



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	3335 of 2022
Date of filing.:	19.12.2022
First date of hearing.:	28.02.2023
Date of decision.:	22.07.2025

Vandana Goyal
R/o H.no721, Sector-22
NIT, Faridabad
Haryana, 121005

....COMPLAINANT

VERSUS

M/S BPTP Limited
Regd Office at
M-11, Middle Circle.
Connaught Circus,
New Delhi, 110001

....RESPONDENT

CORAM: Dr. Geeta Rathee Singh

Member

Chander Shekhar

Member

Present: - Mr. Rajan Kumar Hans, Counsel for complainant through VC
Mr. Tejeshwar Singh, Counsel for the respondent through
VC

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Present complaint has been filed by complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the project.	Park Elite Floors, Sector 75, 82 to 85, Faridabad.
2.	Nature of the project.	Residential
4.	RERA Registered/not registered	Not Registered
5.	Details of unit.	H6-18-FF
6.	Date of builder buyer agreement	18.09.2010



7.	Due date of possession	18.09.2012
8.	Possession clause in BBA (Clause 5.1)	<p>Subject to Clause 13 herein or any other circumstances not anticipated and beyond the control of the seller/ confirming party or any restraints/restrictions from any courts/authorities but subject to the purchasers) having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement including but not limited to timely payment of Total Sale Consideration and other charges and having complied with all provisions, formalities, documentations etc., as prescribed by the Seller Confirming Party whether under this Agreement or otherwise from time to time, the Seller/Confirming Party proposes to offer the handing over the physical possession of Floor to the Purchaser(s) within a period of twenty four (24) months from the date of execution of floor buyer agreement. The Purchaser(s) agrees and understands that the Seller/Confirming Party shall be entitled to a grace period of (180) one hundred and eighty days, after the expiry of thirty (24) months, for filing and pursuing the grant of an occupation certificate from the concerned authority with respect to the plot on which the floor is situated. The Seller/Confirming Party shall give a Notice of</p>



		Possession to the Purchasers with regard to the handing over of possession and the event the purchaser(s) fails to accept and take the possession of the said floor within 30 days thereof, the purchaser(s) shall be deemed to be custodian of the said floor from the date indicated in the notice of possession and the said floor shall remain at the risk and cost of the purchaser(s).
9.	Total sale consideration	₹ 20,55,999/-
10.	Amount paid by complainant	₹23,61,143/-
11.	Offer of possession.	12.01.2022


B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. Facts of complaint are that the predecessor of the complainant Dr. Nirmala G. Joseph had booked a unit in the project of the respondent namely "Park Elite Floors" situated at Sector 75 to 85, Faridabad, Haryana in the year 2009. A builder buyer agreement was executed between both the parties on 18.09.2010 and the original allottee was allotted unit bearing no. H6-18-FF admeasuring 1022 sq. ft. in the said project.
4. As per clause 4.1 of the agreement possession of the unit was to be delivered within a period of twenty four (24) months from the date of



execution of floor buyer agreement or on completion of payment of 35 % of the basic sale price alongwith 20% of EDC and IDC, whichever is later. The period of 24 months from the date of execution of the floor buyer agreement expired on 18.09.2012. Further, the respondent was allowed a period of 180 days for filing and pursuing grant of occupation certificate. The total sale consideration of the floor was fixed at ₹ 20,55,999/-.

5. Thereafter, the predecessor of the complainant could not continue with the project and transferred her rights of the unit in question to the complainant in the year 2011. The nomination was endorsed in favour of the complainant by the respondent on 17.10.2011. The nomination included the right to claim damages and delay penalty, being actionable claims, from the deemed date of possession in accordance with the allotment and buyers' agreement. The respondent had received a total payment of ₹ 22,38,650/- till the date of nomination and endorsement of the unit in favor of the complainant in present complaint. Thereafter, complainant continued making further payments. A total amount of ₹ 23,61,143/- has already been paid to the respondent in lieu of the booked unit.
6. The floor buyer agreement was executed between parties after 14 months from booking i.e., 18.09.2010 but the parties were acting and performing



their part of the contract in terms finalized and agreed between them at the time of booking i.e, 26.05.2009. Thus, the time to deliver possession began from the date of receipt of money by the respondent.

