

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

Complaint no.	1183 of 2024
Date of filing complaint	02.04.2024
First date of hearing	10.07.2024
Order pronounced on	02.07.2025

**Ms. Rosy Ralhan and Anupam Ralhan**  
**Resident of:** House no. C-322A, Ground  
Floor, Sushant Lok Phase-I, Gurugram-  
122002

**Complainants**

Versus

**M/s Sai Aaina Farms Private Limited**  
**Regd. office:** 302A, Global Foyer, Golf  
Course Road, Sector 43, Gurugram-  
122009

**Respondent**

**CORAM:**

Shri Ashok Sangwan

**Member**

**APPEARANCE:**

Sh. Garvit Gupta (Advocate)

Complainants

None

Respondent

**ORDER**

1. The present complaint has been filed by the complainants/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made thereunder 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:

Sr. No.	Particulars	Details
1.	Name and location of the project	"Mahira Homes" at Sector 68, Gurugram, Haryana
2.	Nature of the project	Affordable group housing colony
3.	Project area	9.96875 acres
4.	DTCP license no.	106 of 2017 dated 22.12.2017
5.	Name of licensee	Mohan investment and properties Pvt. Ltd. and others.
6.	Date of cancellation of license no. 106 of 2017	09.05.2022 (Taken from another case of the same project i.e., CR/3322/2023 decided on 11.03.2025)
7.	RERA Registered/ not registered	Registration revoked by the Authority vide order dated 11.03.2024
8.	Allotment letter dated	11.08.2018 (page 29 of complaint)
9.	Unit no.	H-702, tower H, Seventh floor (page 34 of complaint)
10.	Unit area admeasuring	535.65 sq. ft. (carpet area) 99.94 sq. ft. (balcony area) (page 34 of complaint)
11.	Date of building plan approval	23.02.2018 (As per information provided by Planning Branch of the Authority)
12.	Environmental clearance dated	05.06.2018 (As per information provided by Planning Branch of the Authority)
13.	Execution of BBA	13.08.2018 (page 31 of complaint)
14.	Possession clause as per BBA	<b>8. Possession</b> "8.1 Subject to force majeure circumstances, intervention of statutory authorities, receipt of occupation certificate and Allottee having timely complied with all its obligations, formalities or documentation, as prescribed by Promoter/Developer and not being in

		<p>default under any part hereof and Apartment Buyer's Agreement including but not limited to the timely payment of instalments of the other charges as per the payment plan, Stamp Duty and registration charges, the Promoter/Developer proposes to offer possession of the Said Apartment to the Allottee <b>within a period of 4 year from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Dote"), whichever is later."</b></p> <p style="text-align: right;">(Emphasis supplied)</p> <p>(page 40 of complaint)</p>
15.	Possession clause as per Affordable Housing Policy, 2013	<p><b>1(IV) of the Affordable Housing Policy, 2013</b></p> <p>All such projects shall be required to be necessarily completed within <b>4 years from the approval of building plans or grant of environmental clearance, whichever is later.</b> This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</p>
16.	Due date of possession	<p>05.12.2022</p> <p>(calculated from the date of approval of building plans)(an extension of 6 months provided in view of HARERA notification no. 9/3-2020)</p>
17.	Basic sale consideration	<p>Rs.21,96,572/-</p> <p>(As per payment plan at page 55 of complaint)</p>
18.	Amount paid by the complainant	<p>Rs.18,07,613/-</p> <p>(as per SOA dated 11.08.2021 at page 66 of complaint)</p>
19.	Publication in newspaper "Punjab Kesari"	<p>21.08.2021</p> <p>(page 40 of complaint)</p>
20.	Cancellation Letter	<p>21.08.2021</p> <p>(page 67 of complaint)</p>
21.	Occupation certificate	Not obtained
22.	Offer of possession	Not offered
23.	E-mail sent by complainant to respondent asking for refund	<p>09.06.2023</p> <p>(page 72 of complaint)</p>

