

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

Complaint no.: 145 of 2024
Date of decision:- 02.07.2025

Darshana Devi

R/o: - Unique collection, 3/4/12, Gopi Nath Bazar,
Delhi Cantt, Delhi-110010.

Complainant

Versus

M/s. Aster Infrahome Pvt Ltd.

Regd. office: 24A, Ground Floor, Vipul Agora,
Gurugram.

Respondent

CORAM:

Shri Ashok Sangwan

Member

APPEARANCE:

Shubham (Advocate)

Shankar Vij (Advocate)

Complainant

Respondent

ORDER

1. The present complaint dated 29.01.2024 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia*

prescribed that the promoter shall be responsible for all obligations, responsibilities and functions as provided under the provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S.No.	Particulars	Details
1.	Name of project	"Green Court"
2.	Location of project	Sector-90, Gurugram, Haryana.
3.	Nature of project	Affordable Group Housing
4.	RERA registered	Registered Vide registration no. 137 of 2017 dated 28.08.2017
5.	DTCP License	License no. 61 of 2014 Dated 07.07.2014 License no. 62 of 2014 dated 07.07.2014.
6.	Allotment letter	20.08.2015 (As on page no. 33 of complaint)
7.	Unit no.	0302, Tower-D, Floor-3

		(As on page no. 33 of complaint)
8.	Unit area	590 sq.ft. [Carpet Area] 100 sq.ft. [Balcony Area] (As on page no. 40 of complaint)
9.	Buyer's Agreement	09.03.2016 (As on page no. 37 of complaint)
10.	Building plan approvals	22.10.2014
11.	Environmental Clearance	22.01.2016
12.	Due date of possession	22.01.2020 [Calculated 4 years from the date of EC as the same is later]
13.	Sale Consideration	Rs.24,10,000/- (As on page no. 41 of complaint)
14.	Amount paid	Rs.25,14,944/- (As per customer-ledger dated 22.09.2023 on page no. 64 of complaint)
15.	Occupation certificate	17.11.2022 (As on page no. 116 of reply)
16.	Offer of possession for fit outs	30.05.2022

		(As on page no. 124 of reply)
17.	Offer of possession	24.11.2022

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint:
- I. That the respondent advertised about its Affordable Group Housing Colony called 'Green Court' situated at Village Hayatpur, Sector-90, Gurugram, Haryana. The project was launched in 2014 with the promise to deliver the possession on time and huge funds were collected over the period of time by the respondent.
 - II. That the complainant made an application for allotment of a flat via application no. 000130 dated 30.01.2015 and paid Rs.1,24,223/- as registration amount to the respondent.
 - III. That the draw of flats was held on 19.08.2015. Ultimately in draw of lots, the complainant was allotted Flat no. D-0302, 3rd Floor, Tower D having carpet area of 590 sq. ft. and balcony area of 100 sq. ft.
 - IV. That the Flat Buyer's Agreement was executed between the complainant and the respondent on 09.03.2016 for the allotted unit. The basic price of the unit is Rs.24,10,000/-.
 - V. As per clause 8(a) of Flat Buyer's Agreement, the possession of the allotted unit was to be handed over to the complainant within four years from date of sanction of building plan, i.e., 22.10.2014 or within four years from the date of consent to establish, i.e., 06.05.2016, whichever is later. Thus, the due date of possession is calculated from the date of consent to establish, i.e., 06.05.2016, being later, which comes out to be 06.05.2020. After including the extension of 6 months, granted by the

Authority vide notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic, the due date for handing over of possession comes out to be 06.11.2020.

- VI. That the total cost of the allotted unit inclusive other charges is Rs.26,68,054/-. The complainant always abided by the payment schedule and made payments as and when demanded by the respondent in timely manner. The complainant paid a total of Rs.25,14,944/- to the respondent till December, 2018. Whereas, the respondent, despite receiving more than ninety four percent (94%) payable amount of the unit from the complainant, failed to honour the terms of the Agreement and timely deliver possession of the unit to the complainant even after a delay of more than three (3) years and two (2) months from the possession date.
- VII. That the complainant approached the respondent and pleaded for delivery of possession of her unit as per the Agreement on various occasions, but no information was provided by the respondent and the respondent violated Section 19 of the Act, 2016.
- VIII. That after a delay of more than two years, the respondent obtained the Occupation Certificate from the competent authorities and offered possession of the unit vide letter dated 24.11.2022. The respondent has not conceded any delay possession interest towards immense delay caused in the delivery of the unit. On the other hand, in the final demand letter, the respondent raised certain illegal and unlawful demands under various heads – Power Backup Rs.65,000/-, External Electrification Charges Rs.36,000/-, Dual Meter Charges Rs.9,000/-, Service Charges & Elect. Cons. Rs.18,000/-, Value Added Tax (VAT Recovery.) Rs.48,654/-,

totalling Rs.1,76,654/- from the complainant, which are not part of the Flat Buyer's Agreement.