7. As per the agreement, possession of the unit should have been handed over by 18.09.2012, however, respondent has failed to offer possession within stipulated time to the complainants. More than twelve years have passed since the proposed date of possession but the respondent has failed to issue a valid offer of possession to the complainant. Therefore, the complainant has filed the present complaint seeking possession of the booked unit along with delay interest for delay caused in delivery of possession.

C. RELIEF SOUGHT

8. That the complainant seeks following relief and directions to the respondent:-
- i. To quash the termination letter dated 11.11.2022 being arbitrary and illegal.
 - ii. To quash the offer of possession and demand letters dated 12.01.2022 being arbitrary and illegal.
 - iii. To direct the respondent to hand over the possession of the unit H6-18-FF, admeasuring 1022 Sq. Ft., Park Elite Floors, Parkland, Faridabad.



- iv. Declare that the terms of the floor buyer agreement are one sided, prejudicial to the interest of the purchasers, arbitrary and biased and against the provisions of the Real Estate (Regulation & Development) Act, 2016 and the Haryana State Real Estate (Regulation and Development) Rules, 2017.
 - v. To direct the respondent to pay delay penalty in terms of Section 18 of the Act from the date of completion of two years and six months from the date of first receipt of money i.e. 26.05.2009 against the booking of the unit H6-18-FF admeasuring 1022 Sq. Ft., Park Elite Floors, Parkland, Faridabad.
 - vi. Any other relief which the applicant is entitled for under the Real Estate (Regulation & Development) Act, 2016 and the Haryana State Real Estate (Regulation and Development) Rules, 2017.
9. During the course of hearing, learned counsel for the complainant submitted that respondent had offered possession to complainant without obtaining occupation certificate. Further, along with said offer of possession, respondent had issued a statement of account of payable and receivable amounts which was not acceptable to the complainant for the reasons that firstly the respondent had failed to adjust the component of delay interest admissible to the complainant in said statement and secondly the respondent had raised illegal demands on account of cost escalation charges, Electrification and STP charges, Electricity



connection charges and GST charges. These demands are not payable by the complainant. The complainant had even written numerous emails annexed as P-6 from page no. 97-103 of complaint book to respondent seeking justification of charges imposed as well as about status of occupation certificate but respondent never replied to the same. Rather to the utter shock, respondent unilaterally cancelled the unit of complainant on 11.11.2022, when complainant had already paid more than the basic sale price to the respondent.

10. Further, from booking of the unit till date, the respondents have never informed the complainant about any force majeure or any other circumstances which were beyond the reasonable control of the respondent and has led to delay in completion and development of the project within the time stipulated. The respondent was bound by terms and conditions of the agreement and deliver possession of the unit within time prescribed in the buyers agreement. However, the respondent has miserably failed to complete the project and offer legal possession of the booked unit complete in all aspects.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed detailed reply on 20.09.2023 pleading therein:



11. That the unit in question was booked by the original allottees in the year 2009. Vide allotment letter dated 24.12.2009 the original allottees were allotted unit bearing no. H6-18-FF in the project being developed by the respondent.
12. After thorough reading and understanding of the terms of builder buyer agreement and agreeing to all the terms and conditions mentioned therein, said builder buyer agreement was executed between the respondent and the original allottee on 18.09.2010.
13. Thereafter the original allottee transferred the unit in question to the complainant. Considering which the respondent endorsed and nominated the unit in the name of the complainant on 17.10.2011.
14. The complainant had purchased the unit in question from the original allottees. At the time of endorsement the complainant was made aware of the fact that the possession of the unit is dependent upon force majeure conditions as well as timely payment of each instalment. The original allottees were abysmal defaulters.
15. With regard to the delay in offering possession of the unit in question, it is submitted that the project "Park Elite Floor" has been marred with serious defaults and delays in the timely payment of instalments by the majority of customers. On the one hand, the respondent had to encourage additional incentives like 'Timely Payment Discounts' while on the other hand, delays in payment caused major setbacks to the development



