

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

Complaint no. : 606 of 2024
Order pronounced on : 02.07.2025

Kuldeep Singh
R/o: Flat No. 302, House no.C-36,
Old DLF Colony, Sector-14, Gurugram.

Complainant**Versus**

M/s Aster Infrahome Private Limited
Regd. office: 24A, Ground Floor, Vipul Agora Complex,
Mehrauli-Gurgaon Road, Gurgaon, Haryana

Respondent**CORAM:**

Shri Ashok Sangwan

Member**APPEARANCE:**

Amita Gaur (Advocate)
Shankar Wig (Advocate)

**Complainant
Respondent****ORDER**

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

A. Unit and Project-related details:

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

S. No.	Particulars	Details
1.	Name of the project	"Green Court", Sector 90, Gurugram, Haryana.
2.	Nature of the project	Affordable Housing Project
3.	RERA registered or not	Registered vide no. 137 of 2017 dated 28.08.2017 valid up to 22.01.2020
4.	DTCP License	License no. 61 and 62 of 2014 Dated-07.07.2014
5.	Unit no.	0506, Block/Tower-M, floor-5 th (As on page no. 49 of complaint)
6.	Unit area	590 sq.ft. [Carpet Area] 100 sq.ft. [Balcony Area] (As on page no. 49 of complaint)
7.	Date of execution of buyer's agreement	14.04.2016 (As on page no. 47 of complaint)
8.	Possession clause	Clause 8(a) <i>Subject to the force major circumstances, intervention of statutory authorities, receipt of occupation certificate and Allottee having timely complied with all its obligations, formalities or documentation, as prescribed by Developer and not being in default under any part hereof, 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 Developer</i>

		<i>proposes to offer possession of the said Flat to the Allottee within a period of 4 (four) years from the date of approval of building plans or grant of environmental clearance whichever is later (hereinafter referred to as the "Commencement Date")</i>
9.	Environment Clearance	22.01.2016 [Note: Vide proceedings dated 09.04.2025, the same has been inadvertently mentioned as 12.01.2016]
10.	Due date of possession	22.01.2020 (calculated 4 years from environment clearance)
11.	Basic sale consideration	Rs.24,10,000/- (As per page no.24 of the complaint)
12.	Total amount paid	Rs.21,90,249/- (As per S.O.A dated 24.04.2025 on page no. 41 of written submissions filed by the respondent)
13.	Occupation certificate	17.11.2022 (As on page 116 of reply)
14.	Offer of possession for fit-outs	06.06.2022 (As on page 83 of complaint)
15.	Legal notice sent by complainant seeking possession of the unit and D.P.C	19.12.2023 (As on page no. 102 of complaint)

B. Facts of the complaint:

3. The complainant has made following submissions in the complaint:

- I. That the respondent is a company duly registered under the provisions of the Companies Act, 1956 and is engaged in the business of real estate construction/development in Delhi NCR. The respondent have obtained License No. 61 and 62 dated 07.07.2014 from Director, Town and Country Planning, Department Chandigarh to develop the Affordable Group Housing Project under the Haryana Affordable Housing Policy-2013
- II. That the respondent have launched the Affordable Group Housing Project in the name "Green Court", situated at Village Hayatpur, Sector-90, Gurugram. As per clause 1(iv) of the said Policy, the said project had to be completed within 4 years from the date of approval of Building Plan or grant of environmental clearance, whichever is later. This date shall be treated the "Commencement date".
- III. That the complainant applied for allotment of unit in the said project in Management quota against total consideration of Rs.24,10,000/- and paid 5% booking amount of Rs.1,24,223/-. In furtherance of the payment of 5% booking amount, respondent has issued the Allotment letter cum Demand Notice dated 20.08.2015 and an apartment bearing no. 506, Tower- M, carpet area of 590 sq. ft. along with balcony area of 100 sq. ft. on 5th Floor, with one open parking space for two wheeler was allotted to the complainant.
- IV. That as per Allotment Letter, an amount of Rs.6,23,093/- was payable on the stage of allotment. The respondent after adjustment of 5% booking amount of Rs.1,24,223/- requested the complainant to pay the balance amount of Rs.4,98,870/- on or before 05.09.2015 and the payment of said 2nd installment was paid.
- V. That the builder can charge sale price @ Rs. 40001- per sq. ft. and only the cost of balcony shall be in addition to the above said Sale Price,

which should not exceed Rs.500 per sq. ft. up to maximum of 100 sq.ft. and the said rate shall be all inclusive cost of the unit excluding the statutory taxes, GST.

