

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

Complaint no. : 4597 of 2024
Date of order : 16.07.2025

1. Suman Gupta
2. Chander Gupta
Both R/o: I-1205, Roselia, Signature Global,
Sector-95A, Gurugram.

Complainants

Versus

M/s Forever Buildtech Pvt. Ltd.
Office at: - 12th Floor, Dr. Gopal Das Bhawan,
28, Barakhamba Road, New Delhi.

Respondent

CORAM:
Shri. Ashok Sangwan

Member

APPEARANCE:
Garvit Gupta (Advocate)
Mintu Kumar

Complainants
Respondent

HARERA
GURUGRAM

ORDER

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



the provision of the Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale executed inter se.

A. Unit and project related details

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

Sr. No.	Particulars	Details
1.	Name of the project	" Roselia-2"
2.	Location of the project	Sector-95-A, Gururgam.
3.	Nature of the project	Affordable group Housing
4.	DTCP license no.	License no. 13 of 2016 Dated-26.09.2016
5.	Registered/not registered	Registered Vide registration no. 286 of 2018 dated-12.10.2018
6.	Allotment letter	27.07.2018 (As on page no. 36 of complaint)
7.	Unit no.	205, Tower-I, Type-A, Floor-2 nd (As on page no. 47 of complaint)
8.	Builder Buyer's Agreement	05.09.2018 (As on page no. 39 of complaint)
9.	Possession clause	Clause 5.



		Possession <i>Within 60(sixty) days from the date of issuance of occupancy certificate, the Developer shall offer the possession of the said flat to the Allottee(s). Subject to Force Majeure circumstances, receipt of Occupancy Certificate and Allottee(s) having timely complied with all its obligations, formalities o documentation, as prescribed by Developer in terms of the Agreement and not being in default under any part hereof including but not limited to timely payment of installments as per the Payment Plan, stamp duty and registration charges, the developer shall offer possession of the said Flat to the Allottee(s) within a period of 4(four) years from the date of approval of building plans or grant of environmental clearance, whichever is later.</i> [Emphasis supplied] (As on page no. 51 of complaint)
10.	Approvals of building plans	09.01.2017
11.	Environmental clearance	18.05.2017 [As taken from the DTCP website]
12.	Due date of possession	18.11.2021 [Calculated 4 years from the date of grant of Environmental Clearance , being later+ 6 month on account of Covid-19]
13.	Sale consideration	Rs.23,26,972/- (As on page no. 47 of complaint)
14.	Total amount paid by the complainant	Rs.25,22,898/- (As per customer ledger dated 03.06.2022 on page no. 96 of complaint)
15.	Occupation certificate	06.05.2022

		(As on page no. 46 of reply)
16.	Offer of possession	01.06.2022 (As on page no. 94 of complaint)
17.	Possession certificate	13.07.2022 (As on page no. 98 of complaint)
18.	Conveyance deed	13.07.2022 (As on page no. 105 of reply)

B. Facts of the complaint

3. The complainants have made the following submission: -

- I. That the respondent offered for sale units in a Affordable Group Housing Complex known as "The Roselia" comprising of multi-storied apartments, residential units, car parking spaces, recreational facilities, gardens etc on a piece of land situated in Scetor-95A, Gurugram.
- II. That the complainant received a marketing call from the office of respondent in the month of January, 2018 for booking in the said residential project of the respondent. The complainant had also been attracted towards the aforesaid project on account of publicity given by the respondent through various means like various brochures, posters, advertisements etc. Accordingly, the complainant applied for the booking vide their application no. 61000 dated 27.03.2018 by making payment of 5% towards the total sale consideration as per the provisions laid down in The Affordable Group Housing Policy, 2013.
- III. Pursuant to the application, the draw of lots were held on 24.07.2018 and the complainant was allotted unit no. 1-205, Tower I on 2nd Floor having carpet area of 569.243 sq.ft together with a two-wheeler parking. That since the booking was made under the Affordable Group Housing Policy,