works. Hence, the proposed timelines for possession stood diluted. Construction of the project in question has been further marred by the circumstances beyond the control of the Respondent such as ban on construction by the Hon'ble Supreme Court of India in the case titled as "M.C. Mehta v. Union of India", ban on construction by the Principal Bench of NGT in Vardhaman Kaushik v. Union of India and ban by Environment Pollution (Prevention and Control) Authority, EPCA, expressing alarm on severe air pollution level in Delhi-NCR. Further, the construction of the project has been marred by the present endemic, i.e., Covid-19, whereby, the Government of India imposed an initial country-wide lockdown on 24/04/2020 which was then partially lifted by the Government on 31/05/2020. Thereafter, series of lockdowns have been faced by the citizens of India including the Complainant and Respondent herein. Otherwise, construction of the project was going on in full swing, however, the same got affected initially on account of the NGT order prohibiting construction (structural) activity of any kind in the entire NCR by any person, private or government authority. Due to these unforeseeable circumstances and reasons beyond the control of the respondent, the construction got delayed and it took longer than expected to complete the construction of the project.

16. Respondent has raised each specific demand strictly in consonance with the payment plan opted and agreed at the stage of booking. However,



complainant failed to adhere to the agreed payment plan. Respondent was constrained to issue a reminder at the earliest, however, all went in vain. Despite that it is imperative to note that the unit of the complainant has been duly completed. The Respondent vide Memo bearing no. DTP/(FBD)OC/2022/4812 has received the occupation certificate dated 20.07.2022 from the government authority and the possession of the unit was also offered to the complainant on 12.01.2022. However, the complainant failed to clear the outstanding dues and take possession of the floor despite issuance of reminder notice dated 15.02.2022, 24.03.2022 and 19.05.2022. The respondent issued a final opportunity/demand letter dated 23.06.2022 to the complainant but the complainant failed to pay heed to the same. Therefore, respondent was left with no choice but to terminate the unit of the complainant vide termination letter dated 11.11.2022.

17. During the course of arguments, learned counsel for respondent submitted that builder buyer agreement was executed between parties on 18.09.2010 for unit bearing no. H6-18-FF,, situated in Park Elite Floors, Parklands, Faridabad. As per clause 4.1 of agreement, due date of possession was 24 months from date of execution of agreement or completion of payment of 35% of BSP along with 20% of EDC & IDC (whichever is later) and 180 days grace period for grant of occupation certificate. The unit was endorsed in the name of the complainant vide letter dated 17.10.2011.



Therefore, the rights of the complainant are to be determined from the date of endorsement i.e 17.10.2011.

18. Learned counsel for the respondent further submitted that though there has been a delay in handing over of possession, however, respondent is ready to pay the delay charges to complainant subject to consideration of two contentions, firstly, that respondent is liable to pay delay charges from deemed date of possession till offer of possession or till occupation certificate for the unit was obtained by respondent, whichever is later. In present case, offer of possession was made on 12.01.2022 and occupation was obtained on 20.07.2022. Further, he also submitted that grace period provided in builder buyer agreement for obtaining occupation certificate be considered while calculating deemed date of possession and prayed for relaxation in calculating deemed date of possession on account of force majeure event including relaxation of period due to outbreak of Covid-19.
19. Counsel for respondent also referred to Model Agreement of RERA Act clause 9.3 which states that if allottee defaults in making payment as per plan opted by complainant. respondent is well within his rights to cancel the allotment and refund the paid amount after forfeiting the earnest money. In present case, five demand letters annexed from page no. 109-113 were sent to the complainant however the complainant defaulted in making payment for more than 6 months. Hence, respondent was



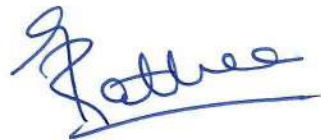
within rights to cancel the allotment of the complainant vide letter dated 11.11.2022.