- VI. That in furtherance of the said allotment, the respondent executed one sided Builder Buyer Agreement dated 14.04.2016 with the complainant, wherein it was agreed upon by the respondent that the cost of apartment is Rs.24,10,0007-.
- VII. That the respondent with illicit motive framed the "Time Linked Payment Plan" instead of "Construction Linked Payment Plan" in order to extract more money in advance from the complainant, without raising the substantial construction at particular towers in the project. That the complainant with an intent to make timely payment of the balance instalment of approx. Rs.14,74,000/- applied for Home Loan and the same was sanctioned.
- VIII. That vide E-mail dated 02.02.2018, the complainant objected and informed the respondent his disappointment with the progress of construction and specifically informed the respondent that he is not going to pay next installment until respondent will complete the promise structure of floor.
- IX. That after ignoring the e-mail dated 02.02.2018 sent by complainant, the respondent vide Demand Note 19.02.2018 raised a fresh demand for an amount of Rs.3,25,882.50/-. In view of the unscrupulous demand dated 19.02.2018 raised by respondent without any construction of subject tower beyond 3rd floor, the complainant raised the objection of demanding the payment of further instalment. However under the threat of cancellation of said apartment, the complainant has further made the payment of Rs.3,01,731/- through RTGS. Therefore till 04.03.2018, the complainant has paid total

amount of Rs.21,90,249/- and the same is reflected in the subsequent Demand note dated 15.02.2021, raised by the respondent.

- X. That the complainant already informed the respondent that until the completion of construction of the apartment, he will not pay the next installment and also the bank will not release the payment of subsequent instalment. However despite of this, the respondent has continuously raised the demands of next installments as per payment plan, which was supposed to due on 05.09.2018 i.e., "within 36-months from allotment" and alleged outstanding interest thereon.
- XI. That as per Clause 8(a) of the Builder Buyer Agreement, the respondent was under an obligation to deliver the possession of the apartment within 4 years from the date of approval of building plan or Environmental Clearance whichever is later. That there was a huge delay on the part of the respondent in completion of construction and handing over the possession of the apartment in terms of the Haryana Affordable Housing Policy 2013 and the same is evident from the fact that the building plan of the said project got approved on 16.10.2014 and the Environmental Clearance of said project was granted on 22.01.2016, therefore, in terms of said Policy, the commencement date of said project is considered 22.01.2016.
- XII. That the Occupation Certificate was granted by the competent authority on 17.11.2022. However, despite of repeated request and reminders by the complainant, the respondent failed to offer and handover the Possession of said Apartment to the Complainant and there is clear delay of more than 4 years and same is continuing till handover of Possession of said Apartment. That Respondent have miserably failed to fulfil their obligations and responsibilities as per said Agreement/said Policy and by the virtue of same, Respondents

comes under the non-compliance of the mandate contained in Section 11(4) (a) read with proviso to Section 18 of RERA Act, in furtherance of which Respondent is liable to pay the interest for every month of delay from the due date of Possession till the date of actual Possession at the prescribed rate under the RERA.

- XIII. That the delay on the part of the respondent is also evident from the fact that on 12.09.2020, 11.11.2020 and 13.08.2021, the complainant wrote E-mails vide which the complainant brought into knowledge of the respondent that the current status of construction was not upto the mark and requested to share the exact timeline of completion.
- XIV. That the respondent with an intent to extract more money from complainant has not only unilaterally increased the carpet area of the said apartment from 590 sq. ft. to 600 sq. ft. but also issued Notice dated 06.06.2022 for "Offer of Possession for fit out of subject Apartment" and illegally demanded an amount of Rs.7.33.255/- under various heads:
- a. An amount of Rs.5,72,173/- which includes Rs.3,41,099/-towards Basic Sale Price, Rs. 36,000/- towards External Electrification charges and Govt. fees for Electrification, Rs. 65,000/- towards Power Back Up-Mandatory 2 KVA, Rs.9000/- towards Dual Electric Meter Charges and Rs. 1,21,073/- towards interest.
 - b. An amount of Rs.1,07,142/- towards GST on construction, other charges, interest, labour cess and Value Added Tax.
 - c. An amount of Rs.15,000/- towards Interest Free Operational Security Deposit, Rs.15,000/- towards administrative charges, Rs.18,000/- towards One year Advance Against operational & Servicing Charges/Electricity Consumption and Rs.5,940/- towards GST.
- XV. That the said offer of Possession Letter was duly replied by the complainant vide an E-mail dated 15.06.2022, wherein complainant

opposed the said demands raised by respondent and further requested the respondent to withdraw the illegal demands in the said offer of possession letter, with the further request to let complainant know the exact date to handover the possession of the said apartment.