- IX. That the complainant objected to the illegal and unlawful demands totalling Rs.1,76,654/- raised by the respondent under various head in the final demand with the offer of possession, but to no avail. The respondent neither gave a justified response to the illegal and unlawful demands raised, nor adjusted the delay possession interest in the final demand for the delay caused in offering the possession of the said unit to the complainant.
- X. That the respondent sent a reminder dated 18.09.2023 to the complainant to clear the final demand including the illegal and unlawful charges amounting Rs.1,76,654/- raised at the time of offer of possession dated 24.11.2022. The complainant was shocked and surprised to see that the respondent had still not adjusted the delay possession charges in the demand raised in the reminder letter and on the other hand, the respondent had charged holding charges amounting Rs.90,000/- from the complainant which is contrary to the law settled by the Hon'ble Supreme Court in the civil appeal no. 3864-3899/2020. The respondent had also charged interest in delayed payments amounting Rs.48,735/- from the complainant illegally and unlawfully.
- XI. That the complainant has lost confidence and in fact have got no trust left in the respondent, as the respondent has deliberately and wilfully indulged in undue enrichment, by cheating the complainant beside being guilty of indulging in unfair trade practices and deficiency in services in not delivering the possession of the unit in time and then shunning the rightful claims of the complainant towards delay caused due to the complete lapses and failures of the respondent.

C. Relief sought by the complainant:**4. The complainant has sought following relief(s):-**

- i. Direct the respondent to pay a sum of Rs.6,04,803/- towards the delay caused, calculated at the rate of 10.85% (MCLR rate plus 2%) from the due date of possession, *i.e.*, 06.11.2020 till date of offer of possession plus two months *i.e.* 24.01.2023.
- ii. Direct the respondent to complete the development of the unit along with all facilities and amenities like water, electricity, roads, green belt, etc. immediately.
- iii. Direct the respondent to handover the legal and rightful physical possession of the unit to the complainant, after receiving all required approvals from the competent authorities.
- iv. Direct the respondent to not charge anything which is not mentioned in the Flat Buyer's Agreement.
- v. Direct the respondent to revoke/cancel/ withdraw the following illegal and unlawful demands raised by the respondent under various heads in the final demand with the offer of possession dated 24.11.2022 *i.e.*, Power Backup amounting to Rs.65,000/-, External Electrification Charges amounting to Rs.36,000/-, Dual Meter Charges amounting to Rs.9,000/-, Service Charges & Elect. Cons. amounting to Rs.18,000/-, Value Added Tax (VAT Recvy.) amounting to Rs.48,654/-
- vi. Direct the respondent to get the Conveyance Deed executed in favour of the complainant.
- vii. Direct the respondent not to charge holding charges from the complainant as per law settled by Hon'ble Supreme Court in civil appeal no. 3864-3899/2020.

- viii. Direct the respondent to pay legal expenses of Rs.1,00,000/- incurred by the complainant along with other charges.

D. Reply filed on behalf of respondent:

5. The respondent has made the following submissions:

- I. That the respondent is well repudiated company in the real estate market and never had such intentions to cause delay in delivery of its any of the project. Due to reasons beyond the controls of respondent, the delay occurred and still in hard stuck situation after Covid- 19, is standing in all respect to complete the project as soon as possible. Allegations made in the complaint are totally false, fabricated, bogus, misrepresented, and indefinite and have no evidentiary value in the eye of law. There is no negligence or any unfair trade practice in order to dupe the hard-earned money of the complainant on the part of respondent.
- II. That the complainant was informed about the terms and conditions of Builder Buyer Agreement at the time of booking of the said unit and that said agreement was signed by the complainant after understanding each and every clause, no harassment caused to the complainant.
- III. That the Hon'ble court of Smt. Sakshi Saini, Learned Civil Judge, Gurugram was pleased to grant date of offer of possession as July 2021. That it is equally important to mention here that the contention of the date of possession taken by Learned Civil Judge, Gurugram on the basis of certain documents & figures after obtaining the confirmation from the said department.
- IV. That it is equally important to mention that Learned Civil Judge has taken the date of establishment as date of commencement of project