24.	E-mail by respondent to complainant informing that their accounts are on hold by HRERA and they will updated cheque collection date once matter related to accounts is resolved	09.06.2023 and 20.07.2023 (page 73 and 74 of complaint)
25.	E-mail by complainant to respondent asking for refund of amount paid by them	03.02.2024 (page 69-70 of complaint)
26.	E-mail by respondent to complainant informing that it will take 120 days to refund the amount as per BBA entered between them	03.02.2024 (page 70 of complaint)

**B. Facts of the complaint:**

3. The complainant has made the following submissions: -
  - a) That the respondent offered for sale units in a group housing project known as 'Mahira Homes' which claimed to comprise of multi-storied apartments, residential units, car parking spaces, recreational facilities, gardens etc. on a piece and parcel of land situated in Sector 68, Village Badshahpur, Gurugram, Haryana, 122018. The respondent had also claimed that the DTCP, Haryana had granted license bearing no. 106 of 2017 dated 22.12.2017 in accordance with the provisions of Affordable Housing Policy, 2013 for development of Affordable Group Housing Colony. This project was later on registered vide registration certificate No. 21 of 2018 with the Authority. However, the registration of the project in question has been lapsed.
  - b) That the complainants, induced by the assurances and representations made by the respondent, decided to book a residential unit in the project of the respondent in the month of February, 2018. The complainants made a

payment of Rs. 1,12,000/- at the time of booking and the respondent accordingly issued a receipt dated 23.02.2018 acknowledging the said payment.

- c) That after draw of lots conducted by the respondent on 27.04.2018, the respondent allotted a 2BHK unit type- B bearing no. H-702 in tower-H admeasuring carpet area of 536.65 sq. ft. in the said project to the complainants. The respondent intimated the complainants about the said allotment vide allotment letter dated 11.04.2018.
- d) That a copy of the buyer's agreement was shared by the respondent with the complainants. The complainants made it clear to the respondent that the complainants required the unit in a time bound manner for their own use and occupation and of their family members. This fact was also specifically brought to the knowledge of the officials of the respondent who confirmed that the possession of the apartment would be positively handed over to the complainants within the agreed time frame.
- e) That the respondent was in a completely dominant position and wanted to deliberately exploit the same at the cost of the innocent purchasers including the complainants and the same is evident from a bare perusal of clause 2.11 and 2.14 of the said agreement.
- f) That prior to the signing of the said agreement, complainants had made payment of a significant amount. Since the complainants had already parted with a considerable amount, they were left with no other option but to accept the lopsided and one-sided terms of the agreement. Hence the buyer's agreement dated 13.08.2018 was executed between the parties.
- g) That the complainants believing the assurances and representations of the respondent continued to make the payments against the said allotted unit as and when demanded by the respondent and as per the payment plan

annexed with the agreement dated 13.08.2018. The complainants have made all the payments without any delay or defaults in making the said payments.

- h) That as per clause 8 of the agreement, the possession of the unit was to be handed over by the respondent within four years from the date of approval of building plans or receipt of environment clearance, whichever was later. The building plans of the project in question was approved on 23.02.2018 and thus, the due date to handover the possession of the allotted unit elapsed on 23.02.2022.
- i) That, the respondent failed to intimate the complainants about the construction status of the tower in which the unit allotted to the complainants was located. However, the respondent in order to somehow create false evidence issued payment demands which were time linked as per the payment plan laid down in the Affordable Housing Policy, 2013. When the complainants confronted the respondent, no proper reply was received nor any latest status of the construction was given to the complainants. The complainants were left with no other option but to themselves visit the site in the month of June, 2021 to check the status of the construction on site. Upon reaching the site, the complainants were shocked and appalled as they saw no construction was going on in respect of the tower wherein the unit of the complainants was situated and thereby giving the impression that the respondent had abandoned the project.
- j) That since the respondent had not even started with the construction of the tower in which the unit allotted to the complainants was located, the complainants requested the respondent telephonically, and by visiting the office of the respondent to update them about the date of handing over of the possession. The representatives of the respondent assured the

complainants that the possession of the unit would be handed over to them shortly and that the construction of tower 'H' in question would commence very soon. The respondent continuously misled the allottees including the complainants by giving incorrect information and timelines within which it was to hand over the possession of the unit to the complainants. The complainants informed the respondent that on account of the said lapse on the part of the respondent, the complainants would not make any further payment till the time, the respondent completes the super structure of the tower in question.

