. Ltd. and the respondent no.1 & 3 are the separate entity. The complainants have submitted that all the three respondents share a common office address, common telephone number and email Ids and have common directors and management and staff. Therefore, the request for deletion of respondent from memo of parties is wholly unjustified and devoid of merit.
17. After considering the above, the Authority is of considered view that the respondent no.1 and respondent no.3 cannot escape from their responsibilities and obligations to the allottee being licensees of the project i.e. 'Ramprastha City' at Sector 37D, Gurugram and are covered under the definition of promoter within the meaning of Section 2(zk) of the Act, 2016. Further, the respondent no.1 vide reply dated 11.07.2024, has himself admitted the fact that licence for the project in question was granted to it and the complainant had approached the respondent no.1 in the year 2011 and has paid the money towards the future potential project to it. The authority further observes that the respondents have attempted to create a smoke screen of corporate opacity by creating multiple corporate entities and obfuscate the issue. It is therefore necessary to lift the corporate veil and uncover the reality. A cursory glance at the MCA official master data reveals that the respondent companies share the same registered address.



Furthermore, the email id of all the three respondents is the same i.e. compliances@ramprastha.com. Not only this, respondent no.1 & respondent no.3 share three common directors and respondent no. 2 & 3 share one common director. It is therefore evident that the respondents have created multiple corporate entities only to escape the responsibility of compliances. In fact, the registration for plotted colony in Sector- 37 C & 37D, Gurugram has also been applied in the name of respondent no.3 (Although, the licences for this land are in the name of respondent no.1 & respondent no.3). The Authority has observed that such a practise is being repeatedly used by the respondents in a large number of similar cases to obscure the accountability of the respondent companies, thereby frustrating the efforts to pursue legal action against them. Furthermore, the respondents cannot be granted leniency on based of the aforesaid reasons and it is well settled principle that a person cannot take benefit of his own wrong. Consequently, all the respondents shall be jointly and severally liable to bear the responsibility for the consequences arising from the present complaint. In view of the same, the contention/objection of respondent no.1 & 3 stands rejected.

F.III Objection regarding complaint being barred by limitation.

18. The counsel for the respondent no.1 has raised an objection that the complaint is barred by limitation as the same is filed after 13 years from the date of payment. The objections to the same were to be raised in a time bound manner. Hence, the complaint is not maintainable on the above-mentioned ground.
19. On consideration of the documents available on record and submissions made by the party, the Authority observes that the project in question is an ongoing project, and the respondent/promoter has failed to apply



and obtaining the CC/part CC till date. As per proviso to section 3 of Act of 2016, ongoing projects on the date of this Act i.e., 28.07.2017 for which completion certificate has not been issued, the promoter shall make an application to the authority for registration of the said project within a period of three months from the date of commencement of this Act and the relevant part of the Act is reproduced hereunder: -

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

20. The legislation is very clear in this aspect that a project shall be regarded as an "ongoing project" until receipt of completion certificate. Since no completion certificate has yet been obtained by the promoter-builder with regards to the concerned project.
21. Moreover, it is observed that vide preliminary allotment letter dated 16.04.2012, it was agreed between the parties that the promoter shall give possession of a plot having size of 500 sq. yards to the complainants in its project named "Ramprastha City", Sector-37D, Gurugram and specific plot no. shall be allotted after approval of licence and zoning plans. However, despite receipt of an amount of Rs.50,00,000/- from the complainants back in 2011 against the booked plot, the respondent-promoter has not even allotted a specific plot to the complainants and also no effort has been made by it to get the plot registered in his name till date. As the respondent has failed to handover the possession of the booked plot to the complainants and thus, the cause of action is continuing till date and recurring in nature. The authority relied upon the Section 22 of the Limitation Act, 1963, Continuing breaches and torts and the relevant portion are reproduced as under for ready reference: -

*22. Continuing breaches and torts-**In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or the tort, as the case may be, continues.*

22. Keeping in view the aforesaid facts and legal position, the objection with regard to the complaint barred by limitation is hereby rejected.