- 2013, the payment plan as notified in the said policy was to be taken into consideration for the purpose of making payment demands from the complainant.
- IV. Despite being aware of the terms and provisions of the Affordable Group Housing Policy, 2013, the respondent deliberately sent a payment demand cum allotment letter which was not as per the provisions of the said Policy.
- V. That from a bare perusal of the said demand cum allotment letter dated 27.07.2018 it is evident that the respondent had demanded Rs.11,40,735/- from the complainant out of the total sale consideration of Rs.23,26,972/- i.e 48% out of the total sale consideration whereas as per the said policy, the respondent could have demanded only 20% at the time of allotment of the unit.
- VI. That the complainant confronted the respondent about the said illegality vide several telephonic conversations and intimated to it that the respondent cannot charge excess amount from the complainant under the garb of a unilateral allotment letter and that since the project falls within the ambit of the Affordable Group Housing Policy, 2013, hence, all the payment demands were to be raised strictly as per the provisions of the said policy.
- VII. The respondent informed the complainant that the excess amount was charged from the complainant in order to maintain the cash flow for construction of the project in question and it assured the complainant that it would provide interest in the form of rebate to the complainant for the excess amount charged at the time of offer of possession. The complainant had no other option but to believe the assurances of the respondent and she accordingly made the payment towards the demanded amount.

- VIII. Accordingly, a copy of the Apartment Buyers Agreement was sent to the complainant and it was wholly one sided document and was totally against the interest of the complainants.
- IX. That it is pertinent to mention herein that while in the case of the complainant making the delay in the payment of instalments, the respondent is shown to be entitled to charge interest @ 15% per annum. That the above stated provisions of the Apartment Buyer's Agreement besides other similar one-sided provisions were on the face of it highly illegal, absurd, unilateral, arbitrary, unconscionable and not valid.
- X. A bare perusal of the above clauses highlights the one-sided arbitrary agreement and the abuse of dominant position is all pervasive in the terms and conditions of the Agreement executed by the respondent vide various clauses imposing all the liabilities on the complainant, while conveniently relieving itself from all obligations on its part.
- XI. That the complainant made objections to the arbitrary and unilateral clauses of the Agreement to the respondent. It is pertinent to mention herein that prior to the signing of the Agreement, complainant had made payment of Rs.2,42,349/- out of the consideration amount of Rs.23,26,972/-. Since the complainant had already parted with a considerable amount, she was left with no other option but to accept the lopsided and one-sided terms of the Agreement. The Builder Buyer Agreement was executed on 05.09.2018.
- XII. That the complainant made all the payments strictly as per the terms of the allotment and the construction linked payment plan and no default in making timely payment towards the instalment demands was committed by the complainant.
- XIII. That as per Clause 5.1 of the Agreement, the possession of the unit was to be handed over by the respondent within a period of 4 years from the



date of approval of the building plans or grant of environment clearance. Thus, the due date to deliver the possession as per the agreed terms of the Apartment Buyer's Agreement was on 18.05.2021. On the lapse of the due date to handover the possession, the complainant visited the project site in June, 2021 and was shocked to see that no construction activity was going on there and the work was at standstill.

XIV. Thus, since the time period to handover the possession had lapsed, the complainant requested the respondent telephonically, and by visiting the office to update her about the date of handing over of the possession. The representatives of respondent assured the complainant that the possession of the unit would be handed over to her very shortly as the construction was almost over. However, the representations of the respondent turned out to be false.

XV. That the fact that the respondent has been committing illegality is evident from a bare perusal of the payment demand letter dated 19.11.2018, 03.08.2019, 04.11.2019, 04.05.2020. It is submitted that the respondent has been charging GST at the rate of 8% when the GST council in its 34th meeting held on 19.03.2019 took the decision vide a press release for a lower effective GST rate of 1% in case of affordable housing scheme instead of the earlier rate of 8% effective from 01.04.2019.