- k) That the respondent kept on sending payment demands against time linked payment plan even when the construction was not even happening. One of the payment demand dated 27.03.2021 was sent by the respondent to the complainants during the Covid 19 pandemic period when the said pandemic was at its peak. When the complainants yet again enquired from the respondent about its modus operandi of issuing payment demands without any corresponding construction, it was informed that the same was being done by the respondent in order to comply with the provisions of the Affordable Housing Policy, 2013 and that no coercive measure would be taken by the respondent if the complainants make the payment only after completion of the structure of the tower by the respondent. However, the respondent requested the complainants to make payments, if it was possible to help the respondent maintain its cash flow during the Covid time period. Although, the complainants had no trust but yet in order to prove its bonafide that the complainants were very much interested in the unit in question, made part-payment of Rs. 3,00,000/- on 11.06.2021.
- l) That the complainants have made a payment of Rs. 18,07,613/- out of the total sale consideration of Rs. 21,96,572/- as per the payment plan shared

by the respondent without any delay or default on the part of the complainants. The said fact is evident from the Statement of Account shared by the respondent dated 11.08.2021.

- m) That when the complainants confronted the respondent, it was assured by the respondent that additional benefits in the form of delayed interest as per the provisions laid down by RERA Act, 2016 would be given to the complainants on account of the number of days of delay of the respondent. However, yet again, the assurances turned out to be false. Despite receipt of payment by the complainants and despite being aware of its own defaults to even commence the construction of the tower, the respondent took a complete U turn and issued a cancellation notice dated 21.08.2021 stated to be as per the provisions of the Haryana Affordable Housing Policy, 2013. The fear of the complainants turned out to be a reality wherein it now became evident that the respondent has throughout been trying to mislead the complainants by asserting false assurances and representations. The complainants are nothing but victims of misrepresentation on the part of the respondent.
- n) That the complainants visited the office of the respondent to seek refund of the total amount of Rs. 18,07,613/- already paid by the complainants. The respondent vide its mail dated 28.02.2022 informed the complainants that the complainants can follow up with its representatives and accordingly the refund would be initiated. Subsequently, the respondent vide its mail dated 07.03.2022 informed the complainants that the complainants would require to deposit the hard copies of certain documents and thereafter, the refund process would be initiated.
- o) That the complainants subsequently based on the aforesaid mail of the respondent dated 07.03.2022 arranged the documents as stated by the

respondent and vide its email dated 08.07.2022 requested the timeline and the process for submission of the documents for the purpose of processing the refund. It is pertinent to mention herein that the representative of the respondent had informed the complainants that the respondent had, after the cancellation of the unit has already created third party rights over it by selling the same to some other allottee. The complainants reminded the respondent vide the said email dated 08.07.2022 that it is the complainants who have suffered on account of illegalities and defaults of the respondent. The respondent vide its email dated 11.07.2022 admitted the fact that refund of the amount is to be given to the complainants but at the same time, the respondent informed the complainants that the refund of the amount would take 120 days.