- XVI. That vide an E-mail dated 07.09.2023, the complainant informed the respondent that the offer of Possession letter dated 24.11.2022 was never received by the complainant neither in hard copy nor by any E-mail, message or phone or same was not confirmed by the respondents. It was further stated by the complainant in the said E-mail that the complainant will not pay any interest charges and other unnecessary charges as mentioned in the demand dated 24.08.2023.
- XVII. That the complainant further made a payment of Rs.3,41,099.71/- got transferred to the account no. 777705227001 of ASTER INFRAHOME PVT. LTD. on 27.09.2023 vide RGTS bearing UTR No. SBIN423270447169. It is pertinent to mention herein that as on 27.09.2023, the complainant has made a payment of Rs.24,50,000/- to the respondent including enhanced cost against the said apartment.
- XVIII. That despite receipt of Rs.24,50,000/- from the complainant, the respondent instead of issuing the offer of possession letter again sent a demand letter on 22.11.2023 and the respondent without crediting an amount of Rs.3,41,099.71/- raised illegal and unscrupulous demand of Rs.10,17,389/- under various heads.
- XIX. That as and when the complainant visited the project site, it was found that in addition to slow progress of construction, the quality of construction material used by the respondent was very inferior quality and was not upto the mark, as promised by the Respondent.

XX. That the complainant till date has paid an amount of Rs.25,07,197.52/- which includes basic cost of the apartment and taxes but the respondent till date have failed to offering the possession of the said Apartment and there is delay of more than 4 year in offering the possession and physical possession of said apartment to the complainant.

C. Relief sought by the complainant:

4. The complainant has sought the following relief(s):

- i. Direct the respondent to offer and handover physical possession of the unit in habitable condition, without demanding any further charges/interest amount.
- ii. Direct the respondent to pay interest on deposited amount of Rs.25,07,197.52/- for delay in possession from the due date i.e., 22.01.2020 till the offer of possession plus 2 months.
- iii. Withdraw the demand letter dated 22.11.2023 raised by the respondent.
- iv. Direct the respondent to take on record the payment of Rs.3,41,099.71/- transferred to the account no. 777705227001 of the respondent on 27.09.2023 vide RTGS bearing no. SBIN4232704471691 and issue receipt thereof.
- v. Direct the respondent to execute Conveyance Deed in favour of the complainant in respect of the said unit.

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) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent:

6. The respondent has made following submissions by way of its reply:

- I. That the present complaint pertains to the alleged delay in possession of the unit no.- 506, Tower M, in the project "Green Court" situated at Sector-90, Gurugram, Haryana. That the said project was launched by the respondent under the Affordable Housing Policy Scheme.
- II. That the Occupation Certificate for the project was obtained by the respondent on 17.11.2022 from the competent authority and the offer of possession was made to the complainant on 24.11.2022. The project has been completed in accordance with the sanctioned plans and is fit for occupation.
- III. That as per clause 8(a) of the Builder Buyer Agreement dated 14.04.2016, the due date of possession was 22.01.2020 and the same has also been acknowledged by the complainant in its complaint.
- IV. That due to certain delays which were beyond the control of the respondent, the completion of the project was prolonged and the Occupation Certificate for the said project was received from the competent Authorities on 17.11.2022. Further, the respondent had put in all the endeavours to complete the project timely, keeping in mind the spirits of Affordable Housing Scheme of the Government.
- V. That as the delay caused in the completion of the project were not attributable to respondent but factors such as Covid-19 and others which were beyond the control of the respondent and a civil case titled as *Pardeep Kumar Garg Vs. Aster Infra Home Pvt. Ltd. bearing number CS/3317/2022* was filed before the court of Smt. Sakshi Saini, Learned Civil Judge, Gurugram who was pleased to grant date of offer of possession as July 2021 after keeping in mind the facts and circumstances of the delay caused.
- VI. That the Learned Civil Judge has taken the date of establishment as date of commencement of project after having going through the order of the Authority vide complaint no. 3244 of 2021 wherein it has been confirmed

by the Authority that date of commencement of construction of the project as 06.05.2016 (Consent to Establishment) and thereafter a grace period of 13 months was also granted by the Learned Court of Civil Judge on the basis of certain notification by Government of Haryana considering it as moratorium period of 11 months. 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. Therefore, holding the date of possession of the units to be 06.11.2021.