XVI. Moreover, even as per Clause 4.1(ii) of the Agreement, it was agreed that if there was change in the taxes, the subsequent amount payable by the allottee(s) to the developer shall be increased or decreased based on such change. Despite being aware of the latest notification as well as the terms of the Agreement, the respondent kept on demanding the GST at the old rates instead of the revised ones. Thus, it is clear that the

complainant is entitled to the refund of the excess amount beyond 1% paid by her to the respondent towards the GST from 01.04.2019 onwards along with interest. Furthermore, the respondent vide the said demand letter also changed the payment plan which was in strict violation of the provisions of the Affordable Group Housing Policy, 2013.

- XVII. That on account of inordinate delay on the part of the respondent in handing over the possession, the complainant sent several communications to the respondent seeking update about the delivery of the allotted unit. The complainant and her family members also sent several emails dated 23.02.2022, 31.03.2022, 01.04.2022, 20.04.2022 and 07.05.2022 to enquire about the date of possession.
- XVIII. That the respondent finally offered the possession of the unit to the complainant vide its letter dated 01.06.2022. On-going through the terms of the offer of possession, the complainant realized that respondent had not adjusted the delayed possession charges nor the interest towards the excess amount which the complainant was made to pay during the time of allotment and which the respondent had assured that they would compensate the complainant with at the time of offer of possession. Since, the complainant had made majority of the payment till the offer of possession, the complainant was left with no choice but to accept the possession of the unit under protest.
- XIX. That the complainant had made payment of Rs.25,22,898/- towards the unit in question and the same is evident from statement of account as on 03.06.2022. However, the complainant was constrained to pay the said unlawful charges despite the protests. It is submitted that the respondent had issued a possession certificate on 13.07.2022.
- XX. That the respondent in the present matter has charged operational cost of utility of Rs.27,325/-.Furthermore as per the clarification regarding

maintenance charges to be levied on affordable group housing projects being given by DCP, Haryana vide clarification no. PF -27 A/2024/3676 dated 31.01.2024 it is very clearly mentioned that the utility charges (which includes electricity bill, water bill, property tax waste collection charges or any repair inside the individual flat etc.) can be charged from the allottees only as per actual consumptions. Accordingly, the respondent cannot charge maintenance charges/ utility charges from the complainant as a blanket charge in advance. The complainant had paid the said amount towards the utility charges and is thus entitled to get the refund of the said amount

XXI. That the cause of action for the present complaint is recurring one on account of the failure of respondent to perform its obligations within the agreed time frame. The cause of action again arose when the respondent failed to give delayed possession charges, compensation and refund of illegal charges and finally about a week ago when the respondent refused to compensate the complainant with the delayed possession interest amount, compensation and refund of illegal charges.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
 - a) Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from the due date of possession i.e., 17.05.2021 till the actual handing over of possession.
 - b) Direct the respondent to provide interest for the excess amount taken by the respondent at the stage of allotment which was in violation of the Affordable Group Housing policy, 2013.
 - c) Direct the respondent to refund the excess amount taken under the garb of the previous GST rates along with interest.

- d) Direct the respondent to refund the excess amount paid by the complainant towards the Operational Cost of Utility Services.
 - e) Direct the respondent to refund the excess amount paid by the complainant towards the Meter and Water Connection Charges.
 - f) Direct the respondent to refund the excess amount paid by the complainant towards the IFSD charges.
 - g) Direct the respondent to refund the excess amount paid by the complainant towards the External Electrification charges.
 - h) Direct the respondent to refund the excess amount paid by the complainant towards the Advance Consumption Charges.
5. On the date of hearing, the Authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.
- D. Reply by the respondent.**
6. The respondent has contested the complaint on the following grounds: -
- I. That the complainant (First Applicant) and co-allottee i.e. Mr. Chander Gupta (Second Applicant) have applied to the respondent for allotment of a flat in the project vide their application no. 61000 dated 27.03.2018 together and pursuant to the said application, the draw of lots was held on 24-07-2018 and the said unit was allotted to the complainant and Chander Gupta in terms of the policy. Further, the complainant and Mr. Chander Gupta (Second Applicant/ co-allottee) have entered into a BBA dated 05.09.2018 with the respondent. Hence, in the light of the above-mentioned facts and circumstances it is manifest that the Mr. Chander Gupta is **necessary party to the present complaint** and without him the present complaint cannot be decided on merits. Hence, present complaint is liable to be dismissed for non-joinder of necessary party.