- p) That the respondent despite evidently admitting that the full amount would be refunded to the complainants miserably failed to do the same, and the complainants were again constrained to visit the office of the respondent to inquire about the same. On 08.09.2022, the complainants provided the entire set of documents that were demanded by the respondent and the same is evident from the checklist of refund duly signed and acknowledged by the respondent. The complainants through several meeting and telephonic conversations inquired about the status of the process of refund and vide their mail dated 09.06.2023 requested the respondent to refund the amount paid by the complainants at the earliest as the documents as demanded by the respondent have been submitted by them duly as and when demanded.
- q) That despite specific admission, the respondent has till date failed to remit the amount to the complainants. The complainants have been chasing the respondent and requesting the respondent to inform them about the

current status of the refund process and to refund the entire paid amount as soon as possible as the complainants are continuously suffering on account of the withholding of money on the part of the respondent. It is submitted that vide email dated 09.06.2023, the respondent informed the complainants that the bank accounts of the project in question have been kept on hold by this Hon'ble Authority and that the respondent would update the complainants about the cheque collection date soon. A similar email dated 20.07.2023 was again sent by the respondent to the complainants.

- r) That the respondent had failed to keep pace with process of refund and the said project is far from completion and thus, the respondent will not be able to deliver the possession. It is abundantly clear that the respondent has played a fraud upon the complainants and has cheated them fraudulently and dishonestly with a false promise to complete the construction of the project within the stipulated period.
- s) That due to the fault of the respondent, the complainants have been deprived of a roof over their head for a long time and have suffered very badly. The respondent has violated several provisions of RERA 2016 and Haryana RERA Rules, 2017 and is liable for the same. As per section 18 of RERA 2016 and Rules 15(1) and 15(3) of Haryana RERA Rules, 2017, respondent is liable to pay interest for every month of delay till handing over of possession.
- t) That as per Section 12 of the RERA Act, 2016, the promoter/respondent is liable to return the entire investment along with interest to the complainants for giving incorrect, false statement.
- u) That it is submitted that the project is an ongoing project and hence falls under the first proviso to Section 3(1) of RERA 2016. The complainants

believe that no occupation and completion certificate has been issued for the project in question till date and hence this project falls clearly under the jurisdiction of this Hon'ble Authority. The respondent in utter disregard of its responsibilities has left the complainants in the lurch and the complainants have been forced to chase the respondent for seeking relief.

- v) That the cause of action for the present complaint is recurring one on account of the failure of the respondent to perform its obligations within the agreed time frame. The cause of action again arose when the respondent failed to hand over the possession and finally about a week ago when the respondent refused to refund the amount paid with interest amount and compensation. The complainants reserve their right to approach the appropriate forum to seek compensation.

**C. Relief sought by the complainants:**

4. The complainant has sought following relief(s):
- I. Direct the respondent to refund the total amount paid by the complainants along with interest at the prescribed under RERA Act, 2016 and Haryana RERA Rules, 2017 to be calculated from date of each payment till the date of realization of the amount.
  - II. Direct the respondent not to terminate the allotment and create third party rights till the time the principal amount along with interest is paid to the complainants.
  - III. Pass an order imposing penalty on the builder on account of various defaults and illegalities under RERA Act, 2016 and the same be ordered to be paid to the complainants.
5. The present complaint was filed on 02.04.2024 and registered as complaint no. 1183/2024. Notice sent to the respondent through e-mail ([MD@mahiragroup.com](mailto:MD@mahiragroup.com)) was duly served on 03.04.2024. Notice sent to the

respondent through post (EH076089970IN) was duly served on 09.04.2024. As per the registry, the complainants sent a copy of the complaint along with annexures via speed post as well as email. The tracking report for the same was submitted by the complainants along with the complaint. On 10.07.2024, the respondent was directed to file a reply within the stipulated time period subject to cost of Rs.5,000/-. On 09.10.2024, the respondent was given another opportunity to file a reply subject to additional cost of Rs. 5,000/-; however, the reply was still not filed. However, despite specific directions, the respondent failed to file a written reply and did not comply with the order of the Authority. This indicates that the respondent is intentionally delaying the proceedings of the Authority by failing to file a written reply. Therefore, the defence of the respondent is struck off for non-filing of the reply vide order dated 02.07.2025, and the matter is being decided based on the facts and documents submitted with the complaint, which remain undisputed.