F. IV Objection regarding the complainants being investor.

23. The respondent no.1 has taken a stand that the complainants are investors and not consumer. Therefore, they are not entitled to the protection of the Act and are not entitled to file the complaint under section 31 of the Act. The Authority observes that any aggrieved person can file a complaint against the promoter if the promoter contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the preliminary allotment letter dated 16.04.2012, it is revealed that the complainants are buyers and have paid a considerable amount of money to the promoter towards purchase of a plot in the project of the promoter. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"

In view of above-mentioned definition of "allottees" as well as all the terms and conditions of the preliminary allotment letter, it is crystal clear that the complainants are allottees as the promoter has agreed to allot a plot admeasuring 500 sq. yards in its project named 'Ramprastha City' at Sector-37D, Gurugram and has received a sum of Rs.50,00,000/- against the same from the complainants. Further, the concept of investor is not defined or referred in the Act. As per the definition given



under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled as *M/s Srushti Sangam Developers Pvt. Ltd. Vs. Sarvapriya Leasing (P) Lts. And anr.* has also held that the concept of investor is not defined or referred in the Act. Thus, the contention of promoter that the allottees being investor are not entitled to protection of this Act also stands rejected.

G. Findings on the relief sought by the complainant.

G.I Direct the respondents to get the project registered with the Authority.

24. The complainants in the present complaint are seeking relief with respect to direction to the respondents to get the project registered with the Authority. However, it is necessary to mention here that the promoter has already applied for registration of the project u/s 4 of the Act, 2016, but the application is pending due to non-fulfillment of deficiencies/compliances etc. Whenever, the said pending compliances would be made, the registration certificate shall be issued to the respondent/promoter.

G.II Direct the respondent to allot a plot, handover possession and execute conveyance deed of the plot and to pay delay possession charges.

25. In the present complaint, the complainants intend to continue with the allotment and are 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 delay, till the handing over of the possession, at such rate as 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 may be prescribed."

(Emphasis supplied)



26. The complainants had booked a plot admeasuring 500 sq. yards. in one of the futuristic projects of respondents by paying an amount of Rs.50,00,000/- on 11.02.2011. Thereafter, the complainants vide preliminary allotment letter dated 16.04.2012, were allotted a plot admeasuring 500 sq. yards in project of the respondents named "Ramprastha City" located at Sector 37D, Gurugram after receiving consideration amount against the said plot except registration, development charges, service tax or any other charges payable to government. Thereafter, vide email dated 31.12.2020, the respondents informed the complainants that they have applied in Authority for registration of project and hopefully it is expected in March end. Further, soon thereafter, the development work and allotment process with necessary documentation would be started. However, despite receipt of full consideration amount from the complainants back in 2011 against the booked plot except registration, development charges, service tax or any other charges payable to government, the respondents-promoter have not even allotted a specific plot to the complainants and also failed to enter into a written agreement for sale with respect to the same.
27. The respondent no.1 vide reply has submitted that the complainant had preferred the present complaint on the basis of some receipt issued way back in 2011 against tentative registration in the future potential project of the respondent and the said receipt was not issued against any identified or specific plot/project and hence, till such a time a particular plot in an identified project is allocated, the complainant herein cannot be termed as an allottee within the meaning of the RERA Act or any such other law.



28. The Authority observes that 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 is 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, thereby 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-a-vis the locus standi of the present respondent to institute the subject complaints. The reason being that, when within the ambit of the 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)

29. 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 favour.
30. The Authority further observes that the project named "Ramprastha City" at Sector 37D, Gurugram is not yet registered with the Authority and no plots/units can be sold or allotted to any person in the said project before prior registration of the project with the Authority in terms of Section 3 of the Act, 2016. Thus, in view of the agreed terms of





the letter dated 16.04.2012 read with Section 11(4)(a), Section 13 and Section 3 of the Act of 2016, the respondents-promoter is directed allot a specific plot number measuring 500 sq. yards to the complainants in any of its existing projects registered with the Authority and to enter into a registered buyer's agreement with the complainants as per the 'agreement for sale' annexed with the Haryana Real Estate (Regulation and Development) Rules, 2017 within a period of 90 days from the date of uploading of this order.