- II. That the respondent was faced with certain other ***force majeure events*** including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. These orders in fact inter-alia continued till the year 2018. It was almost for two years that the scarcity as detailed aforesaid continued, despite which, all efforts were made, and materials were procured at 3-4 times the rate and the construction of the project continued without shifting any extra burden to the customer. It is to be noted that the development and implementation of the said project have been hindered on account of several orders/directions passed by various authorities/forums/courts.
- III. That despite the default caused, the respondent applied for Occupation Certificate and the same was thereafter issued on 06.05.2022. The grant of sanction of the Occupation Certificate is the prerogative of the concerned statutory authority over which the respondent cannot exercise any influence. Therefore, the time period utilized by the statutory authority to grant occupation certificate to the respondent is necessarily required to be excluded from computation of the time period utilized for implementation and development of the project. That thereafter, the complainant was offered possession of the unit in question through letter of offer of possession and the same was communicated to the complainant vide email. The complainant was called upon to remit balance payment including delayed payment charges and to complete the necessary formalities/documentation necessary for handover of the unit.



- IV. It is pertinent to note that multiple possession reminders were sent to the complainant in regard to handing over the possession of the said unit but all requests, reminders fell on deaf ears of the complainant. It is submitted that the complainant delayed the procedure of taking the possession of the said unit on their own account. That the respondent, through its offer of possession letter earnestly requested the complainant to obtain possession of the unit in question. However, the complainant did not pay any heed to the requests of the respondent and threatened the respondent with institution of unwarranted litigation.
- V. That moreover, after the receipt of the occupation certificate, the complainant has rightly taken the handover of the unit and executed Possession Certificate dated 13.07.2022 as well. That once the unit is complete and the complainant took the possession of the unit, thereafter, there remains no cause of action to file a complaint under section 18 of the Act.
- VI. That in light of the *bona fide* conduct of the respondent, the fact that no delay has been caused to the complainant, the peaceful possession of the unit having been offered to the complainant, non-existence of cause of action, the present complaint is bound to be dismissed with costs in favour of the respondent.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority



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 entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District, Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

10. 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 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. So, in view of the provisions of the Act quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

F. Findings on the objections raised by the respondent.

F.I Objections regarding delay caused due to Force majeure circumstances.

12. The respondent-promoter has raised a contention that the handover of the unit was delayed due to force majeure conditions such as various orders passed by the National Green Tribunal, Environment Pollution (Prevention



& Control) Authority, shortage of labour, NGT regulating the mining activities, brick kilns, and stoppage of work due to the order of various authorities. 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. The Authority is of the view that though there have been various orders issued to curb the environment pollution, but these were for a short period of time. So, the circumstances/conditions after that period can't be taken into consideration for delay in completion of the project. However, the plea of the respondent regarding delay caused due to the widespread of Covid-19 is taken into account. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be 18.11.2021.

F.II Objection regarding non-joinder of necessary parties.

13. The respondent-promoter has raised an objection that the draw of lots was held on 24-07-2018 and the said unit was allotted to the complainant and Mr. Chander Gupta in terms of the policy. Further, the complainant and Mr. Chander Gupta (second Applicant/ co-allottee) have entered into a BBA dated 05.09.2018 with the respondent. Hence, in the light of the above-mentioned facts and circumstances it is manifest that the Mr. Chander Gupta is necessary party to the present complaint and without him the present complaint cannot be decided on merits. Hence, present complaint is liable to be dismissed for non-joinder of necessary party.

14. The Authority observes that the unit was allotted in favour of two allottees i.e., Mrs. Suman Gupta and Mr. Chander Gupta and the Builder Buyer Agreement was also executed between Mrs Suman Gupta and Mr Chander Gupta with the respondent on 05.09.2018. As per the "Performa-B" and the "Memo of parties", generated by the complainants, Mr. Chander Gupta is a party to the present complaint and the objection of the respondent of non-joinder of necessary party in the present complaint stands rejected.