after having going through the order of this Authority, Gurugram vide complaint no. 3244 of 2021 wherein it has been confirmed by Authority that start date of construction of the project as 06.05.2016 (Consent to Establishment) and after that 13 months grace period was given by the Learned Court of Civil Judge on the basis of certain notification by Govt. of Haryana considering it as moratorium period of 11 months and it is not out of point to mention that Learned Civil Judge has given 94 days grace period also on the basis of judgement of Apex Court and NGT.

E. Written Submissions filed on behalf of the respondent

6. The respondent has submitted the following by way of written submissions:
- I. That the Occupation Certificate for the project was obtained by the respondent on 17.11.2022 from the competent authority and the same was informed to the complainant with the letter of offer of possession with demand to pay the balance amounts on 22.10.2022 which confirms that the project has been completed in accordance with the sanctioned plans and is fit for occupation.
 - II. That as per clause 8(a) of the Builder Buyer Agreement dated 09.03.2016 executed between the complainant and the respondent, the due date of possession to be 06.05.2020 as mentioned by the complainant in its complaint. However, the respondent had approached the Civil Court and the Hon'ble court of Smt. Sakshi Saini, Learned Civil Judge, Gurugram was pleased to grant date of offer of possession as July 2021.
 - III. That the complainant has defaulted in making timely payments as per the payment schedule stipulated under the Builder Buyer Agreement. The complainant failed to make payment of the last installment, bring the total due balance amounting to Rs.2,86,993/-.

- IV. That further a statement of accounts was sent to the complainant along with the Letter of offer of possession, with the opportunity to make the payment of the pending amount of Rs.2,86,993/- however payment was not made by the complainant.
- V. That the respondent is ready and willing to deliver possession of the said unit to the complainant upon receipt of the due payments, along with interest as per the terms of the Builder Buyer Agreement.
7. Copies of all the relevant documents have been filed and placed on 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.

F. Jurisdiction of the authority:

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

F. I Territorial jurisdiction

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

F. II Subject matter jurisdiction

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

Section 11(4)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

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 complainants at a later stage.

G. Findings on objections raised by the respondent

G.1 Objection regarding delay due to force majeure circumstances

11. The respondent has raised a contention that the construction of the project was delayed due to force majeure conditions such as outbreak of Covid-19 pandemic. Since there were circumstances beyond the control of respondent, so taking into consideration the above-mentioned facts, the respondent be allowed the period during which his construction activities came to stand still, and the said period be excluded while calculating the due date. In the present case, the 'Agreement For Sale' was executed between the parties on 09.03.2016. As per clause 1(iv) of the Affordable

Group Housing policy, 2013, the respondent had to offer possession of the unit to the complainant within four years from the date of sanction of building plans or grant of Environmental Clearance, whichever is later. As per the data available on the Authority's website, the building plans were approved on 22.10.2014 and the Environmental Clearance was granted to the respondent on 22.01.2016, thus, the Environmental Clearance being later, the due date of possession is calculated from the date of grant of Environmental Clearance i.e., 22.01.2016. Thus, the due date of possession comes out to be 22.01.2020. The respondent has stated that due to the outbreak of Covid-19 the project was stalled. The Authority is of the view that the Authority through notification no. **9/3-2020 dated 26.05.2020**, had already provided a six months extension for projects with completion dates on or after 25.05.2020, due to force majeure conditions caused by the Covid-19 pandemic. Since, the due date of possession was prior to the coming of Covid-19, no extension is granted to the respondent.

H. Findings on the relief sought by the complainant.

- H.I Direct the respondent to pay a sum of Rs.6,04,803/- towards the delay caused, calculated at the rate of 10.85% (MCLR rate plus 2%) from the due date of possession, i.e., 06.11.2020 till date of offer of possession plus two months i.e. 24.01.2023.**
- H.II Direct the respondent to complete the development of the unit along with all facilities and amenities like water, electricity, roads, green belt, etc. immediately.**
- H.III Direct the respondent to handover the legal and rightful physical possession of the unit to the complainant, after receiving all required approvals from the competent authorities.**

H.IV Direct the respondent to not charge anything which is not mentioned in the Flat Buyer's Agreement.