E. ISSUES FOR ADJUDICATION

20. Whether the complainants are entitled to possession of the booked unit along with delay interest in terms of Section 18 of Act of 2016?

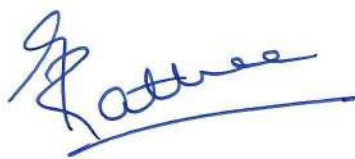
F. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

21. As per facts and circumstances, a unit was booked in the project being developed by the respondent namely "Park Elite Floors" situated at Sector 75 to 85, Faridabad, Haryana by one original allottee namely Dr. Nirmala G. Joseph in the year 2009. A builder buyer agreement was executed between both the parties on 18.09.2010 and the original allottee was allotted unit bearing no. H6-18-FF admeasuring 1022 sq. ft. in the said project. As per clause 5.1 of the agreement, possession of the floor was to be delivered within a period of 24 months from the date of execution of the said agreement or completion of payment of 35 % of the basic sale price alongwith 20% of EDC and IDC, whichever is later. The period of 24 months from the date of execution of the floor buyer agreement expired on 18.09.2012. Further, the respondent was allowed a period of 180 days for filing and pursuing grant of occupation certificate. The total sale consideration for floor was fixed at ₹ 20,55,999/-. Thereafter, the complainant purchased the booking rights qua the unit in



question from the original allottee and the unit was endorsed in the name of the compliant vide letter dated 17.10.2011. A total amount of ₹ 23,61,143/- has been paid to the respondent in lieu of the booked unit. It is the submission of the complainant that the respondent has delayed delivery of possession beyond stipulated time. Complainant has filed the present complaint seeking possession of the booked unit along with delay interest.

22. As per clause 5.1 of the agreement possession of the unit should have been delivered within a period of (24) months from the date of execution of floor buyer agreement. Said period expired on 18.09.2012. The agreement further entitles the respondent to a grace period of 180 days after expiry of 24 months for filing and pursuing the grant of occupation certificate with respect to the plot on which the unit is situated. In this regard, it is observed that respondent has not placed on record any document to show that an application had been filed with the competent authority for grant of occupation certificate from 19.09.2012 till 18.03.2013 i.e the grace period. The delay is entirely on the part of the respondent. As per the settled principle no one can be allowed to take advantage of its own wrong. Accordingly, this grace period of 180 days cannot be allowed to the promoter. Thus the deemed date of possession works out to 18.09.2012.

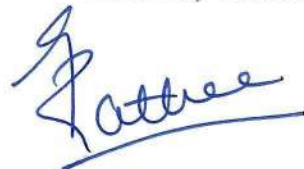


The respondent in its submission has contended that since the complainant in this case is a subsequent allottee, therefore the period stipulated in the agreement for delivery of possession should be reckoned from the date of endorsement/ nomination. In this regard it is observed that the complainant had been acknowledged as allottee by the respondent in respect of the unit in question vide endorsement letter dated 17.10.2011. A bare perusal of the said letter reveals that vide said letter the complainant is deemed as allottee in respect of the unit in question and the builder buyer agreement dated 18.09.2010. In this letter it has further been mentioned that the parties will be bound by all the terms/conditions of the said builder buyer agreement thereof. Also all the instalments paid by the original allottee had been endorsed in favour of the complainant. Thus it becomes quite clear that the complainant had stepped into the shoes of the original allottee. The subsequent allottee had purchased the unit well before the expiry of the due date so they cannot be expected to have knowledge by any stretch of imagination, that the project will be delayed, and the possession would not be handed over within the stipulated period. Further there is no written agreement/document between the complainant and the respondent wherein it has been agreed that the period of delivery of possession will be reckoned from the date of nomination. Thus the contention of the respondent is rejected. The deemed date for delivery of possession shall be reckoned as agreed by way of builder buyer



agreement. Hence the deemed date of possession for all intents and purposes remains unchanged as 18.09.2012.