- VII. That the complainant was a defaulter in making payments of two pending instalments and a statement of accounts requesting for the payment of the pending amount of Rs.5,72,173/- was raised on 06.06.2022 along with the offer of possession.
- VIII. However despite various reminders no payment has been made till 27.09.2023. That as on 18.09.2023, the amount outstanding is Rs.9,65,720 as per the Reminder letter-2 sent to the complainant. The complainant's failure to comply with the financial obligations absolves the respondent from liability for any alleged delay and disqualifies the complainant from seeking delay compensation.
- IX. That despite repeated reminders, the complainant failed to make the payment of the pending amount totaling to Rs.9,65,720 and instead made payment of Rs.3,41,099 on 27.09.2023 which was upon the whims and fancies of the complainant.
- X. That an amount of Rs.5,82,159/- is still pending against the total sale consideration and the possession of the unit cannot be delivered until the full and final payment, including the aforementioned pending amount, is duly cleared by the complainant.
- XI. That the delay in making payments by the complainant is a material breach of the contractual terms and has contributed to the delay in possession. The

complainant's failure to comply with the financial obligations absolves the respondent from liability for any alleged delay and disqualifies the complainant from seeking delay compensation.

XII. 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 those undisputed documents and submissions made by the parties

E. Jurisdiction of the Authority:

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

E. I Territorial jurisdiction

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

E. II Subject-matter jurisdiction

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per the 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 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;

11. Hence, given 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.

F. Findings on the objections raised by the respondent:

F.1 Objections regarding passing of various force majeure conditions

12. The respondent/promoter raised an objection in its reply that the construction of the project was delayed due to force majeure conditions such as outbreak of Covid-19 pandemic. Further, the Authority has gone through the possession clause of the agreement and the Affordable Group Housing Policy, 2013 and observed that the respondent/developer proposes to handover the possession of the allotted unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. In the present case, the date of approval of building plan is 22.10.2014 and environment clearance is 22.01.2016 as taken from the project details. The due date is calculated from the date of environment clearance being later.
13. As far as delay in construction due to outbreak of Covid-19 is concerned, Hon'ble Delhi High Court in case titled as ***M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (1) (Comm.) no. 88/2020 and LAS 3696-3697/2020*** dated 29.05.2020 has observed as under:

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete

the Project. The outbreak of a pandemic cannot be used as an excuse for non-performance of a contract for which the deadlines were much before the outbreak itself."

14. The respondent was liable to handover the possession of the said unit by 22.01.2020 and is claiming benefit of lockdown which came into effect on 24.03.2020 whereas the due date of handing over of possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, the Authority is of the view that outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself and for the said reason, the said time period is not excluded while calculating the delay in handing over possession.
15. In view of the above, the objection raised by the respondent to extend the due date of handing over possession due to force majeure circumstances COVID-19 is declined.

G. Findings on relief sought by the complainant:

G.I Direct the respondent to offer and handover physical possession of the unit in habitable condition, without demanding any further charges/interest amount.

G.II Direct the respondent to pay interest on deposited amount of Rs.25,07,197.52/- for delay in possession from the due date i.e., 22.01.2020 till the offer of possession plus 2 months.

16. 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."

17. 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.

18. 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. The due date of possession comes out to be 22.01.2020.

19. Admissibility of delay possession charges at prescribed rate of interest: The complainant intends to continue 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.

20. 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.
21. 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%.
22. The definition of term 'interest' as defined under section 2(z) 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:

"(z) "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;"

23. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same as is being granted to the complainant in case of delayed possession charges.
24. 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. The Occupation certificate was granted by the competent authority to the respondent on 17.11.2022 and the possession of the subject flat was offered for fit outs to the complainant on 06.06.2022. 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 to hand over the physical possession within the stipulated period. 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.
25. 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 for fit outs to the complainant on 06.06.2022 i.e., before obtaining the Occupation Certificate. The respondent has submitted in its written submissions that after obtaining the Occupation certificate on

17.11.2022, the respondent informed the same to the complainant via letter of offer of possession dated 24.11.2022, but the same is not annexed neither in the reply nor in the written submissions.

26. The complainant has sent a legal notice to the respondent on 19.12.2023, seeking thereby possession of the unit and the delayed possession charges and in the legal notice, the complainant has clearly objected the demand letter dated 24.08.2023 sent by the respondent wherein the respondent has referred "***Offer of possession letter dated 24.11.2022***" and stated that such letter was never received by the complainant in hard copy or through email. Thus, the Authority is of the view that no letter of offer of possession dated 24.11.2022 was ever sent by the respondent to the complainant and thus, after obtaining the Occupation certificate, the respondent failed to make a valid Offer of possession to the complainant. However, as per Reminder-I dated 24.08.2023, the respondent requested the complainant to clear the outstanding dues within a period of 15 days from the date of the letter and subsequently take possession of the unit. Thus, it can be said that even if the complainant did not receive the Offer of possession, the reminder letter dated 24.08.2023 served as an Offer of Possession. However, the respondent has charged an amount of Rs.2,34,556.68/- on account of "Interest on account of late payment", the same is quashed as the respondent failed to send "Offer of Possession" letter dated 24.11.2022 and thus, the complainant cannot be made to bear the burden of the default of respondent.