G. Findings on the relief sought by the complainants:

- G.I. Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from the due date of possession i.e., 17.05.2021 till the actual handing over of possession.**

15. In the present complaint, the complainants intends to continue with the project and are seeking possession of the unit and delayed possession charges as per section 18(1) of the Act and the same is reproduced below for ready reference:

"Section 18: - Return of amount and compensation
18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building.-

.....
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."

(Emphasis supplied)

- **Whether the complainants can claim delayed possession charges after execution of the conveyance deed?**

16. The respondent stated that the conveyance deed of the unit has already been executed in favour of the complainants on 13.07.2022 and the transaction between the parties stands concluded upon the execution of conveyance deed.
17. The respondent has argued that upon the execution of the conveyance deed, the relationship between the parties is considered concluded, precluding any further claims or liabilities by either party. Consequently, the

complainants are barred from asserting any interest in light of the circumstances of the case.

18. In order to comprehend the relationship between the allottee and the promoter, it is essential to understand the definition of a "deed." A deed is a formal, written document that is executed, signed, and delivered by all parties involved in the contract, namely the buyer and the seller. It is a legally binding document that incorporates terms enforceable by law. For a sale deed to be valid, it must be written and signed by both parties. Essentially, a conveyance deed involves the seller transferring all rights to legally own, retain, and enjoy a particular asset, whether immovable or movable. In the present case, the asset in question is immovable property. By signing a conveyance deed, the original owner transfers all legal rights pertaining to the property to the buyer in exchange for valid consideration, typically monetary. Thus, a "conveyance deed" or "sale deed" signifies that the seller formally transfers all authority and ownership of the property to the buyer.
19. That the execution of a conveyance deed transfers only the title and interest in the specified immovable property (in this case, the allotted unit). However, the conveyance deed does not terminate the relationship between the parties or absolve the promoter of their obligations and liabilities concerning the unit, despite the transfer of title and interest to the allottee upon execution of the conveyance deed.
20. The allottees have invested their hard-earned money and there is no doubt that the promoter has been enjoying benefits of and the next step is to get their title perfected by executing the conveyance deed which is the statutory right of the allottees. Also, the obligation of the developer-promoter does not end with the execution of a conveyance deed. Therefore, in furtherance to the Hon'ble Apex Court judgement and the law laid down



in case titled as **Wg.Cdr. Arifur Rahman Khan and Aleya Sultana and Ors. Vs. DLF Southern Homes Pvt. Ltd. (now known as BEGUR OMR Homes Pvt. Ltd.) and Ors. (Civil appeal no. 6239 of 2019)** dated 24.08.2020, the relevant paras are reproduced herein below:

"34 The developer has not disputed these communications. Though these are four communications issued by the developer, the appellants submitted that they are not isolated aberrations but fit into the pattern. The developer does not state that it was willing to offer the flat purchasers possession of their flats and the right to execute conveyance of the flats while reserving their claim for compensation for delay. On the contrary, the tenor of the communications indicates that while executing the Deeds of Conveyance, the flat buyers were informed that no form of protest or reservation would be acceptable. The flat buyers were essentially presented with an unfair choice of either retaining their rights to pursue their claims (in which event they would not get possession or title in the meantime) or to forsake the claims in order to perfect their titles to the flats for which they have paid valuable consideration. In this backdrop, the simple question which we need to address is whether a flat buyer who espouses a claim against the developer for delayed possession can as a consequence of doing so be compelled to defer the right to obtain a conveyance to perfect their title. It would, in our view, be manifestly unreasonable to expect that in order to pursue a claim for compensation for delayed handing over of possession, the purchaser must indefinitely defer obtaining a conveyance of the premises purchased or, if they seek to obtain a Deed of Conveyance to forsake the right to claim compensation. This basically is a position in which the NCDRC has espoused. We cannot countenance that view.