23. Admittedly, the delivery of possession of the unit in question has been delayed beyond the stipulated period of time. Respondent has attributed this delay to circumstances beyond its control such as NGT order prohibiting construction activity, ban on construction by Supreme Court of India in M.C Mehta v. Union of India, ban by Environment Pollution (Prevention and Control) Authority and Covid-19 etc for the cause of delay. In its reply the respondent has cited that the National Green Tribunal had put a ban on construction activities in the National Capital Region in the year 2016 thus causing delay in construction of the project in question. However, respondent has failed to attach a copy of the order of the National Green Tribunal banning the construction activities. It is noteworthy that in the captioned complaint possession of the unit should have been delivered by 18.09.2012 which is much prior to the proposed ban. Therefore, the respondent cannot be allowed to take advantage of the delay on its part by claiming the delay caused due to statutory approvals/directions. Furthermore, COVID-19 outbreak hit construction activities post 22.03.2020 i.e eight years after the deemed date of possession, therefore, as far as delay in construction due to outbreak of Covid-19 is concerned, respondent cannot be allowed to claim benefit of COVID19 outbreak as a force majeure condition. Further, reliance is



placed on judgement passed by Hon'ble Delhi High Court in case titled as **M/s Halliburton Offshore Services Inc. vs Vedanta Ltd & Anr.** bearing OMP (1) (Comm.) No. 88/2020 and I.A.s 3696-3697/2020 dated 29.05.2020 has observed that:

“69. The past non-performance of the contractor cannot be condoned due to 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 pandemic cannot be used as an excuse for non-performance of a contract for which the deadline was much before the outbreak itself.

The respondent was liable to complete the construction of the project and the possession of the said unit was to be handed over by September, 2019 and is claiming the benefit of lockdown which came into effect on 23.03.2020, whereas the due date of handing over possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, Authority is of view that outbreak of pandemic cannot be used an excuse for non-performance of contract for which deadline was much before the outbreak itself”

24. As per observations recorded above, the possession of the unit in question should have been delivered by 18.09.2012. However, respondent failed to complete construction of the unit and deliver possession within the time period stipulated in the buyer's agreement. An offer of possession was issued to the complainant on 12.01.2022 after completion of construction works and along with a detailed



statement of accounts. Said offer of possession was unacceptable to the complainant as it was not a valid offer of possession. It is the contention of the complainant that the respondent had issued the said offer of possession without obtaining occupation certificate and had raised further illegal demands on account of cost escalation charges, Electrification and STP charges, Electricity connection charges and GST charges which are not payable by the complainant. On the other hand it has been submitted by the respondent that the offer of possession was issued after completion of development works as per the terms agreed between the parties. Further the respondent had also obtained occupation certificate for the unit of the complainant on 20.07.2022. Complainant deliberately defaulted in making payment of outstanding amount due to which the respondent was constrained to cancel the allotment of the complainant vide letter dated 11.11.2022.

In this regard it is observed that admittedly the respondent had issued the alleged offer of possession to the complainant without obtaining an occupation certificate. Throughout the period from 13.01.2022 till before the date of receipt of occupation certificate, respondent had issued reminder notices dated 15.02.2022, 24.03.2022, 19.05.2022 and 23.06.2022 to the complainant for making payment of balance sale consideration and taking over of possession. No communication was