27. 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 he 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.

28. 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., 11.10 % p.a. w.e.f. 22.01.2020 till the expiry of 2 months from the date of offer of possession i.e., the date of reminder letter (24.08.2023) which comes out to be 24.10.2023 as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19(10) of the Act.

G.III Withdraw the demand letter dated 22.11.2023 raised by the respondent.

G.IV Direct the respondent to take on record the payment of Rs.3,41,099.71/- transferred to the account no. 777705227001 of the respondent on 27.09.2023 vide RTGS bearing no. SBIN423270447169I and issue receipt thereof.

29. The complainant has stated that he paid an amount of Rs.3,41,099.71/- (Includes Last instalment of Rs.3,01,250 + Rs.40,000/- towards enhanced area of 10 sq.ft. @4000/- per sq.ft.) and the same got transferred to account no. 777705227001 of Aster Infrahome Pvt Ltd on 27.09.2023 vide RTGS bearing UTR No. SBIN423270447169. Despite of receipt of more than 100% of consideration of the unit, the respondent issued another demand letter dated 22.11.2023, without crediting the amount of Rs.3,41,099.71/- paid by the complainant on 27.09.2023.

30. The respondent has admitted the above said payment of Rs.3,41,099.71/- in its written submissions at page no.3. the said is reiterated below:

"11. That it is very strange and important to bring to the notice of this Authority that despite repeated reminders complainant failed to make the payment of the

pending amount totaling to Rs.9,65,720 and instead made payment of Rs.3,41,099 on 27.09.2023 which was upon the whims and fancies of the complainant. That it is pertinent to mention that an amount of Rs.5,82,159 (Five lakhs eighty two thousand one hundred fifty nine) is still pending against the total sale consideration and the possession of the unit cannot be delivered until the full and final payment, including the aforementioned pending amount, is duly cleared by the complainant"

31. The Authority is of the view that the payment of Rs.3,41,099.71/- was made by the complainant to the respondent on 27.09.2023 and acknowledgment/receipt in lieu of the same has not been issued by the respondent to the complainant. Thus, the respondent is directed to issue receipt in respect to the same within a period of one week of this order.
32. Further, in the Demand letter dated 22.11.2023, the adjustment with respect to the paid amount of Rs.3,41,099.71/- has not been made and also the interest charged is wrongly calculated. The demand letter dated 22.11.2023 is hereby set aside and the respondent is directed to issue fresh demand letter after deducting the paid amount of Rs.3,41,099.71/- and also the respondent is directed to charge delayed payment interest after deducting the aforesaid amount.

G.V Direct the respondent to execute Conveyance Deed in favour of the complainant in respect of the said unit.

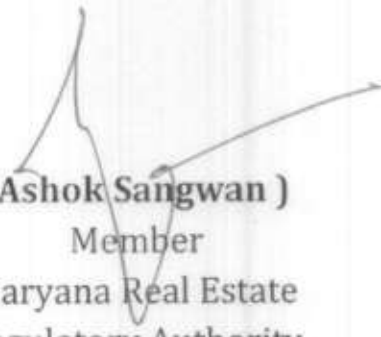
33. The respondent is directed to execute conveyance deed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within 60 days of the order.

H. Directions issued by the Authority:

34. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance with obligations cast upon the promoter as per the functions entrusted to the Authority under section 34(f) of the Act of 2016:

- i. The respondent is directed to pay delay possession charges at the prescribed rate of interest @ 11.10% per annum from the due date of possession i.e., 22.01.2020 till the expiry of 2 months from the date of offer of possession i.e., the date of reminder letter (24.08.2023) which comes out to be 24.10.2023 as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19(10) of the Act.
 - ii. The respondent is directed to issue receipt in respect to the payment of Rs.3,41,099.71/- within a period of one week of this order.
 - iii. The respondent is also directed to issue revised account statement after adjustment of delay possession charges and the complainant is directed to pay the remaining amount, if any, remains within 60 days.
 - iv. The respondent is further directed to handover the possession of the allotted unit within 30 days of payment of outstanding amount, if any.
 - 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.
35. Complaint stands disposed of.
36. File be consigned to the Registry.

Dated: 02.07.2025



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