6. 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 complainants.

**D. Jurisdiction of the authority**

7. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**D.I Territorial jurisdiction**

8. 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.

#### **D.II Subject matter jurisdiction**

9. 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.*

10. So, in view of the provisions of the Act quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.
11. Further, the Authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in "***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors.***" (*Supra*) and reiterated in case of "***M/s Sana Realtors Private Limited & other Vs Union of India & others***" ***SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:



*"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."*

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

**E. Findings on the relief sought by the complainants.**

**E.I Direct the respondent to refund the total amount paid by the complainants along with interest at the prescribed under RERA Act, 2016 and Haryana RERA Rules, 2017 to be calculated from date of each payment till the date of realization of the amount.**

**E.II Direct the respondent not to terminate the allotment and create third party rights till the time the principal amount along with interest is paid to the complainants.**

**E.III Pass an order imposing penalty on the builder on account of various defaults and illegalities under RERA Act, 2016 and the same be ordered to be paid to the complainants.**

13. The above-mentioned reliefs sought by the complainants are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

14. The factual matrix of case reveals that the complainants had booked a residential unit in the Affordable Group Housing project of the respondent

named "Mahira Homes-68" at Sector-68, Gurugram and was allotted a unit bearing no. 702, 7<sup>th</sup> floor, tower H, having carpet area of 535.65 sq. ft. vide allotment letter dated 11.08.2018. A buyer's agreement dated 13.08.2018 was executed between the parties. The complainants have paid an amount of Rs. 18,07,613/- against the total sale consideration of Rs.21,96,572/-.

15. Clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licensed 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."*

16. **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 building plan approval and environment clearance in respect of the said project on 23.02.2018 and 05.06.2018 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 05.12.2022.

17. Perusal of case file reveals that the unit of the complainants was cancelled by the respondents vide termination letter dated 21.08.2021 on account failure of the complainants to make payment of the outstanding dues. The

foremost question which arises before the authority for the purpose of adjudication is that “whether the said cancellation is a valid or not in the eyes of law?”

18. Clause 5(iii)(i) of the Affordable Group Housing Policy, 2013 talks about the cancellation. The relevant part of the clause is reproduced below:-

*“If any successful applicant fails to deposit the instalments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due instalments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State for payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs 25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list”.*

19. In the instant case, the cancellation notice was issued by the respondent on 21.08.2021 and publication of the defaulters list in the newspaper “Punjab Kesari” was published on the same date i.e., on 21.08.2021. However, no formal cancellation letter was issued after publication of the list of defaulters. It is to be noted that in clause 5(iii)(i) of the Policy, 2013, it is specified that in case the allottee fails to clear the outstanding dues within 15 days of publication in the newspaper, then his allotment may be cancelled by the promoter. The word ‘may’ here does not mean that post 15 days of publication, the allotment shall deemed to be cancelled rather it means that some action is required to be taken by the promoter towards cancellation of the allotment. Moreover, post cancellation of the unit, the respondent has failed to refund of the monies paid by the complainant till date. Seeing, various illegalities on part of the respondent in this particular case, the Authority is of view that the respondent should not be allowed to

get unfair advantage of its own wrong. In view of the above, the said cancellation is bad in law.

20. In the present complaint, the complainants intends to withdraw from the project and are seeking return of the amount paid by him in respect of subject unit along with interest as per Section 18(1) of the Act and the same is reproduced below for ready reference:-

***"Section 18: - Return of amount and compensation***

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

***(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or***

***(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,***

***he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.***

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

21. The authority considering the above facts opines that the due date of possession (05.12.2022) has lapsed much before the time of filing of the present complaint on 02.04.2024. Further, Section 18 of the Act is invoked if the promoter is unable to handover possession of the unit due to discontinuance of business as developer on account of suspension or revocation of registration under this Act or any other reason then the allottee shall be entitled to refund of the entire amount paid to the respondent along with prescribed rate of interest.