made by the respondent with regard to status of occupation certificate in the offer of possession as well as the reminder letters. Although the respondent had continuously communicated to the complainant that the unit was ready for possession, however, in the absence of receipt of occupation certificate the complainant could not have positively ascertained that the unit was in a habitable condition. Thereafter the respondent received occupation certificate on 20.07.2022, however, respondent failed to communicate to the complainant that received occupation has been granted in respect of the unit in question. Strangely, after 20.07.2022, respondent did not issue any intimation/ demand letter to the complainant apprising him of the fact that the occupation certificate has now been received. Complainant could not have offhandedly known that the unit in question is now granted occupation certificate. It was an obligation cast upon the respondent to apprise the complainant as soon as the occupation certificate was granted by the competent authority. A valid offer of possession constitutes intimation regarding status of unit, status of receipt of occupation certificate and balance payables and receivables amount in respect of the unit for which possession has been offered to ensure a smooth hand over of possession of the unit. Since the offer of possession dated 12.01.2022 was issued without obtaining occupation certificate thus the said offer was not a valid offer of possession. Complainant could not have been forced to accept the same. Instead of

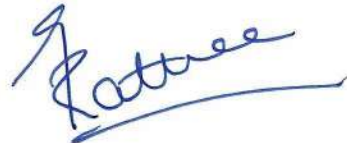


communicating the grant of occupation certificate, respondent rather surreptitiously cancelled the allotment of the complainant vide letter dated 11.11.2022 on account of non payment of dues, when in fact a valid offer of possession was not issued to the complainant and hence, the demand raised by the respondent was invalid. Further at the time of said cancellation respondent was duty bound to refund the amount paid by the complainant after forfeiture of earnest money, however, the respondent illegally retained the entire amount paid by the complainant, thus enjoying wrongful gains and causing wrongful loss to the complainant. Therefore, in light of these facts, it is germane to say that the cancellation of the allotment of unit vide letter dated 11.11.2022 is unlawful and bad in the eyes of law. Respondent could not have cancelled the unit of the complainant and parallelly retained the amount paid in lieu of said unit. Furthermore, since the offer of possession itself was incomplete and before time, the demands raised by the respondent were premature and hence non-payable by the complainant. Thus the allegation of the respondent that the complainant had defaulted in making payment of instalments is found to be devoid of merit.

25. It is further the contention of the complainant that the demands raised vide statement of accounts issued along with offer of possession letter

dated 12.01.2022 are not in consonance with the builder buyer agreement and are hence not payable. In this regard, it is observed as follows;

- a. With regard to the demand of cost escalation charges of ₹ 62,679.26/-, it is observed by the Authority that the deemed date of possession in captioned complaint is ascertained as 18.09.2012. Respondent has issued an offer of possession to the complainant on 12.01.2022 after a gap of nearly 10 years. Cost escalation charges, though a mentioned clause in the floor buyer agreement, are unjust at this stage since there has been a huge delay in offering possession, and any cost increase, was due to the respondent's failure to complete the project on time. Cost escalation charges are typically justified when there are unforeseen increases in construction costs during the stipulated period of construction of project, but in this case, the deemed date of delivery of possession had long passed and the delay was solely caused by the respondent, making it unfair to pass the burden of escalated costs onto the complainants. The complainant, having already endured a 10-year delay, should not be penalized with cost escalation charges for a delay that was entirely the fault of the respondent. Therefore, demand raised by the respondents on account of cost escalation charges shall be set aside.
- b. With regard to demands raised on account of Electrification and STP charges (₹ 74,582) and Electricity connection charges (₹ 34,100), it is observed that vide clause 1.5 sub-clause 'g', 'i' and 'j' of the buyer's



agreement dated 18.09.2010 the complainant has agreed to pay these charges to the respondent. Since these charges are in consonance with the buyer's agreement complainant cannot shy away from its obligation of making requisite payments. Hence, these charges are payable by the complainant.