14. The above said reliefs are interconnected, thus are being dealt together. In the present complaint, the complainant booked a unit in the project namely "Green Court", being developed by the respondent under the Affordable group Housing Policy. The complainant was allotted a unit bearing no. 0302 in Tower-D on 3rd Floor, in the project "Green Court" situated in Sector 90 of the respondent for a sale consideration of Rs.24,10,000/- and they have paid a sum of Rs.25,14,944/-/- till date. The Buyer's Agreement dated 09.03.2016 was executed between the complainant and the respondent. As per clause 1(iv) of the Affordable group Housing policy, 2013, the respondent was obligated to complete the construction of the project and hand over possession of the subject unit within four years from the date of approval of Building plans (22.10.2014) or grant of Environmental Clearance (22.01.2016), whichever is later. The Authority is of the view that the Authority through notification no. **9/3-2020 dated 26.05.2020**, had provided a six months extension for projects with completion dates on or after 25.05.2020, due to force majeure conditions caused by the Covid-19 pandemic. The extension of six months on account of Covid-19 cannot be granted to the respondent herein, as the due date of possession was 22.01.2020 and the outbreak of Covid-19 was on 25.03.2020.

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

Section 18: - Return of amount and compensation

"If the promoter fails to complete or is unable to give possession of an apartment, plot or building, -

.....

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

16. **Due date of handing over possession and admissibility of grace period:** The counsel for the respondent brought into the notice of the Authority, that the Authority has already considered the due date of possession as 06.11.2020 by calculating 4 years from the date of consent to establish i.e. 06.05.2016 plus 6 months grace period in lieu of covid-19. However, aggrieved by this order by not allowing the delay on account of ban on construction etc. as already allowed by the Ld. Civil Judge in suit no. CS-3317-2022, the respondent preferred an appeal against the said order of Authority for not allowing extra grace period on account of delays due to reason beyond the control of the promoter.
17. Moreover, on the documents and submissions made by both the parties, the Authority is of the considered view that the buyer's agreement and the Affordable Group Housing Policy, 2013 the promoter has proposed to hand over the possession of the said flat within a period of 4 years from the date of approval of building plans (22.10.2014) or grant of

environment clearance, (22.01.2016) (hereinafter referred to as the "Commencement Date"), whichever is later and has sought further extension of a period of 6 months (after the expiry of the said time period of 4 year) but there is no provision in relation to grace period in Affordable Group Housing Policy, 2013. As such in absence of any provision related to grace period, the said plea raised by the respondent is disallowed in the present case.

18. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is continuing with the project and seeking delay possession charges. However, proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

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

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

19. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of

interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

20. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 02.07.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.

21. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

22. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same as is being granted her in case of delayed possession charges.

23. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 1(iv) of the Affordable Group Housing policy, 2013, the due date comes out as 22.01.2020. Occupation certificate was granted by the concerned authority on 17.11.2022 and thereafter, the possession of the subject flat was offered to the complainant on 24.11.2022. Copies of the same have been placed on record. The Authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the BBA dated 09.03.2016 to hand over the physical possession within the stipulated period.
24. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on 17.11.2022. The respondent offered the possession of the unit in question to the complainant only on 24.11.2022, so it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. These 2 months of

reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically she has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession till actual handing over of possession or offer of possession plus two months whichever is earlier.

25. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delayed possession at prescribed rate of interest i.e., 11 % p.a. w.e.f. 22.01.2020 till the expiry of 2 months from the date of offer of possession (24.11.2022) which comes out to be 24.01.2023 as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19(10) of the Act.

H.V. Direct the respondent to revoke/cancel/ withdraw the following illegal and unlawful demands raised by the respondent under various heads in the final demand with the offer of possession dated 24.11.2022 i.e., Power Backup amounting to Rs.65,000/-, External Electrification Charges amounting to Rs.36,000/-, Dual Meter Charges amounting to Rs.9,000/-, Service Charges & Elect. Cons. amounting to Rs.18,000/-, Value Added Tax (VAT Recvy.) amounting to Rs.48,654/-.