22. It is further observed that the Authority on 27.05.2022 initiated Suo-Motu action against the promoter under Section 35 of the Act, 2016 based upon the site visit report submitted on 18.05.2022 wherein it is clearly stated

that the physical progress of the project was approximately 15-20% and progress of construction works did not seem commensurate to the payments withdrawn from the bank accounts. Moreover, on 17.05.2022 the Director Town & Country Planning blacklisted the said developer from grant of license on account due to various grave violations by the promoter company which was subsequently withdrawn by the department on 21.07.2022 subject to fulfilment of certain conditions. Also, on 19.05.2022, all the accounts were freezed by the Authority due to non-compliance of the provisions of the Act, 2016. On 06.11.2023, the Authority initiated suo-moto revocation proceedings under Section 35 of the Act. Thereafter, the Authority vide order dated 11.03.2024 revoked the registration certificate of the project under Section 7(1) of the Act, 2016 and accordingly the respondent company shall not be able to sell the unsold inventories in the project and also, the accounts are freezed therefore, this amounts to discontinuation of business of the respondent.

23. The Authority is of the view that since vide order dated 11.03.2024, the registration certificate of the project stands revoked under section 7(1) of the Act, 2016 and also due to the promoter's serious violations, there seems no possibility of completing the said project in near future. Thus, the Authority is of the view that the complainants are entitled to his right under Section 18(1)(b) read with Section 19(4) of the Act of 2016 to claim the refund of amount paid along with interest at prescribed rate from the promoter.

24. **Admissibility of refund at prescribed rate of interest:** The complainants are seeking refund of the paid-up amount as per provisions of the Act and rules framed thereunder. Proviso to Section 18 of the Act provides that where an allottee(s) intends to withdraw from the project, the promoter

shall be liable to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf and it has been prescribed under Rule 15 of the Rules, *ibid*. Rule 15 is reproduced as under:

***"Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19***  
*For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.*

*Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public."*

25. The legislature in its wisdom in the subordinate legislation under the Rule 15 of the Rules has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
26. 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%.
27. Accordingly, the respondent is obligated to refund the paid-up amount of Rs. 18,07,613/- received by it along with interest at the rate prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.

**F. Directions of the Authority:**

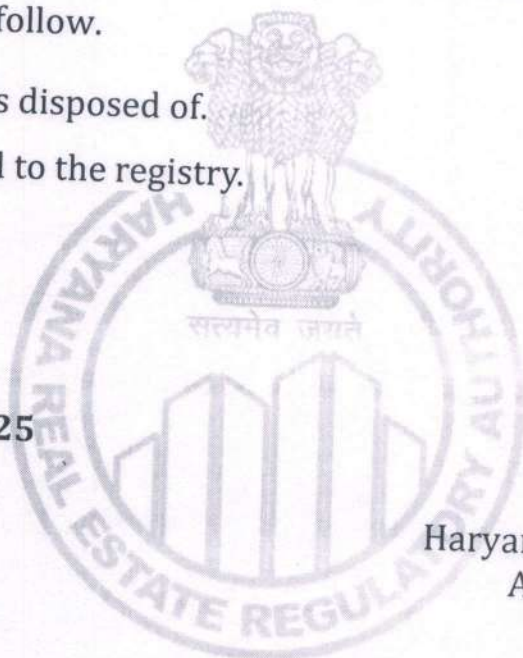
28. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under Section 34(f):

- I. The respondent/promoter is directed to refund the paid-up amount of Rs.18,07,613/- received by it along with interest at the rate of 11.10% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the 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 and failing which legal consequences would follow.

29. Complaint stands disposed of.

30. File be consigned to the registry.

Dated: 02.07.2025



**Ashok Sangwan**  
(Member)

Haryana Real Estate Regulatory  
Authority, Gurugram

**HARERA**  
GURUGRAM