31. **Due date of possession:** The Authority observes that even after lapse of more than 13 years from the date of payment till the filling of complaint, the respondents-promoter have neither allotted a specific plot number nor specified the timelines to the complainant. The authority is of the considered view that the Act, 2016 ensures the allottee's right to information about the project, unit and knowledge about the timelines of the delivery of possession. However, the respondents are not communicating the same to the complainants. Hence, it is violation of the provisions of the Act, and shows its unlawful conduct. 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.**"*

32. In view of the above-mentioned reasoning, the date of payment made vide receipt dated 11.02.2011, ought to be taken as the date for calculating due date of possession. Therefore, the due date of handing over of the possession of the plot comes out to be 11.02.2014, manifesting that there has been a delay of more than 11 years in



handing over possession, making the respondent liable to pay delay possession charges as per Section 18 of the Act, 2016 along with possession.

33. **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.

34. 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.
35. 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., 02.07.2025 is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.
36. The definition of term 'interest' as defined under section 2(z) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, 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;"*

37. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 11.10% by the respondents /promoter which is the same as is being granted to the complainants in case of delay possession charges.
38. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the Authority is satisfied that the respondents are in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date. The Authority has observed that the due date of possession was 11.02.2014. However, the respondents/promoter have not allotted a specific plot number to the complainants and also has failed to handover possession of the plot to the complainants till date of this order. Accordingly, it is the failure of the respondents/promoter to fulfil its obligations and responsibilities to allot a specific unit number and hand over the physical possession. The Authority is of the considered view that there is delay on the part of the respondents to offer of possession of the booked plot to the complainants. Further no CC/part CC has been granted to 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 promoter as well as allottees.
39. 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



respondents is established. As such the complainants are entitled to delay possession charges at the prescribed rate i.e., @11.10% p.a. w.e.f. 11.02.2014 till offer of possession plus 2 months after obtaining completion 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.

40. The complainants are further seeking relief with respect to handing over of possession of plot as well as execution of conveyance deed in their favour. Section 17(1) of the Act obligates the promoter to handover the physical possession of the plot and to get the conveyance deed executed in favour of the allottee and the same is reproduced below:

"17. Transfer of title. -

(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

41. However, in the instant case, no CC/part CC has been granted to 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. The respondents/promoter are under an obligation as per Section 17 of Act to handover possession of the plot and to get the conveyance deed executed in favour of the complainants. Thus, in view of the above, the respondents/promoter is directed to handover possession of the allotted plot admeasuring 500 sq. yards to the complainants after obtaining CC/part CC from the competent authority and to execute the conveyance deed in favour of complainants within a



period of three months from the date of issuance of completion certificate/part completion certificate, upon payment of the outstanding dues and requisite stamp duty by the complainants as per norms of the state government as per Section 17 of the Act.

G.III Direct the respondent to pay compensation and litigation cost.

42. The complainants are seeking above mentioned relief w.r.t. compensation. *Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors.* has held that an allottee is entitled to claim compensation and litigation charges under Sections 12,14,18 and Section 19 which is to be decided by the Adjudicating Officer as per Section 71 and the quantum of compensation and litigation 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 and legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of compensation and litigation expenses.

H. Directions of the authority

43. 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):
- The respondents/promoter is directed to allot a specific plot number measuring 500 sq. yards to the complainants and to enter into a registered buyer's agreement with the complainants as per the 'agreement for sale' annexed with the Haryana Real Estate (Regulation and Development) Rules, 2017 within a period of 90 days from the date of uploading of this order.



- ii. The respondent/promoter is directed to pay interest to the complainants 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., 11.02.2014 till actual handing over of possession or offer of possession plus two months after obtaining completion certificate/part completion 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.
 - iii. The arrears of such interest accrued from 11.02.2014 till the date of order by the authority shall be paid by the respondent/promoter to the complainants 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 allottees before 10th of the subsequent month as per Rule 16(2) of the Rules.
 - iv. The respondent/promoter is directed to handover possession of the allotted plot and to execute conveyance deed in favour of the complainants on payment of stamp duty and registration charges within three months after obtaining completion/part completion certificate from the competent authority.
 - v. The rate of interest chargeable from the allottees 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 allottees, in case of default i.e., the delay possession charges as per section 2(za) of the Act.
44. Complaint stands disposed of.
45. File be consigned to registry.

(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 02.07.2025