26. The complainant has sought the relief regarding restraining the respondent from charging unreasonable demands as raised by the respondent in the

Offer of Possession dated 24.11.2022 under the heads of Power Backup Charges amounting to Rs.65,000/-, External Electrification Charges amounting to Rs.36,000/-, Dual Meter Charges amounting to Rs.9,000/-, Service Charges and Electrical Consumption Charges amounting to Rs.18,000/-, Value Added Tax (VAT Recovery) amounting to Rs.48,654/-.

- **External Electrification charges:**

27. The respondent has made a demand of Rs.36,000/- on account of External Electrification Charges. It is pertinent to mention that it is the duty of the colonizer to arrange the electric connection from the outside source for electrification of their colony from Haryana Vidhyut Parsaran Nigam/Dakshin Haryana Bijlee Vitran Nigam Limited, Haryana. The installation of electricity distribution infrastructure as per the peak load requirement of the colony shall be the responsibility of the colonizer, for which the colonizer will be required to get the "electric(distribution) services plan/estimates" approved from the agency responsible for installation of "external electrical services" i.e., Haryana Vidhyut Parsaran Nigam/Dakshin Haryana Bijlee Vitran Nigam Limited, Haryana and complete the same before obtaining completion certificate for the colony.
28. As far as external electrification charges are concerned, the respondent cannot collect the same from the allottees even though there is any provision in the builder buyer's agreement to the contrary as has already

been laid down in complaint bearing no. 4031 of 2019 titled as "*Varun Gupta Vs. Emaar MGF Land Limited*" decided on 12.08.2021.

- **Dual Meter Charges**
- **Power Back-up charges**
- **Services and Electrical Consumption charges**

29. The issue of power back-up charges has already been clarified by the office of DTCP, Haryana vide office order dated 31.01.2024 wherein it has categorically clarified the mandatory services to be provided by the colonizer/developer in affordable group housing colonies and services for which maintenance charges can be charged from the allottees as per consumption. Accordingly, the promoter can only charge maintenance/use/utility charges from the complainant-allottees as per consumption as prescribed in category-II of the office order dated 31.01.2024.

- **Value Added Tax (VAT Recvy.)**

30. The promoter is entitled to charge VAT from the allottee for the period up to 31.03.2014 @ 1.05% (one percent VAT + 5 percent surcharge on VAT) under the amnesty scheme. The promoter shall not charge any VAT from the allottees/prospective buyers during the period 01.04.2014 to 30.06.2017 since the same was to be borne by the promoter-developer only. The respondent-promoter is directed to adjust the said amount, if charged from the allottee with the dues payable by the allottee or refund the amount if no dues are payable by the allottee.

H.VI Direct the respondent to get the Conveyance Deed executed in favour of the complainant.

31. The respondent is directed to execute conveyance deed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within 60 days of the order.

H.VII Direct the respondent not to charge holding charges from the complainant as per law settled by Hon'ble Supreme Court in civil appeal no. 3864-3899/2020.

32. As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. Therefore, the holding charges will not be payable to the developer. Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, the developer shall not be entitled to any holding charges though it would be entitled to interest for the period the payment is delayed.

H.VIII Direct the respondent to pay legal expenses of Rs.1,00,000/- incurred by the complainant along with other charges.

33. The complainant is seeking the above mentioned reliefs w.r.t compensation.

The Hon'ble Supreme Court of India in Civil Appeals no. 674445-679 of 2021 titled as **M/s Newtech Promoters and Developers Ltd. V/s State of UP (Supra)** has held that an allottee is entitled to claim compensation and litigation charges under Section 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 charges shall be adjudicated by the adjudicating officer having due regards to the factors mentioned in Section 72. Therefore, the complainant may approach the adjudicating officer for seeking the relief of compensation.

I. Directions of the authority

34. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoters as per the functions entrusted to the authority under section 34(f):
- i. The respondent is directed to handover physical possession of the unit to the complainant within 30 days of this order.
 - ii. The respondent is directed to pay interest at the prescribed rate of 11.10% p.a. for every month of delay from due date of possession i.e., 22.01.2020 till the date of valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier; at prescribed rate i.e., 11.10% p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.
 - iii. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

- iv. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - v. The respondent is directed to execute conveyance deed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within 60 days of the order.
 - vi. The respondent is directed not to charge External Electrification Charges, Holding Charges from the complainant.
 - vi. The respondents shall not charge anything from the complainant which is not the part of the agreement.
35. Complaint stands disposed of.
36. File be consigned to registry.

Ashok Sangwan
(Member)
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 02.07.2025

HARERA
GURUGRAM