21. The Authority has already taken a view in Cr. No. 4031/2019 and others titled as **Varun Gupta V/s Emaar MGF Land limited and others** and observed that the execution of a conveyance deed does not conclude the relationship or marks an end to the liabilities and obligations of the promoter towards the subject unit and upon taking possession, and/or executing conveyance deed, the complaints never gave up their statutory right to seek delayed possession charges as per the provisions of the said Act.
22. Upon reviewing all relevant facts and circumstances, the Authority determines that the complainants/allottees retain the right to seek compensation for delays in possession from the respondent-promoter, despite the execution of the conveyance deed.
23. As per Clause 5 of the Buyer's Agreement (in short, the agreement) dated 05.09.2018 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 (09.01.2017) or grant of environment clearance, (18.05.2017), whichever is later. Further, a grace period of six months is granted in favour of the respondent. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be 18.11.2021.

24. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are 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.

25. 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.

26. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 16.07.2025 is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.
27. 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;"*
28. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the Authority is satisfied that the 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. The Authority has observed that the Buyer's Agreement was executed on 05.09.2018 between the complainants and the respondent. The possession of the subject unit was to be offered within a period of 4 years from the date of approval of building plans (09.01.2017) or grant of environment clearance, (18.05.2017), whichever is later. Further, a grace period of six months is granted in favour of the respondent. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on



or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be 18.11.2021. The Occupation Certificate in respect of the subject unit was granted to the respondent by the competent authorities on 06.05.2022 and thereafter, the respondent offered possession of the unit to the complainants on 01.06.2022. The respondent has failed to handover possession of the subject unit on the due date.

29. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The Authority is of the considered view that there is delay on the part of the respondent to offer of possession of the allotted unit to the complainants as per the terms and conditions of the Buyer's Agreement dated 05.09.2018 executed between the parties. Further, the Authority observes that the respondent obtained the occupation certificate on 06.05.2022 and offered possession to the complainants on 01.06.2022 and the conveyance deed was executed on 13.07.2022.
30. 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 delay possession charges at rate of the prescribed interest @ 11.10% p.a. w.e.f. 18.11.2021 till the date of offer of possession plus two months after obtaining the occupation certificate, i.e., 01.08.2022 as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

G.II. Direct the respondent to provide interest for the excess amount taken by the respondent at the stage of allotment which was in violation of the Affordable Group Housing policy, 2013.

G.III Direct the respondent to refund the excess amount taken under the garb of the previous GST rates along with interest.

G.IV Direct the respondent to refund the excess amount paid by the complainant towards the Operational Cost of Utility Services.

G.V Direct the respondent to refund the excess amount paid by the complainant towards the Meter and Water Connection Charges.

G.VI Direct the respondent to refund the excess amount paid by the complainant towards the IFSD charges.

G.VII Direct the respondent to refund the excess amount paid by the complainant towards the External Electrification charges.

G.VIII Direct the respondent to refund the excess amount paid by the complainant towards the Advance Consumption Charges.

31. The financial liabilities between the allottee and the promoter comes to an end after the execution of the conveyance deed. The complainants could have asked for the claim before the conveyance deed got executed between the parties. Therefore, after execution of the conveyance deed the complainants-allottees cannot seek refund of charges other than statutory benefits if any pending. Once the conveyance deed is executed and accounts have been settled, no claims remains. So, no directions in this regard can be effectuated at this stage.

H. Directions of the authority: -

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

- i. The respondent/promoter shall pay interest at the prescribed rate i.e., 11.10% for every month of delay on the amount paid by the complainants from the due date of possession i.e., 18.11.2021 till the date of offer of possession plus 2 months i.e. 01.08.2022 as per proviso to section 18(1) of the Act read with rule 15 of the rules.



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ii. The respondent is directed to pay arrears of interest accrued, if any ,
after adjustment in statement of account, within 90 days from the date
of this order as per rule 16(2) of the Act,

33. Complaint stands disposed of.

34. File be consigned to the registry

Dated: 16.07.2025

(Ashok Sangwan)

Member

Haryana Real Estate
Regulatory Authority,
Gurugram



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