- c. With regard to the demand raised by the respondents on account of GST, Authority is of the view that the deemed date of possession in this case works out to 18.09.2012 and charges/taxes applicable on said date are payable by the complainant. Fact herein is that GST came into force on 01.07.2017, i.e. post deemed date of possession. The delay caused in delivery of possession has already been attributed on the part of the respondent's. In case the respondent had timely completed the construction of the project, then the GST charges would not have come into force. Therefore, the complainant is not liable to pay GST charges.
26. In nutshell, as per the builder buyer agreement possession of the unit should have been delivered to the complainant on 18.09.2010. However, respondent failed to deliver possession of the unit within stipulated time. An offer of possession was issued to the complainant on 12.01.2022. Along with said offer of possession respondent had issued a detailed statement of account of payable and receivable amounts which has been challenged by the complainant on account of several discrepancies that have been already adjudicated in para 22 of this order. Further said offer of possession was



without an occupation certificate. Complainant could not have accepted the said offer of possession. Thereafter, the respondent received occupation certificate on 20.07.2022, however, the same was not conveyed to the complainant. From the receipt of occupation certificate till date, respondent has not issued a fresh offer of possession to the complainant conveying the same.

Admittedly there has been an inordinate delay in delivery of possession but the complainant wishes to continue with the project and take possession. In these circumstances, provisions of Section 18 of the Act clearly come into play by virtue of which while exercising the option of taking possession of the booked unit, the complainant is also entitled to receive interest from the respondent on account of delay caused in delivery of possession for the entire period of delay till a valid offer of possession is issued to the complainant. So, the Authority hereby concludes that complainant is entitled to receive delay interest for the delay caused in delivery of possession from the deemed date of possession i.e 18.09.2010 till a valid offer of possession is issued to the complainant. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. The definition of term 'interest' is defined under Section 2(z) of the Act which is as under:



(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;

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15: "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 (NCLR) 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"

27. Hence, Authority directs respondent to pay delay interest to the complainant for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the rate of SBI highest marginal cost



of lending rate (MCLR)+ 2 % which as on date works out to 10.90% (8.90% + 2.00%) from from the due date of possession till the date of a valid offer of possession.

28. Authority has got calculated the interest on total paid amount from due date of possession and thereafter from date of payments whichever is later till the date of offer of possession in respective complaints as mentioned in the tables below:

Sr. No.	Principal Amount (in ₹)	Deemed date of possession or date of payment whichever is later	Interest Accrued till date of order i.e 22.07.2025 (in ₹)
1.	20,01,848.03/-	18.09.2012	28,04,337/-
2.	24,116/-	24.11.2016	22,779/-
3.	3,35,178.76/-	07.09.2021	1,41,634/-
Total:	23,61,143.79/-		29,68,750/-
Monthly Interest:	23,61,143.79/-		21,153/-

29. It is pertinent to mention that in the captioned complaint, complainant has received timely payment discount from the respondent as a credit towards payment made within the prescribed time. As a benefit, the said discount was credited towards the total sale consideration made by the complainants and was an essential component in determining the balance

payable amount. Perusing the receipts and demand letters, it cannot be denied that these payments form a part of the total amount paid by the complainants. Although it is true that this discount is an act of good will on the part of the respondent but complainant cannot be denied his rights especially when the respondent company itself considers this as a paid amount as per payment policy. Therefore, the complainant cannot be denied of claiming interest on the total amount paid in respect of the booked unit including the component of timely payment discount. Accordingly, the delay interest for delay caused in handing over of possession shall be provided on the entire amount for which the receipts have been issued by the respondent.

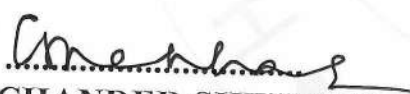
F. DIRECTIONS OF THE AUTHORITY

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

- i. Respondents are directed to pay upfront delay interest of ₹ 29,68,750/- (till date of order i.e 22.07.2025) to the complainant towards delay already caused in handing over the possession within 90 days from the date of this order and further monthly interest @ ₹ 21,153/- till a valid offer of possession is issued to the complainant.



- ii. The respondent shall issue a valid offer of possession along with statement of account to the complainant incorporating therein the principles laid down in this order within 30 days of uploading of this order. Complainant shall accept the offer of possession within the next 30 days of the fresh offer.
 - iii. Complainant will remain liable to pay balance consideration amount, if any, to the respondent at the time of offer of possession.
 - iv. The respondent shall not charge anything from the complainants which is not part of the agreement to sell.
31. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]